

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

**FILED**  
MAY 23 2012

DEPARTMENT OF REAL ESTATE  
By R. Mat

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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-11185 SF  
13 RCI FINANCIAL CORPORATION and )  
14 VLADISLAV CHERNOGUZ, ) STIPULATION AND AGREEMENT  
15 Respondents. )

16  
17 It is hereby stipulated by and between Respondents RCI FINANCIAL  
18 CORPORATION, ("RCI") and VLADISLAV CHERNOGUZ ("CHERNOGUZ"), (collectively  
19 "Respondents"), acting by and through Joshua A. Rosenthal, Esq., Counsel for Respondents, and  
20 the Complainant, acting by and through Annette E. Ferrante, Esq., Counsel for the Department  
21 of Real Estate ("Department"), as follows for the purpose of settling and disposing of the  
22 Accusation filed on August 9, 2011, in this matter:

23 1. All issues which were to be contested and all evidence which was to be  
24 presented by Complainant and Respondents at a formal hearing on the Accusation, which  
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
26 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions  
27 of this Stipulation and Agreement.

1                   2.       Respondents have received, read and understand the Statement to  
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department  
3 of Real Estate in this proceeding.

4                   3.       Respondents filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense,  
8 Respondents will thereby waive Respondents' right to require the Real Estate Commissioner  
9 ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in  
10 accordance with the provisions of the APA and that Respondents will waive other rights  
11 afforded to Respondents in connection with the hearing such as the right to present evidence in  
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13                  4.       Respondents, pursuant to the limitations set forth below, hereby admit that  
14 the factual allegations in the Accusation filed in this proceeding are true and correct and the  
15 Commissioner shall not be required to provide further evidence to prove such allegations.

16                  5.       It is understood by the parties that the Commissioner may adopt the  
17 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and  
18 sanctions on Respondents' real estate licenses and license rights as set forth in the "Order"  
19 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and  
20 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing  
21 and proceeding on the Accusation under all of the provisions of the APA and shall not be bound  
22 by any admission or waiver made herein.

23                  6.       The Order or any subsequent Order of the Commissioner made pursuant  
24 to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further  
25 administrative or civil proceedings by the Department with respect to any matters which were  
26 not specifically alleged to be causes for accusation in this proceeding.

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1 ORDER

2 I.

3 All licenses and licensing rights of Respondent RCI under the Real Estate Law  
4 are suspended for a period of one-hundred twenty (120) days from the effective date of this  
5 Order; provided, however, that:

6 1. One-hundred twenty (120) days of said suspension shall be stayed for  
7 two (2) years upon the following terms and conditions:

8 a. Respondent RCI shall obey all laws, rules and regulations  
9 governing the rights, duties and responsibilities of a real estate licensee in the State of  
10 California; and

11 b. That no final subsequent determination be made, after hearing or  
12 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
13 effective date of this Order. Should such a determination be made, the Commissioner may, in  
14 her discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed  
15 suspension. Should no such determination be made, the stay imposed herein shall become  
16 permanent.

17 II.

18 All licenses and licensing rights of Respondent CHERNOGUZ under the Real  
19 Estate Law are suspended for a period of one-hundred twenty (120) days from the effective  
20 date of this Order; provided, however, that:

21 1. Ninety (90) days of said suspension shall be stayed for two (2) years  
22 upon the following terms and conditions:

23 a. Within two (2) years from the effective date of this Order,  
24 Respondent CHERNOGUZ shall provide proof satisfactory to the Commissioner, of having  
25 made payment to Odontuya D. Shourd in the amount of \$1,000.00, or as otherwise mutually

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1 agreed between Respondent CHERNOGUZ and Odontuya D. Shourd. However, if two (2)  
2 years from the effective date of this Order have elapsed and Respondent CHERNOGUZ cannot  
3 locate Odontuya D. Shourd to present payment, then compliance with this restitution provision  
4 shall be satisfied if, (i) Respondent CHERNOGUZ submits a written statement made under  
5 penalty of perjury to the Commissioner that states the following: "I, VLADISLAV  
6 CHERNOGUZ, have been unable to locate Odontuya D. Shourd, and I have not been contacted  
7 by Odontuya D. Shourd", and (ii) if Respondent submits payment to the Department in the  
8 amount of \$1,000.00 in the form of a cashier's check or certified check made payable to the  
9 Consumer Recovery Account of the Real Estate Fund as a monetary penalty pursuant to  
10 Section 10175.2 of the Code. Said written statement and payment must be delivered to the  
11 Department within thirty (30) days after two (2) years from the effective date of the Decision  
12 in this matter;

