FILED

AUG 19 2014

BUREAU OF REAL ESTATE

By

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of BANCORP ONE REALTY; LOANS BANCORP; STEVEN RICHARD HIGH, individually and as Designated officer of Bancorp One Realty and Loans Bancorp; and SUBASHBHAI JETHABHAI PATEL, Respondent(s).	CalBRE No. H-38690 LA OAH No. 2013060723

DECISION

The Proposed Decision dated July 3, 2014, 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.

This Decision shall become effective at 12 o'clock noon on SEP 08 2014.

IT IS SO ORDERED 8/14/2014.

REAL ESTATE COMMISSIONER

WAYNE BELL

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. H-38690 LA
STEVEN RICHARD HIGH,	OAH No. 2013060723
Respondent.	

PROPOSED DECISION

This matter was heard on May 19, 2014, by Erlinda G. Shrenger, Administrative Law Judge with the Office of Administrative Hearings (OAH), in Los Angeles.

Lissete Garcia, Counsel, represented complainants Maria Suarez and Robin Trujillo, who are Deputy Real Estate Commissioners for the Bureau of Real Estate (formerly the Department of Real Estate), State of California.

Nathan Fransen, Fransen & Molinaro, LLP, represented Steven Richard High.

Oral and documentary evidence was received, and argument was heard. At the request of the parties, the record was held open to allow complainant to file an amended accusation by May 28, 2014, and for respondent to file a legal brief regarding California Code of Regulations, title 10, section 2746, by May 27, 2014, and for complainant to file a response by June 6, 2014.

On May 21, 2014, complainant filed a Supplemental Accusation which was marked and admitted for jurisdictional purposes as Exhibit 16. On May 27, 2014, Respondent filed a Post Hearing Brief, which was marked as Exhibit A. On May 29, 2014, complainant filed a Reply to Respondent's Post Hearing Brief, which was marked as Exhibit 17. The record was closed and the matter was deemed submitted for decision on May 29, 2014.

FACTUAL FINDINGS

Parties and Jurisdiction

1. On February 5, 2013, complainant Maria Suarez filed the Accusation in her official capacity as a Deputy Real Estate Commissioner, Bureau of Real Estate (Bureau),

State of California. The Accusation was filed against respondents Bancorp One Realty, Loans Bancorp, Subashai Jethabhai Patel (Patel), and Steven Richard High, individually and as the designated officer of Bancorp One Realty and Loans Bancorp.

2. A Default Order dated May 16, 2013, was issued against Bancorp One Realty, Loans Bancorp, and Patel, based on their failure to file notices of defense to the Accusation. Pursuant to the Default Order, the Bureau issued a Decision dated July 23, 2013, which revoked the real estate licenses issued to Bancorp One Realty, Loans Bancorp, and Patel, respectively. The revocation was effective as of August 26, 2013.

3. Steven Richard High (Respondent) timely filed a notice of defense to the Accusation on February 14, 2013. He is the only remaining respondent in this case.

4. On May 21, 2014, complainant Robin Trujillo, in her official capacity as a Deputy Real Estate Commissioner for the Bureau, filed a Supplemental Accusation against Respondent. The Accusation and the Supplemental Accusation are the operative pleadings in this case.

5. Respondent is licensed by the Bureau as a real estate broker. His real estate broker license number B/01097322 was originally issued on July 17, 1999. The license was renewed, following its expiration, in 2003, 2007, and 2011.[1] Currently, the license is set to expire on July16, 2015, unless renewed. Prior to becoming a real estate broker, Respondent was licensed by the Bureau as a real estate salesperson for nine years, from 1990 to 1999. Respondent has no history of prior discipline against his broker or salesperson licenses.

Patel and His Corporations

6. On February 4, 1992, the Bureau issued real estate salesperson license number S/01129481 to Patel. The license was suspended indefinitely as of January 4, 2006, due to Patel's failure to comply with the Bureau's disciplinary terms in case number H-30879 LA.

7. (A) Loans Bancorp is a California corporation that was formed by Patel on November 12, 2004. At all relevant times, Patel is and has been the president, chief executive officer, director, and sole owner of Loans Bancorp.

(B) On March 30, 2005, the Bureau issued corporate real estate broker license number C/01482413 to Loans Bancorp, with Carlos Miquel Martinez (Martinez) as the designated officer for the license. Martinez's status as the designated officer for the license was cancelled on November 9, 2006. On January 17, 2007, the license was activated with Walter Rook (Rook) as the new designated officer for the license. Rook's status as designated officer was cancelled on April 24, 2008. On July 2, 2009, the license was

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[1] All real estate broker licenses are valid for a four-year term, which may be renewed upon the filing of the required application and fee and complying with other applicable statutory requirements. (Bus. & Prof. Code, § 10153.6.)

activated with Martinez as the designated officer for the license. His status as designated officer was cancelled as of January 29, 2010.

