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FILED

DEC 20 2017

BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-40893 LA

12 REALTY COACH ENTERPRISES INC and)
13 STEVEN ALONGE,)
14 individually and as designated officer)
of Realty Coach Enterprises Inc,)

ACCUSATION

15 Respondents.)

16 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
17 State of California, for cause of Accusation against REALTY COACH ENTERPRISES INC and
18 STEVEN ALONGE, individually and as former designated officer of Realty Coach Enterprises
19 Inc alleges as follows:

20 1.

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, makes this Accusation in her official capacity.

23 2.

24 All references to the "Code" are to the California Business and Professions Code
25 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

1 BRE LICENSE HISTORY

2 3.

3 STEVEN ALONGE

4 A. Respondent STEVEN ALONGE ("ALONGE") is presently licensed and/or has
5 license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a restricted real
6 estate broker ("restricted REB" or "RREB"), California Bureau of Real Estate ("BRE" or
7 "Bureau" or CalBRE) license ID 00895614.

8 B. ALONGE was originally licensed by the Bureau as a real estate salesperson
9 ("RES") on or about September 20, 1985 and as a REB on or about February 15, 1991. On or
10 about November 9, 1994, in CalBRE Case No. H-1739 SA, ALONGE's REB was revoked
11 pursuant to Code Section 10177(d) for his violation of Code Section 10145(a), and he was
12 granted the right to apply for and be issued a restricted REB.

13 C. ALONGE's BRE mailing address of record is 1775 E. Palm Canyon Dr. 110-
14 113, Palm Springs, CA 92264 ("Palm Springs address"). ALONGE's BRE main office address
15 of record is 66337 Pierson Blvd., Desert Hot Springs, CA 92240 ("Desert Hot Springs address").

16 D. According to BRE records to date, ALONGE has three (3) current DBAs under
17 his BRE license for Freedom Mortgage Funding, active as of December 31, 1997; Pacific Palms
18 Realty Group, active as of January 21, 1994; and Realty Coach, active as of December 27, 2000.

19 E. According to BRE records to date, ALONGE has two (2) branch offices, one at
20 314 N. Palm Canyon Dr., Palm Springs, CA 92262 ("Palm Canyon address"), and another at the
21 Desert Hot Springs address.

22 F. ALONGE is the designated officer ("D.O.") of record for REALTY COACH
23 ENTERPRISES INC until his officer expiration date of November 3, 2018.

24 G. ALONGE's BRE license will expire on November 8, 2018.

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4.

REALTY COACH ENTERPRISES INC

A. Respondent REALTY COACH ENTERPRISES INC ("RCEI") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate corporation ("REC"), BRE license ID 01524877.

B. RCEI was originally licensed by the Bureau on or about June 17, 2006.

C. RCEI's mailing address of record is the same as Respondent ALONGE's Palm Springs address. RCEI's main office address is the same as Respondent ALONGE's Desert Hot Springs address.

D. According to BRE records to date, RCEI has no current DBAs under its BRE license.

E. According to BRE records to date, RCEI has two (2) branch offices, one at Respondent ALONGE's Palm Canyon address, and another at 3624 Cliffrose Trail, Palm Springs, CA 92262 ("Cliffrose address").

F. According to BRE records to date, RCEI has two (2) real estate salespersons ("RES") employed under its BRE license: Gayle A. Scanlon, BRE license ID 01457699 and Mirela S. Stancu, BRE license ID 01998504.

G. Respondent ALONGE is the D.O. of record for RCEI until his officer expiration date of November 3, 2018.

H. RCEI's BRE license will expire on November 3, 2018.

5.

Leslie C. Zieminski (licensed by the BRE)

Leslie C. Zieminski ("Zieminski") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a RES, BRE license ID 01893290.

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Dyanne Kathleen Neale (not licensed by the BRE)

Dyanne Kathleen Neale (“Neale”) is not, and never has been, licensed by the BRE in any capacity.

BRE AUDIT OF REALTY COACH ENTERPRISES INC

(SD 150029)

7.

On March 29, 2016, the BRE completed an audit examination of the books and records of Respondent RECI pertaining to its property management activities described in Paragraphs 8 through 10, below, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2015 and ending on December 31, 2015 (“audit examination period” or “audit period”), and was performed between February 5, 2016 and March 4, 2016 (“field work period”), during which the D.O. of RCEI was ALONGE. The final report of March 29, 2016 revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report SD 150029.

8.

