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FILED

JUL 29 2021

DEPARTMENT OF REAL ESTATE
By J. Taggart

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13 LUIS DANIEL MOTA)
14 Respondent.)

No. H-3384 FR
ACCUSATION

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16 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
17 State of California, for Accusation against Respondent LUIS DANIEL MOTA (Respondent), is
18 informed and alleges as follows:

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20 The Complainant makes this Accusation against Respondent in her official
21 capacity.

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

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At all times mentioned, Respondent 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 Respondent 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.

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On or about February 1, 2018, Omni Land Development, LLC (Omni) purchased that certain real property commonly known as APN: 075-340-26 and 27 in Goshen, California. (Goshen Property) for \$3,350,000. The deposit was \$50,000, with 120 days to perform inspections and 30 days thereafter escrow was to close.

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The sellers were Lazarus Family Trusts. Respondent was a 50% owner of buyer, Omni. Escrow closed on August 6, 2018, which gave buyers until January 4, 2019, to inspect and finance the purchase of the Goshen Property.

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In or around early August, 2018, Samer Sabbah, President of Omni, solicited Michael Fistolera about purchasing the Goshen Property for \$3,500,000. Fistolera and Fabrizio were members of Daygo Properties LLC and had done business with Respondent in the past. In a previous project, Daygo Properties became a fifty percent owner (50%) of the property.

7

Fistolera and Fabrizio agreed to purchase the Goshen Property and on or about August 17, 2018, delivered a cashier's check in the amount of \$1,700,000.00 payable to Valley Builders, Inc. On or about August 23, 2018, Fistolera delivered a cashier's check in the amount of \$25,000.00 payable to Valley Builders Inc. and another cashier's check in the amount of

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1 \$1,775,000.00 payable to Mike Megirian. The payees on the cashier's checks were pursuant to
2 the direction of Respondent.

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4 Between August 18, 2018, and January 2019, Daygo gave Omni a total of
5 \$87,768.61 for work on the property, but failed to give an invoice, receipt, or other
6 documentation to Daygo. While Daygo provided funds for work on the property, at no time did
7 they intend to fund development of the project on the Goshen Property.

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9 On or before August 23, 2018, Respondent created or caused to be created a deed
10 of trust for the Goshen Property, with Omni as trustor and Daygo Property, LLC as trustee. The
11 deed of trust cited a promissory note in the amount of \$3,500,000.00 as being secured by said
12 property. Respondent recorded the deed on or about August 23, 2018.

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14 On or about February 14, 2019, Omni's office manager provided a Buyer's Final
15 Settlement statement, escrow No. 5405-5635918, on the Goshen Property, to buyers. The
16 statement failed to mention, Fistolera, Fabrizio, or Daygo Properties, LLC. The statement also
17 failed to mention the payment of the three cashier's checks from buyers to purchase the Goshen
18 Property.

19 11

20 The representations made by Respondent to Fistolera and Fabrizio were false,
21 and Respondent knew that they were false when those representations were made. The true
22 facts were that he did not intend to sell the Goshen Property to Fistolera and Fabrizio, that he
23 used the funds for his own purposes and that he did not draft a promissory note to be secured by
24 the Goshen Property, while continuing to represent that he had, and that Respondent made these
25 misrepresentations to obtain Fistolera's and Fabrizio's money to use for himself.

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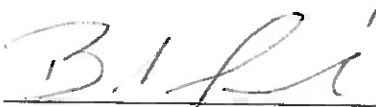
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The facts alleged above are violations of Sections 10176(a) (substantial misrepresentation), and 10176(i) (other conduct involving fraud or dishonest dealing) and are grounds for the suspension or revocation of the licenses and license rights of Respondent under Sections 10176(a), 10176(i), and 10177(j) (conduct constitutes fraud/dishonest dealing) of the Code.

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 Respondents 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 provisions of law.


BRENDA SMITH
Supervising Special Investigator

Dated at Fresno, California,
this 26 day of July, 2021.

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DISCOVERY DEMAND

The Department of Real Estate hereby requests discovery pursuant to Section 11507.6 of the California Government Code. Failure to provide discovery to the Department may result in the exclusion of witnesses and/or documents at the hearing, and other sanctions as the Administrative Law Judge deems appropriate.