8. (A) Bancorp One Realty is a California corporation that was formed by Patel on October 21, 2005. At all relevant times, Patel is and has been the president, chief executive officer, director, and sole owner of Bancorp One Realty.

(B) On July 27, 2006, the Bureau issued corporate real estate broker license number C/01524385 to Bancorp One Realty, with Martinez as the designated officer. Martinez's status as the designated officer for the license was cancelled as of November 9, 2006. On January 17, 2007, the license was activated with Rook as the designated officer. Rook's status as designated officer was cancelled as of April 24, 2008. On April 15, 2009, the license was activated with Martinez as the designated officer for the license. Martinez's status as designated officer was cancelled as of January 29, 2010.

9. Thus, as of January 29, 2010, the corporate real estate licenses issued to Bancorp One Realty and Loans Bancorp, respectively, did not have a designated officer and were in a non-active status.

Corporation License Applications

10. Respondent met Patel in 2010. In or about March 2010, Patel asked Respondent to be the designated broker-officer for the corporate broker licenses of Bancorp One Realty and Loans Bancorp. According to Respondent, Patel stated he was leaving to go to his home country of India to obtain working capital from his family to operate the corporations. Patel indicated that, before leaving for India and meeting with his family, he needed to re-establish Bancorp One Realty and Loans Bancorp as actively licensed entities with the Bureau. Patel indicated that there was no business activity or bank accounts for the two corporations, and there would be no ongoing business while he was away in India. Respondent agreed to be the designated officer for the corporate broker licenses of Bancorp One Realty and Loans Bancorp. According to Respondent, he received no compensation to serve as the designated broker-officer for Patel's corporations. Nor did Respondent receive any ownership interest in the corporations. At the time he agreed to help Patel, Respondent knew that Patel's real estate salesperson license had been suspended by the Bureau. Respondent testified that he agreed to help Patel because Patel was a "foreigner" and had been referred to him by a loan officer and loan processor he knew.

11. On March 10, 2010, the Board of Directors for Bancorp One Realty and Loans Bancorp appointed Respondent to the position of Vice President and broker of record for each corporation. The Board of Directors for both corporations was Patel as President and CEO and Noi Yung as Secretary/Treasurer.

12. On March 10, 2010, Respondent signed two Corporation License Applications, as the designated officer-broker, on behalf of Bancorp One Realty and Loans Bancorp, respectively (collectively, Applications). The Applications were received by the

Bureau on March 16, 2010. By signing the Applications, Respondent certified that the answers and statements contained in the Applications were true and correct. Pursuant to the Applications, on March 16, 2010, the Bureau issued corporate broker licenses to Bancorp One Realty and Loans Bancorp, respectively, with Respondent as designated broker-officer and a main office address of 14708 Pipeline Avenue in Chino Hills (Chino Hills Office).

13. (A) Section III of the Applications required disclosure of background information on certain corporate officers, directors, and all natural persons owning more than 10 percent of the corporate shares, pursuant to California Code of Regulations, title 10 (CCR), section 2746. Under that regulation, the designated officer is required to file a background statement of information for any officer, director, and shareholder who "[h]as had a license to engage in or practice real estate or other regulated profession, occupation or vocation denied, suspended, or revoked during the preceding 10 years." (CCR §2746, subd. (a)(2).)

(B) In Section III of the Applications, Respondent checked the box certifying that "a Corporation Background Statement (RE 212) is not needed for any officers or persons owning or controlling more than ten percent of the corporation shares including myself." This information was inaccurate because, as of the date of the Applications, Patel was a corporate officer and sole owner of Bancorp One Realty and Loans Bancorp whose real estate salesperson license had been suspended by the Bureau during the preceding 10 years. Respondent knew of Patel's suspended real estate salesperson license at the time he signed the Applications.

(C) By failing to submit a background statement of information regarding Patel's suspended real estate license, and certifying that such background statement was not needed, Respondent procured corporate broker licenses for Bancorp One Realty and Loans Bancorp by misrepresentation and by making a material misstatement of fact in an application for a real estate license, in violation of Business and Professions Code section 10177, subdivision (a).

(D) For each of the Applications, Respondent did submit a Corporation Background Statement (RE 212) about himself, which disclosed that he had been convicted in 2006 for driving with a suspended license. (CCR § 2746, subd. (a)(4).)

14. At this hearing, Respondent admitted that he failed to disclose on the Applications that Patel's license was suspended, and that he knew Patel's license was suspended when he submitted the Applications to the Bureau. Respondent's explanation for the non-disclosure was that he assumed that the Bureau already had records of the suspension. The fact that the Bureau had such records, however, did not excuse Respondent's obligation to provide truthful and correct answers in the Applications, including disclosing the suspension of Patel's license as required under CCR section 2746.

