

FILED

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DEPARTMENT OF REAL ESTATE

By 

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	
	)	H-2650 FR
	)	
KRYSTAL FINANCE, INC., a California	)	<u>ACCUSATION</u>
Corporation and LEROY McGUFFIE PORTER,	)	
	)	
Respondents.	)	

The Complainant, LUKE MARITN, a Deputy Real Estate Commissioner of the State of California, as and for an Accusation herein against KRYSTAL FINANCE, INC., a California Corporation, doing business under the fictitious name of CASITA REALTY, and LEROY McGUFFIE PORTER is informed and alleges as follows:

GENERAL ALLEGATIONS

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The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

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Respondents KRYSTAL FINANCE, INC., and LEROY McGUFFIE PORTER are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "the Code").

At all times herein mentioned, Respondent KRYSTAL FINANCE, INC., (hereinafter "Respondent KFI") was and is licensed by the Department of Real Estate (hereinafter "the Department") as a corporate real estate broker.

At all times herein mentioned, Respondent LEROY McGUFFIE PORTER (hereinafter "Respondent PORTER") was and is licensed by the Department as an individual real estate broker.

At all times herein mentioned, Respondent PORTER was licensed by the Department as the designated broker/officer of Respondent KFI. As said designated Broker/officer, Respondent PORTER was at all times mentioned herein responsible pursuant to Sections 10159.2 and 10177(h) of the Code and Section 2725 of Chapter 6, Title 10, California Code of Regulations (hereinafter "the regulations") for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent KFI for which a real estate license is required.

At no time mentioned herein did the Department license JUAN BAUTISTA LLANES (hereinafter "LLANES") as either a real estate broker or as a real estate salesperson. LLANES, was licensed by the Department as a real estate salesperson, having an expiration date of September 10, 1997, until said license was indefinitely suspended on January 9, 1997, pursuant to Section 10475 of the Code when an award was paid from the Recovery Account in Case No. R-3286 to an aggrieved person who had obtained a judgment against LLANES for intentional fraud while licensed and while acting as a real estate licensee.

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent KFI, such allegation shall be deemed to mean that the officers,

1 directors, employees, agents and real estate licensees employed by or associated with
2 Respondent KFI committed such act or omission while engaged in the furtherance of the
3 business or operations of Respondent KFI and while acting within the course and scope of their
4 corporate authority and employment.

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6 Within the three year prior to the filing of this Accusation and at all times herein
7 mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or
8 assumed to act as a real estate broker within the State of California within the meaning of:

- 9 (a) Section 10131(a) of the Code, including, on behalf of others, for or in
10 expectation of compensation, Respondents sold or offered to sell, bought
11 or offered to buy, solicited prospective sellers or purchases of, solicited or
12 obtained listings of, and/or negotiated the purchase or sale of real
13 property; and,
14 (b) Section 10131(b) of the Code, including the operation and conduct of a
15 property management business with the public wherein, on behalf of
16 others, for compensation or in expectation of compensation, Respondent
17 leased or rented and offered to lease or rent, and placed for rent, and
18 solicited listings of places for rent, and solicited for prospective tenants of
19 real property or improvements thereon, and/or collected rents from real
20 property or improvements thereon.

21 FIRST CAUSE OF ACTION

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23 There is hereby incorporated in this First, separate and distinct, Cause of Action,
24 all of the allegations contained in Paragraphs 1 through 8, inclusive, of the Accusation with the
25 same force and effect as if herein fully set forth.

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27 Within the three year period next preceding to the filing of this Accusation and at

1 all times herein mentioned, Respondent KFI employed LLANES to perform and engage in the
2 activities set forth in Paragraph 8, above, for which a real estate license is required, for or in
3 expectation of compensation.