13                                   b. Within two (2) years from the effective date of this Order,  
14 Respondent CHERNOGUZ shall provide proof satisfactory to the Commissioner, of having  
15 made payment to Luis O. Herrera in the amount of \$3,500.00, or as otherwise mutually agreed  
16 between Respondent CHERNOGUZ and Luis O. Herrera. However, if two (2) years from the  
17 effective date of this Order have elapsed and Respondent CHERNOGUZ cannot locate Luis O.  
18 Herrera to present payment, then compliance with this restitution provision shall be satisfied if,  
19 (i) Respondent CHERNOGUZ submits a written statement made under penalty of perjury to  
20 the Commissioner that states the following: "I, VLADISLAV CHERNOGUZ, have been  
21 unable to locate Luis O. Herrera, and I have not been contacted by Luis O. Herrera", and (ii) if  
22 Respondent submits payment to the Department in the amount of \$3,500.00 in the form of a  
23 cashier's check or certified check made payable to the Consumer Recovery Account of the Real  
24 Estate Fund as a monetary penalty pursuant to Section 10175.2 of the Code. Said written  
25 statement and payment must be delivered to the Department within thirty (30) days after two  
26 (2) years from the effective date of the Decision in this matter;

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1                                    c. Respondent CHERNOGUZ shall obey all laws, rules and  
2 regulations governing the rights, duties and responsibilities of a real estate licensee in the State  
3 of California; and

4                                    d. That no final subsequent determination be made, after hearing or  
5 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
6 effective date of this Order. Should such a determination be made, the Commissioner may, in  
7 his discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed  
8 suspension. Should no such determination be made, the stay imposed herein shall become  
9 permanent.

10                                   e. If the Commissioner determines that Respondent CHERNOGUZ  
11 has failed to comply with these conditions, the Commissioner may, in his discretion, vacate  
12 and set aside the stay order and re-impose all or a portion of the stayed suspension. Should no  
13 such determination be made, the stay imposed herein shall become permanent.

14                                   f. If Respondent CHERNOGUZ complies with these conditions,  
15 and if no further cause for disciplinary action against the real estate license of Respondent  
16 CHERNOGUZ occurs within two (2) years from the effective date of the Decision herein, then  
17 the stay hereby granted shall become permanent.

18                                   2. Thirty (30) days of said suspension shall be stayed, upon the condition  
19 that Respondent CHERNOGUZ petitions pursuant to Section 10175.2 of the Business and  
20 Professions Code and pays a monetary penalty pursuant to Section 10175.2 of the Business and  
21 Professions Code at a rate of \$100 for each day of the suspension for a total monetary penalty of  
22 \$3,000.

23                                   a. Said payment shall be in the form of a cashier's check or certified  
24 check made payable to the Consumer Recovery Account of the Real Estate Fund. Said check  
25 must be delivered to the Department prior to the effective date of the Decision in this matter.

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1                                    b. No further cause for disciplinary action against the real estate  
2 license of Respondent CHERNOGUZ occurs within two (2) years from the effective date of the  
3 decision in this matter.

4                                    c. If Respondent CHERNOGUZ fails to pay the monetary penalty in  
5 accordance with the terms and conditions of the Decision, the Commissioner may, without a  
6 hearing, order the immediate execution of all or any part of the stayed suspension, in which  
7 event, Respondent CHERNOGUZ shall not be entitled to any repayment nor credit, prorated or  
8 otherwise, for money paid to the Department under the terms of this decision.

9                                    d. If Respondent CHERNOGUZ pays the monetary penalty, and if  
10 no further cause for disciplinary action against the real estate license of Respondent  
11 CHERNOGUZ occurs within two (2) years from the effective date of the Decision herein, then  
12 the stay hereby granted shall become permanent.

13                                    3. All licenses and licensing rights of Respondent CHERNOGUZ are  
14 indefinitely suspended unless or until Respondent CHERNOGUZ provides proof satisfactory to  
15 the Commissioner, of having made payment to Ilya and Tatyana Yuriychuk in the amount of  
16 \$3,500.00, or as otherwise mutually agreed between Respondent CHERNOGUZ and Ilya and  
17 Tatyana Yuriychuk.