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Failure to Supervise

15. As the designated officer-broker for the corporate broker licenses of Bancorp One Realty and Loans Bancorp, Respondent was "responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of [the Real Estate Law], including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required." (Bus. & Prof. Code, § 10159.2, subd. (a).)

16. In February 2010, Patel solicited and offered to assist borrowers MG and KG with loan modification and negotiation services. Patel made misrepresentations to MG and KG in order to induce them to pay advance fees, including that they would receive a full refund if they were unable to obtain a loan modification within 90 days. The borrowers paid an advance fee of $2,000 to Loans Bancorp on February 22, 2010, and an advance fee of $1,500 to Bancorp One Realty on March 5, 2010, for loan modification and negotiation services. The borrowers never received the loan modification they were promised by Patel. After 90 days, they requested a refund of their advance fee. They received a check for $4,200 from Patel, which they were unable to cash due to insufficient funds in the bank account for the check. During the ensuing months, the borrowers were unable to contact Patel. In December 2010, borrowers MG and KG filed a complaint with the Bureau against Patel and Bancorp One Realty.

17. By letter dated January 4, 2012, the Bureau requested information and documents from Respondent, as the designated officer for Bancorp One Realty, regarding the transaction between Patel and borrowers MG and KG. By letter dated March 8, 2012, Respondent responded to the Bureau's inquiry stating, in part, that he became affiliated with Bancorp One Realty and Loans Bancorp in March 2010, he did not have any ownership in either corporation, Patel was the sole owner of both corporations, and he had no knowledge or documentation regarding any loan modification transaction involving borrowers MG and KG, or any other transactions. Respondent also indicated that he had no documentation submitted to the California Secretary of State related to the two corporations. He also indicated that, since receiving the Bureau's letter, he attempted to contact Patel but those attempts have been unsuccessful. According to Respondent, the first time he learned of the MG and KG transaction was when he received the Bureau's letter dated January 4, 2012. On March 15, 2012, Respondent cancelled his status as designated officer for the corporate broker licenses of Bancorp One Realty and Loans Bancorp.

18. As the Vice President of Bancorp One Realty and Loans Bancorp, Respondent did not have any duties and did not receive any compensation from that position. During the period he was the designated broker-officer, there were no written policies for overseeing and supervising the activities of the corporations. Respondent visited the Chino Hills Office on only two occasions, in March 2010 and April 2010. Respondent saw no business activity in the office during those visits. Patel was the only person he knew that was in charge of the office. Respondent did not have a key to the Chino Hills Office. He did not know who paid the phone bills and other expenses. He did not know who leased the office premises or paid

the rent. He was unaware of any bank accounts for the corporations. As far as Respondent understood, based on Patel's representations, Bancorp One Realty and Loans Bancorp were inactive and not operational. During the period he was the designated broker-officer, Respondent was not contacted by any clients or customers of either of the two corporations. During this period, Respondent did not engage in any real estate activities or transactions on behalf of the corporations.

19. Respondent testified that he never determined whether Patel, in fact, went to India in 2010. Respondent testified that, in early 2011, Patel indicated to Respondent that he would be "leaving soon" for India. As the designated broker-officer, Respondent, at Patel's request, changed the main office address for Bancorp One Realty's corporate broker license two times, in May and August 2011. For both corporate broker licenses, on August 26, 2011, Respondent changed the mailing address to the same address for his individual broker license of 4471 Riverside Drive, Chino, California.

20. At the time he agreed to become the designated broker-officer for Bancorp One Realty and Loans Bancorp, Respondent was operating his own mortgage company called Sand Dollar Mortgage Services, Inc. Respondent testified credibly that he never does loan modifications because he believes that borrowers can get a loan modification from banks on their own. He has never accepted money for loan modifications. Respondent testified that if Patel had indicated he was engaging in loan modification activities, he would have stopped Patel. In his March 8, 2012 letter to the Bureau, Respondent stated, in part: "I do not in any way condone nor do I or any business entity I am involved with participate in loan modifications or the collection of upfront fees. Personally I do not feel loan modifications, as they are done, in anyway benefit a borrower."

21. Based on the above, Respondent failed to exercise reasonable supervision and control of the activities of Bancorp One Realty and Loans Bancorp during the period he was the designated officer-broker for those corporations. Respondent relied solely on the representations of Patel, and accepted his representations as being true, without performing his own due diligence to determine the actual real estate activity status of the corporations. Respondent had no information about the day-to-day running of the corporations and the Chino Hills Office. He did not have a key to the office. He did not know who paid the rent or bills for the office. He did not ask Patel for documentation and records to verify Patel's representation that the corporations were not doing any business. The transaction initiated by Patel with MG and KG was still ongoing when Respondent became the designated broker-officer for the corporations in March 2010. Respondent never knew of the transaction until almost two years later, when he received the Bureau's inquiry letter in January 2012. In short, Respondent failed to exercise reasonable supervision and control over the activities conducted on behalf of the corporations by its officer, Patel, as necessary to ensure compliance with the Real Estate Law and regulations. Respondent, therefore, violated Business and Professions Code sections 10159.2, subdivision (a), and 10177, subdivision (h).

