

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED
SEP 26 2007

DEPARTMENT OF REAL ESTATE

By Amel Shaover

5
6
7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) NO. H-4564 SAC
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DYLAN QUOC TRAN and) STIPULATION AND AGREEMENT
TITAN REALTY SERVICES, INC.,) IN SETTLEMENT
Respondents.) AND ORDER

16 It is hereby stipulated by and between TITAN REALTY
17 SERVICES, INC. and DYLAN QUOC TRAN (hereinafter "Respondents")
18 and their attorney of record, Richard H. Gray of Rader, Rader,
19 Goulart & Gray, and the Complainant, acting by and through David
20 B. Seals, Counsel for the Department of Real Estate, as follows
21 for the purpose of settling and disposing of the Accusation
22 filed on October 23, 2006, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and
25 Respondents at a formal hearing on the Accusation, which hearing
26 was to be held in accordance with the provisions of the
27 Administrative Procedure Act (APA), shall instead and in place

1 thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement in Settlement.

3 2. Respondents have received, read and understand the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. A Notice of Defense was filed on November 7, 2006
8 by Respondents, pursuant to Section 11505 of the Government Code
9 for the purpose of requesting a hearing on the allegations in
10 the Accusation. Respondents hereby freely and voluntarily
11 withdraw said Notice of Defense. Respondents acknowledge that
12 they understand that by withdrawing said Notice of Defense they
13 will thereby waive their right to require the Commissioner to
14 prove the allegations in the Accusation at a contested hearing
15 held in accordance with the provisions of the APA and that they
16 will waive other rights afforded to them in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interests of
22 expedience and economy, Respondents choose not to contest these
23 allegations, but to remain silent and understand that, as a
24 result thereof, these factual allegations, without being
25 admitted or denied, will serve as a prima facie basis for the
26 disciplinary action stipulated to herein. The Real Estate

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1 Commissioner shall not be required to provide further evidence
2 to prove said factual allegations.

3 5. It is understood by the parties that the Real
4 Estate Commissioner may adopt the Stipulation and Agreement in
5 Settlement as his decision in this matter thereby imposing the
6 penalty and sanctions on Respondents' real estate licenses and
7 license rights as set forth in the below "Order". In the event
8 that the Commissioner in his discretion does not adopt the
9 Stipulation and Agreement in Settlement, it shall be void and of
10 no effect, and Respondents shall retain the right to a hearing
11 and proceeding on the Accusation under all the provisions of the
12 APA and shall not be bound by any admission or waiver made
13 herein.

14 6. The Order or any subsequent Order of the Real
15 Estate Commissioner made pursuant to this Stipulation and
16 Agreement in Settlement shall not constitute an estoppel, merger
17 or bar to any further administrative or civil proceedings by the
18 Department of Real Estate with respect to any matters which were
19 not specifically alleged to be causes for accusation in this
20 proceeding.

21 7. Respondents have received, read and understand
22 the "Notice Concerning Costs of Subsequent Audits". Respondents
23 understand that by agreeing to this Stipulation and Agreement in
24 Settlement, the findings set forth below in the DETERMINATION OF
25 ISSUES become final, and that the Commissioner may charge
26 Respondents for the costs of any audit for which they are
27 charged pursuant to Section 10148 of the Business and

1 Professions Code (hereinafter the "Code"). The reasonable cost
2 of the audits which led to this disciplinary action is
3 \$4,377.04. The maximum cost of the subsequent audits will not
4 exceed \$4,377.04.

5 DETERMINATION OF ISSUES

6 I

7 By reason of the foregoing stipulations, admissions
8 and waivers and solely for the purpose of settlement of the
9 pending Accusation without a hearing, it is stipulated and
10 agreed that the facts alleged above are grounds for the
11 suspension or revocation of the licenses and license rights of
12 Respondent DYLAN QUOC TRAN under Section 10177(h) of the Code
13 and Section 2725, Title 10, California Code of Regulations
14 (hereinafter the "Regulations"), in conjunction with Section
15 10177(d) of the Code and, as to Respondent TITAN REALTY
16 SERVICES, INC. under Section 10177(d) in conjunction with
17 Sections 10145 and 10240 of the Code and Sections 2731, 2831 and
18 2832.1 of the Regulations.