RCEI’s Business Activities & Corporate Structure

At all times mentioned in Riverside County, California, Respondent RCEI acted as a real estate broker, and ordered, caused, authorized or participated in licensed activities within the meaning of Code Section 10131(b), wherein RCEI engaged in property management activities, and leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rent from real property, or improvements thereon, or from business opportunities (“property management”).

1 Additionally, RCEI also engaged in real estate sales activities within the meaning of Code
2 Section 10131(a) (“real estate sales”).

3 9.

4 RCEI’s Corporate Structure

5 According to ALONGE, he is the one hundred percent (100%) owner and Chief
6 Executive Officer, Chief Financial Officer, and Secretary of RCEI.

7 10.

8 RCEI’s Property Management Activities

9 According to ALONGE, RCEI forty-six (46) properties for about twenty-three
10 (23) property owners and, during the audit period, collected about \$630,000 in trust funds in
11 connection with the property management activities. During the audit period, RCEI maintained
12 two (2) bank accounts that handled trust funds in connection with its property management
13 activities.

14 11.

15 RCEI’s Real Estate Sales Activities

16 According to ALONGE, RCEI closed about twenty-one (21) sales transactions
17 and did not collect any Earnest Money Deposits (“EMDs”) during the audit period. RCEI did not
18 maintain a trust account in connection with its real estate sales activities during the audit period.
19 EMDs were held and delivered directly to escrow by the buyers in connection with the sales
20 activity. The BRE did not examine RCEI’s real estate sales activities in Audit SD 150029.
21 during the audit period each month.

22 12.

23 According to ALONGE’s written statement of February 5, 2016, he had not
24 conducted any real estate activities under his individual license during the audit period.

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Bank Accounts

According to ALONGE and to the books and records provided, RCEI maintained two (2) bank accounts for the receipts and disbursements of trust funds in connection with its property management activities during the audit examination period. The bank accounts that were sampled for the BRE audit are:

Bank Account 1 ("B/A 1")

- * Account Name: REALTY COACH ENTERPRISES INC
- * Bank: JPMorgan Chase Bank, Palm Springs, CA
- * Account No. #####3269
- * Signatories: ALONGE, Zieminski, and Neale.
- * Signatures Required: one (1)
- * Date Opened: October 2013.

RCEI opened T/A 1 in October 2013 to replace B/A 2. T/A was maintained 1 for multiple beneficiaries for handling the receipts and disbursements of trust funds received in connection with its property management activities.

Bank Account 2 ("B/A 2")

- * Account Name: REALTY COACH ENTERPRISES INC
- * Bank: JPMorgan Chase Bank, Palm Springs, CA
- * Account No. #####5207
- * Signatories: ALONGE, Zieminski, and Neale.
- * Signatures Required: one (1)

Prior to October 2013, B/A 2 was the main bank account that handled trust funds for RCEI's property management activities. In October 2013, RCEI opened B/A 1 to replace B/A 2. During the audit period, B/A 2 was used for a single beneficiary and was maintained for the receipts of trust funds from the Housing Authority (Section 8) for the property located at 31781 Thelma Avenue; the funds were disbursed/transferred to B/A 1 when B/A 1 was opened. A bank reconciliation of B/A 2 was not performed in the BRE audit examination.

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1 Bank Account 3 ("B/A 3")

- 2 * Account Name: REALTY COACH ENTERPRISES INC
3 * Bank: JPMorgan Chase Bank, Palm Springs, CA
4 * Account No. #####5017
5 * Signatories: ALONGE, Zieminski, and Neale.
6 * Signatures Required: one (1)

7 B/A 3 was maintained for RCEI's general business activity. This bank account was
8 also used to pay for RCEI/ALONGE's personal and financial obligations.

9 Audit Findings: Violations of the Real Estate Law

10 14.

11 In the course of activities as described in Paragraph 8, above, and during the audit
12 examination period described in Paragraph 7, Respondent RCEI acted in violation of the Code
13 and the Regulations, as described below:

14 15.

