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FILED

DEC 27 2019

DEPT. OF REAL ESTATE

By *Zni - ga*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-41567 LA

12 WEST CAPITAL CORPORATION,)

ACCUSATION

13 and)

14 MICHAEL GIANNCARLO GALVEZ,)

15)
16)
17)
18 Respondents.)

19 The Complainant, Maria Suarez, a Supervising Special Investigator of the State
20 of California, for cause of Accusation against WEST CAPITAL CORPORATION (“WCC”)
21 and MICHAEL GIANNCARLO GALVEZ (“GALVEZ”) alleges as follows:

22 1.

23 The Complainant, Maria Suarez, a Supervising Special Investigator of the State
24 of California, makes this Accusation in her official capacity.

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2.

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

DEPARTMENT OF REAL ESTATE LICENSE HISTORY

3.

A. Respondent WEST CAPITAL CORPORATION ("WCC") 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 broker ("REB") (corporation), California Department of Real Estate ("DRE" or "Department") license ID 01993330.

B. WCC's license expired on November 30, 2019. Pursuant to Code Section 10201 WCC retains renewal rights. Pursuant to Code Section 10103 the DRE retains jurisdiction.

C. WCC was originally licensed by the DRE as a REB on or about December 1, 2015.

D. According to the DRE's records, WCC's mailing and main office address of record were the same: 8333 Foothill Blvd., Suite 477, Rancho Cucamonga, CA 91730 ("Foothill address").

E. According to the DRE's records, WCC's designated officer ("D.O.") of record was MICHAEL GIANNCARLO GALVEZ.

F. According to the DRE's records, WCC had four (4) active DBAs:

- 1) Delta Processing, active as of December 1, 2015;
- 2) Premier Loans, active as of December 1, 2015;
- 3) WCR Property Management, active as of December 1, 2015; and
- 4) West Capital Realty, active as of December 1, 2015.

1 G. According to the DRE's records, WCC had two (2) branch offices, one in San
2 Francisco, CA and another in La Habra, CA.

3 H. According to the DRE's records, WCC had two (2) real estate salespersons
4 ("RES") under its DRE license.

5 4.

6 A. Respondent MICHAEL GIANNCARLO GALVEZ ("GALVEZ") is presently
7 licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code)
8 as a REB, DRE license ID 01828358.

9 B. GALVEZ was originally licensed by the DRE as a REB on or about
10 September 29, 2010. Prior to his licensure as a REB, GALVEZ was licensed by the DRE as a
11 RES on or about October 6, 2007.

12 C. According to the DRE's records, GALVEZ' mailing and main office address
13 of record are the same Foothill address as WCC.

14 D. According to the DRE's records, GALVEZ was the D.O. of WCC until his
15 officer expiration date of November 30, 2019.

16 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

17 **Advance Fee Agreements and Materials**

18 **Code Section 10085 and Regulation 2970**

19 5.

20 Pursuant to Code Section 10085 *Advance Fee Agreements and Materials*:

21 "The commissioner may require that any or all materials used in obtaining
22 advance fee agreements, including but not limited to the contract forms, letters or cards used to
23 solicit prospective sellers, and radio and television advertising be submitted to him or her at
24 least 10 calendar days before they are used. Should the commissioner determine that any such
25 matter, when used alone or with any other matter, would tend to mislead he or she may, within
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1 10 calendar days of the date he or she receives same, order that it not be used, disseminated, nor
2 published. Any person or entity using, disseminating, or publishing any matter which the
3 commissioner has ordered, pursuant to this section, not to be used, published, or disseminated
4 shall be guilty of a misdemeanor punishable by a fine not exceeding two thousand five hundred
5 dollars (\$2,500) or by imprisonment in the county jail not exceeding six months, or both, for
6 each such use, dissemination, or publication. The commissioner may determine the form of the
7 advance fee agreements, and all material used in soliciting prospective owners and sellers shall
8 be used in the form and manner which he or she determines is necessary to carry out the
9 purposes and intent of this part. Any violation of any of the provisions of this part or of the
10 rules, regulations, orders or requirements of the commissioner thereunder shall constitute
11 grounds for disciplinary action against a licensee, or for proceedings under Section 10081 of
12 this code, or both. These sanctions are in addition to the criminal proceedings hereinbefore
13 provided.”

14 6.

15 Pursuant to Regulation 2970 *Advance Fee Materials*:

16 “(a) A person who proposes to collect an advance fee as defined in Section
17 10026 in the Code shall submit to the Commissioner not less than ten calendar days before
18 publication or other use, all materials to be used in advertising, promoting, soliciting and
19 negotiating an agreement calling for the payment of an advance fee including the form of
20 advance fee agreement proposed for use.

21 (b) Material used in advertising, promoting, soliciting and negotiating an
22 advance fee agreement shall not be approved if it:

23 (1) Includes any representation which is false, misleading or deceptive.

24 (2) Does not set forth a specific, complete description of the services to
25 be rendered for the advance fee.
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(3) Does not set forth the total amount of the advance fee along with the date on which the fee shall become due and payable.

(4) Contains any provision which purports to relieve or exempt the person collecting the advance fee from an obligation to fulfill verbal commitments and representations made by employees and agents of the person contracting for the advance fee.

(5) Contains any provision which purports to give a guarantee that the real property or business opportunity in question will be purchased, leased or exchanged or that a loan secured by real property will be obtained as a result of the services rendered by the person collecting the advance fee.

(6) Does not set forth a definite date for full performance of the services promised under the advance fee agreement.

(c) Not less than 10-point type shall be used in advance fee agreements.”

License Required, Unlawful Employment or Payment of Compensation

Code Sections 10130, 10137

7.

Pursuant to Code Section 10130 *License Required:*

“It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson within this state without first obtaining a real estate license from the department, or to engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this state without having obtained a license endorsement. The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his or her counsel, deputies, or assistants, may assist in presenting the law or

1 facts at the trial. *Prosecution of Violations:* It is the duty of the district attorney of each county
2 in this state to prosecute all violations of this section in their respective counties in which the
3 violations occur.”

4 8.

