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FILED

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BUREAU OF REAL ESTATE
By B. Nicholas

8
9 BEFORE THE BUREAU OF REAL ESTATE
10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13 DAVID PAUL JANCA and) NO. H-2972 FR
14 CRAIG HUGH BARTON,)
15 Respondents.) ACCUSATION

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17 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against DAVID PAUL JANCA (JANCA) and
19 CRAIG HUGH BARTON (BARTON), collectively, Respondents, is informed and alleges as
20 follows:

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22 The Complainant makes this Accusation in her official capacity.

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24 At all times herein mentioned, JANCA was and is presently licensed and/or has
25 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
26 Professions Code (the Code) by the Bureau of Real Estate (the Bureau) as a real estate
27 salesperson, whose license was under BARTON.

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At all times herein mentioned, BARTON was and is presently licensed by the Bureau as a real estate broker doing business as Valley Wide Homes (VWH).

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Respondents 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) of the Code, including the operation and conduct of a residential resale brokerage wherein Respondents bought, sold, or offered to buy or sell, solicited or obtained listings of, and negotiated the purchase, sale or exchange of real property or business opportunities, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 4, above, and incorporates them herein by reference.

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On or about February 17, 2014, Mark W. (Buyer) retained Jesus D. to represent him in the purchase of that certain real property known as 1388 N. Glenn Ave., Fresno, California (Glenn Property). The property actually had two structures, including a front house and back studio apartment.

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On or about March 2, 2014, Buyer made an offer to purchase the Glenn Property from Peter W. (Seller), who was represented by Respondents through JANCA.

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On about March 4, 2014, after JANCA and Jesus D. negotiated the amount to be allocated for repairs to be done on damages discovered through a pest control report, Seller accepted the offer, which provided for \$2,000.00 to be held for "non recurring closing costs".

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In or around the first part of April 2014, JANCA contacted Linda Schuller of GoodCents Pest Control to conduct an inspection of both the front house and rear studio apartment on the Glenn Property.

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After this initial inspection, GoodCents produced Report No. 11351, dated March 13, 2014, which showed subterranean termites in both the front house and the studio apartment. The report showed drywood termites on the front house.

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JANCA hired GoodCents to only fumigate the front house at the Glenn Property and expressly told GoodCents to not fumigate the studio apartment. JANCA advised GoodCents that he would have his own person perform the recommended repairs on the structures at the Glenn Property.

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On April 12, 2014, a Notice of Work Completed and Not Completed was filed by GoodCents after they fumigated the front house.

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GoodCents conducted a re-inspection of the Glenn Property and issued Report No. 11419, dated April 14, 2014. This report found that many of the repairs recommended in Report No. 11351 were not completed by JANCA's repairman.

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In reaction to the findings in Report No. 11419, JANCA asked GoodCents to strike the portions of Report No. 11419 that referred to the studio apartment and incomplete repairs. GoodCents refused to do that since Report No. 11351 addressed the studio apartment and repairs to that structure that could not be ignored in the re-inspection report.

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GoodCents agreed to perform a new inspection, limited to the front house only at the Glenn Property, which it did. GoodCents issued Report No. 11420, dated April 15, 2014.

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GoodCents then performed a re-inspection, based on Report No. 11420, referred to above, in Paragraph 15, and issued Report No. 11421, dated April 16, 2014. That report cleared the front house only at the Glenn Property

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On or around May 1, 2014, Buyer received Report No. 11435, which led Buyer to believe that all of the repairs on the Glenn Property were completed.

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Respondents failed to provide Reports Nos. 11351, 11419, 11420 and 11421 to Buyer before the June 9, 2014 close of Escrow. Respondents failed to make clear that repairs recommended for the studio apartment were not completed.

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The facts alleged in Paragraphs 1 through 18, above, are grounds for the suspension or revocation of the licenses and license rights of Respondents under Sections 10176(a) (substantial misrepresentation), 10176(i) (other conduct/fraud dishonest dealing), 10177(d) (willful disregard/violation of Real Estate Law) and 10177(g) (negligence/incompetence real estate licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 19, above, and incorporates them herein by reference.

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At all times herein mentioned above, BARTON was responsible, as the employing broker of JANCA, for the supervision and control of the activities conducted by

1 JANCA which required a real estate license. BARTON failed to exercise reasonable
2 supervision and control of JANCA's activities. In particular, BARTON permitted, ratified
3 and/or caused the conduct described in the First Cause of Action, above, to occur, and failed to
4 take reasonable steps, including but not limited to the supervision of employees, and the
5 implementation of policies, rules, procedures, and systems to ensure the compliance of his
6 employees with the Real Estate Law and the Regulations.

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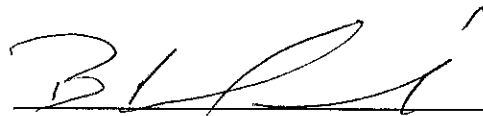
8 The above acts and/or omissions of BARTON's violate Section 2725 of Title 10
9 of the California Code of Regulations, and Section 10159.5 of the Code and are grounds for
10 disciplinary action under the provisions of Sections 10177(d) and 10177(h) (broker supervision)
11 of the Code.

12 Cost Recovery

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

18 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
19 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
20 action against all licenses and license rights of Respondents under the Real Estate Law, for the
21 reasonable costs of the investigation and enforcement of this matter, and for such other and
22 further relief as may be proper under other provisions of law.

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24 
25 BRENDA SMITH
26 Supervising Special Investigator

25 Dated at Fresno, California,

26 this 3 day of November, 2015.
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