15 Trust Fund Handling for Multiple Beneficiaries (Code Section 10145 and
16 Regulation 2832.1)

17 A. Based on the records provided, B/A 1 had a shortage of <\$63,619.71> as of
18 December 31, 2015 caused by:

19 1) negative balance of property accounts –

20 a. Property ID HUTH-01/1378 Hermano Rd. <\$ 59.36>

21 b. Property ID KRIST-01/64316 <\$ 1,294.43>

22 Total negative balance of property accounts : <\$ 1,353.79>

23 2) commingled/conversion of trust funds totaling <\$50,199.24>

24 3) unidentified shortage <\$12,066.68>

25 Trust fund shortage as of December 31, 2015: <\$63,619.71>

26 B. Additionally, as of December 31, 2015, the B/A 1 included RCEI's funds/fees
27 in the amount \$5,005.44 and commingled fees/commissions in the amount \$5,921.35 that were

1 kept in B/A 1 for over twenty-five (25) days after their deposit. There was no evidence in the
2 files examined that the trust fund owners had given ALONGE and/or RCEI written consent to
3 allow them to reduce the balance of trust funds in B/A 1 to an amount less than the aggregate
4 trust fund liabilities of RCEI to all owners of the funds, in violation of **Code Section 10145 and**
5 **Regulation 2832.1.**

6 C. ALONGE made the following post-audit examination period deposits from
7 RCEI's general business account, B/A 3, into B/A 1 to cure the trust funds shortage:

8	1) 01/29/16:	\$13,410.00
9	2) 02/01/16:	\$15,200.00
10	3) 03/03/16:	<u>\$35,009.71</u>
11	Total:	\$63,619.71

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Trust Fund Handling – Trust Fund Records to be Maintained

(Code Section 10145 and Regulation 2831)

The control record maintained for B/A 1, which was used for the receipts and disbursements of trust funds in connection with RCEI’s property management activity was inaccurate and incomplete, in violation of **Code Section 10145 and Regulation 2831**. Based on the records provided, some checks recorded on the control record in November 2015 and December 2015 were cut/written in January 2016, examples of which include:

<u>Date Recorded</u>	<u>Check No.</u>	<u>Amount</u>	<u>Properties ID</u>	<u>Date Written</u>
11/30/15	5174	\$ 896.66	WPS-01	01/04/16
11/30/15	5175	\$ 2,199.83	BTW	01/04/16
11/30/15	5176	\$10,510.12	WETT	01/04/16
11/30/15	5177	\$ 4,822.54	WP	01/04/16
12/31/15	5173	\$ 1,012.00	RMK-01	01/04/16
12/30/15	5188	\$ 1,146.00	TPP-01	01/12/16
12/30/15	5189	\$ 1,007.40	TUCK-01	01/12/16
12/30/15	5201	\$ 546.66	WPS-01	01/29/16
12/30/15	5202	\$ 2,961.00	BTW	01/29/16
12/30/15	5203	\$ 13,070.35	WETT	01/29/16
12/30/15	5204	\$ 4,003.22	WP	01/29/16
12/31/15	5205	\$ 1,371.79	WTD	01/29/16

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17.

Trust Fund Handling – Separate Record For Each Beneficiary or Transaction (Code Section 10145 and Regulation 2831.1)

The separate records of trust funds received and disbursed in B/A 1 were inaccurate, in violation of **Code Section 10145 and Regulation 2831.1**. (See Paragraph 16., above, for the BRE auditor’s findings.)

18.

Trust Fund Handling – Trust Account Reconciliation (Code Section 10145 and Regulation 2831.2)

During the audit period, RCEI did not maintain a monthly reconciliation of all the separate records to the balance of the record of all trust funds received and disbursed (control record) for B/A 1 in connection with its property management activity, in violation of **Code Section 10145 and Regulation 2831.2**.

19.

Trust Fund Handling – Trust Account Designation (Code Section 10145 and Regulation 2832)

According to the bank signature cards maintained at JP Morgan Chase Bank for B/A 1 and B/A 2, both of which were used for the trust funds received and disbursed in connection with RCEI’s property management activity, neither B/A 1 nor B/A 2 were designated as trust accounts, in violation of **Code Section 10145 and Regulation 2832**.

20.

Trust Fund Handling – Trust Account Withdrawals (Code Section 10145 and Regulation 2834)

A. According to the bank signature cards maintained at JP Morgan Chase Bank for B/A 1 and B/A 2, RCEI/ALONGE allowed employee/bookkeeper/office manager Neale, who

1 is not licensed by the BRE, to be an authorized signer on said accounts effective October 6, 2015,
2 without fidelity bond coverage, in violation of **Code Section 10145 and Regulation 2834**.

3 B. Additionally, RCEI/ALONGE allowed RES Zieminski, who was no longer
4 licensed to or employed by RCEI as of January 27, 2015, to be an authorized signer on said
5 accounts, in violation of **Code Section 10145 and Regulation 2834**. According to the BRE's
6 records, Zieminski was licensed to and employed by South Coast Partners Inc (Cal BRE ID
7 01893290) effective January 28, 2015.

8 21.

