

FILED

August 23, 2012

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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-4402 SD
)	
RE/MAX DIRECT INC., JAN KAREN)	<u>ACCUSATION</u>
RYAN, and DALIA R. NOGUEDA.,)	
)	
Respondents.)	

The Complainant, VERONICA KILPATRICK, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation against RE/MAX DIRECT
INC., JAN KAREN RYAN, and DALIA R. NOGUEDA (Respondents), is informed and alleges
as follows:

PRELIMINARY ALLEGATIONS

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The Complainant, VERONICA KILPATRICK, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation in her official capacity.

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Respondents are presently licensed and/or have license rights under the Real
Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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Beginning on or about July 7, 2000, Respondent RE/MAX DIRECT INC.(RE/MAX) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation. On or about March 8, 2004, RE/MAX changed its name with the State of California Secretary of State Office to Jan Ryan Direct, Inc.

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At all times mentioned, Respondent JAN KAREN RYAN (RYAN) was and is licensed by the Department individually and as the designated broker officer of RE/MAX. As said designated officer-broker, RYAN was and now is 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 RYAN for which a license is required.

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At all times mentioned, Respondent DALIA R. NOGUEDA (NOGUEDA) was and is licensed by the Department as a real estate salesperson. From on or about March 8, 2005, through April 21, 2009, NOGUEDA was licensed under the employ of RE/MAX. From April 22, 2009, through January 30, 2011, NOGUEDA was licensed with no broker association. From January 31, 2011, to present, NOGUEDA was and is licensed under the employ of RE/MAX. Prior to August 31, 2011, NOGUEDA was licensed under the name Dalia R. Martinez.

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

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At all times mentioned, 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 real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property.

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 7, inclusive, are incorporated by this reference as if fully set forth herein.

Between on or about August 5, 2009, and January 30, 2011, RE/MAX employed and compensated NOGUEDA, while NOGUEDA's license was not associated under RE/MAX's license, to perform the acts and conduct the real estate activities described in Paragraph 7, including but not limited to, the activities described in Paragraph 10.

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Between on or about August 5, 2009, and on or about January 30, 2011, in course of the employment and activities described in Paragraph 9, above, NOGUEDA negotiated and arranged the purchase and sale of real property, including but not necessarily limited to:

Property Address	Buyer/Seller
1555 Mendocino Drive #141, Chula Vista	Luis Oscar Romero and Vanesa Romero
440 W. Citricaso Parkway #18, Ramona	Carmen Romero
830 W. Lincoln Avenue #176, Escondido	Etsuko Arata
830 W. Lincoln Avenue #176, Escondido	Etsuko Arata
12079 Casa Vista Road, Lakeside	Joelene M. Avery
1212 H Street #40, Ramona	Wesley Ray Eldridge and Donna Mery Gentz-Wallis
724 F Street, Ramona	Manuel Rafael Barahona
923 B Street, Ramona	HSBC Bank USA
14080 Fernbrook, Ramona	Travis Miller
24722 Bjoin Road, Ramona	Joey Nelson
24334 Watt Road, Ramona	Duane and Sharlia Hartness
24140 Saint Helena Court, Ramona	John and Simeona Casias
16613 Open View Road, Ramona	Steve Stachelski
207 Woodland Parkway #230, San Marcos	Estuko Arata

In acting as described in Paragraphs 8 through 10, RE/MAX and NOGUEDA violated and/or willfully disregarded the provisions of Sections 10130 and 10137 of the Code.

The facts described above as to the First Cause of Accusation constitute cause to suspend or revoke all licenses and license rights of Respondents RE/MAX and NOGUEDA pursuant to the provisions of Sections 10130 and 10137 of the Code in conjunction with Section 10177(d) of the Code.

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The facts described above as to the Third Cause of Accusation constitute cause for the suspension or revocation of the licenses and license rights of RYAN under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

PRIOR DISCIPLINARY ACTION

Effective June 20, 2005, in Case No. H-1771 FR, the Real Estate Commissioner disciplined the real estate broker licenses of RYAN and RE/MAX for RYAN's violation of Sections 10137, 10177(g), 10177(h), and 10159.2 of the Code, and for RE/MAX's violation of Section 10137 of the Code. The discipline imposed upon RYAN and RE/MAX was a 30-day suspension stayed upon terms and conditions.

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 Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.


VERONICA KILPATRICK
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 21 day of August, 2012

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.