FILED
MAY 22, 2009
DEPARTMENT OF REAL ESTATE
By C-7

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MARICELA NUNEZ, Respondent.	NO. H-34193 LA

ORDER SUSPENDING REAL ESTATE LICENSE

TO: MARICELA NUNEZ, Respondent
8959 Valley View Avenue
Whittier, CA 90605

On August 12, 2008, your real estate salesperson license was suspended on the terms, conditions, and restrictions set forth in the Real Estate Commissioner's Order effective September 8, 2008, in Case No. H-34193 LA. Among those terms, conditions and restrictions, you were required to take and pass the Professional Responsibility Examination within six months from the effective date of the Decision. The Commissioner has determined that as of March 8, 2009, you have failed to satisfy this condition.

NOW, THEREFORE, IT IS ORDERED under authority of the Order issued in this matter that the real estate salesperson license heretofore issued to Respondent and the exercise of any privileges thereunder is hereby suspended until such time as you provide proof satisfactory to the Department of compliance with the "condition" referred to above, or pending final determination made after hearing (see "Hearing Rights" set forth below).

IT IS FURTHER ORDERED that all license certificates and identification cards issued by Department which are in the possession of Respondent be immediately surrendered by personal delivery or by mailing in the enclosed, self-addressed envelope to:

Department of Real Estate
Attn: Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

HEARING RIGHTS: You have the right to a hearing to contest the Commissioner's determination that you are in violation of the Order issued in this matter. If you desire a hearing, you must submit a written request. The request may be in any form, as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the Department at 320 West 4th Street, Suite 350, Los Angeles, California 90013-1105, within 20 days after the date that this Order was mailed to or served on you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: 5/15/09

JEFF DAVI
Real Estate Commissioner

Sacto. Reg

FILED
AUG 18 2008
DEPARTMENT OF REAL ESTATE
By

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of MARICELA NUNEZ, Respondent.	No. H-34193 LA L-2007110769

DECISION

The Proposed Decision dated July 17, 2008, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code of the State of California, the Proposed Decision on page 1, Findings of Fact, paragraph 3, line 2, "7025 Union Avenue" is amended to read "7205 Union Avenue"; on page 5, Order, paragraph 2, "Commisson" is amended to read "Commissioner".

This Decision shall become effective at 12 o'clock noon on September 8, 2008.

IT IS SO ORDERED 8/12/08.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against: COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX, HARRY CLARK SHARAR, JR., designated officers of Colonial National Bancorp, and MARICELA NUNEZ, Respondents.	H-34193-LA OAH No. 2007110769

PROPOSED DECISION

The hearing in the above-captioned matter was held at Los Angeles, California, on June 17, 2008. Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), presided. Complainant was represented by James R. Peel, Staff Counsel, Department of Real Estate. Respondent Maricela Nunez appeared and represented herself. The other named Respondents had failed to respond to the Accusation, and a decision was rendered against them by default, effective May 28, 2008.

Evidence was received, the case argued, and the matter submitted for decision on the hearing date. The Administrative Law Judge hereby makes his findings of fact, conclusions of law, and orders, as follows:

FINDINGS OF FACT

1. Complainant Janice A. Waddell filed the Accusation in the above-captioned proceeding while acting in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate (Department), State of California.

2. Respondent Maricela Nunez (Respondent or Nunez) is presently licensed to act as a real estate salesperson in California. She has been licensed since January 3, 2006.

3. In April 2005, Ofelia Warthen (Warthen), an experienced real estate broker, listed a property located at ~~7025~~ 7205 Union Avenue, Whittier, California (Union Avenue property). Ms. Warthen was thereafter contacted by Respondent Nunez, who inquired

about the availability of the property, and Nunez made an appointment to show the property to a potential buyer, Mr. Lopez. At this time, Respondent was not yet licensed, and had not taken the exam for licensure.

4. After being contacted by Respondent, Warthen received an offer from Byron Lopez and his wife to purchase the property. The offer was in writing, transmitted via fax machine. The offer identified Dream Team Real Estate, by Dennis Cox, as the potential buyer's real estate agent in the transaction. Respondent Nunez is not identified on the written offer, although she was then employed at that firm, and had called Warthen on behalf of that firm.