9 **Trust Fund Handling – Commingling and Commingling of Broker Funds**
10 **(Code Sections 10145 and 10176(e) and Regulation 2835(b))**

11 A . RCEI/ALONGE commingled trust funds with RCEI's general funds by
12 transferring funds back and forth from B/A 1, which was used for receipts and disbursements of
13 trust funds in connection with RCEI's property management activity, and B/A 3, which was used
14 for RCEI's general business activities, in violation of **Code Sections 10145 and 10176(e)**.

15 Examples of such commingling include:

16 Funds transferred from B/A 1 to B/A 3:

<u>Date</u>	<u>Amount</u>
01/05/15	\$ 7,000.00
01/13/15	\$ 3,000.00
01/20/15	\$ 5,150.00
02/11/15	\$ 4,500.00
02/18/15	\$ 5,000.00
02/27/15	\$ 4,000.00
04/01/15	\$ 4,200.00
04/22/15	\$ 1,000.00

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<u>Date</u>	<u>Amount</u>
06/17/15	\$ 5,000.00
08/11/15	\$ 2,000.00
08/12/15	\$ 2,500.00
08/13/15	\$ 2,000.00
08/18/15	\$10,000.00
11/03/15	\$ 3,500.00
11/09/15	\$ 2,000.00
11/12/15	\$ 2,010.00
11/18/15	\$ 4,300.00
12/17/15	\$ 8,500.00
12/29/15	\$ 4,200.00

Funds transferred from B/A 3 to B/A 1:

<u>Date</u>	<u>Amount</u>
01/29/15	\$ 4,000.00
03/02/15	\$ 8,000.00
04/17/15	\$ 4,200.00
05/01/15	\$ 3,000.00
06/04/15	\$15,000.00
06/29/15	\$ 2,000.00
06/30/15	\$ 6,000.00
08/28/15	\$10,000.00
09/30/15	\$ 5,000.00
12/31/15	\$14,000.00

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B. As of December 31, 2015, RCEI had kept \$5,921.35 of its own funds (broker's fees) in B/A 1 in connection with property management activity for over twenty-five (25) days after the deposit, in violation of **Code Sections 10145 and 10176(e) and Regulation 2835(b)**.

Examples of such holding include:

<u>Month Fees Earned</u>	<u>Type</u>	<u>Total Amount</u>	<u>Date Fees Disbursed</u>
November 2015	Property Mgmt.	\$ 3,033.71	01/05/16
November 2015	Repair Override	\$ 330.56	01/05/16
November 2015	Lease Commission	\$ 1,790.76	01/05/16
December 2015	Repair Override	\$ 21.62	02/01/16
December 2015	Late Fees	\$ 119.70	02/01/16
December 2015	Lease Commission	\$ 625.00	Not Disbursed
Total		<u>\$ 5,921.35</u>	

22.

Trust Fund Handling – Commingling/Conversion of Trust

Funds/Unauthorized Disbursements (Code Sections 10145, 10176(e), 10176(i), and 10177(j))

A. B/A 2 was opened prior to January 2013 and used for handling the receipts and disbursements of trust funds for multiple beneficiaries in connection with RCEI's property management activities. In October 2013, B/A 1 was opened to replace B/A 2, and funds from B/A 2 were transferred into B/A 1. Based on the records (register) provided from January 1, 2013, RCEI would borrow trust funds from B/A 1 and B/A 2 and posted these on its ledger/register as "RCE Loan." These funds were wire transferred via electronic funds transfer ("EFT") from B/A 1 and B/A 2 into B/A 3, RCEI's general business account, without written consent from all owners of the trust funds. The trust funds were transferred back and forth from B/A 1 and B/A 2 into B/A 3 between January 1, 2013 and December 31, 2015. Based on the records provided, RCEI transferred a total of \$249,100.75 from B/A 1 and B/A 2 since January

2013 into B/A 3 for its own expenses and as of December 31, 2015, reimbursed only \$198,901.51 of the total. The trust fund balance of \$50,199.24 in B/A 3 was not returned to B/A 1 as of December 31, 2015.

B. RCEI/ALONGE commingled and converted trust funds totaling \$50,199.23 from B/A 1 as of December 31, 2015. ALONGE deposited and commingled trust funds from B/A 1 into B/A 3, RCEI's general business account, which was used to pay for RCEI/ALONGE's personal and financial obligations, in violation of **Code Sections 10145, 10176(e), 10176(i), and 10177(j)**. The B/A 3 balance was reduced to an amount less than the amount of trust funds deposited into B/A 3; the ending balance of B/A 3 as of December 31, 2015 was \$462.98.