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Cost Recovery

22. The Bureau incurred enforcement costs of $956.75 and investigative costs of $1,147.10. These costs are deemed reasonable, based on the declarations of Lissete Garcia and Anthony Vo. (Exhs. 13 and 14.) At the hearing, Ms. Garcia represented that the enforcement costs of $956.75 do not include costs associated with the default orders and decisions against Patel and the two corporations. Ms. Garcia further represented that the investigative costs of $1,147.10 are costs related to the investigation of all four respondent-licensees named in the Accusation. Respondent is the only remaining licensee in this case. The total costs of $2,103.85 shall be allocated equally among the four respondent-licensees. Thus, the reasonable costs that the Bureau may recover from Respondent in this action is $525.96.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10177, subdivision (a), provides that the Bureau may suspend or revoke the license of a real estate licensee who has "[p]rocured, or attempted to procure, a real estate license or license renewal . . . by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement."

2. CCR section 2746, subdivision (a)(2), provides, in pertinent part: "At the time of application for, or in the reinstatement of, an original real estate broker license, the designated officer shall file a background statement of information for each director, the chief executive officer, the president, first level vice presidents, secretary, chief financial officer, subordinate officers with responsibility for forming policy of the corporation and all natural persons owning or controlling more than ten percent of its shares, if such person has been subject to any of the following: . . . [¶] (2) Has had a license to engage in or practice real estate or other regulated profession, occupation or vocation denied, suspended or revoked during the preceding 10 years."

2. Cause exists to suspend or revoke Respondent's broker license, pursuant to Business and Professions Code section 10177, subdivision (a), and CCR section 2746, subdivision (a)(2), in that Respondent, as the designated officer-broker, procured corporate broker licenses for Bancorp One Realty and Loans Bancorp by misrepresentation and by making a material misstatement of fact in the applications for those licenses, based on Factual Findings 1-14.

3. CCR section 2746 requires the background statement of information to be made "[a]t the time of application for, or in the reinstatement of, an original real estate broker license." In his Post Hearing Brief, Respondent argues that section 2746 did not apply in this case because the Applications were not an application for "an original real estate broker license." The original broker licenses of Bancorp One Realty and Loans Bancorp were

already in existence when the Applications were submitted to the Bureau in March 2010. This argument is not persuasive. As explained in the Bureau's Reply brief, the two corporate broker licenses were in an inactive status when the Applications were submitted to the Bureau in March 2010, because the designated officer for each of the licenses had been cancelled as of January 29, 2010. Pursuant to the Applications, the corporate broker licenses were reinstated and made active, with Respondent as the new designated broker-officer. The Applications were Respondent's original applications to become the new designated broker-officer for the corporations. The Bureau issued new license certificates showing Respondent as the designated officer-broker. The Bureau considers the new designated officer license as a new, original license. (See Bus. & Prof. Code, §§ 10158, 10159, 10211.)

4. Business and Professions Code section 10177, subdivision (h), provides that the Bureau may suspend or revoke the license of a real estate licensee who "[a]s . . . the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required."

5. Cause exists to suspend or revoke Respondent's broker license, pursuant to Business and Professions Code sections 10177, subdivision (h), 10159.2, and 10211, and California Code of Regulations, title 10, section 2725, in that Respondent, as the designated officer-broker, failed to exercise reasonable supervision and control of the activities of Bancorp One Realty and Loans Bancorp for which a real estate license is required, based on Factual Findings 1-9, 11, 12, 15-21.

6. Business and Professions Code section 10106, subdivision (a), provides that, in any order issued in resolution of a disciplinary proceeding, "the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

7. Cause exists, pursuant to Business and Professions Code section 10106, to require Respondent to pay the Bureau $525.96 for the reasonable cost of enforcement and investigation in this matter. (Factual Finding 22.)

8. Administrative proceedings to revoke, suspend or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee, but rather to protect the public. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786.) In particular, the statutes relating to real estate licenses are designed to protect the public from any potential risk of harm. (*Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.)

Disposition

9. (A) In this case, the appropriate discipline for Respondent's violations is a revocation with a right to a restricted license, including conditions imposing an actual

suspension of 10 working days, and requiring Respondent to take and pass the Bureau's Professional Responsibility Examination.