5. The sellers made a written counter-offer. However, before Mr. and Mrs. Lopez could respond to the counter-offer, the sellers accepted another offer on the property.

6. In the meantime, Ms. Warthen had been dealing, by telephone, with Respondent Nunez; Warthen never met or spoke to Mr. Cox. At one point, fairly early in the relationship, Respondent told Warthen that she was not a real estate agent. Notwithstanding that information, Warthen asked Respondent to send her a business card, which she did.

7. The business card was received by Warthen on or about May 5, 2005, along with a business card for Sophia Kay. Nunez's card does not identify her as a real estate agent, but it does show her firm as "Dream Machine Real Estate" with an address on Firestone Boulevard. The card, a poor copy of which was received in evidence, appears to have been made up from another business card by a cut-and-paste method. (See Exhibit 5.) Sophia Kay's card, on the other hand, identifies her as a "realtor" with an address in Irvine, California.

8. Thereafter, the agreement that Warthen's client had made to sell the Union Avenue property to another party "fell out," and she contacted Nunez with that news. Warthen asked Nunez if her client was still interested in buying the property. Nunez was happy to receive the news and Warthen understood that Lopez would be interested in the purchase. Warthen told Nunez that she would have to speak to Mr. Cox, and Respondent said she would have Mr. Cox contact Warthen. Mr. Cox never did so. It is clear from the record that by this point in time Warthen understood that Respondent did not have a license.

9. (A) On May 23, 2005, an escrow was opened for the sale of the Union Avenue property from Warthen's client to Mr. and Mrs. Lopez. During the sale process, Warthen had many conversations with Nunez. When problems arose with the loan, Nunez was often involved in the communications. This may have been because Respondent's husband worked for the lender as a loan processor in the transaction. However, at one point Warthen told Nunez that the sellers were going to

cancel the deal over the delay in the buyer's obtaining financing, and she reiterated her need to speak to Mr. Cox. Again, Warthen had no contact from him.

(B) At about this time Mr. Lopez had at least one conversation with Warthen. She formed the impression from his statements that Lopez did not know who Mr. Cox was, and that he considered Nunez to be his real estate agent. Warthen told him to call Cox, but Lopez did not know who Mr. Cox was. Eventually the financing problems were resolved, when another lender was brought into the transaction, and the escrow closed. Near the time that escrow closed, which was in late July 2005, a walk-through of the property occurred, and Respondent was there with Mrs. Lopez.

10. During the approximate three-month life of the transaction, Ms. Warthen also dealt with Sophia Kay, whose business card she had received along with the Respondent's card in early May 2005. Warthen first spoke to Ms. Kay when she was trying to contact Mr. Cox. Ms. Kay told Warthen that she should deal with her, and Warthen had some dealings with Kay. Thus, not all her contact was through Respondent.

11. At the time of this transaction, Respondent was employed as a clerk at the Dream Team Real Estate office on Firestone Boulevard, in Santa Fe Springs, California. The manager of that office was Margarita Villalobos. Respondent also worked with Sophia Kay. The latter told Respondent how to fill out the forms for the offer used for Mr. Lopez. And, Ms. Villalobos presented the counter-offer to Lopez, at the Dream Team offices.

12. Respondent told Lopez to contact Ms. Kay and Ms. Villalobos after she could not put Warthen in touch with Cox, and after Kay told Respondent not to deal with Warthen any further. Kay gave that instruction because she and Warthen had had an argument about the transaction for the Union Avenue property.

13. Respondent left Dream Team Real Estate at the end of July 2005, about the time the escrow closed on the Union Avenue property. Respondent acknowledges that she received a "1099" from Dream Team, and that they told her she would be paid on a commission basis. She did not understand that the activities she was engaged in, with the consent of her employers, were tantamount to acting as a real estate agent.