5 Pursuant to Code Section 10137 *Unlawful Employment or Payment of*
6 *Compensation – Penalty:*

7 “It is unlawful for any licensed real estate broker to employ or compensate,
8 directly or indirectly, any person for performing any of the acts within the scope of this chapter
9 who is not a license real estate broker, or a real estate salesperson licensed under the broker
10 employing or compensating him or her, or to employ or compensate, directly or indirectly, any
11 licensee for engaging in any activity for which a mortgage loan originator license endorsement
12 is required, if that licensee does not hold a mortgage loan originator license endorsement;
13 provided, however, that a licensed real estate broker may pay a commission to a broker of
14 another state. No real estate salesperson shall be employed by or accept compensation for
15 activity requiring a real estate license from any person other than the broker under whom he or
16 she is at the time licensed. It is unlawful for any licensed real estate salesperson to pay any
17 compensation for performing any of the acts within the scope of this chapter to any real estate
18 licensee except through the broker under whom he or she is at the time licensed. For a violation
19 of any of the provisions of this section, the commissioner may temporarily suspend or
20 permanently revoke the license of the real estate licensee, in accordance with the provisions of
21 this part relating to hearings.”

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1 **Disclosure of Licensed Status in Advertising**

2 **Code Section 10140.6 & Regulation 2773**

3 9.

4 Pursuant to Code Section 10140.4 *Disclosure of Licensed Status in Advertising*:

5 “(a) A real estate licensee shall not publish, circulate, distribute, or cause to be
6 published, circulated, or distributed in any newspaper or periodical, or by mail, any matter
7 pertaining to any activity for which a real estate license is required that does not contain a
8 designation disclosing that he or she is performing acts for which a real estate license is
9 required.

10 (b)(1) A real estate licensee shall disclose his or her name, license identification
11 number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing
12 System and Registry, if that licensee is a mortgage loan originator, and responsible broker’s
13 identity, as defined in Section 10015.4, on all solicitation materials intended to be the first point
14 of contact with consumers and on real property purchase agreements when acting in a manner
15 that requires a real estate license or mortgage loan originator license endorsement in those
16 transactions. The commissioner may adopt regulations identifying the materials in which a
17 licensee must disclose a license identification number and unique identifier assigned to that
18 licensee by the Nationwide Mortgage Licensing System and Registry, and responsible broker’s
19 identity.

20 (2) For purposes of this section, “solicitation materials” include business
21 cards, stationery, advertising flyers, advertisements on television, in print, or electronic media,
22 “for sale,” rent, lease, “open house,” and directional signs, and other materials designed to
23 solicit the creation of a professional relationship between the licensee and a consumer.

24 (3) Nothing in this section shall be construed to limit or change the
25 requirement described in Section 10236.4 as applicable to real estate brokers.

1 (c) This section shall not apply to “for sale,” rent, lease, “open house,” and
2 directional signs that do either of the following:

3 (1) Display the responsible broker’s identity, as defined in Section 10015.4,
4 without reference to an associate broker or licensee.

5 (2) Display no license identification information.

6 (d) “Mortgage loan originator,” “unique identifier,” and “Nationwide Mortgage
7 Licensing System and Registry” have the meanings set forth in Section 10166.01.

8 (e) This section shall become operative on January 1, 2018.”

9 10,

10 Pursuant to Regulation 2773(a)(1) *Disclosure of License Identification Number*
11 *on Solicitation Materials – First Point of Contact with Consumers:*

12 “(a) A real estate broker or salesperson, when engaging in acts for which a
13 license is required, shall disclose its, his or her eight (8) digit real estate license identification
14 number on all solicitation materials intended to be the first point of contact with consumers. If
15 the name of more than one licensee appears in the solicitation, the license identification number
16 of each licensee shall be disclosed. The license numbers of employing brokers or corporate
17 brokers whose names or logos or trademarks appear on solicitation materials along with the
18 names and license numbers of licensed employees or broker associates do not need to appear on
19 those materials.

20 Solicitation materials intended to be the first point of contact with consumers, and in which a
21 licensee must disclose a license identification number, include the following:

22 (1) Business cards;

23 (2) Stationery;

24 (3) Websites owned, controlled, and/or maintained by the soliciting real
25 estate licensee; and

1 (4) Promotional and advertising fliers, brochures, email and regular mail,
2 leaflets, and any marketing or promotional materials designed to solicit
3 the creation of a professional relationship between the licensee and a
4 consumer, or which is intended to incentivize, induce or entice a
5 consumer to contact the licensee about any service for which a license is
6 required.

7 The type size of the license identification number shall be no smaller than
8 the smallest size type used in the solicitation material.

9 (b) For purposes of Business and Professions Code Section 10140.6, solicitation
10 materials do not include the following:

- 11 (1) Advertisements in electronic media (including, without limitation,
12 radio, cinema and television ads, and the opening section of streaming video and audio);
13 (2) Print advertising in any newspaper or periodical; and
14 (3) "For Sale" signs placed on or around a property intended to alert the
15 public the property is available for lease, purchase or trade."

16 **Trust Fund Handling**

17 **Code Section 10145 and Regulations 2831, 2831.1, 2831.2, 2832, 2832.1, and 2834**

18 11.

19 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

20 "(a)(1): A real estate broker who accepts funds belonging to others in connection
21 with a transaction subject to this part shall deposit all those funds that are not immediately
22 placed into a neutral escrow depository or into the hands of the broker's principal, into a trust
23 fund account maintained by the broker in a bank or recognized depository in this state. All
24 funds deposited by the broker in a trust account shall be maintained there until disbursed by the
25 broker in accordance with instructions from the person entitled to the funds.

1 (2) Withdrawals may be made from a trust fund account of an individual
2 broker only upon the signature of that broker, or in the case of a corporate broker, only upon the
3 signature of an officer through whom the corporation is licensed pursuant to Section 10158 or
4 10211, or one, or more, of the following persons if specifically authorized in writing by the
5 individual broker or officer:

6 (A) A real estate salesperson licensed to the broker.

7 (B) Another broker acting pursuant to a written agreement with the
8 individual broker that conforms to the requirements of this part and any
9 regulations promulgated pursuant to this part.

10 (C) An unlicensed employee of the individual broker, if the broker has
11 fidelity bond coverage equal to at least the maximum amount of the trust
12 funds to which the unlicensed employee has access at any time. For
13 purposes of this section, bonds providing coverage may be written with a
14 deductible of up to 5 percent of the coverage amount. For bonds with a
15 deductible, the employing broker shall have evidence of financial
16 responsibility that is sufficient to protect members of the public against a
17 loss subject to the deductible amount.

18 Evidence of financial responsibility shall include one or more of the
19 following:

20 (i) Separate fidelity bond coverage adequate to cover the amount
21 of the fidelity bond deductible.

