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FILED
MAR 20 2012

DEPARTMENT OF REAL ESTATE
By K. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-4317 SD
CLAREMONT PROPERTIES, INC.,)	<u>ACCUSATION</u>
PAUL B. YOUNAN and)	
CECILIA REINA,)	
Respondents.)	

The Complainant, VERONICA KILPATRICK, in her official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against CLAREMONT PROPERTIES, INC., PAUL B. YOUNAN and CECILIA REINA, (collectively referred to herein as "Respondents"), is informed and alleges as follows:

1

CLAREMONT PROPERTIES, INC., (hereinafter "CPI"), is presently licensed by the Department of Real Estate (hereinafter "the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereafter "the Code"), as a real estate corporation, acting by and through PAUL B. YOUNAN as its designated officer.

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PAUL B. YOUNAN (hereinafter "YOUNAN") is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker.

3

At all times herein mentioned, YOUNAN was licensed by the Department as the designated officer of CPI. As the designated officer, YOUNAN was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of CPI for which a real estate license is required.

4

CECILIA REINA (hereinafter "REINA") is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate salesperson. At all times relevant herein, up to and including June 9, 2011, REINA was employed by CPI. At no time herein mentioned was REINA licensed by the Department as a real estate broker.

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Whenever reference is made in an allegation in this Accusation to an act or omission of CPI, such allegation shall be deemed to mean that the employees, agents and real estate licensees employed by or associated with CPI committed such act or omission while engaged in furtherance of the business or operations of CPI and while acting within the course and scope of their authority and employment.

6

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage and/or loan modification business with the public wherein each of them solicited lenders and borrowers for or negotiated loans or collected payments and/or

1 performed services for borrowers or lenders or note owners in connection with loans secured
2 directly or collaterally by liens on real property for or in expectation of compensation, and
3 Section 10131.2 of the Code, including the claiming, demanding, charging, receiving, collecting
4 or contracting for the collection of an advance fee in connection with any employment
5 undertaken to promote the sale or lease of real property or of a business opportunity by advance
6 fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business
7 opportunity, or to obtain a loan or loans thereon.

8 FIRST CAUSE OF ACTION

9 As Against CPI and REINA

10 Audit Period February 1, 2008 through January 31, 2011

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12 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is
13 incorporated by this reference as if fully set forth herein.

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15 Beginning on or about February 28, 2011, and continuing intermittently until
16 October 27, 2011, an audit was conducted at CPI's branch office location at 2170 El Camino
17 Real, Oceanside, California, and the Department's Los Angeles District Office, wherein the
18 Auditor examined CPI's records for the period of February 1, 2008 through January 31, 2011
19 (hereinafter "the audit period").

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21 While acting as a corporate real estate broker as described in Paragraph 6, above,
22 and within the audit period, REINA, on behalf of CPI, accepted or received funds in trust
23 (hereinafter "trust funds") from or on behalf of borrowers, lenders, and/or others in connection
24 with loans secured directly or collaterally by liens on real property or on a business opportunity,
25 for or in expectation of compensation, as alleged herein, and thereafter from time-to-time made
26 disbursements of said trust funds.

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In connection with the operation and conduct of the activities described in Paragraph 6, above, and within the audit period, REINA, on behalf of CPI, engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advanced fees within the meaning of Sections 10026 and 10131.2 (hereinafter "advanced fee") of the Code, including, but not limited to, the following transactions:

Homeowner	Date Received	Date of Deposit	AMOUNT
S. Saucedo	04/15/08	04/15/08	\$ 500
S. Saucedo	12/12/08	12/12/08	\$1,500
H. Barragan	12/15/08	12/15/08	\$1,000
A. De La Mora	07/18/08	07/18/08	\$ 500
C. Alberto	12/31/08	12/31/08	\$1,500
C. Alberto	02/27/09	02/27/09	\$ 500
T. Montero	06/24/09	06/30/08	\$ 500
K. Hagemeister	11/28/08	12/01/09	\$1,000
H. Lopez	01/28/09	01/30/09	\$1,000
C. Moreno	11/14/08	11/17/08	\$1,000
C. Moreno	01/23/09	01/26/09	\$1,000
V. Arango	11/11/08	11/17/08	\$1,000
S. Arvizu	07/08/08	07/14/08	\$ 500
R. Florez	06/02/09	06/05/09	\$ 600
M. Curiel	04/13/09	04/14/09	\$1,500
M. Curiel	05/19/09	05/19/09	\$ 250
D. Guzman	11/13/08	11/17/08	\$ 675
R. Deras	02/26/09	02/26/09	\$1,500
D. Sosa	01/24/09	01/24/09	\$ 400
D. Sosa	01/30/09	01/30/09	\$1,000
D. Sosa	02/19/09	02/20/09	\$1,000
M. Andrade	02/23/09	02/27/09	\$1,000
L. Padro	07/06/09	07/06/09	\$1,500
A. Aruellez	10/16/09	10/19/09	\$1,625
M. Simonsen	11/26/08	11/26/08	\$1,500
G. Oropeza	11/13/08	11/17/08	\$ 500