14. There is no evidence that any consumer was harmed in the Union Avenue transaction.

//

LEGAL CONCLUSIONS

1. Respondent acted in the capacity of a real estate salesperson from May to July, 2005, in connection with the Lopez transaction, within the meaning of section 10131 of the Business and Professions Code,[1] based on Factual Findings 3 through 6, 8 and 9. In this regard, she represented the interests of the buyers, in expectation of compensation, and this is sufficient to bring her within the definition of a real estate broker or salesperson. (*Horning v. Shilberg* (2005) 130 Cal.App.4th 197, 203-204; *Garcia v. Wetzel* (1984) 159 Cal.App.3d 1093, 1096.)

2. By acting as a real estate agent, without a license, Respondent violated section 10130, based on Legal Conclusion 1, and its predicate factual findings.

3. Respondent's violation of section 10130 constitutes grounds for discipline pursuant to section 10177, subdivision (d), in that she willfully violated a provision of the Real Estate Law.

4. In mitigation, the action occurred prior to the time that Respondent was licensed, and she did not understand the ramifications of her actions. Further, she was led into her wrongful conduct by licensees who should have known better than to allow a clerk to take on the duties normally associated with those of a licensee. On more than one occasion Respondent informed Ms. Warthen that she was not licensed, and any misperception of her status by Mr. and Mrs. Lopez was in part a result of the way in which management of Dream Team Real Estate allowed Respondent to act, and by their failure to act appropriately. There have been no other complaints against Respondent in the short time that she has been licensed. There is no evidence that the consumers were harmed as a result of the transaction. (See Factual Findings 6, 8, 10, 11, 13, 14.)

5. The purpose of proceedings of this type are to protect the public, and not to punish an errant licensee. (See, e.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) In this case it appears that revocation of Respondent's license is not necessary to curb wrongful behavior in the future. Instead, it appears that a one-year suspension, stayed, will be sufficient to bring home the seriousness of this matter to Respondent, deterring further violations of the Real Estate Law by her, and by other licensees.

ORDER

All licenses and licensing rights of Respondent Maricela Nunez under the Real

[1] All further statutory citations shall be to the Business and Professions Code unless otherwise noted.

Estate Law are suspended for a period of ninety days from the effective date of this Decision; provided however, that the suspension shall be stayed for a period of two years upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the ~~Commission~~ Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

3. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department, including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of her license until Respondent passes the examination. The Commissioner may, at Respondent's request, extend her time to take and pass the examination, in his discretion.

July 17, 2008

Joseph D. Montoya
Administrative Law Judge
Office of Administrative Hearings

FILED
MAY - 8 2008
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., designated officers of Colonial National Bancorp, and MARICELA NUNEZ, Respondents.	No. H-34193 LA AMENDED DECISION NUNC PRO TUNC

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on March 6, 2008, and the Findings of Fact set forth herein are based on one or more of the following: (1) Respondents' express admissions, (2) affidavits, and (3) other evidence.

FINDINGS OF FACT

I

On July 14, 2007, Janice A. Waddell made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent and Notice of Defense were mailed, by certified mail, to Respondents' last known mailing address on file with the Department on August 15, 2007.

On March 6, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR.'s default was entered herein.

II

COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., individually and as designated officers of said corporation (hereinafter referred to as Respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

III

At all times herein mentioned, Respondent COLONIAL NATIONAL BANCORP was licensed by the Department of Real Estate of the State of California as a real estate broker with Respondent DENNIS WILLIAM COX as its designated officer.

Respondent MARICELA NUNEZ was licensed as a real estate salesperson effective January 3, 2006.

IV

At all times material herein, Respondents COLONIAL NATIONAL BANCORP and DENNIS WILLIAM COX engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Sections 10131(a) and (d) of the Code, including negotiating loans on real property. Respondent COLONIAL NATIONAL BANCORP engaged in escrow activities pursuant to the exemption provided by Financial Code Section 17006(a)(4).