(B) Respondent has been licensed as a real estate broker for the past 15 years. Prior to that, he was licensed as a real estate salesperson for nine years. He has no record of prior discipline with the Bureau against either of those licenses. Against this background, Respondent's violations are isolated incidents arising from his limited association with Patel and his two corporations. Respondent received no compensation or financial benefit from that association. No evidence was presented that Respondent engaged in any real estate activities from that association. Respondent's failure to provide reasonable supervision and control over the activities of Bancorp One Realty and Loans Bancorp was due, in part, to Patel's representations that the corporations were inactive and would remain so while he was in India seeking working capital from his family. The failure in supervision was also due to Respondent's poor judgment in relying on Patel's representations without making any further inquiry to confirm that, in fact, no real estate activity was occurring on behalf of the corporations. Respondent's failure to disclose Patel's license suspension in the Applications, although a violation, does not appear to have been motivated by an intent by Respondent to mislead the Bureau. Respondent did provide background information which disclosed his own criminal conviction in 2006 for driving with a suspended license. Nonetheless, the Bureau relies on its licensees to submit complete and accurate information on license applications, and Respondent did not do so.

(C) Under the totality of the circumstances, revocation with a right to a restricted license is appropriate to ensure public protection. An actual period of suspension will allow Respondent time for contemplation and planning on how to meet the obligations and responsibilities imposed on him by his real estate broker's license. Taking and passing the Professional Responsibility Examination will enhance Respondent's understanding of his obligations as a licensed real estate broker and deter future misconduct.

ORDER

All licenses and licensing rights of Respondent Steven Richard High under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. Any restricted real estate license issued to Respondent pursuant to this Decision shall be suspended for 10 working days from the date of issuance of said restricted license.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

3. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent shall pay $525.96 to the Bureau for its reasonable costs of investigation and enforcement of this matter within 90 days of the effective date of this Decision and Order, unless the Bureau agrees in writing to payment by an installment plan because of financial hardship. However, full payment must be received within one year of any such agreement.

7. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

DATED: July 3, 2014

ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings

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FILED
MAY 21 2014
BUREAU OF REAL ESTATE
By

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of STEVEN RICHARD HIGH, individually and as designated officer of and as designated officer of Bancorp One Realty and Loans Bancorp, Respondent.	CalBRE No. H-38690 LA OAH No. 2013060723 SUPPLEMENTAL ACCUSATION

This Supplemental Accusation is intended to supplement the Accusation filed in this matter on February 5, 2013. The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp ("Respondent HIGH"), is informed and alleges as follows:

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FIFTH CAUSE OF ACCUSATION

(Failure to Disclose)

27.

There is hereby incorporated in this Fifth, separate Cause of Accusation, all of the allegations contained in Paragraphs 1 through 26, above, with the same force and effect as if herein fully set forth.

28.

In response to an officer certification on the corporation license applications for BOR and LB, Respondent HIGH failed to disclose the suspension of PATEL's real estate salesperson license as required under Regulation 2746, which constitutes cause for discipline of the real estate license and license rights of Respondent HIGH under Code Section 10177(a).

29.

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

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Supplemental Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at Los Angeles, California

this 20 day of May, 2014.

ROBIN TRUJILLO
Deputy Real Estate Commissioner

cc: Steven Richard High
Nathan Fransen, Esq.
Robin Trujillo
Sacto
OAH

FILED

AUG - 6 2013

BUREAU OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of BANCORP ONE REALTY; LOANS BANCORP; STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp; and SUBASHBHAI JETHABHAI PATEL, Respondents.	NO. H-38690 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 May 16, 2013, 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

1.

On February 5, 2013, Maria Suarez 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, return receipt requested, to Respondents BANCORP REALTY, LOANS BANCORP, and SUBASHBHAI JETHABHAI PATEL at their addresses of record on February 5, 2013. A second attempt at service was made by regular mail to Respondents BANCORP ONE REALTY, LOANS BANCORP, and SUBASHBHAI JETHABAI PATEL on March 5, 2013.

2.

On May 16, 2013, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default were entered herein.

3.

From July 27, 2006, through the present, Respondent BANCORP ONE REALTY ("BOR") has been licensed by the Department of Real Estate ("Department") as a corporate real estate broker, Department ID 01524385.

4.

From March 30, 2005, through the present, Respondent LOANS BANCORP ("LB") has been licensed by the Department as a corporate real estate broker, Department ID 01482413.

5.

Respondent SUBASHBHAI JETHABHAI PATEL, aka Subash Patel ("PATEL") was originally licensed by the Department as a real estate salesperson on February 4, 1992, Department ID 01129481. Respondent PATEL's salesperson license was suspended indefinitely on January 4, 2006, for failure to comply with the disciplinary terms in Department Case No. H-30879 LA.

6.

Respondent BOR is a California corporation formed on or about October 21, 2005. On March 18, 2010, a Statement of Information was filed with the California Secretary of State for BOR stating that Respondent PATEL is the CEO and a director of BOR. The principal address for BOR is listed as 14708 Pipeline Ave., Suite #B1, Chino Hills, California 91709. Noi Yung and Lowell D. Sneathen, unlicensed persons, are also officers and/or directors of BOR. BOR's corporate status is currently suspended with the California Secretary of State.