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Homeowner	Date Received	Date of Deposit	AMOUNT
G. Oropeza	02/18/09	02/20/09	\$ 500
E. Luna	07/22/09	07/23/09	\$1,600
E. Luna	08/04/09	08/04/09	\$ 500
E. Luna	11/04/08	11/17/08	\$ 100
A. Hernandez	12/20/09	12/30/09	\$ 400
A. Hernandez	01/16/10	01/20/10	\$ 400
A. Hernandez	07/21/09	07/22/09	\$ 200
J. Higinio	01/29/08	01/30/08	\$ 500
M. Rios	05/28/09	05/29/09	\$1,500
M. Rios	08/28/09	08/28/09	\$1,500

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The trust funds accepted or received by REINA on behalf of CPI as described in Paragraphs 9 and 10, above, were deposited or caused to be deposited by REINA into a bank account which was maintained by REINA on behalf of CPI for the handling of trust funds and general business funds, and thereafter from time-to-time REINA made disbursements of said trust funds, identified as follows:

BANK ACCOUNT # 1	
Bank Name and Location:	Wells Fargo Bank, P.O. Box 6995, Portland, OR 97228-6995
Account No.:	Last 4 Digits: 4883
Entitled:	"Claremont Properties Cecelia Reina"
Signatories:	Cecilia Reina (RES) Luis I Leiva Perez (Unlicensed) (Removed as signatory on 05/19/10)

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In the course of the activities described in Paragraph 6, above, and within the audit period, CPI and REINA:

- (a) failed to properly designate Bank Account #1 as a trust account in the name of CPI, as trustee, in violation of Section 10145 of the Code and Section 2832 of Title 10 of the California Code of Regulations (hereafter "the Regulations");

- 1 (b) allowed Luis I. Leiva Perez, an unlicensed individual, to appear as a
2 signatory on Bank Account #1 until 05/19/10, without first obtaining
3 fidelity bond coverage at least equal to the maximum amount of the trust
4 funds to which Luis I. Leiva Perez had access at any time, in violation of
5 Section 10145 of the Code, and Section 2834 of the Regulations;
- 6 (c) failed to maintain records of all trust funds received and disbursed in the
7 form of advance fees, including but not limited to information identifying
8 from whom trust funds were received, for Bank Account #1, in violation
9 of Section 10145 of the Code and Section 2831 of the Regulations;
- 10 (d) failed to maintain separate records for each beneficiary of funds held in
11 Bank Account #1, in violation of Section 10145 of the Code and Section
12 2831.1 of the Regulations;
- 13 (e) failed to reconcile the total of separate beneficiary records with a control
14 record on at least a monthly basis for Bank Account #1, in violation of
15 Section 10145 of the Code and Section 2831.2 of the Regulations;
- 16 (f) failed to provide borrowers with an advance fee agreement, and failed to
17 submit an advance fee agreement and all materials used in obtaining the
18 advance fee agreement to the Department prior to use, as required by
19 Section 10085 of the Code and Section 2970 of the Regulations;
- 20 (g) collected advance fees from principals for providing loan modification
21 services, and did not maintain and provide an accounting to those
22 principals showing the services rendered, identification of the trust
23 account into which the funds were deposited and details of how those
24 funds were disbursed, in violation of Section 10146 of the Code and 2972
25 of the Regulations;
- 26 (h) collected advance fees from principals for providing loan modification
27 services, and deposited those funds into Bank Account #1 instead of

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immediately depositing said funds into a designated trust account or neutral escrow depository, in violation of Section 10146 of the Code;

(i) collected advance fees from principals for providing loan modification services, and deposited those funds into Bank Account #1 and commingled said funds with CPI's general business funds, in violation of Sections 10145 and 10176(e) of the Code and Sections 2832 and 2835 of the Regulations; and

(j) failed to remit trust funds in the form of unearned fees totaling approximately \$2000.00 due to property owner S. Saucedo, as required by Section 10145 of the Code.

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In the course of the activities described in Paragraph 6, above, and within the audit period, REINA, while employed by CPI and acting in her capacity as a real estate salesperson, accepted compensation directly from loan modification clients, which constitutes a violation of Section 10137 of the Code.

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The acts and/or omissions of CPI and REINA as alleged in Paragraphs 12 and 13, above, constitute grounds for discipline of all licenses and license rights of CPI and REINA pursuant to Sections 10177(d) (Willful Disregard/Violation of Real Estate Law) and/or Section 10177(g) (Negligence/Incompetence in Performing Act Requiring License) of the Code.

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The acts and/or omissions of CPI and REINA as alleged in Paragraph 12, above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement for Cost of Audit for Trust Fund Handling Violation) of the Code.

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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 revoking all
3 licenses and license rights of all Respondents named herein under the Real Estate Law (Part 1
4 of Division 4 of the Business and Professions Code), for the cost of investigation and
5 enforcement as permitted by law, and for such other and further relief as may be proper under
6 other provisions of law.

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10 VERÓNICA KILPATRICK
Deputy Real Estate Commissioner

11 Dated at San Diego, California,
12 this 8 day of March, 2012.
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