V

On or about October 20, 2006, the Department completed an examination of Respondent COLONIAL NATIONAL BANCORP's books and records, pertaining to the activities described in Paragraph IV above, covering a period from January 1, 2004, through December 12, 2005, which revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

VI

The examination described in Paragraph V, above, determined that, in connection with the activities described in Paragraph IV above, Respondent COLONIAL NATIONAL BANCORP accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals and thereafter made deposit or disbursement of such funds.

VII

In the course of activities described in Paragraphs IV and VI and during the examination period described in Paragraph V, Respondent COLONIAL NATIONAL BANCORP acted in violation of the Code and the Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 050228 and LA 060075 and related exhibits:

(1) Violated Section 10145(a) of the Code and Regulation 2832.1 by maintaining a trust account shortage of $770 as of December 12, 2005.

(2) Violated Regulation 2731 by employing unlicensed fictitious business names Home Loans Direct, LLC and 1st Global in its brokerage business.

(3) Violated Regulation 2834 in that the designated officer was not a signatory on the trust account. The trust account had unlicensed signatories. There was no fidelity bond coverage.

(4) Violated Section 10240 of the Code by not always maintaining a copy of the Mortgage Loan Disclosure Statement as signed by the borrower and the broker.

(5) Violated Section 10137 of the Code by employing Jorge Ramires, who was not licensed to Respondent as a real estate salesperson, to negotiate a loan on real property on behalf of Jose and Herlinda Gonzalez for property at 13862 Lakeside Street, Sylmar, California.

(6) Violated Section 10137 of the Code by employing Josh Flores, who was not licensed to Respondent as a real estate salesperson, to negotiate a loan on real property on behalf of Pedro Delgado for property at 2823 Iowa Avenue A, B, and C, South Gate, California.

(7) Violated Section 10137 of the Code by employing Respondent MARICELA NUNEZ, who was not licensed to Respondent as a real estate salesperson, to negotiate the sale of property at 7205 Union Avenue, Whittier, California, to Byron S. and Analia Lopez on or about May 23, 2005.

AUDIT NO. LA 060124, LA 060005, LA 060075

VIII

At all times herein mentioned, Respondent COLONIAL NATIONAL BANCORP was licensed as a real estate broker with Respondent HARRY CLARK SHARAR, JR., as its designated officer.

IX

At all times material herein, Respondents COLONIAL NATIONAL BANCORP and HARRY CLARK SHARAR, JR., engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Sections 10131(a) and (d) of the Code including negotiating loans on real property. Respondent COLONIAL NATIONAL BANCORP engaged in escrow activities pursuant to the exemption provided by Financial Code Section 17006(a)(4).

X

On or about October 25, 2006, the Department completed an examination of Respondent COLONIAL NATIONAL BANCORP's books and records, pertaining to the activities described in Paragraph X above, covering a period from December 13, 2005, through July 31, 2006, which examination revealed violations of the Code and of the Regulations as set forth below.

XI

The examination described in Paragraph X, above, determined that, in connection with the activities described in Paragraph IX, Respondent COLONIAL NATIONAL BANCORP accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals and thereafter made deposit or disbursement of such funds.

XII

In the course of activities described in Paragraphs IX through XI and during the examination period described in Paragraph X, Respondent COLONIAL NATIONAL BANCORP acted in violation of the Code and Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 060124, LA 060005 and LA 060076 and related exhibits:

(1) Violated Section 10145(a) of the Code and Regulation 2832.1 by maintaining a trust account shortage of $770 as of July 31, 2006.

(2) Violated Regulation 2731 by employing unlicensed fictitious business names Home Loans Direct, LLC and 1st Global in its brokerage business.

(3) Violated Regulation 2834 in that the designated officer was not a signatory on the trust account. The trust account had unlicensed signatories. There was no fidelity bond coverage.

(4) Violated Section 10240 of the Code by not always maintaining a copy of the Mortgage Loan Disclosure Statement as signed by the borrower and the broker.

(5) Violated Section 10236.4 of the Code by not always disclosing its broker license number in the Mortgage Loan Disclosure Statement.

(6) Violated Section 10160 of the Code by failing to maintain each salesperson license certificate in its possession.

