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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-2730 FR
JOHN W. POSTGATE, JR.,)	
)	<u>ACCUSATION</u>
Respondent.)	

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

1

The Complainant makes this Accusation in his official capacity.

2

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

3

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

4

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

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

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

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

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

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

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


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

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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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 license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

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


PHILLIP IHDE
Deputy Real Estate Commissioner