

1 license certificate and pocket card issued to Respondent JOHN W. POSTGATE shall be sent to
2 the below listed address so that they reach the Bureau of Real Estate on or before the effective
3 date of this Order:

4
5 **BUREAU OF REAL ESTATE**
6 **Attn: Licensing Flag Section**
7 P. O. Box 137013
8 Sacramento, CA 95813-7013

9 This Order shall become effective at 12 o'clock noon on SEP 19 2013.

10 DATED: August 28, 2013

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12 REAL ESTATE COMMISSIONER

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16 **By: JEFFREY MASON**
17 **Chief Deputy Commissioner**

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

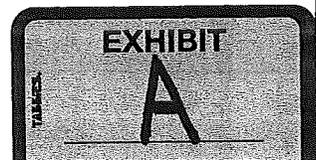
In the Matter of the Accusation of
JOHN W. POSTGATE,
Respondent.

No. H-2730 FR

DECLARATION

My name is JOHN W. POSTGATE, I was licensed as a real estate broker until my license expired on January 2, 2013; however, I currently have license rights with respect to said license. I am represented by GREGORY J. KOHLER, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.



1 I understand that by so voluntarily surrendering my license, I may be relicensed as
2 a broker or as a salesperson only by petitioning for reinstatement pursuant to Section 11522 of
3 the Government Code. I also understand that by so voluntarily surrendering my license, I agree
4 to the following:

5 1. The filing of this Declaration shall be deemed as my petition for voluntary
6 surrender.

7 2. It shall also be deemed to be an understanding and agreement by me that I
8 waive all rights I have to require the Commissioner to prove the allegations that might have been
9 contained in the Accusation filed in this matter at a hearing held in accordance with the
10 provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and
11 that I also waive other rights afforded to me in connection with the hearing such as the right to
12 discovery, the right to present evidence in defense of the allegations in the Accusation and the
13 right to cross-examine witnesses.

14 3. I further agree that upon acceptance by the Commissioner, as evidenced by
15 an appropriate order, all affidavits and all relevant evidence obtained by the Department in this
16 matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation
17 filed in the Department Case No. H-2730 FR, may be considered by the Department to be true
18 and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to
19 Government Code Section 11522.

20 4. I freely and voluntarily surrender my license and license rights under the
21 Real Estate Law.

22 I declare under penalty of perjury under the laws of the State of California that the
23 above is true and correct and that this declaration was executed April 17th, 2013, at
24 Corpus Christi, Texas.

25 
26 JOHN W. POSTGATE



1 MARY F. CLARKE, Counsel (SBN 186744)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0780 (Direct)
6 -or- (916) 227-0789 (Main Office)
7 -or- (916) 227-9458 (Fax)

FILED

APR - 6 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-2730 FR
13 JOHN W. POSTGATE, JR.,)
14) ACCUSATION
15 Respondent.)

16 The Complainant, PHILLIP IHDE, a Deputy Real Estate Commissioner of the
17 State of California, for Accusation against JOHN W. POSTGATE, JR., (herein "Respondent") is
18 informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in his official capacity.

21 2

22 At all times herein mentioned, Respondent was and now is, licensed and/or has
23 license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
24 Code) (herein "the Code").

25 3

26 At all times herein mentioned, Respondent was and now is licensed by the State
27 of California Department of Real Estate (herein the "Department") as a real estate broker.

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At all times herein mentioned, Respondent engaged in the business of, acted in the
capacity of, advertised, or assumed to act as a real estate broker within the State of California on

1 behalf of others, for compensation or in expectation of compensation within the meaning of
2 Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage
3 with the public wherein, on behalf of others, for compensation or in expectation of compensation,
4 Respondent solicited lenders or borrowers for or negotiated loans or loan modifications or
5 collected payments or performed services for borrowers or lenders or note owners in connection
6 with loans or loan modifications secured directly or collaterally by liens on real property or on a
7 business opportunity.

8 5

9 At all times mentioned, Respondent allowed, employed and supervised an
10 unlicensed individual, Jose Robledo (herein "Robledo") dba Universal Home Loans, Inc., to
11 perform activities requiring a real estate license, in violation of Section 10130 of the Code.

12 6

13 Between about April 10, 2009 and February 20, 2010, Respondent, through
14 Robledo claimed, demanded, charged, received, collected or contracted for advance fees from the
15 following property owners prior to submission to the Department of any or all materials used in
16 advanced fee agreements or performed services for the following borrowers in connection with
17 loans secured with real property before the borrowers became obligated to complete said loans,
18 and failed to deposit said advance fees into a trust account with a bank or other recognized
19 depository, in violation of Sections 10085 (advance fee materials), 10085.5 (advance fees),
20 10085.6 (advance fees) of the Code, Section 2944.7 of the Civil Code, and Sections 2970
21 (advance fee materials) and 2972 (accounting content) of Title 10, Chapter 6, of the California
22 Code of Regulations (herein "the Regulations"):

<u>Owner</u>	<u>Property Address</u>	<u>Advance Fee</u>	<u>Date</u>
Daniel G.	Verbena Dr.	\$11,350	4/10/09
Graciela B.	Yellow Rose Ct. Evadonna Rd. Berkshire Rd. Shadow Wells St.	\$17,370	5/8/09

1	(Continued)	<u>Owner</u>	<u>Property Address</u>	<u>Advance Fee</u>	<u>Date</u>
2		Annie R.	Butternut Ave. Pageant St.	\$25,000	5/9/09
3		Julio D.	176 th St.	\$11,000	10/17/09
4		Jose R.	Engelberg Dr.	\$11,600	2/20/10

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6 The facts alleged above are grounds for the suspension or revocation of the
7 license and license rights of Respondent under the following provisions of the Code and/or of
8 the Regulations:

- 9 (a) as to Paragraph 5, under Section 10130 of the Code, in conjunction
10 with Section 10177(d) of the Code; and
- 11 (b) as to Paragraph 6, under Sections 10085, 10085.5, and 10085.6 of
12 the Code, and Sections 2970 and 2972 of the Regulations, in
13 conjunction with Section 10177(d) and (q) of the Code.

14 8

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

19 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
20 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
21 action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of
22 Division 4 of the Business and Professions Code), for the cost of the investigation and
23 enforcement as permitted by law, and for such other and further relief as may be proper under
24 other applicable provisions of law.

25
26 Dated at FRESNO, California,
27 this 5TH day of April, 2012.


PHILLIP IHDE
Deputy Real Estate Commissioner