22 (ii) A cash deposit held in a separate account, apart from other
23 funds of the broker, the broker's employees, or the broker's
24 principals, in a bank or recognized depository in this state
25 adequate to cover the amount of the fidelity bond deductible and
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held exclusively and solely for the purpose of paying the fidelity bond deductible amount.

(iii) Any other evidence of financial responsibility approved by the commissioner.

(3) An arrangement under which a person enumerated in subparagraph (A),(B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from responsibility or liability as provided by law in handling trust funds in the broker's custody.

...

(b) A real estate broker acting as a principal pursuant to Section 10131.1¹ shall place all funds received from others for the purchase of real property sales contracts or promissory notes secured directly or collaterally by liens on real property in a neutral escrow depository unless delivery of the contract or notes is made simultaneously with the receipt of the purchase funds.

...

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

12.

Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained:*

"(a) Every broker shall keep a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal. This record, including

¹ Code Section 10131.1 states, "(a) A real state broker within the meaning of this part is also a person who engages as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property..."

1 records maintained under an automated data processing system, shall set forth in chronological
2 sequence the following information in columnar form:

3 (1) Date trust funds received.

4 (2) From whom trust funds received.

5 (3) Amount received.

6 (4) With respect to funds deposited in an account, date of said deposit.

7 (5) With respect to trust funds previously deposited to an account, check
8 number and date of related disbursement.

9 (6) With respect to trust funds not deposited in an account, identity of other
10 depository and date funds were forwarded.

11 (7) Daily balance of said account.

12 (b) For each bank account which contains trust funds, a record of all trust funds
13 received and disbursed shall be maintained in accordance with subdivision (a) or (c).

14 (c) Maintenance of journals of account cash receipts and disbursements, or
15 similar records, or automated data processing systems, including computer systems and
16 electronic storage and manipulation of information and documents, in accordance with
17 generally accepted accounting principles, shall constitute compliance with subdivision (a)
18 provided that such journals, records, or systems contain the elements required by subdivision
19 (a) and that such elements are maintained in a format that will readily enable tracing and
20 reconciliation in accordance with Section 2831.2.

21 (d) Nothing in this section shall be construed to permit a violation of Section
22 10145 of the Code.

23 (e) A broker is not required to keep records pursuant to this section of checks
24 which are written by a principal, given to the broker and made payable to third parties for the
25 provision of services, including but not limited to escrow, credit and appraisal services, when
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1 the total amount of such checks for any transaction from that principal does not exceed \$1,000.
2 Upon request of the Department or the maker of such checks, a broker shall account for the
3 receipt and distribution of such checks. A broker shall retain for three years copies of receipts
4 issued or obtained in connection with the receipt and distribution of such checks.”

5 13.

6 Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*
7 *Transaction:*

8 “(a) A broker shall keep a separate record for each beneficiary or transaction,
9 accounting for all funds which have been deposited to the broker’s trust bank account and
10 interest, if any, earned on the funds on deposit. The record shall include information sufficient
11 to identify the transaction and the parties to the transaction. Each record shall set forth in
12 chronological sequence the following information in columnar form:

13 (1) Date of deposit.

14 (2) Amount of deposit.

15 (3) Date of each related disbursement.

16 (4) Check number of each related disbursement.

17 (5) Amount of each related disbursement.

18 (6) If applicable, dates and amounts of interest earned and credited to the
19 account.

20 (7) Balance after posting transactions on any date.

21 (b) Maintenance of trust ledgers of separate beneficiaries or transactions, or
22 similar records, or automated data processing systems, including computer systems and
23 electronic storage and manipulation of information and documents, in accordance with
24 generally accepted accounting principles will constitute compliance with subdivision (a),
25 provided that such ledgers, records, or systems contain the elements required by subdivision (a)

1 and that such elements are maintained in a format that will readily enable tracing and
2 reconciliation in accordance with Section 2831.2.”

3 14.

4 Pursuant to Regulation 2831.2 *Trust Account Reconciliation:*

5 “The balance of all separate beneficiary or transaction records maintained
6 pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust
7 funds received and disbursed required by Section 2831, at least once a month, except in those
8 months when the bank account did not have any activities. A record of the reconciliation must
9 be maintained, and it must identify the bank account name and number, the date of the
10 reconciliation, the account number or name of the principals or beneficiaries or transactions,
11 and the trust fund liabilities of the broker to each of the principals, beneficiaries or
12 transactions.”

13 15.

14 Pursuant to Regulation 2832 *Trust Fund Handling:*

15 “(a) Compliance with Section 10145 of the Code requires that the broker place
16 funds accepted on behalf of another into the hands of the owner of the funds, into a neutral
17 escrow depository or into a trust fund account in the name of the broker, or in a fictitious name
18 if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other
19 financial institution not later than three business days following receipt of the funds by the
20 broker or by the broker’s salesperson.

21 (b) Except as expressly provided by subdivision (d) of Section 10145 of the
22 Code or by a regulation in this article, the account into which the trust funds are deposited shall
23 not be an interest-bearing account for which prior written notice can by law or regulation be
24 required by the financial institution as a condition to the withdrawal of funds.

1 (c) A check received from the offeror may be held uncashed by the broker until
2 acceptance of the offer if

3 (1) the check by its terms is not negotiable by the broker or if the offeror
4 has given written instructions that the check shall not be deposited nor cashed until acceptance
5 of the offer and

6 (2) the offeree is informed that the check is being so held before or at the
7 time the offer is presented for acceptance.

8 (d) In these circumstances if the offeror's check was held by the broker in
9 accordance with subdivision (c) until acceptance of the offer, the check shall be placed into a
10 neutral escrow depository or the trust fund account, or into the hands of the offeree if offeror
11 and offeree expressly so provide in writing, not later than three business days following
12 acceptance of the offer unless the broker receives written authorization from the offeree to
13 continue to hold the check.

14 (e) Notwithstanding the provisions of subdivisions (a) and (d), a real estate
15 broker who is not licensed under the Escrow Law (Section 17000, et seq., of the Financial
16 Code) when acting in the capacity of an escrow holder in a real estate purchase and sale,
17 exchange or loan transaction in which the broker is performing acts for which a real estate
18 license is required shall place all funds accepted on behalf of another into the hands of the
19 owner of the funds, into a neutral escrow depository or into a trust fund account in the name of
20 the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious
21 name, as trustee at a bank or other financial institution not later than the next business day
22 following receipt of the funds by the broker or by the broker's salesperson."

23 16.