18                                    4. All licenses and licensing rights of Respondent CHERNOGUZ are  
19 indefinitely suspended unless or until Respondent CHERNOGUZ provides proof satisfactory to  
20 the Commissioner, of having made payment to Sergei and Luomila Volkov in the amount of  
21 \$1,000.00, or as otherwise mutually agreed between Respondent CHERNOGUZ and Sergei and  
22 Luomila Volkov.

23                                    5. Respondent CHERNOGUZ shall, within six (6) months from the  
24 effective date of this Order, take and pass the Professional Responsibility Examination  
25 administered by the Department, including the payment of the appropriate examination fee. If

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1 Respondent CHERNOGUZ fails to satisfy this condition, the Commissioner may order the  
2 suspension of all licenses and licensing rights of Respondent CHERNOGUZ until Respondent  
3 CHERNOGUZ passes the examination.

4 6. Notwithstanding any other provision of this Order, all licenses and  
5 licensing rights of Respondent CHERNOGUZ are suspended unless and until he provides  
6 proof satisfactory to the Commissioner that he has taken and successfully completed the  
7 continuing education course on Trust Fund Accounting and Handling specified in Section  
8 10170.5(a)(3) of the Code. The course must have been completed no earlier than one hundred  
9 twenty (120) days prior to the effective date of this Order, and proof must be submitted prior to  
10 the effective date of this Order, to prevent suspension of Respondent CHERNOGUZ's license  
11 pursuant to this condition.

12 7. Respondent CHERNOGUZ shall pay the sum of \$2,831.00 for the  
13 Commissioner's cost of the audit which led to this disciplinary action. Respondent  
14 CHERNOGUZ shall pay such cost within sixty (60) days of receiving an invoice therefore  
15 from the Commissioner. The Commissioner may indefinitely suspend all licenses and  
16 licensing rights of Respondent CHERNOGUZ pending a hearing held in accordance with  
17 Section 11500, et seq., of the Government Code, if payment is not timely made as provided for  
18 herein, or as provided for in a subsequent agreement between Respondent CHERNOGUZ and  
19 the Commissioner. The suspension shall remain in effect until payment is made in full or until  
20 Respondent CHERNOGUZ enters into an agreement satisfactory to the Commissioner to  
21 provide for payment, or until a decision providing otherwise is adopted following a hearing  
22 held pursuant to this condition.

23 8. Respondent CHERNOGUZ shall pay the Commissioner's costs, not to  
24 exceed \$2,831.00, of any audit conducted pursuant to Section 10148 of the Code to determine  
25 if Respondent CHERNOGUZ has corrected the violations described in the Determination of  
26 Issues, above, and any other violations found in the audit which led to this disciplinary action.

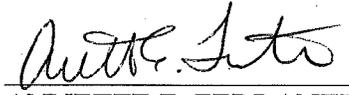
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1 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use  
2 the estimated average hourly salary for all persons performing audits of real estate brokers, and  
3 shall include an allocation for travel time to and from the auditor's place of work. Respondent  
4 CHERNOGUZ shall pay such cost within sixty (60) days of receiving an invoice therefore  
5 from the Commissioner detailing the activities performed during the audit and the amount of  
6 time spent performing those activities. If Respondent CHERNOGUZ fails to pay such cost  
7 within the sixty (60) days, the Commissioner may indefinitely suspend all licenses and  
8 licensing rights of Respondent CHERNOGUZ under the Real Estate Law until payment is  
9 made in full or until Respondent CHERNOGUZ enters into an agreement satisfactory to the  
10 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided  
11 for in this paragraph shall be stayed.