(7) Violated Regulation 2831 by failing to maintain a record of all earnest deposits forwarded directly to escrow.

(8) Violated Regulation 2832 by holding earnest deposits beyond three business days after acceptance of the offer without written authorization from the principals.

(9) Violated Section 10176(a) of the Code by representing to sellers that agents had obtained an earnest money deposit from the buyer when in fact no deposit had been received.

(10) Violated Regulation 2752 by failing to notify the Department of Real Estate when salespersons were employed within five days.

(11) Violated Section 10137 by employing Vanessa Valencia, who was not licensed to Respondent as a real estate salesperson, to negotiate the sale of property located at 4493 Torrey Pines, Chino Hills, California, to Maria S. Valencia.

XIII

Respondents DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR. failed to reasonably supervise Respondent COLONIAL NATIONAL BANCORP as required by Code Section 10159.2.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent COLONIAL NATIONAL BANCORP exists pursuant to Code Sections 10137, 10177(d), 10176(a) and 10177(g) for violation of Code Sections 10137, 10145(a), 10240, 10236.4, 10160, and Regulations 2832.1, 2731, 2831, 2832, 2752 and 2834.

II

Cause for disciplinary action against Respondents DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., exists pursuant to Code Sections 10159.2, 10177(h), 10177(d) and 10177(g).

III

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and license rights of Respondents COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on May 28, 2008.

DATED: 5-7-08.

JEFF DAVI
Real Estate Commissioner

FILED
APR 17 2008
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., designated officers of Colonial National Bancorp, and MARICELA NUNEZ, Respondents.	NO. H-34193 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on March 6, 2008, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

I

On July 14, 2007, Janice A. Waddell made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondents' last known mailing address on file with the Department on August 15, 2007.

On March 6, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX, and HARRY CLARK SHARAR, JR.'s default was entered herein.

II

COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX, and HARRY CLARK SHARAR, JR., individually and as designated officers of said corporation (hereinafter referred to as Respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

AUDIT NO. LA 050228 and LA 060075

III

At all times herein mentioned, Respondent COLONIAL NATIONAL BANCORP was licensed by the Department of Real Estate of the State of California as a real estate broker with Respondent DENNIS WILLIAM COX as its designated officer.

Respondent MARICELA NUNEZ was licensed as a real estate salesperson effective January 3, 2006.

IV

At all times material herein, Respondents COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) and (d) of the Code, including negotiating loans on real property. Respondent COLONIAL NATIONAL BANCORP engaged in escrow activities pursuant to the exemption provided by Financial Code Section 17006(a)(4).

V

On or about October 20, 2006, the Department completed an examination of Respondent COLONIAL NATIONAL BANCORP's books and records, pertaining to the activities described in Paragraph IV above, covering a period from January 1, 2004, through December 12, 2005, which revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth above.

VI

The examination described in Paragraph V, above, determined that, in connection with the activities described in Paragraph IV above, Respondent COLONIAL NATIONAL BANCORP, accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals, and thereafter made deposit or disbursement of such funds.

VII

In the course of activities described in Paragraphs IV and VI and during the examination period described in Paragraph V, Respondent COLONIAL NATIONAL BANCORP acted in violation of the Code and the Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 050228 and LA 060075 and related exhibits:

(1) Violated Section 10145(a) and Regulation 2832.1 by maintaining a trust account shortage of $770 as of December 12, 2005.

(2) Violated Regulation 2731 by employing unlicensed fictitious business names Home Loans Direct, LLC and 1st Global in its brokerage business.

(3) Violated Regulation 2834 in that the designated officer was not a signatory on the trust account. The trust account had unlicensed signatories. There was no fidelity bond coverage.

(4) Violated Section 10240 of the Code by not always maintaining a copy of the Mortgage Loan Disclosure Statement as signed by the borrower and the broker.

(5) Violated Section 10137 of the Code by employing Jorge Ramires, who was not licensed to Respondent as a real estate salesperson, to negotiate a loan on real property on behalf of Jose and Herlinda Gonzalez for property at 13862 Lakeside Street, Sylmar, California.