24 Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries*:
25 "The written consent of every principal who is an owner of the funds in the account shall be

1 obtained by a real estate broker prior to each disbursement if such a disbursement will reduce
2 the balance of the funds in the account to an amount less than the existing aggregate trust fund
3 liability of the broker to all owners of the funds.”

4 17.

5 Pursuant to Regulation 2834 *Trust Account Withdrawals*:

6 “(a) Withdrawals may be made from a trust fund account of an individual broker
7 only upon the signature of the broker or one or more of the following persons if specifically
8 authorized in writing by the broker:

9 (1) a salesperson licensed to the broker.

10 (2) a person licensed as a broker who has entered into a written agreement
11 pursuant to Section 2726 with the broker.

12 (3) an unlicensed employee of the broker with fidelity bond coverage at least
13 equal to the maximum amount of the trust funds to which the employee
14 has access at any time.

15 (b) Withdrawals may be made from the trust fund account of a corporate broker
16 only upon the signature of:

17 (1) an officer through whom the corporation is licensed pursuant to Section
18 10158 or 10211 of the Code or

19 (2) one of the persons enumerated in paragraph (1), (2) or (3) of subdivision
20 (a) above, provided that specific authorization in writing is given by the officer through whom
21 the corporation is licensed and that the officer is an authorized signatory of the trust fund
22 account.

23 (c) An arrangement under which a person enumerated in paragraph (1), (2) or (3)
24 of subdivision (a) above is authorized to make withdrawals from a trust fund account of a
25 broker shall not relieve an individual broker, nor the broker-officer of a corporate broker
26

1 licensee, from responsibility or liability as provided by law in handling trust funds in the
2 broker's custody."

3 **Advance Fees to Be Deposited in Trust Account**

4 **Code Section 10146 and Regulation 2972**

5 18.

6 Pursuant to Code Section 10146 *Advance Fees to Be Deposited in Trust*

7 *Account:*

8 "Any real estate broker who contracts for or collects an advance fee from any
9 other person, hereinafter referred to as the "principal," shall deposit any such amount or
10 amounts, when collected in a trust account with a bank or other recognized depository. Such
11 funds are trust funds and not the funds of the agent. Amounts may be withdrawn therefrom for
12 the benefit of the agent only when actually expended for the benefit of the principal or five days
13 after the verified accounts mentioned hereinafter have been mailed to the principal. Upon
14 request of the commissioner, a broker shall furnish to the commissioner an authorization for
15 examination of financial records of the trust account in accordance with the procedures set forth
16 in Section 7473 of the Government Code. The commissioner may issue such rules and
17 regulations as he or she deems necessary to regulate the method of accounting, and to
18 accomplish the purpose of the provisions of this code relating to advance fees including, but not
19 limited to, establishing forms for and determining information to be included in such
20 accountings. Each principal shall be furnished a verified copy of such accountings at the end of
21 each calendar quarter and when the contract has been completely performed by the licensee.
22 The commissioner shall be furnished a verified copy of any account or all accounts on his or her
23 demand therefor. Where advance fees actually paid by or on behalf of any principal are not
24 handled in accordance with the preceding paragraph, it shall be presumed that the agent has
25 violated Sections 506 and 506a of the Penal Code. The principal may recover treble damages

1 for amounts so misapplied and shall be entitled to reasonable attorney's fees in any action
2 brought to recover the same.”

3 19.

4 Pursuant to Regulation 2972 *Accounting Content*:

5 “Each verified accounting to a principal or to the commissioner as required by
6 Section 10146 of the Code shall include at least the following information: (a) The name of the
7 agent. (b) The name of the principal. (c) Description of the services rendered or to be rendered.
8 (d) Identification of the trust fund account into which the advance fee has been deposited. (e)
9 The amount of the advance fee collected. (f) The amount allocated or disbursed from the
10 advance fee for each of the following: (1) In providing each of the services enumerated under
11 (c) above. (2) Commissions paid to field agents and representatives. (3) Overhead costs and
12 profit. 366 REGULATIONS OF THE REAL ESTATE COMMISSIONER (g) In cases in which
13 disbursements have been made for advertising, a copy of the advertisement, the name of the
14 publication, the number of the advertisements actually published and the dates that they were
15 carried. (h) In the case of an advance fee for the arrangement of a loan secured by a real
16 property or a business opportunity, a list of the names and addresses of the persons to whom
17 information pertaining to the principal’s loan requirements were submitted and the dates of the
18 submittal.”

19 **Broker-Salesman Relationship Agreements**

20 **Regulation 2726**

21 20.

22 Pursuant to Regulation 2726 *Broker-Salesman Relationship Agreements*:

23 “Every real estate broker shall have a written agreement with each of his
24 salesmen, whether licensed as a salesman or as a broker under a broker-salesman agreement.
25 The agreement shall be dated and signed by the parties and shall cover material aspects of the
26

1 relationship between the parties, including supervision of licensed activities, duties and
2 compensation.”

3 **Broker Supervision – Code Section 10159.2 and Regulation 2725**

4 21.

5 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in*

6 *Charge:*

7 “(a) The officer designated by a corporate broker licensee pursuant to Section
8 10211 shall be responsible for the supervision and control of the activities conducted on behalf
9 of the corporation by its officers and employees as necessary to secure full compliance with the
10 provisions of this division, including the supervision of salespersons licensed to the corporation
11 in the performance of acts for which a real estate license is required.

12 (b) A corporate broker licensee that has procured additional licenses in
13 accordance with Section 10158 through officers other than the officer designated pursuant to
14 Section 10211 may, by appropriate resolution of its board of directors, assign supervisory
15 responsibility over salespersons licensed to the corporation to its broker-officers.

16 (c) A certified copy of any resolution of the board of directors assigning
17 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
18 with the Real Estate Commissioner within five days after the adoption or modification thereof.”

19 22.

20 Pursuant to Regulation 2725 *Broker Supervision:*

21 “A broker shall exercise reasonable supervision over the activities of his or her
22 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
23 rules, procedures and systems to review, oversee, inspect and manage:

24 (a) Transactions requiring a real estate license.

1 (b) Documents which may have a material effect upon the rights or obligations
2 of a party to the transaction.

3 (c) Filing, storage and maintenance of such documents.

4 (d) The handling of trust funds.

5 (e) Advertising of any service for which a license is required.

6 (f) Familiarizing salespersons with the requirements of federal and state laws
7 relating to the prohibition of discrimination.