7.

Respondent LB is a California corporation formed on or about October 29, 2004. On March 18, 2010, a Statement of Information was filed with the California Secretary of State for LB stating that Respondent PATEL was a director and officer of LB. The principal address for LB is listed as 14708 Pipeline Ave., Suite #B, Chino Hills, California 91709. Noi Yung and Lowell D. Sneathen, unlicensed persons, are also officers and/or directors of LB.

8.

California Resolution Services has never been licensed in any capacity by the Department.

9.

On or about February 21, 2010, PATEL solicited and offered to assist borrowers Manish and Kriti G. with loan modification and negotiation services. PATEL instructed the borrowers to pay an advance fee to both LB and BOR for said services in connection with a loan secured by a lien on real property. The borrowers paid an advance fee of $2,000 to LB for loan modification and negotiation services on February 22, 2010. The borrowers paid an advance fee of $1,500 to BOR for loan modification and negotiation services on March 5, 2010.

10.

PATEL made misrepresentations to Manish and Kriti G. in order to induce them to pay the advance fees including, among others, that the borrowers would receive a full refund if they were not able to obtain a loan modification within 90 days. The borrowers were asked to sign a letter of authorization to allow California Resolution Services to negotiate a loan modification on their behalf. Respondents failed to perform the loan modification and negotiation services that had been promised to Manish and Kriti G. Respondents failed to provide an accounting of any services done for Manish and Kriti G. or an accounting of the advance fees collected from Manish and Kriti G. Manish and Kriti G. requested a refund of their advance fee and received a check with insufficient funds for $4,200 from PATEL.

11.

The corporate rights and privileges of Respondent BOR are currently suspended with the California Secretary of State.

DETERMINATION OF ISSUES

1.

Respondents BOR, LB, and PATEL collected the advance fees described in Findings of Fact, Paragraph 9, above, in violation of Code Sections 10085, 10085.5, 10085.6 and 10146 and Regulation of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations, Section 2970, which constitutes grounds for the suspension or revocation of the licenses and license rights of Respondents BOR, LB, and PATEL pursuant to Code Section 10177(d).

2.

Respondents BOR, LB, and PATEL's conduct, acts and/or omissions as set forth in Findings of Fact, Paragraphs 9 and 10, above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondents BOR, LB, and PATEL pursuant to Code Sections 10176(a) (making any substantial misrepresentation), 10176(b) (making any false promises of a character likely to influence, persuade or induce), 10176(i) (conduct…which constitutes fraud or dishonest dealing), and 10177(d) (violation of the Real Estate Law).

3.

The activities described in Findings of Fact, Paragraphs 9 and 10, above, require a real estate license under Code Sections 10131(d) and 10131.2. Respondent PATEL and California Resolution Services violated Code Section 10130 by engaging in activities that require a real estate license when PATEL's salesperson license was suspended and California Resolution Services was not licensed in any capacity. Respondents BOR and LB violated Code Section 10137 by employing and/or compensating PATEL to perform activities that require a real estate license.

4.

The conduct, acts and/or omissions of Respondents BOR, LB, and PATEL as set forth in Findings of Fact, Paragraph 5, 8, 9, and 10, above, violate Code Sections 10130 and 10137, and are cause for the suspension or revocation of the licenses and license rights of Respondents BOR, LB, and PATEL pursuant to Code Section 10177(d).

5.

The corporate rights and privileges of Respondent BOR are currently suspended with the California Secretary of State. Said suspension is a violation of Code Section 10177(f) in that it would have constituted grounds for the denial of its corporate real estate broker license under Regulation 2742.

6.

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

ORDER

The licenses and license rights of Respondents BANCORP ONE REALTY, LOANS BANCORP, and SUBASHBHAI JETHABHAI PATEL 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 August 26, 2013.

DATED: July 23, 2013.

REAL ESTATE COMMISSIONER

By: JEFFREY MASON
Chief Deputy Commissioner

Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

FILED

MAY 16 2013

DEPARTMENT OF REAL ESTATE
BY: C

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of BANCORP ONE REALTY; LOANS BANCORP; STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp; and SUBASHBHAI JETHABHAI PATEL, Respondents.	NO. H-38690 LA DEFAULT ORDER

Respondents, BANCORP ONE REALTY, LOANS BANCORP, and SUBASHBHAI JETHABHAI PATEL, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, are now in default. It is, therefore, ordered that a default be entered on the record in this matter as to BANCORP ONE REALTY, LOANS BANCORP, and SUBASHBHAI JETHABHAI PATEL, only.

IT IS SO ORDERED May 16, 2013.