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02-27-12

DATED



ANNETTE E. FERRANTE, Counsel  
Department of Real Estate

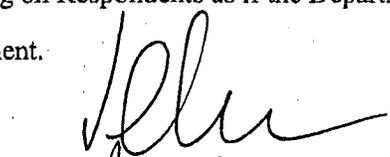
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I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges. Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondents, to the Department at fax number (916) 227-9458. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

2/27/12

DATED



VLADISLAV CHERNOGUZ,  
Respondent

2/27/12

DATED



VLADISLAV CHERNOGUZ,  
As Designated Officer of Respondent  
RCI FINANCIAL CORPORATION

\*\*\*

*I have reviewed this Stipulation and Agreement and Order as to form and content and have advised my clients accordingly.*

3/23/12

DATED



JOSHUA A. ROSENTHAL,  
Attorney for Respondents  
RCI FINANCIAL CORPORATION and  
VLADISLAV CHERNOGUZ

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The foregoing Stipulation and Agreement is hereby adopted by me as my  
Decision in this matter as to Respondents RCI FINANCIAL CORPORATION and  
VLADISLAV CHERNOGUZ, and shall become effective at 12 o'clock noon on  
JUN 13 2012

IT IS SO ORDERED

5/18/2012

REAL ESTATE COMMISSIONER

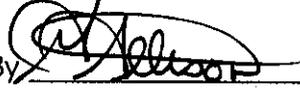


By WAYNE S. BELL  
Chief Counsel

**FILED**

**August 9, 2011**

DEPARTMENT OF REAL ESTATE

By 

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4 Sacramento, CA 95818-7007

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6 -or- (916) 227-0788 (Direct)

7 Fax: (916) 227-9458

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9  
10 BEFORE THE  
11 DEPARTMENT OF REAL ESTATE  
12 STATE OF CALIFORNIA

13 \* \* \*

13 In the Matter of the Accusation of ) NO. H-11185 SF  
14 )  
14 RCI FINANCIAL CORPORATION )  
15 and VLADISLAV CHERNOGUZ, ) ACCUSATION  
16 )  
16 Respondents. )  
17 )

18 The Complainant, E. J. HABERER, II, in his official capacity as a Deputy Real  
19 Estate Commissioner of the State of California, for cause of Accusation against RCI FINANCIAL  
20 CORPORATION (hereinafter "RCI") and VLADISLAV CHERNOGUZ (hereinafter  
21 "CHERNOGUZ"), (collectively referred to herein as "Respondents") is informed and alleges as  
22 follows:

23 1

24 RCI is presently licensed by the Department of Real Estate (hereinafter "the  
25 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the  
26 California Business and Professions Code (hereafter "the Code"), as a corporate real estate broker  
27

1 (No. 01053240), and at all times relevant herein was acting by and through CHERNOGUZ as its  
2 designated officer broker.

3 2

4 At all times relevant herein, RCI had the following fictitious business name  
5 registered with the Department: "Rci Financial Corp".

6 3

7 CHERNOGUZ is presently licensed by the Department and/or has license rights  
8 under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker (No. 00815776).  
9

10 4

11 At all times relevant herein, CHERNOGUZ was licensed by the Department as the  
12 designated officer broker of RCI. As the designated officer broker, CHERNOGUZ was responsible,  
13 pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents,  
14 real estate licensees and employees of RCI for which a real estate license is required.

15 5

16 Whenever reference is made in an allegation in this Accusation to an act or omission  
17 of RCI, such allegation shall be deemed to mean that the employees, agents, and real estate licensees  
18 employed by or associated with RCI committed such act or omission while engaged in furtherance  
19 of the business or operations of RCI and while acting within the course and scope of their authority  
20 and employment.

21 6

22 At all times herein mentioned, RCI engaged in activities on behalf of others within  
23 the State of California for or in expectation of compensation, for which a real estate license is  
24 required under Section 10131(d) of the Code, including the solicitation of borrowers or lenders for  
25 or negotiation of loans or collection of payments or performance of services for borrowers or  
26 lenders or note owners in connection with loans secured directly or collaterally by liens on real  
27 property or on a business opportunity.

1 FIRST CAUSE OF ACTION

2 As Against RCI

3 7

4 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is  
5 incorporated by this reference as if fully set forth herein.

6 8

7 Beginning on or about June 2, 2010, and continuing intermittently until June 15,  
8 2010, an audit was conducted at RCI's main office located at 369 Hayes Street, San Francisco,  
9 California, and the Department of Real Estate's Oakland District Office, wherein the Auditor  
10 examined RCI's records for the period of January 1, 2008, through April 30, 2010, (hereinafter "the  
11 audit period").

12 9

13 While acting as a corporate real estate broker as described in Paragraph 6, above, and  
14 within the audit period, RCI accepted or received funds in trust (hereinafter "trust funds") from or  
15 on behalf of borrowers, lenders, and/or others in connection with loans secured directly or  
16 collaterally by liens on real property or on a business opportunity, for or in expectation of  
17 compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust  
18 funds.