8 (g) Regular and consistent reports of licensed activities of salespersons.

9 The form and extent of such policies, rules, procedures and systems shall take
10 into consideration the number of salespersons employed and the number and location of branch
11 offices.

12 A broker shall establish a system for monitoring compliance with such policies,
13 rules, procedures and systems. A broker may use the services of brokers and salespersons to
14 assist in administering the provisions of this section so long as the broker does not relinquish
15 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

16 **False or Fictitious Business Name – Code Section 10159.5 and Regulation 2731**

17 23.

18 Pursuant to Code Section 10159.5(a)(1) *Fictitious Name*:

19 “Every person applying for a license under this chapter who desires to have the
20 license issued under a fictitious business name shall file with his or her application a certified
21 copy of his or her fictitious business name statement filed with the county clerk pursuant to
22 Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.”

23 24.

24 Pursuant to Regulation 2731(a) *Use of False or Fictitious Name*: “A licensee
25 shall not use a fictitious name in the conduct of any activity for which a license is required
26

1 under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious
2 business name.”

3 **Grounds for Revocation or Suspension**

4 **Code Section 10176**

5 25.

6 Pursuant to Code Section 10176 *Grounds for Revocation or Suspension*

7 (selected portions):

8 “The commissioner may, upon his or her own motion, and shall, upon the
9 verified complaint in writing of any person, investigate the actions of any person engaged in the
10 business or acting in the capacity of a real estate licensee within this state, and he or she may
11 temporarily suspend or permanently revoke a real estate license at any time where the licensee,
12 while a real estate licensee, in performing or attempting to perform any of the acts within the
13 scope of this chapter has been guilty of any of the following:

14 (a) Making any substantial misrepresentation.

15 ...

16
17 (e) Commingling with his or her own money or property the money or other
18 property of others which is received and held by him or her.

19 ...

20 (i) Any other conduct, whether of the same or a different character than specified
21 in this section, which constitutes fraud or dishonest dealing...”

22
23 ///

24 ///

25 ///

1 **Further Grounds for Disciplinary Action**

2 **Code Section 10177**

3 26.

4 Pursuant to Code Section 10177, "The commissioner may suspend or revoke the
5 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny
6 the issuance of a license to an applicant, who has done any of the following:

7 ...

8 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
9 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
10 regulations of the commissioner for the administration and enforcement of the Real Estate Law
11 and Chapter 1 (commencing with Section 11000) of Part 2."

12 ...

13 (g) Demonstrated negligence or incompetence in performing an act for which he
14 or she is required to hold a license.

15 (h) As a broker licensee, failed to exercise reasonable supervision over the
16 activities of his or her salesperson, or, as the officer designated by a corporate broker licensee,
17 failed to exercise reasonable supervision and control of the activities of the corporation for
18 which a real estate license is required.

19 ...

20 (j) Engaged in any other conduct, whether of the same or of a different character
21 than specified in this section, that constitutes fraud or dishonest dealing..."

22 **DRE AUDIT LA 170136: WEST CAPITAL CORPORATION**

23 27.

24 On June 29, 2018, the DRE completed its audit examination of the books and
25 records of Respondent WCC pertaining to its real estate sales and leasing activities (LA
26

1 170136), which require a real estate license, pursuant to Code Section 10131. The audit
2 examination covered a period of time beginning on January 1, 2017 and ending on December
3 31, 2017 (“audit examination period” or “audit period”), and was performed between March 7,
4 2018 and March 22, 2018. The final report of June 29, 2018 revealed violations of the Code
5 and the Regulations as set forth in the following paragraphs, and more fully discussed in the
6 Audit Report for LA 170136.

7 28.

8 WCC Corporate Structure

9 According to GALVEZ, WCC’s corporate structure as of March 7, 2018 was as
10 follows: he was the CEO, CFO, Secretary and 100% shareholder.

11 29.

12 WCC’s Business Activities

13 A. According to GALVEZ and the records examined for the DRE audit
14 examination, WCC conducted real estate leases and sales during the audit period, and closed at
15 least thirty-eight (38) leasing transactions, thirty (30) of which related to unlicensed individual
16 Gabriel Quezada (“Quezada”) for properties in Northern California, and eight (8) of which
17 related to unlicensed individual Victor Ramos (“Ramos”) for properties located in Southern
18 California Trust funds collected by GALVEZ during the audit period totaled approximately
19 \$215,916.00.

20 B. WCC did not maintain any trust fund records. At the March 7, 2018 entrance
21 interview, the DRE auditor asked GALVEZ to provide all the transaction files closed by WCC
22 during the audit period. GALVEZ provided twenty (20) leasing transaction files. During the
23 audit examination, based on the bank statements and related records provided, the DRE auditor
24 discovered at least eighteen (18) more transaction files closed by WCC during the audit period,
25 for which GALVEZ did not provide transaction files; included in these eighteen (18) files were
26

1 ten (10) transactions related to unlicensed Quezada and eight (8) transactions related to
2 unlicensed Ramos. Upon the DRE's verbal and written requests, GALVEZ provided these
3 transaction files.

4 C. For the leasing transactions related to unlicensed Quezada, WCC collected
5 security deposits and pro-rated/first month rents from applicants/prospective tenants on behalf
6 of property owners, as well as on-time "brokers fees" ranging from \$1,500.00 to \$4,000.00 for
7 WCC's compensation, a total collection during the audit period of which amounted to
8 approximately \$215,916.22. For the transactions related to unlicensed Ramos, WCC did not
9 collect any security deposits or rents from the applicants/prospective tenants, which were
10 forwarded to the property owners by tenants in the transactions. WCC charged the property
11 owners a flat leasing fee ranging from \$250.00 to \$300.00, or a percentage leasing fee ranging
12 from 2.00% to 3.00% of annual rents collected, as WCC's compensation.

13 D. According to GALVEZ, WCC also lists and sells real properties. During the
14 audit period, WCC closed one (1) real estate sales transaction of which the sales price was
15 \$305,000, representing both buyers and the seller.

16 30.