19 ORDER

20 I

21 All licenses and licensing rights of Respondent TITAN
22 REALTY SERVICES, INC. under the Real Estate Law are suspended
23 for a period of sixty (60) days from the effective date of this
24 Order; provided, however, that:

25 1. Thirty (30) days of said suspension shall be stayed
26 for two (2) years upon the following terms and conditions:

27 ///

1 A. Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

4 B. That no final subsequent determination be made,
5 after hearing or upon stipulation, that cause for disciplinary
6 action occurred within two (2) years from the effective date of
7 this Order. Should such a determination be made, the
8 Commissioner may, in his discretion, vacate and set aside the
9 stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay
11 imposed herein shall become permanent.

12 2. The remaining thirty (30) days of said 60-day
13 suspension shall be stayed upon the condition that Respondent
14 TITAN REALTY SERVICES, INC. petition pursuant to Section 10175.2
15 of the Business and Professions Code and pays a monetary penalty
16 pursuant to Section 10175.2 of the Business and Professions Code
17 at a rate of \$100 for each day of the suspension for a total
18 monetary penalty of \$3,000:

19 A. Said payment shall be in the form of a cashier's
20 check or certified check made payable to the Recovery Account of
21 the Real Estate Fund. Said check must be delivered to the
22 Department prior to the effective date of the Order in this
23 matter.

24 B. No further cause for disciplinary action against
25 the Real Estate licenses of said Respondent occurs within two
26 (2) years from the effective date of the decision in this
27 matter.

1 C. If Respondent TITAN REALTY SERVICES, INC. fails to
2 pay the monetary penalty as provided above prior to the
3 effective date of this Order, the stay of the suspension shall
4 be vacated as to Respondent TITAN REALTY SERVICES, INC. and the
5 order of suspension shall be immediately executed, under this
6 Paragraph I of this Order, in which event Respondent TITAN
7 REALTY SERVICES, INC. shall not be entitled to any repayment nor
8 credit, prorated or otherwise, for the money paid to the
9 Department under the terms of this Order.

10 D. If Respondent TITAN REALTY SERVICES, INC. pays the
11 monetary penalty and any other moneys due under this Stipulation
12 and Agreement and if no further cause for disciplinary action
13 against the real estate licenses of Respondent TITAN REALTY
14 SERVICES, INC. occurs within two (2) years from the effective
15 date of this Order, the entire stay hereby granted under
16 Paragraphs I and II of this Order, as to Respondent TITAN REALTY
17 SERVICES, INC. only, shall become permanent.

18 3. Pursuant to Section 10148 of the Business and
19 Professions Code, Respondents DYLAN QUOC TRAN and TITAN REALTY
20 SERVICES, INC. shall pay the Commissioner's reasonable cost for
21 the audit which led to this disciplinary action (\$4,377.04) and
22 a subsequent audit (not to exceed \$4,377.04) to determine if
23 Respondent TITAN REALTY SERVICES, INC. has corrected the trust
24 fund violation(s) found in Paragraph I of the Determination of
25 Issues. In calculating the amount of the Commissioner's
26 reasonable cost, the Commissioner may use the estimated average
27 hourly salary for all persons performing audits of real estate

1 brokers, and shall include an allocation for travel time to and
2 from the auditor's place of work. Respondents DYLAN QUOC TRAN
3 and TITAN REALTY SERVICES, INC. shall pay such cost within 60
4 days of receiving an invoice from the Commissioner detailing the
5 activities performed during the audit and the amount of time
6 spent performing those activities. The Commissioner may suspend
7 the licenses of Respondents DYLAN QUOC TRAN and TITAN REALTY
8 SERVICES, INC. pending a hearing held in accordance with Section
9 11500, et seq., of the Government Code, if payment is not timely
10 made as provided for herein, or as provided for in a subsequent
11 agreement between Respondents DYLAN QUOC TRAN and TITAN REALTY
12 SERVICES, INC. and the Commissioner. The suspension shall
13 remain in effect until payment is made in full or until
14 Respondents DYLAN QUOC TRAN and TITAN REALTY SERVICES, INC.
15 enter into an agreement satisfactory to the Commissioner to
16 provide for payment, or until a decision providing otherwise is
17 adopted following a hearing held pursuant to this condition.

18 4. Prior to the date this Stipulation becomes
19 effective, Respondent DYLAN QUOC TRAN or TITAN REALTY SERVICES,
20 INC. shall provide evidence satisfactory to the Real Estate
21 Commissioner that the shortages alleged in the Accusation have
22 been cured. If Respondent fails to provide such evidence prior
23 to the effective date of this Order all licenses of Respondents
24 DYLAN QUOC TRAN and TITAN REALTY SERVICES, INC. shall be
25 immediately suspended until satisfactory evidence has been
26 provided to the Real Estate Commissioner that the shortages
27 alleged in the Accusation have been cured.