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5 Within the three year period next preceding to the filing of this Accusation and at
6 all times herein mentioned, in the course of the activities described in Paragraphs 8 and 10,
7 above, LLANES, while unlicensed, sold or offered to sell, bought or offered to buy, solicited
8 prospective sellers or purchases of, solicited or obtained listings of, and/or negotiated the
9 purchase or sale of real property pursuant to Section 10131(a) of the Code, and performed
10 services for borrowers or lenders or note owners in connection with loans secured directly or
11 collaterally by liens on real property pursuant to Section 10131(d) of the Code, for or in
12 expectation of compensation, including, but not limited to, the following transactions:

13 1.) Real property; 2017 Kinross Court, Bakersfield, California

14 Seller; Maria E. Coward

15 Buyers; Felix J Perales and Suhey Perales

16 Seller's Lender; Select Portfolio Servicing, Inc.

17 Listing Agreement Date; 11/6/09

18 Escrow Closed; 2/5/10

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20 2.) Real property; 1109 Niles Street, Bakersfield, California

21 Sellers; Arturo Flores and Delia M. Flores

22 Buyer; Juan Jose Ortiz

23 Seller's Lender; Bank of America

24 Listing Agreement Date; 1/15/10

25 Escrow Closed; 5/20/10

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3.) Real property; 10200 Merham Hill Drive, Bakersfield, California

Sellers; Fernando Galarza and Yulia Pagani

Buyers; Rusong Huang and Carol W. Yang

Seller's Lender: Citi Mortgage

Listing Agreement Date: 12/16/09

Escrow Closed: 8/19/10

4.) Real property; 1506 Alta Vista Drive, Bakersfield, California

Seller; Maria T. Diaz

Buyer; Lawrence E. Boska

Seller's Lender: Bank of America

Listing Agreement Date: 8/10/09

Escrow Closed: 4/16/10

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At all times herein mentioned, Respondent PORTER, with knowledge of the fact that LLANES was not licensed by the Department in any capacity, permitted the employment of LLANES by Respondent KFI and ratified, directed, condoned, and authorized the employment of LLANES to perform activities set forth in Paragraphs 8, 10 and 11, above.

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The facts alleged above constitute cause for the suspension or revocation of the licenses and license rights of Respondents under Section 10137 of the Code (unlawful for licensed broker to employ or compensate any unlicensed person for performing any acts requiring a real estate license) and Section 10138 of the Code (unlawful for any person to pay or deliver to an unlicensed person compensation for performing acts requiring a real estate license) in conjunction with and Section 10177(d) the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of the Regulations).

1 SECOND CAUSE OF ACTION

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3 There is hereby incorporated in this Second, separate and distinct, Cause of
4 Action, all of the allegations contained in Paragraphs 1 through 13, inclusive, of the Accusation
5 with the same force and effect as if herein fully set forth.

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7 At all times above mentioned, Respondent PORTER was responsible, as the
8 designated broker/officer of Respondent KFI, for the supervision and control of the activities
9 conducted on behalf of the corporation by its officers and employees. Respondent PORTER
10 failed to exercise reasonable supervision and control over the real estate sales activities and
11 employment activities of Respondent KFI. In particular, Respondent PORTER permitted,
12 ratified and/or caused the conduct described in the First Cause of Accusation, above, to occur,
13 including but not limited to the employment of an unlicensed person to conduct licensed acts,
14 and failed to take reasonable steps, including the implementation of policies, rules, procedures,
15 and systems, to ensure the compliance of Respondent KFI with the Real Estate Law.

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17 The above acts and/or omissions of Respondent PORTER constitute grounds for
18 suspension or revocation of his real estate broker license under the provisions of Section
19 10177(h) of the Code (designated broker/officer of corporate broker failed to exercise
20 reasonable supervision and control of corporate activities for which license required) and/or
21 Section 10159.2(a) of the Code (designated broker/officer shall be responsible for supervision
22 and control of activities conducted on behalf of corporation to secure full compliance with
23 provisions of real estate law) and Section 2725 of Regulations (broker shall exercise reasonable
24 supervision over salespersons and establish policies, rules, procedures and systems to review,
25 oversee, inspect and manage) all in conjunction with Section 10177(d) of the Code (suspension
26 or revocation of license for willful disregard or violation of the Real Estate Law, Sections 10000
27 et seq. and Sections 11000 et seq. of the Code, or of the Regulations).

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

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9 LUKE MARTIN
Deputy Real Estate Commissioner

10 Dated at Fresno, California,

11 this 28th day of June, 2011.