17 Bank Accounts

18 According to GALVEZ, WCC maintained two (2) bank account for the handling
19 of trust funds related to its real estate leasing activity during the audit period:

20 Bank Account #####9887 ("B/A1")

21 Date Opened: 2/16/16

22 Bank: US Bank, 1933 Foothill Blvd., La Verne, CA 91750

23 Name: WEST CAPITAL CORPORATION

24 Signatories: MICHAEL GIANNCARLO GALVEZ

25 Signatures Required: One (1)

1 Cut-Off Date for Combined Bank Reconciliation (B/A1 and B/A2): 12/31/17;
2 combined shortage of <\$20,468.30>

3 Combined Adjusted Bank Balance, 12/31/17 (B/A1 and B/A2): <\$8,466.66>

4 During the audit period, WCC maintained B/A1 for handling the receipts and disbursements of
5 trust funds for multiple beneficiaries in connection with its real estate leasing activities.

6 Prospective tenants deposited/wired trust funds into B/A 1; GALVEZ would then transfer the
7 trust funds from B/A1 to B/A2; and GALVEZ would make disbursements of trust funds from
8 B/A2.

9 Bank Account #####9895 ("B/A2")

10 Date Opened: 2/16/16

11 Bank: US Bank, 1933 Foothill Blvd., La Verne, CA 91750

12 Name: WEST CAPITAL CORPORATION

13 Signatories: MICHAEL GIANNCARLO GALVEZ

14 Signatures Required: One (1)

15 Cut-Off Date for Combined Bank Reconciliation (B/A1 and B/A2): 12/31/17;
16 combined shortage of <\$20,468.30>

17 Combined Adjusted Bank Balance, 12/31/17 (B/A1 and B/A2): <\$8,466.66>

18 During the audit period, WCC maintained B/A2 for handling the receipts and disbursements of
19 trust funds for multiple beneficiaries in connection with its real estate leasing activities.

20 Prospective tenants deposited/wired trust funds into B/A 1; GALVEZ would then transfer the
21 trust funds from B/A1 to B/A2; and GALVEZ would make disbursements of trust funds from
22 B/A2, to the property owners, to GALVEZ' personal accounts, and to unlicensed Quezada.

23 ///

24 ///

25 ///

26

27

General Accounts

GALVEZ used two (2) of his personal general operating accounts for handling of trust funds related to WCC's real estate leasing activity during the audit period:

General Account #####8999 ("G/A1")

Date Opened: 11/16/15

Bank: US Bank, 1933 Foothill Blvd., La Verne, CA 91750

Name: MICHAEL G. GALVEZ dba West Capital Realty

Signatories: MICHAEL G. GALVEZ

Signatures Required: One (1)

According to GALVEZ, G/A1 is his personal/general account. Based on banks statements examined, G/A1 was used to deposit commission earned and disbursements were made for GALVEZ' personal expenses. GALVEZ also used G/A1 for compensation payments to unlicensed Ramos, for performance of real estate activities. Trust funds from B/A2 were also deposited into and mixed with G/A1.

General Account #####8973 ("G/A2")

Date Opened: 1/3/11

Bank: US Bank, 1933 Foothill Blvd., La Verne, CA 91750

Name: MICHAEL G. GALVEZ

Signatories: MICHAEL G. GALVEZ

Signatures Required: One (1)

According to GALVEZ, G/A2 is his personal/general account and was used for personal expenses. Trust funds from B/A2 were also deposited into and mixed with G/A2.

///

///

1 \$18,795.92 of trust funds from B/A2 into G/A1 during the period from February 1, 2017 to
2 December 29, 2017, and (2) transferring at least \$1,575.00 of trust funds from B/A2 into G/A2
3 on March 16, 2017, in violation of **Code Sections 10145, 10176(i) and 10177(j)**.

4 35.

5 **Trust Fund Handling/Commingling Funds**

6 **(Code Sections 10145, 10176(e) and Regulation 2832)**

7 During the audit period, GALVEZ transferred trust funds from WCC's B/A2 to
8 his personal/general bank accounts, G/A1 and G/A2, and commingled trust funds with his
9 personal funds. As of the audit cutoff date of December 31, 2017, a minimum trust funds
10 amount of \$18,795.92 was commingled with GALVEZ' personal funds in G/A1. During the
11 period from March 16, 2017 to July 31, 2017, a minimum trust funds amount of \$5,287.00 was
12 commingled with GALVEZ' personal funds in G/A 2. GALVEZ' commingling of trust funds
13 from WCC's B/A 2 with his personal funds is in violation of **Code Sections 10145, 10176(e)**
14 **and Regulation 2832.**

15 36.

16 **Trust Fund Handling/Unauthorized Disbursements**

17 **(Code Section 10145(a))**

18 During the audit period, GALVEZ made unauthorized disbursements and
19 disbursed at least \$7,255.00 of trust funds from B/A2 to property owners prior to the receipt of
20 rents (trust funds) from prospective tenants, in violation of **Code Section 10145(a)**.

21 37.

22 **Trust Fund Handling/Trust Fund Account**

23 **(Code Section 10145 and Regulation 2832)**

24 Based on an examination of signature cards provided by US Bank for B/A1 and
25 B/A2, and of signature cards provided by GALVEZ for G/A1 and G/A2, which were used by
26

1 WCC for handling trust funds in connection with its real estate lease activity, B/A1, B/A2,
2 G/A1, and G/A2 were not designated as trust accounts, and G/A1 and G/A2 were not set up in
3 the name of WCC as trustee, in violation of **Code Section 10145 and Regulation 2832.**

4 38.

5 **Advance Fee Agreements and Materials**
6 **(Code Section 10085 and Regulation 2970)**

7 A. During the audit period, WCC collected advance fees/"broker's fees" from
8 prospective tenants and failed to submit all materials used in such collection of said fees to the
9 Commissioner for a "No objection" letter authorizing use of said advance fee agreement(s).
10 Based on an examination of the records and documents and on the DRE auditor's discussions
11 with GALVEZ, WCC collected a "broker's fee" from prospective tenants in leasing
12 transactions by e-mailing the tenants a fee schedule and asking tenants to pay the security
13 deposits, any pro-rated rents, and the "broker's fees," prior to the finalization or completion of
14 the leasing transaction.

15 B. According to a "Negative Affidavit" executed on December 12, 2017, DRE
16 Supervising Special Investigator Chika Sunquist, authorized custodian of "Advance Fee
17 Contracts and Advance Fee Advertising," attested that "A diligent search has been made of the
18 aforesaid records maintained in the custody of the Bureau². The search of these records has
19 failed to disclose the existence of any advance fee materials approved by the Bureau for use by
20 West Capital Corporation...and Michael Gianncarlo Galvez, Designated Officer..."