1 II

2 All licenses and licensing rights of Respondent DYLAN
3 QUOC TRAN under the Real Estate Law are suspended for a period
4 of sixty (60) days from the effective date of this Order;
5 provided, however, that:

6 1. Thirty (30) days of said suspension shall be stayed
7 for two (2) years upon the following terms and conditions:

8 A. Respondent shall obey all laws, rules and
9 regulations governing the rights, duties and responsibilities of
10 a real estate licensee in the State of California; and

11 B. That no final subsequent determination be made,
12 after hearing or upon stipulation, that cause for disciplinary
13 action occurred within two (2) years from the effective date of
14 this Order. Should such a determination be made, the
15 Commissioner may, in his discretion, vacate and set aside the
16 stay order and reimpose all or a portion of the stayed
17 suspension. Should no such determination be made, the stay
18 imposed herein shall become permanent.

19 2. The remaining thirty (30) days of said 60-day
20 suspension shall be stayed upon the condition that Respondent
21 DYLAN QUOC TRAN petition pursuant to Section 10175.2 of the
22 Business and Professions Code and pays a monetary penalty
23 pursuant to Section 10175.2 of the Business and Professions Code
24 at a rate of \$100 for each day of the suspension for a total
25 monetary penalty of \$3,000:

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1 A. Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be delivered to the
4 Department prior to the effective date of the Order in this
5 matter.

6 B. No further cause for disciplinary action against
7 the Real Estate licenses of said Respondent DYLAN QUOC TRAN
8 occurs within two (2) years from the effective date of the
9 decision in this matter.

10 C. If Respondent DYLAN QUOC TRAN fails to pay the
11 monetary penalty as provided above prior to the effective date
12 of this Order, the stay of the suspension shall be vacated as to
13 Respondent DYLAN QUOC TRAN and the order of suspension shall be
14 immediately executed, under this Paragraph II of this Order, in
15 which event Respondent DYLAN QUOC TRAN shall not be entitled to
16 any repayment nor credit, prorated or otherwise, for the money
17 paid to the Department under the terms of this Order.

18 D. If Respondent DYLAN QUOC TRAN pays the monetary
19 penalty and any other moneys due under this Stipulation and
20 Agreement and if no further cause for disciplinary action
21 against the real estate licenses of Respondent DYLAN QUOC TRAN
22 occurs within two (2) years from the effective date of this
23 Order, the entire stay hereby granted under Paragraphs I and II
24 of this Order, as to Respondent DYLAN QUOC TRAN only, shall
25 become permanent.

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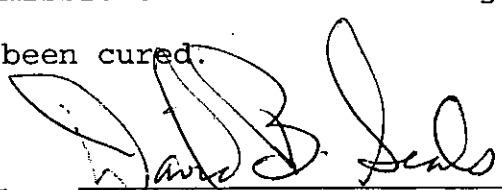
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1 3. Pursuant to Section 10148 of the Business and
2 Professions Code, Respondents DYLAN QUOC TRAN and TITAN REALTY
3 SERVICES, INC. shall pay the Commissioner's reasonable cost for
4 the audit which led to this disciplinary action (\$4,377.04) and
5 a subsequent audit (not to exceed \$4,377.04) to determine if
6 Respondent TITAN REALTY SERVICES, INC. has corrected the trust
7 fund violation(s) found in Paragraph I of the Determination of
8 Issues. In calculating the amount of the Commissioner's
9 reasonable cost, the Commissioner may use the estimated average
10 hourly salary for all persons performing audits of real estate
11 brokers, and shall include an allocation for travel time to and
12 from the auditor's place of work. Respondents DYLAN QUOC TRAN
13 and TITAN REALTY SERVICES, INC. shall pay such cost within 60
14 days of receiving an invoice from the Commissioner detailing the
15 activities performed during the audit and the amount of time
16 spent performing those activities. The Commissioner may suspend
17 the licenses of Respondents DYLAN QUOC TRAN and TITAN REALTY
18 SERVICES, INC. pending a hearing held in accordance with Section
19 11500, et seq., of the Government Code, if payment is not timely
20 made as provided for herein, or as provided for in a subsequent
21 agreement between Respondents DYLAN QUOC TRAN and TITAN REALTY
22 SERVICES, INC. and the Commissioner. The suspension shall
23 remain in effect until payment is made in full or until
24 Respondents DYLAN QUOC TRAN and TITAN REALTY SERVICES, INC.
25 enter into an agreement satisfactory to the Commissioner to
26 provide for payment, or until a decision providing otherwise is
27 adopted following a hearing held pursuant to this condition.