Real Estate Commissioner

By: DOLORES WEEKS
Regional Manager

LISSETE GARCIA, Counsel (SBN 211552)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
Direct: (213) 576-6914
Fax: (213) 576-6917

FILED
FEB - 5 2013
DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of BANCORP ONE REALTY; LOANS BANCORP; STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp; and SUBASHBHAI JETHABHAI PATEL, Respondents.	NO. H-38690 LA A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against BANCORP ONE REALTY; LOANS BANCORP; STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp; and SUBASHBHAI JETHABHAI PATEL ("Respondents"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

From July 27, 2006, through the present, Respondent BANCORP ONE REALTY ("BOR") has been licensed by the Department of Real Estate ("Department") as a corporate real estate broker, Department ID 01524385.

3.

From March 30, 2005, through the present, Respondent LOANS BANCORP ("LB") has been licensed by the Department as a corporate real estate broker, Department ID 01482413.

4.

From July 17, 1999, through the present, Respondent STEVEN RICHARD HIGH ("HIGH") has been licensed by the Department as a real estate broker, Department ID 01097322.

5.

At all times relevant herein, Respondents BOR and LB were licensed to act by and through Respondent HIGH as their designated officer pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

6.

Respondent SUBASHBHAI JETHABHAI PATEL, aka Subash Patel ("PATEL") was originally licensed by the Department as a real estate salesperson on February 4, 1992, Department ID 01129481. Respondent PATEL's salesperson license was suspended indefinitely on January 4, 2006 for failure to comply with the disciplinary terms in Department Case No. H-30879 LA.

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7.

Respondent BOR is a California corporation formed on or about October 21, 2005. On March 18, 2010, a Statement of Information was filed with the California Secretary of State for BOR stating that Respondent PATEL is the CEO and a director of BOR. The principal address for BOR is listed as 14708 Pipeline Ave., Suite #B1, Chino Hills, California 91709. Noi Yung and Lowell D. Sneathen, unlicensed persons, are also officers and/or directors of BOR. BOR's corporate status is currently suspended with the California Secretary of State.

8.

Respondent LB is a California corporation formed on or about October 29, 2004. On March 18, 2010, a Statement of Information was filed with the California Secretary of State for LB stating that Respondents PATEL and HIGH were directors and officers of LB. The principal address for LB is listed as 14708 Pipeline Ave., Suite #B, Chino Hills, California 91709. Noi Yung and Lowell D. Sneathen, unlicensed persons, are also officers and/or directors of LB.

FIRST CAUSE OF ACCUSATION

(Advance Fee Violations)

9.

Code Section 10132 defines a real estate salesperson as a person who, for compensation or in expectation of compensation, is employed by a licensed real estate broker to do one or more of the acts set forth in Code Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6.

10.

Code Section 10131 defines a real estate broker as a person who: (a) sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchasers of, solicits or obtains listing of, or negotiates the purchase, sale or exchange of real property or a business opportunity; or (d) solicits borrowers or lenders for or negotiates loans or collects payment or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

11.

Code Section 10131.2 defines a real estate broker as a person who engages in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business opportunity, or to obtain a loan or loans thereon.

12.

Code Section 10026, in pertinent part, defines an advance fee as a fee that is claimed, demanded, charged, received, or collected by a licensee for services requiring a license. A person who proposes to collect an advance fee as defined in Code Section 10026 must submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an

advance fee including the form of advance fee agreement proposed for use, pursuant to Section 2970, Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations"). Code Section 10085 also allows the Commissioner to require that any and all materials used in obtaining advance fee agreements, including contract forms, be submitted at least 10 calendar days before they are used.

13.

On October 11, 2009, then Governor Arnold Schwarzenegger signed Senate Bill 94 (Calderon), and the legislation took effect immediately upon his signature. Thus, California law prohibited any person, including real estate licensees and attorneys, from demanding or collecting an advance fee from a consumer for loan modification or mortgage loan forbearance services affecting 1 - 4 unit residential dwellings.

14.

The following notice was prominently featured on the Department's website as of October 11, 2009:

"IF YOU ARE A REAL ESTATE BROKER, OR THE DESIGNATED OFFICER OF A LICENSED CORPORATION, WHO HAS BEEN ISSUED A "NO OBJECTION" LETTER BY THE DEPARTMENT OF REAL ESTATE FOR LOAN MODIFICATION OR OTHER MORTGAGE LOAN FORBEARANCE SERVICES, YOU CAN NO LONGER ENTER INTO THESE AGREEMENTS EFFECTIVE AS OF OCTOBER 11, 2009, NOR CAN YOU COLLECT ANY ADVANCE FEES FOR SUCH SERVICES. Agreements entered into and advance fees collected prior to October 11, 2009 are not affected. Advance fees inadvertently collected after October 11, 2009 must be fully refunded. All real estate licensees should become familiar with

the provisions of SB94 as there are substantial administrative and criminal penalties for violations."