19 10

20 The trust funds accepted or received by RCI as described in Paragraph 9, above, were  
21 deposited or caused to be deposited by RCI into a bank account maintained by RCI for the handling  
22 of trust funds, and thereafter from time-to-time RCI made disbursements of said trust funds,  
23 identified as follows:

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1 **TRUST ACCOUNT # 1**

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Bank Name and Location:	Bank of America, 2835 Geary Blvd., San Francisco, California
Account No.:	XXXXXX4803
Entitled:	"RCI Financial Corp Trust Account"
Signatories:	Vladislav Chernoguz (REB/DO)
No. of Signatures Required:	One

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7 11

8 Within the three-year period prior to the filing of this Accusation and at all times  
9 herein mentioned, in the course and scope of the activities described in Paragraph 6, above,  
10 Respondents claimed, demanded, charged, received, and collected, and utilized written materials  
11 and solicitations for obtaining, advance fees from borrowers for services Respondents and/or  
12 Respondents' affiliates, the LAW OFFICES OF ORLANDO J. CASTANO JR. and AMERICAN  
13 MORTGAGE MODIFICATION, were to perform thereafter for or in expectation of compensation,  
14 including, but not limited to, the following transactions:

15

Name	Advance Fee Amount	Date Advance Fee Received	Property
Yuriychuk	\$3,500	09/16/08	5444 Toombs Street, Fair Oaks, California
Herrera	\$3,500	09/02/08	283 Verano Drive, Daly City, California
Shourd	\$1,000	01/14/09	530 Fourth Avenue, San Francisco, California
Volkov	\$3,500	10/30/08	462 Goodall Drive, Mountain House, California
Volkov	\$3,500	10/30/08	20948 San Miguel Avenue, Castro Valley, California

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2 The fees described in Paragraph 11, above, constituted an "advance fee" within the  
3 meaning of Section 10026 of the Code ("Advance Fee" is fee claimed, demanded, charged,  
4 received, collected or contracted from principal before completing services for listing, for offer to  
5 sell or lease property or business opportunity, for referral to brokers or salesmen, for soliciting  
6 borrowers or lenders, for negotiating real estate loans) and Section 10131.2 of the Code (Real  
7 estate broker is a person who engages in business of claiming, demanding, charging, receiving,  
8 collecting or contracting for advance fees in connection with any employment to promote sale,  
9 lease of real property or business opportunity, or exchange or to obtain loans on real property).  
10 Said fees constituted trust funds within the meaning of Section 10145 of the Code (broker accepts  
11 funds belonging to others in connection with acts requiring a real estate license) and Section 10146  
12 of the Code (advance fees collected by broker are trust funds).  
13  
14

15  
16 In the course of the activities described in Paragraph 6, above, and within the audit  
17 period, RCI:

- 18 (a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be  
19 reduced to an amount which, as of April 29, 2010, was approximately  
20 \$280.00 less than the aggregate liability of Trust Account #1 to all owners of  
21 such funds, without the prior written consent of each and every owner of such  
22 funds, in violation of Section 10145 of the Code and Section 2832.1 of Title  
23 10 of the California Code of Regulations (hereafter "the Regulations");  
24  
25 (b) failed to reconcile the total of separate beneficiary records with a control  
26 record on a monthly basis for Trust Account #1, in violation of Section 10145  
27

of the Code and Section 2831.2 of the Regulations;

1  
2 (c) In connection with the collection, receipt, and handling of the advance fees as  
3 described in Paragraph 11, above, RCI provided to the borrowers, or directed  
4 and/or caused to be provided to the borrowers, written materials used to  
5 solicit, promote, advertise and/or negotiate an agreement to obtain advance  
6 fees that had not been submitted to, reviewed, and approved by, the  
7 Department of Real Estate prior to use as required by Sections 10085 and  
8 10085.5 of the Code and Section 2970 of the Regulations;

9  
10 (d) In connection with the collection, receipt and handling of advance fees  
11 described in Paragraph 11, above, RCI failed to provide to the borrowers or  
12 failed to maintain a record of or failed to provide to the Department's  
13 representative after notice, the required verified accounting of the advance fee  
14 trust funds and failed to provide any accounting expressly representing the  
15 amounts of trust funds disbursed, the date of trust fund disbursement, the  
16 commission paid, and overhead and profit as required by Section 10146 of  
17 the Code and containing the information required by Section 2972 of the  
18 Regulations; and