(6) Violated Section 10137 of the Code by employing Josh Flores, who was not licensed to Respondent as a real estate salesperson, to negotiate a loan on real property on behalf of Pedro Delgado for property at 2823 Iowa Avenue A, B, C, South Gate, Cal.

(7) Violated Section 10137 of the Code by employing Respondent MARICELA NUNEZ, who was not licensed to Respondent as a real estate salesperson, to negotiate the sale of property at 7205 Union Avenue, Whittier, California to Byron S. and Analia Lopez on or about May 23, 2005.

AUDIT NO. LA 060124, LA 060005, LA 060075

VIII

At all times herein mentioned, Respondent COLONIAL NATIONAL BANCORP was licensed as a real estate broker with Respondent HARRY CLARK SHARAR, JR. as its designated officer.

IX

At all times material herein, Respondents COLONIAL NATIONAL BANCORP, and HARRY CLARK SHARAR, JR., engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) and (d) of the Code including negotiating loans on real property. Respondent COLONIAL NATIONAL BANCORP engaged in escrow activities pursuant to the exemption provided by Financial Code Section 17006(a)(4).

X

On or about October 25, 2006, the Department completed an examination of Respondent COLONIAL NATIONAL BANCORP's books and records, pertaining to the activities described in Paragraph X above, covering a period from December 13, 2005 through July 31, 2006, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

XI

The examination described in Paragraph X, above, determined that, in connection with the activities described in Paragraph IX, Respondent COLONIAL NATIONAL BANCORP, accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals, and thereafter made deposit or disbursement of such funds.

XII

In the course of activities described in Paragraphs IX through XI and during the examination period described in Paragraph X, Respondent COLONIAL NATIONAL BANCORP acted in violation of the Code and Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 060124, LA 060005 and LA 060076 and related exhibits:

(1) Violated Section 10145(a) and Regulation 2832.1 by maintaining a trust account shortage of $770 as of July 31, 2006.

(2) Violated Regulation 2731 by employing unlicensed fictitious business names Home Loans Direct, LLC and 1st Global in its brokerage business.

(3) Violated Regulation 2834 in that the designated officer was not a signatory on the trust account. The trust account had unlicensed signatories. There was no fidelity bond coverage.

(4) Violated Section 10240 of the Code by not always maintaining a copy of the Mortgage Loan Disclosure Statement as signed by the borrower and the broker.

(5) Violated Section 10236.4 of the Code by not always disclosing its broker license number in the Mortgage Loan Disclosure Statement.

(6) Violated Section 10160 of the Code by failing to maintain each salesperson license certificate in his possession.

(7) Violated Regulation 2831 by failing to maintain a record of all earnest deposits forwarded directly to escrow.

(8) Violated Regulation 2832 by holding earnest deposits beyond three business days after acceptance of the offer without written authorization from the principals.

(9) Violated Section 10176(a) of the Code by representing to sellers that agents had obtained an earnest money deposit from the buyer when in fact no deposit had been received.

(10) Violated Regulation 2752 by failing to notify the Department of Real Estate when salespersons were employed within five days.

(11) Violated Section 10137 by employing Vanessa Valencia, who was not licensed to Respondent as a real estate salesperson, to negotiate the sale of property located at 4493 Torrey Pines, Chino Hills, California to Maria S. Valencia.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondents COLONIAL NATIONAL BANCORP, and HARRY CLARK SHARAR, JR., as found above, exists pursuant to Code Sections 10137, 10177(d), 10176(a), and 10177(g) for violation of Code Sections 10145(a), 10240, 10236.4, 10160, and Regulations 2832.1, 2731, 2831, 2752, and 2834.

Cause for disciplinary action against Respondent HARRY CLARK SHARAR, JR., as found above, exists pursuant to Code Sections 10159.2, 10177(h), 10177(d), and 10177(g).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and license rights of Respondents COLONIAL NATIONAL BANCORP, DENNIA WILLIAM COX, and HARRY CLARK SHARAR, JR., under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on May 7, 2008.