15.

California Resolution Services has never been licensed in any capacity by the Department.

16.

On or about February 21, 2010, PATEL solicited and offered to assist borrowers Manish and Kriti G. with loan modification and negotiation services. PATEL instructed the borrowers to pay an advance fee to both LB and BOR for said services in connection with a loan secured by a lien on real property. The borrowers paid an advance fee of $2,000 to LB for loan modification and negotiation services on February 22, 2010. The borrowers paid an advance fee of $1,500 to BOR for loan modification and negotiation services on March 5, 2010.

17.

PATEL made misrepresentations to Manish and Kriti G. in order to induce them to pay the advance fees including, among others, that the borrowers would receive a full refund if they were not able to obtain a loan modification within 90 days. The borrowers were asked to sign a letter of authorization to allow California Resolution Services to negotiate a loan modification on their behalf. Respondents failed to perform the loan modification and negotiation services that had been promised to Manish and Kriti G. Respondents failed to provide an accounting of any services done for Manish and Kriti G. or an accounting of the advance fees collected from Manish and Kriti G. Manish and

Kriti G. requested a refund of their advance fee and received a check with insufficient funds for $4,200 from PATEL.

18.

Respondents collected the advance fees described in Paragraph 16 above, in violation of Code Sections 10085, 10085.5, 10085.6 and 10146 and Regulation Section 2970 which constitutes grounds for the suspension or revocation of the licenses and license rights of Respondents BOR, LB, HIGH, and PATEL pursuant to Code Sections 10177(d) and/or 10177(g).

19.

Respondents' conduct, acts and/or omissions as set forth in Paragraphs 16 and 17 above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondents BOR, LB, and PATEL pursuant to Code Sections 10176(a) (making any substantial misrepresentation), 10176(b) (making any false promises of a character likely to influence, persuade or induce), 10176(i) (conduct…which constitutes fraud or dishonest dealing), 10177(d) (violation of the Real Estate Law), and/or 10177(g) (negligence).

SECOND CAUSE OF ACCUSATION

(Unlicensed activity/Unlawful Compensation)

20.

There is hereby incorporated in this Second, separate, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 19 above, with the same force and effect as if herein fully set forth.

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21.

The activities described in Paragraphs 16 and 17 above, require a real estate license under Code Sections 10131(d) and 10131.2. Respondent PATEL and California Resolution Services violated Code Section 10130 by engaging in activities that require a real estate license when PATEL's salesperson license was suspended and California Resolution Services was not licensed in any capacity. Respondents BOR, LB, and HIGH violated Code Section 10137 by employing and/or compensating PATEL to perform activities that require a real estate license.

22.

The conduct, acts and/or omissions of Respondents as set forth in Paragraph 21 above, violate Code Sections 10130 and 10137, and are cause for the suspension or revocation of the licenses and license rights of Respondents BOR, LB, HIGH and PATEL pursuant to Code Sections 10177(d) and/or 10177(g).

THIRD CAUSE OF ACCUSATION

(Failure to Supervise)

23.

There is hereby incorporated in this Third, separate Cause of Accusation, all of the allegations contained in Paragraphs 1 through 22, above, with the same force and effect as if herein fully set forth.

24.

The conduct, acts and/or omissions of Respondent HIGH, in allowing Respondents BOR, LB, and PATEL to violate the Real Estate Law, as set forth above, constitutes a failure by

Respondent HIGH, as the officer designated by the corporate broker licensee, to exercise the supervision and control over the activities of Respondents BOR, LB, and PATEL, as required by Code Section 10159.2 and Regulation 2725, and is cause to suspend or revoke the real estate license and license rights of Respondent HIGH under Code Sections 10177(h), 10177(d) and/or 10177(g).

FOURTH CAUSE OF ACCUSATION

(Suspended Corporate Status)

25.

There is hereby incorporated in this Fourth, separate Cause of Accusation, all of the allegations contained in Paragraphs 1 through 24, above, with the same force and effect as if herein fully set forth.

26.

The corporate rights and privileges of Respondent BOR are currently suspended with the California Secretary of State. Said suspension is a violation of Code Section 10177(f) in that it would have constituted grounds for the denial of its corporate real estate broker license under Regulation Section 2742.

27.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to

exceed the reasonable costs of the investigation and enforcement of the case.

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/or license rights of Respondents BANCORP ONE REALTY; LOANS BANCORP; STEVEN RICHARD HIGH, individually and as designated officer of Bancorp One Realty and Loans Bancorp; and SUBASHBHAI JETHABHAI PATEL under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at Los Angeles, California
this 5th day of February, 2013.

MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Bancorp One Realty
Loans Bancorp
Steven Richard High
Subashbhai Jethabhai Patel
Maria Suarez
Sacto