Examples of RCEI/ALONGE's personal and financial expenses from B/A 3:

<u>Date</u>	<u>Amount</u>	<u>Payee</u>	<u>Purpose</u>
10/13/15	\$ 1,845.00	Sys Discount Carpet	Business Expense
10/13/15	\$ 1,902.20	Gale Ebert	Personal Loan
10/27/15	\$ 4,719.00	Kabbage Inc	Business Loan
11/12/15	\$ 2,037.85	Gale Ebert	Personal Loan
11/23/15	\$ 387.44	So Cal Edison	Business Expense
12/02/15	\$ 688.00	Realtor Association	Business Expense
12/14/15	\$ 293.20	Two Bunch Restaurant	Personal Expense
12/10/15	\$ 2,037.85	Gale Ebert	Personal Loan
12/28/15	\$ 4,134.00	Kabbage Inc	Business Loan

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1 23.

2 **Use of False or Fictitious Business Names (Code Section 10159.5 and Regulation**
3 **2731)**

4 RCEI used the unlicensed fictitious business name (“FBN”) “Realty Coach” in its
5 property management activities, including, but not limited to use on business cards, broker –
6 salesperson agreements, and some property management agreements, during the audit period
7 without first obtaining a license from the BRE bearing this fictitious name, in violation of Code
8 **Section 10159.5 and Regulation 2731.**

9 24.

10 **Responsibility of Corporate Officer in Charge/Broker Supervision – D.O.**
11 **ALONGE (Code Sections 10159.2 and 10177(h) and Regulation 2725)**

12 The acts and/or omissions of D.O. ALONGE as described in Paragraphs 15
13 through 23 above, demonstrate a failure to adequately supervise the real estate activities of RCEI,
14 its salespersons, and its employees to ensure compliance with the Real Estate laws and
15 regulations. RCEI/ALONGE failed to maintain a complete and accurate control record, separate
16 records, and failed to maintain trust account reconciliations for RCEI’s property management
17 activity. RCEI/ALONGE allowed a non-BRE licensed, unbonded employee to be an authorized
18 signer on B/A 1 and B/A 2. RCEI/ALONGE allowed RES Zieminski, who had not been licensed
19 to or employed by RCEI since January 27, 2015, to be an authorized signer on B/A 1 and B/A 2
20 during the audit period. RCEI/ALONGE commingled and converted trust funds and reduced the
21 balance of trust funds in B/A 1 as of December 31, 2015 to an amount less than the aggregate
22 trust fund liabilities of RCEI to all the owners of the funds without their consent. RCEI also used
23 the unlicensed FBN “Realty Coach” during the audit period without first obtaining a license from
24 the BRE bearing the fictitious name. These acts and/or failures to act constitute grounds for the

1 suspension or revocation of the license and license rights of Respondent ALONGE under the
2 provisions of **Code Sections 10159.2 and 10177(h) and Regulation 2725.**

3 Additional Violations of the Real Estate Law

4 25.

5 The overall conduct of Respondents RCEI and ALONGE is violative of the Real
6 Estate Law and constitutes cause for the suspension or revocation of the real estate licenses and
7 license rights of RCEI and ALONGE under the provisions of **Code Section 10177(g)** for
8 negligence and **Code Section 10177(d)** for willful disregard of the Real Estate Law.

9 COSTS

10 Investigation and Enforcement Costs

11 26.

12 **Code Section 10106** provides, in pertinent part, that in any order issued in
13 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may
14 request the administrative law judge to direct a licensee found to have committed a violation of
15 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
16 the case.

17 Audit Costs

18 27.

19 **Code Section 10148(b)** provides, in pertinent part, the Commissioner shall charge
20 a real estate broker for the cost of any audit, if the Commissioner has found in a final decision
21 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
22 or rule of the Commissioner interpreting said section.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the licenses and license rights of Respondents REALTY COACH ENTERPRISES
4 INC and STEVEN ALONGE under the Real Estate Law (Part 1 of vision 4 of the Business and
5 Professions Code), for the cost of investigation and enforcement as permitted by law, and for
6 such other and further relief as may be proper under other provisions of law, and for costs of
7 audit.

8 Dated at San Diego, California

9 this 18th day of December, 2017.

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11 
12 Veronica Kilpatrick
13 Supervising Special Investigator
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22 cc: REALTY COACH ENTERPRISES INC
23 STEVEN ALONGE
24 V. Kilpatrick
25 Sacto.
26 Audits – Z. Wanis
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