DATED: 4/10/08

JEFF DAVI
Real Estate Commissioner

JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

FILED
AUG 15 2007
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., designated officers of Colonial National Bancorp, and MARICELA NUNEZ, Respondents,	No. H-34193 LA A C C U S A T I O N

The Complainant, Janice A. Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., individually and as designated officers of Colonial National Bancorp, and MARICELA NUNEZ, alleges as follows:

I

The Complainant, Janice A. Waddell, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX and HARRY CLARK SHARAR,

JR., individually and as designated officers of Colonial National Bancorp, and MARICELA NUNEZ.

II

COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX and HARRY CLARK SHARAR, JR., individually and as designated officers of said corporation, and MARICELA NUNEZ (hereinafter referred to as "Respondents"), are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

FIRST CAUSE OF ACCUSATION

III

At all times herein mentioned, Respondent COLONIAL NATIONAL BANCORP, were licensed as a real estate broker with Respondent DENNIS WILLIAM COX as its designated officer.

Respondent MARICELA NUNEZ was licensed as a real estate salesperson effective January 3, 2006.

IV

At all times material herein, Respondents COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) and (d) of the Code including negotiating loans on real property. Respondent COLONIAL NATIONAL BANCORP engaged in escrow activities pursuant to the exemption provided by Financial Code Section 17006(a)(4).

V

On or about October 20, 2006, the Department completed an examination of Respondent COLONIAL NATIONAL BANCORP's books and records, pertaining to the activities described in Paragraph IV above, covering a period from January 1, 2004, through December 12, 2005, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

VI

The examination described in Paragraph V, above, determined that, in connection with the activities described in Paragraph IV above, Respondent COLONIAL NATIONAL BANCORP, accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals, and thereafter made deposit or disbursement of such funds.

VII

In the course of activities described in Paragraphs IV through VI and during the examination period described in Paragraph V, Respondent COLONIAL NATIONAL BANCORP acted in violation of the Code and the Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 050228 and LA 060075 and related exhibits:

(1) Violated Section 10145(a) and Regulation 2832.1 by maintaining a trust account shortage of $770 as of December 12, 2005.

(2) Violated Regulation 2731 by employing unlicensed fictitious business names Home Loans Direct, LLC and 1st Global in its brokerage business.

(3) Violated Regulation 2834 in that the designated officer was not a signatory on the trust account. The trust account had unlicensed signatories. There was no fidelity bond coverage.

(4) Violated Section 10240 of the Code by not always maintaining a copy of the Mortgage Loan Disclosure Statement as signed by the borrower and the broker.

(5) Violated Section 10137 of the Code by employing Jorge Ramires, who was not licensed to Respondent as a real estate salesperson, to negotiate a loan on real property on behalf of Jose and Herlinda Gonzalez for property at 13862 Lakeside Street, Sylmar, California.

(6) Violated Section 10137 of the Code by employing Josh Flores, who was not licensed to Respondent as a real estate salesperson, to negotiate a loan on real property on behalf of Pedro Delgado for property at 2823 Iowa Avenue A, B, C, South Gate, California.

(7) Violated Section 10137 of the Code by employing Respondent MARICELA NUNEZ, who was not licensed to Respondent as a real estate salesperson, to negotiate the sale of property at 7205 Union Avenue, Whittier, California to Byron S. and Analia Lopez on or about May 23, 2005.

///

///

VIII

The conduct of Respondents COLONIAL NATIONAL BANCORP, and DENNIS WILLIAM COX, as alleged above, subjects their real estate licenses and license rights to suspension or revocation pursuant to Section 10177(d) and/or 10177(g) of the Code.

The conduct of Respondent DENNIS WILLIAM COX, as alleged above, subjects his real estate licenses and license rights to suspension or revocation pursuant to Section 10159.2, 10177(h) and 10177(d) and/or 10177(g) of the Code.

The conduct of Respondent MARICELA NUNEZ, as alleged in paragraph 7 above, subjects her real estate license to suspension or revocation pursuant to Section 10177(d) for violation of Code Section 10130.