1 4. Respondent DYLAN QUOC TRAN shall, prior to the
2 date this Stipulation becomes effective, submit proof
3 satisfactory to the Commissioner of having taken and
4 successfully completed the continuing education course on trust
5 fund accounting and handling specified in subdivision (a) of
6 Section 10170.5 of the Business and Professions Code. Proof of
7 satisfaction of this requirement includes evidence that
8 Respondent DYLAN QUOC TRAN has successfully completed the trust
9 fund account and handling continuing education course within 120
10 days prior to the effective date of the Stipulation in this
11 matter. If Respondent DYLAN QUOC TRAN fails to satisfy this
12 condition, the Commissioner may order suspension of Respondent's
13 license until Respondent DYLAN QUOC TRAN submits satisfactory
14 proof of completion of the course.

15 5. Prior to the date this Stipulation becomes
16 effective, Respondent DYLAN QUOC TRAN or TITAN REALTY SERVICES,
17 INC. shall provide evidence satisfactory to the Real Estate
18 Commissioner that the shortages alleged in the Accusation have
19 been cured. If Respondent fails to provide such evidence prior
20 to the effective date of this Order all licenses of Respondents
21 DYLAN QUOC TRAN and TITAN REALTY SERVICES, INC. shall be
22 immediately suspended until satisfactory evidence has been
23 provided to the Real Estate Commissioner that the shortages
24 alleged in the Accusation have been cured.

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26 DATED: Sept. 10, 2007




DAVID B. SEALS, Counsel
DEPARTMENT OF REAL ESTATE

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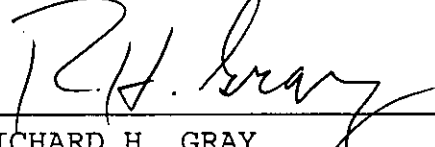
I have read the Stipulation and Agreement, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED: 23 AUG 07 
DYLAN QUOC TRAN
Respondent

DATED: 23 AUG 07 
TITAN REALTY SERVICES, INC.
Respondent

* * *

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

DATED: 8/28/07 
RICHARD H. GRAY
Attorney for Respondents

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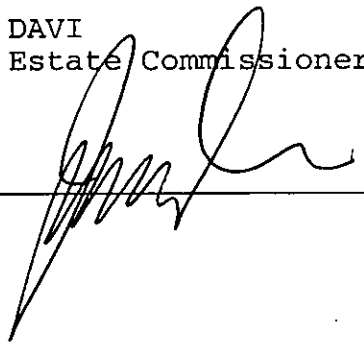
The foregoing Stipulation and Agreement in Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on

OCT 16 2007

IT IS SO ORDERED

9-19-07

JEFF DAVI
Real Estate Commissioner



1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

FILED
OCT 23 2006

DEPARTMENT OF REAL ESTATE
By R. Quinn

4 Telephone: (916) 227-0789
5 -or- (916) 227-0792 (Direct)

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-4564 SAC
12)
13 DYLAN QUOC TRAN and) ACCUSATION
14 TITAN REALTY SERVICES, INC.,)
Respondents.)

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California for cause of
17 Accusation against DYLAN QUOC TRAN (hereinafter "Respondent
18 TRAN") and TITAN REALTY SERVICES, INC. (hereinafter "Respondent
19 TITAN"), is informed and alleges as follows:

20 I

21 The Complainant, Charles W. Koenig, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

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II

Respondents are licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as follows:

- (a) Respondent TITAN as a corporate real estate broker, through Respondent TRAN as the designated officer; and
- (b) Respondent TRAN as a real estate broker and as the designated officer for Respondent TITAN.

III

At all times mentioned herein, as the designated officer of Respondent TITAN, Respondent TRAN was responsible for the supervision and control of the activities conducted on behalf of Respondent TITAN by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

IV

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

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V

That at all times herein mentioned, Respondent TITAN, 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, wherein they sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, and/or negotiated the purchase, sale or exchange of real property for or in expectation of compensation, Section 10131(b) of the Code, for or in expectation of compensation, by leasing or renting or offering to lease or rent, or placing for rent, or soliciting listings of places for rent, or soliciting for prospective tenants, or negotiating the sale, purchase or exchange of leases on real property, or on a business opportunity, or collecting rents from real property, or improvements thereon, or from business opportunities, and Section 10131(d) of the Code, by soliciting borrowers or lenders for or negotiating loans or collecting payments or performing services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of compensation.