21 C. WCC's collection of advance fees and "broker's fees" from prospective
22 tenants without a "No objection" letter from the DRE Commissioner for materials utilized to
23 demand and collect said fees, is a violation of **Code Section 10085 and Regulation 2970.**

24
25 _____
26 ²From to July 1, 2013 to June 30, 2018, the Department of Real Estate operated as the Bureau of Real Estate or "CalBRE" or "BRE."

Trust Fund Handling/Advance Fee To Be Deposited in Trust Account/**Accounting Content****(Code Sections 10145 and 10146 and Regulation 2972)**

A. During the audit period, WCC collected advance fees, as described in Paragraph 36 above, from prospective tenants and did not deposit the advance fees into a trust account (see Paragraph 35). Advance fees/"broker's fees" collected during the audit period were deposited and handled through B/A1, B/A2, G/A1 and G/A2, in violation of **Code Sections 10145 and 10146 and Regulation 2972.**

B. During the audit period, WCC did not maintain and provide an adequate verified copy of the accounting of the advance fee to each principle at the end of each calendar quarter when the service was completely performed by WCC, in violation of **Code Sections 10145 and 10146 and Regulation 2972.**

License Required/Unlawful Employment or Payment of Compensation – Penalty**(Code Sections 10130 and 10137)**

During the audit period, WCC employed and compensated Gabriel Quezada and Victor Ramos, neither of whom are licensed by the DRE, for performing real estate activities for which a real estate license is required. According to GALVEZ, Quezada is an unlicensed person who was involved in the property leasing transactions closed by WCC in Northern California and Victor Ramos is an unlicensed person who was involved in property leasing transactions closed by WCC in Southern California. WCC's employment and compensation of unlicensed Quezada and unlicensed Ramos for real estate activities for which a real estate license issued by the DRE is required, is in violation of **Code Sections 10130 and 10137.**

///

1 41.

2 **Trust Fund Records To Be Maintained**

3 **(Code Section 10145 and Regulation 2831)**

4 During the audit period, WCC did not maintain control records for trust funds
5 received and disbursed for B/A1, B/A2, G/A1 and G/A2, in violation of **Code Section 10145**
6 **and Regulation 2831.**

7 42.

8 **Separate Record for Each Beneficiary or Transaction**

9 **(Code Section 10145 and Regulation 2831.1)**

10 A. During the audit period, WCC did not maintain separate records for each
11 beneficiary or transaction for trust funds received and disbursed for B/A1, B/A2, G/A1 and
12 G/A2, in violation of **Code Section 10145 and Regulation 2831.1.**

13 B. During the audit period WCC did not maintain a separate record for the
14 combined unidentified/unaccounted for funds of \$630.00 in B/A1 and B/A2 as of December 31,
15 2017, in violation of **Code Section 10145 and Regulation 2831.1.**

16 43.

17 **Trust Account Reconciliation**

18 **(Code Section 10145 and Regulation 2831.2)**

19 A. During the audit period, WCC did not maintain a monthly reconciliation
20 comparing the balance of all the separate records to the control record of all trust funds received
21 and disbursed in connection with its real estate leasing activity for B/A1, B/A2, G/A1 and
22 G/A2, in violation of **Code Section 10145 and Regulation 2831.2.**

23 B. WCC did no identify the combined unidentified/unaccounted for funds of
24 \$630.00 in B/A1 and B/A2 as of December 31, 2017, in violation of **Code Section 10145 and**
25 **Regulation 2831.2.**

Disclosure of Licensed Identification Number on Solicitation Materials –

First Point of Contact with Consumers

(Code Section 10140.6(b) and Regulation 2773)

WCC failed to disclose or incorrectly disclosed its and/or its RES' BRE/DRE license identification number on some solicitation materials intended to be the first point of contact with consumers, in violation of **Code Section 10140.6(b) and Regulation 2773**:

- A. According to website printouts dated March 12, 2018 and March 26, 2018, WCC did not disclose RES Carlos Alberto Galvez' BRE/DRE license ID on its website www.westcapitalrealty.com.
- B. WCC disclosed an incorrect identification number as its BRE/DRE license identification number on the Residential Purchase Agreement ("RPA") and Joint Escrow Instructions ("JEP") for a transaction involving real property located at Scarlet Sage Wy.

Misrepresentation

(Code Section 10176(a))

WCC/GALVEZ misrepresented their BRE/DRE license identification numbers in real estate documents to the parties involved in following transactions, in violation of **Code Section 10176(a)**:

- A. Mission Blvd. Residential Lease or Month-To-Month Rental Agreement ("Lease Agreement") dated 6/30/17 – WCC's DRE license ID was listed as "0199333" and GALVEZ' DRE license ID was listed as "018283."
- B. 2nd St. Lease Agreement – WCC listed its DRE license ID as "0193330."

1 C. Scarlet Sage Wy. RPA and JEI listed WCC's DRE license ID as
2 "019933330."

3 46.

4 **Broker-Salesperson Relationship Agreements**

5 **(Regulation 2726)**

6 A. During the audit period, WCC did not maintain a Broker-Salesperson
7 Relationship Agreement with RES Margoreth Edith Galvez, in violation of **Regulation 2726**.
8 According to the DRE's records, Margoreth Edith Galvez was employed by WCC on December
9 7, 2015.

10 B. During the audit period, WCC did not maintain a Broker-Salesperson
11 Relationship Agreement with RES Carlos Alberto Galvez, in violation of **Regulation 2726**.
12 According to the DRE's records, Carlos Alberto Galvez was employed by WCC on December
13 7, 2015.

14 C. On March 14, 2018, GALVEZ produced Broker-Salesperson Relationship
15 Agreements for Margoreth Edith Galvez and Carlos Alberto Galvez, both agreements of which
16 were dated March 12, 2018.

17 47.

18 **Responsibility of Corporate Officer in Charge/Broker Supervision**

19 **(Code Sections 10159.2 and 10177(h) and Regulation 2725)**

20 D.O. GALVEZ did not exercise adequate supervision and control over the
21 activities conducted on behalf of WCC by its licensees and/or employees as necessary to ensure
22 full compliance with the Real Estate Laws and Regulations. GALVEZ did not establish
23 policies, rules, procedures and systems to review, oversee, inspect, and manage transactions
24 requiring a real estate license and handling of trust funds. GALVEZ' failure to supervise and
25
26

1 control WCC's licensees and/or employees is in violation of Code Sections **10159.2 and**
2 **10177(h) and Regulation 2725.**

3 48.

4 **Additional Violations of the Real Estate Law**

5 **(Code Section 10177)**

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

10 **DRE AUDIT LA 170173: MICHAEL GIANNCARLO GALVEZ**

11 49.