SECOND CAUSE OF ACCUSATION

IX

Complainant incorporates by reference Paragraphs I and II.

X

At all times herein mentioned, Respondent COLONIAL NATIONAL BANCORP, were licensed as a real estate broker with Respondent HARRY CLARK SHARAR, JR. as its designated officer.

XI

At all times material herein, Respondents COLONIAL NATIONAL BANCORP, and HARRY CLARK SHARAR, JR., engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) and (d) of the Code including

negotiating loans on real property. Respondent COLONIAL NATIONAL BANCORP engaged in escrow activities pursuant to the exemption provided by Financial Code Section 17006(a)(4).

XII

On or about October 25, 2006, the Department completed an examination of Respondent COLONIAL NATIONAL BANCORP's books and records, pertaining to the activities described in Paragraph X above, covering a period from December 13, 2005 through July 31, 2006, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

XIII

The examination described in Paragraph XII, above, determined that, in connection with the activities described in Paragraph XI, Respondent COLONIAL NATIONAL BANCORP, accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals, and thereafter made deposit or disbursement of such funds.

XIV

In the course of activities described in Paragraph XI through XIII and during the examination period described in Paragraph XII, Respondent COLONIAL NATIONAL BANCORP acted in violation of the Code and the Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 060124, LA 060005 and LA 060076 and related exhibits:

(1) Violated Section 10145(a) and Regulation 2832.1 by maintaining a trust account shortage of $770 as of July 31, 2006.

(2) Violated Regulation 2731 by employing unlicensed fictitious business names Home Loans Direct, LLC and 1st Global in its brokerage business.

(3) Violated Regulation 2834 in that the designated officer was not a signatory on the trust account. The trust account had unlicensed signatories. There was no fidelity bond coverage.

(4) Violated Section 10240 of the Code by not always maintaining a copy of the Mortgage Loan Disclosure Statement as signed by the borrower and the broker.

(5) Violated Section 10236.4 of the Code by not always disclosing its broker license number in the Mortgage Loan Disclosure Statement.

(6) Violated Section 10160 of the Code by failing to maintain each salesperson license certificate in his possession.

(7) Violated Regulation 2831 by failing to maintain a record of all earnest money deposits forwarded directly to escrow.

(8) Violated Regulation 2832 by holding earnest money deposits beyond three business days after acceptance of the offer without written authorization from the principals.

(9) Violated Section 10176(a) of the Code by representing to sellers that agents had obtained an earnest money deposit from the buyer when in fact no deposit had been received.

(10) Violated Regulation 2752 by failing to notify the Department of Real Estate when salespersons were employed within five days.

(11) Violated Section 10137 by employing Vanessa Valencia, who was not licensed to Respondent as a real estate salesperson, to negotiate the sale of property located at 4493 Torrey Pines, Chino Hills, California to Maria S. Valencia.

XV

On or about August 31, 2006, Respondent COLONIAL NATIONAL BANCORP was notified by the Department of Real Estate to produce certain books and records for examination and inspection by employees of the Department. Respondent violated Section 10148 of the Code by refusing and continuing to refuse to produce the records.

XVI

The conduct of Respondents COLONIAL NATIONAL BANCORP, and HARRY CLARK SHARAR, JR., as alleged above, subjects their real estate licenses and license rights to suspension or revocation pursuant to Sections 10176(a), 10137, 10177(d) and/or 10177(g) of the Code.

The conduct of Respondent HARRY CLARK SHARAR, JR., as alleged above, subjects his real estate licenses and license rights to suspension or revocation pursuant to Section 10159.2, 10177(h) and 10177(d) and/or 10177(g) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents COLONIAL NATIONAL BANCORP, DENNIS WILLIAM COX, HARRY CLARK SHARAR, JR., and MARICELA NUNEZ under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 14 day of July, 2007.

JANICE A. WADDELL
Deputy Real Estate Commissioner

cc: Colonial National Bancorp
Dennis William Cox
Harry Clark Sharar, Jr.
Maricela Nunez
Janice A. Waddell
Audit Section
Sacto.
Maximino Michel