19  
20  
21 (e) In connection with the collection, receipt and handling of advance fees  
22 described in Paragraph 11, above, RCI failed to maintain a Record of All  
23 Trust Funds Received – Not Placed in Brokers Trust Account, in violation of  
24 Section 2831(a)(6) of the Regulations.  
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2 The acts and/or omissions of RCI described in Paragraph 13, above, constitute  
3 grounds for the suspension or revocation of RCI's license and license rights pursuant to Section  
4 10177(d) (Willful Disregard/Violation of Real Estate Law) and/or Section 10177(g)  
5 (Negligent/Incompetence in Performing Act Requiring Licensee) of the Code.

6 15

7 The acts and/or omissions of RCI as alleged in Paragraph 13, above, entitle the  
8 Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (Reimbursement  
9 for Cost of Audit for Trust Fund Handling Violation) of the Code.

10 SECOND CAUSE OF ACTION

11 As Against CHERNOGUZ

12 16

13 Each and every allegation in Paragraphs 1 through 15, inclusive, above, is  
14 incorporated by this reference as if fully set forth herein.

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16 CHERNOGUZ, as the designated officer broker of RCI, was required to exercise  
17 reasonable supervision and control over the activities of RCI and its employees pursuant to Section  
18 10159.2 (Reasonable Supervision by Designated Officer) of the Code and Section 2725 of the  
19 Regulations (Reasonable Supervision by Broker).

20 18

21 CHERNOGUZ failed to exercise reasonable supervision over the acts and/or  
22 omissions of RCI and its employees in such a manner as to allow the acts and/or omissions as  
23 described in Paragraph 13, above, to occur, which constitutes cause for the suspension or revocation  
24 of the licenses and license rights of CHERNOGUZ under Sections 10177(h) (Failure to Exercise  
25 Reasonable Supervision) and 10159.2 (Reasonable Supervision by Designated Officer) of the Code,  
26 and 10177(d) (Willful Disregard/Violation of Real Estate Law) and/or 10177(g)  
27 (Negligence/Incompetence in Performing Act Requiring License), of the Code.

1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
2 this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action  
3 against all licenses and license rights of all Respondents named herein under the Real Estate Law  
4 (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as  
5 may be proper under other provisions of law.

6  
7   
8 E. J. HABERER, II  
9 Deputy Real Estate Commissioner

10 Dated at Oakland, California  
11 this 5 day of August, 2011.

1 RICHARD K. UNO, Counsel (SBN 98275)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 (916) 227-2380 (Direct)

**FILED**  
AUG - 9 2011

DEPARTMENT OF REAL ESTATE  
By *R. Uno*

7  
8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 DO H. KANG, ) No. H-11187 SF  
14 Respondent. ) ACCUSATION  
15 )

16 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of  
17 the State of California, for cause of Accusation against DO H. KANG, (Respondent), is  
18 informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in his official capacity.

21 2

22 Respondent is presently licensed and/or has license rights under the Real Estate  
23 Law Part 1 of Division 4 of the Business and Professions Code (the Code) as a real estate  
24 salesperson.

25 3

26 On or about June 15, 2011, in the Superior Court of the State of California,  
27 County of San Mateo, Case No. NF 398917A, Respondent was convicted of violating Section

1 422 of the California Penal Code (Threaten With Intent to Terrorize), a misdemeanor and a  
2 crime which bears a substantial relationship under Section 2910, Title 10, California Code of  
3 the Regulations to the qualifications, functions or duties of a real estate licensee.

4 4

5 The facts alleged in Paragraph 3, above, constitutes cause under Sections 490  
6 (Conviction of Substantially Related Crime) and 10177(b) (Further Grounds for Disciplinary  
7 Action- Conviction of Crime) of the Code for suspension or revocation of all licenses and  
8 license rights of Respondent under the Real Estate Law.

9 WHEREFORE, Complainant prays that a hearing be conducted on the  
10 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
11 disciplinary action against all licenses and license rights of Respondent under the Real Estate  
12 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further  
13 relief as may be proper under the provisions of law.

14  
15   
16 E. J. HABERER, II  
17 Deputy Real Estate Commissioner

18 Dated at Oakland, California,  
19 this 5 day of August, 2011.