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**FILED**

JUN - 3 2014

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE BUREAU<sup>1</sup> OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
EUGENE EUGENE KOCHERGA<sup>2</sup>, )  
Respondent. )

CalBRE No. H-04535 SD  
OAH No. 2013120296  
FIRST AMENDED  
ACCUSATION

The Complainant, Veronica Kilpatrick ("Complainant"), a Deputy Real Estate Commissioner of the State of California, does hereby amend the Accusation filed on November 13, 2013 in this matter against EUGENE EUGENE KOCHERGA ("Respondent"), and is informed and alleges as follows:

1.

The Complainant, a Deputy Real Estate Commissioner of the State of California, makes this First Amended Accusation against Respondent in her official capacity.

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<sup>1</sup> Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate ("Bureau"). All references to the agency herein will be to the Bureau.

<sup>2</sup> Respondent's licensed name includes his middle name, which is also Eugene.

1 2.

2 Respondent, is presently licensed and/or has license rights under the Real Estate  
3 Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "the  
4 Code") as a real estate salesperson.

5 3.

6 At all times mentioned herein, Respondent was and is licensed by the Bureau of  
7 Real Estate ("Bureau") as a real estate salesperson. Respondent was first licensed as a real  
8 estate salesperson in 2003. At all times material, Respondent was employed by Willis Allen  
9 Real Estate as his supervising broker of record

10 4.

11 On or about April 19, 2011, Respondent entered a listing agreement with  
12 Christina R. ("Seller") to sell her residence located on Cherry Avenue in Imperial Beach, CA  
13 ("Subject Property"). Seller prepared the Subject Property for showing, and it was listed on the  
14 MLS on May 6, 2011.

15 5.

16 Respondent received an offer from Karen and Hayden J. ("Buyers") at about  
17 \$36,000 under the full listing price, on the morning of May 9, 2011. That day, Respondent  
18 discussed the offer with Seller, who agreed to submit a counter-offer for the full listing price.  
19 Respondent transmitted Seller's full price counter-offer, which he signed on her behalf.

20 6.

21 On the evening of May 10, 2011, Seller and Respondent met in person, and  
22 Seller signed a complete set of transaction documents.

23 7.

24 On the morning of May 11, 2011, escrow was opened. That afternoon, Seller  
25 sent Respondent a text asking him to cancel the transaction due to an unexpected change in her  
26 personal circumstances. On the evening of May 11, 2011, Respondent spoke to Buyer's agent to  
27 inform her that his client wished to cancel the transaction. Buyer's agent requested that

1 Respondent send her written notice. She indicated, however, that she thought that her clients  
2 had an executed agreement and that they would not agree to cancel the transaction.

3 8.

4 On the morning on May 12, 2011, Buyer's agent submitted the Deposit to  
5 escrow. At noon, the escrow officer emailed Respondent a copy of the Earnest Money Deposit  
6 Receipt. The thread of email conversations between Respondent and the escrow officer was as  
7 follows:

8 *Escrow Officer:* ".Eugene- have you had a chance to review the draft escrow  
9 instructions? Is all OK to send out? Please advise. Also, need a mailing address for the Seller."

10 *Respondent:* "Looks good, go ahead and send out."

11 *Escrow officer:* "OK, just need the Seller's mailing address..."

12 *Respondent:* You can send it to my address [provides office address].

13 9.

14 After this exchange, on the afternoon of May 12, 2011, Respondent sent Buyer's  
15 agent an email explaining Seller's change in circumstances and that she wanted to cancel the  
16 transaction. Respondent did not send a copy of this email, or any other written or verbal  
17 communication to the escrow officer at that time.

18 10.

19 The first written notice Respondent provided to escrow that his client did not  
20 want to sell the property was received by escrow on June 2, 2011, after Seller had retained legal  
21 counsel.

22 11.

23 The conduct, acts and/or omissions set forth above constitutes grounds to  
24 suspend or revoke Respondent's real estate salesperson license pursuant to Code Section  
25 10177(g) for negligence in failing to timely submit written cancellation instructions to escrow.

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1 Business and Professions Code Section 10106 provides, in pertinent part, that in  
2 any order issued in resolution of a disciplinary proceeding before the Department, the  
3 commissioner may request the administrative law judge to direct a licensee found to have  
4 committed a violation of this part to pay a sum not to exceed the reasonable costs of the  
5 investigation and enforcement of the case.

6 WHEREFORE, Complainant prays that a hearing be conducted on the  
7 allegations of this Accusation and that upon proof thereof a decision be rendered imposing  
8 disciplinary action against all license(s) and license rights of Respondent under the Real Estate  
9 Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation  
10 and enforcement as permitted by law, and for such other and further relief as may be proper  
11 under other provisions of law.

12 Dated at Los Angeles, California

13 this 30<sup>th</sup> day of May, 2014.

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18 Veronica Kilpatrick  
19 Deputy Real Estate Commissioner  
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22

23 cc: Eugene Eugene Kocherga  
24 Real Estate of the Pacific, Inc.  
25 Veronica Kilpatrick  
26 Sacto.  
27 OAH