VI

That at all times mentioned herein, Respondent TITAN accepted or received funds in trust (hereafter trust funds) from and on behalf of its principals placing them in bank accounts and at times thereafter made disbursements of such funds.

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VII

From February 21, 2006 through March 14, 2006 three investigative audits (SC050027, SC050032, SC050033) were performed by the Department of the records and bank records of the Respondent TITAN for the period from December 1, 2004 to December 31, 2005, as said records related to its activities as a real estate broker.

VIII

Respondent TITAN maintained two bank accounts into which trust funds were placed as follows:

1. Wells Fargo Bank, P.O. Box 6995, Portland, OR 97228-6995, Account No. 1100430485 in the name of Titan Realty Services Inc Trust Account (Trust #1).
2. Gold County Bank, NA, P.O. Box 2488, Marysville, CA 95901-2488, Account No. 3109135 in the name of Titan Realty Services Inc DBA Rentals Unlimited Trust Account (Trust #2).

IX

The adjusted balance of Trust #1 as of December 31, 2005 was Fifty-Eight Thousand Seven Hundred Twenty-Four and 15/100 Dollars (\$58,724.15) and the trust fund accountability as of December 31, 2005 was Fifty-Nine Thousand Eight Hundred Forty-Nine and 45/100 Dollars (\$59,849.45). Therefore, Respondent TITAN, as of December 31, 2005, had a trust fund shortage of One Thousand One Hundred Twenty-Five and 30/100 Dollars (\$1,125.30).

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X

The shortage in Trust #1 was due to negative balances in the property accounts.

XI

The adjusted balance of Trust #2 as of December 31, 2005 was One-Hundred-Ninety-Three Thousand Six Hundred Thirty-Five and 35/100 Dollars (\$193,635.35) and the trust fund accountability as of December 31, 2005 was Two-Hundred-Three Thousand Eight Hundred Eighty-Four and 53/100 Dollars (\$203,884.53). Therefore, Respondent TITAN, as of December 31, 2005, had a trust fund shortage of Ten Thousand Two Hundred Forty-Nine and 18/100 Dollars (\$10,249.18).

XII

The shortage in Trust #2 was due to negative balances in property accounts and the failure to deposit \$7,567,85 into the account.

XIII

Respondent TITAN caused the disbursement of trust funds from Trust #1 and Trust #2 without the written consent of every principal who was an owner of the funds, causing the balance of the funds in the account to be an amount less than the existing aggregate trust fund liability of Respondent TITAN to all owners of said funds in violation of Section 10145 of the Code and Section 2832.1, Title 10, California Code of Regulations (hereinafter the "Regulations").

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XIV

During the period covered by the audits Respondent TITAN maintained a log of earnest money deposits but failed to record at least four deposits in violation of Section 2831 of the Regulations.

XV

During the period covered by the audits, Respondent TITAN failed to have all borrowers sign mortgage loan disclosure statements and/or failed to have the broker sign such statements in violation of Section 10240 of the Code.

XVI

During the period covered by the audits, Respondent TITAN was doing business as Rentals Unlimited but Respondent TITAN did not hold a license bearing that fictitious name in violation of Section 2731 of the Regulations.

XVII

At all times mentioned herein, Respondent TRAN failed to exercise reasonable supervision over the activities of Respondent TITAN, and permitted, ratified and/or caused the conduct described above. Respondent TRAN failed to reasonably or adequately review, oversee, inspect and manage the personnel and activities of Respondent TITAN, and/or to establish reasonable policies, rules, procedures and systems for such review, oversight, inspection and management.

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XVIII

The acts and/or omissions of Respondents described above are grounds for the revocation or suspension of Respondents' licenses under the following sections of the Business and Professions Code and the Regulations:

(a) As to Respondent TITAN REALTY SERVICES, INC. under Section 10177(d) in conjunction with Sections 10145 and 10240 of the Code and Sections 2731, 2831 and 2832.1 of the Regulations; and

(b) As to Respondent DYLAN QUOC TRAN only, under Section 10177(h) of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code.

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, and each of them, 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.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 18th day of October, 2006.