12 On June 29, 2018, the DRE completed a concurrent audit examination of the
13 books and records of Respondent GALVEZ pertaining to its real estate sales and leasing
14 activities (LA 170173), which require a real estate license, pursuant to Code Section 10131.
15 The audit examination covered a period of time beginning on January 1, 2017 and ending on
16 December 31, 2017 ("audit examination period" or "audit period"), and was performed between
17 March 22, 2018 and March 27, 2018. The final report of June 29, 2018 revealed violations of
18 the Code and the Regulations as set forth in the following paragraphs, and more fully discussed
19 in the Audit Report for LA 170173.

20 50.

21 **GALVEZ' Business Activities**

22 A. According to GALVEZ and the records examined, he conducted real estate
23 sales and leasing activity during the audit period and did not maintain any logs/records for his
24 real estate leases. On March 27, 2018, upon the DRE auditor's request, GALVEZ created and
25 provided a list of "2017-Transactions (SoCal)" for activities performed under the DBA "West
26

1 Capital Realty.³” According to the “2017-Transactions (SoCal)” list provided and the files
2 examined, GALVEZ negotiated three (3) leasing transactions during the audit period, all of
3 which were related to licensed real estate activities conducted by unlicensed Ramos, who
4 received compensation from GALVEZ for his performance of said licensed activities.

5 B. According to GALVEZ and the lease agreements examined for the audit,
6 GALVEZ did not collect any security deposits or rents from the applicants/prospective tenants.
7 The security deposits and rents were forwarded to the property owners by the tenants directly.
8 Based on the files examined, GALVEZ charged the property owners a flat fee of \$250.00, or a
9 percentage fee of 2.50% of the annual rents collected, for his compensation. GALVEZ shared
10 his compensation with unlicensed Ramos.

11 C. According to GALVEZ, he conducted real state transactions solely under the
12 name WEST CAPITAL CORPORATION since February 17, 2015. (Based on the DRE’s
13 records, the corporation license for WEST CAPITAL CORPORATION was not issued until
14 December 1, 2015.) On March 27, 2018, upon the DRE auditor’s request for records of
15 transactions closed by GALVEZ during the audit period, GALVEZ provided thirteen (13)
16 transactions files comprised of nine (9) leasing transactions closed by WCC, one (1) dual
17 agency sales transaction closed by WCC, and three (3) leasing transactions closed by GALVEZ.

18 51.

19 Bank Account (General Account)

20 According to GALVEZ he did not collect trust funds and did not maintain any
21 bank accounts for handling of trust funds related to his leasing activity during the audit period.
22 GALVEZ used G/A1, his general account, for payments of compensation to unlicensed Ramos,
23 for Ramos’ performance of licensed real estate activity during the audit period.

24
25 ³ According to the DRE’s records, West Capital Realty was a DBA under GALVEZ’ REB license from November
26 1, 2010 to July 5, 2015.

1 July 2017. Unlicensed Ramos was paid \$2,271.50 as of July 21, 2017 for the combined leasing
2 transactions conducted under the licenses of both GALVEZ and WCC.

3 C. In addition, according to the March 12, 2018 printout from GALVEZ'
4 business website, www.westcapitalrealty.com unlicensed Victor Ramos' title was "Lease and
5 Rental Consultant." According to a subsequent printout from GALVEZ' website, Ramos' title
6 was changed to "Accounting Executive."

7 D. GALVEZ' employment and compensation of unlicensed Ramos for real
8 estate activities for which a real estate license issued by the DRE is required, is in violation of
9 **Code Sections 10130 and 10137.**

10 54.

11 **Use of False or Fictitious Business Name**

12 **(Code Sections 10159.5 & Regulation 2731)**

13 During the audit period, GALVEZ used expired fictitious business name (DBA)
14 "West Capital Realty", to conduct his real estate leasing activities. According to the DRE's
15 records, GALVEZ' DBA "West Capital Realty" expired on July 5, 2015. GALVEZ's use of an
16 unlicensed DBA to conduct real estate activities is in violation of **Code Sections 10159.5 and**
17 **Regulation 2731.**

18 55.

19 **Broker Supervision**

20 **(Code Section 10177(h) and Regulation 2725)**

21 GALVEZ did not exercise adequate supervision and control over the activities
22 conducted on his behalf by its licensee(s) and/or employee(s) as necessary to ensure full
23 compliance with the Real Estate Laws and Regulations. GALVEZ did not establish policies,
24 rules, procedures and systems to review, oversee, inspect, and manage transactions requiring a
25 real estate license and handling of trust funds. GALVEZ' failure to supervise and control
26

1 GALVEZ' licensee(s) and/or employee(s) is in violation of Code Section 10177(h) and
2 Regulation 2725.

3 56.

4 **Additional Violations of the Real Estate Law**

5 **(Code Section 10177)**

6 The overall conduct of Respondent GALVEZ is violative of the Real Estate Law
7 and constitutes cause for the suspension or revocation of his real estate licenses and license
8 rights under the provisions of Code Section 10177(g) for negligence and Code Section
9 10177(d) for willful disregard of the Real Estate Law.

10 **COSTS**

11 **Investigation and Enforcement Costs**

12 57.

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

18 **Audit Costs**

19 58.

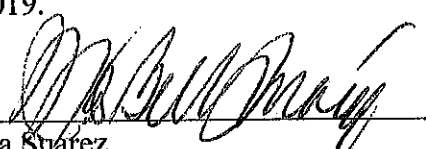
20 Code Section 10148(b) provides, in pertinent part, the Commissioner shall
21 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
22 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
23 regulation or rule of the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

24 WHEREFORE, Complainant prays that a hearing be conducted on the
25 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
26

1 disciplinary action against the license and license rights of Respondent WEST CAPITAL
2 CORPORATION and MICHAEL GIANNCARLO GALVEZ under the Real Estate Law (Part 1
3 of vision 4 of the Business and Professions Code), for the cost of investigation and enforcement
4 as permitted by law, and for such other and further relief as may be proper under other
5 provisions of law, and for costs of audit.

6 Dated at Los Angeles, California

7 this 15th day of December, 2019.

8 
9 _____
10 Maria Suarez
11 Supervising Special Investigator

12
13 cc: WEST CAPITAL CORPORATION, MICHAEL GIANNCARLO GALVEZ
14 Audits – M. Wan, J. Lin
15 Sacto.
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