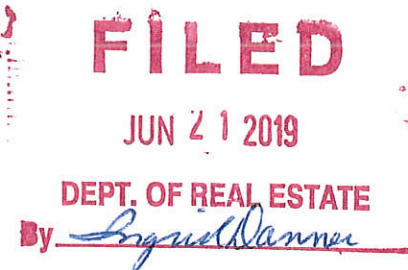


Julie L. To, Counsel (SBN 219482)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
Direct: (213) 576-6916
Fax: (213) 576-6917



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-05070 SD
)	
TRIUMPH CAPITAL PARTNERS INC.)	<u>ACCUSATION</u>
)	
and)	
)	
GEORGE OCTAVIO FLINT, individually)	
and as former designated officer of)	
Triumph Capital Partners Inc.)	
)	
)	
Respondents.)	
)	

The Complainant, Chika Sunquist, a Supervising Special Investigator of the State of California, for cause of Accusation against TRIUMPH CAPITAL PARTNERS INC. and GEORGE OCTAVIO FLINT ("Respondents") is informed and alleges as follows:

1.

The Complainant, Chika Sunquist, a Supervising Special Investigator of the State of California, makes this Accusation against Respondents in her official capacity.

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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

DEPARTMENT OF REAL ESTATE ("DRE") LICENSE HISTORY

3.

TRIUMPH CAPITAL PARTNERS INC. ("TRIUMPH")

A. TRIUMPH CAPITAL PARTNERS INC., f.k.a. Conquest Capital Partners, Inc. ("TRIUMPH") is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a real estate broker ("REB") (corporation), DRE license ID 01990950. TRIUMPH was originally licensed as a REB on or about December 16, 2015.

B. TRIUMPH's mailing address of record is: 662 Encinitas Blvd., Ste. 208, Encinitas, CA 92024. TRIUMPH has no main office address of record on file.

C. TRIUMPH's designated officer of record ("D.O.") was GEORGE OCTAVIO FLINT until his officer affiliation was canceled as of February 26, 2019. Presently, TRIUMPH has no designated officer of record.

D. TRIUMPH's REB license will expire on or about December 15, 2019.

4.

GEORGE OCTAVIO FLINT ("FLINT")

A. GEORGE OCTAVIO FLINT ("FLINT") is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a REB, DRE license ID 01401830. FLINT was originally licensed as a real estate salesperson ("RES") on or about March 22, 2004 and as a REB on or about February 15, 2012.

B. FLINT's mailing and main address of record are the same: 155 South Highway 101, Suite 37, Solana Beach, CA 92075.

1 C. FLINT was the D.O. of TRIUMPH until his officer affiliation was canceled as
2 of February 26, 2019. FLINT is presently the D.O. of BNF Real Estate Group, Inc. (DRE
3 license ID 01915422) until his officer expiration date of July 17, 2020.
4

5 D. According to DRE records to date, FLINT's license history includes the
6 following action:

7 1. DRE Case No. H-3213 SD ("March 2006 RES Revocation"): On or
8 about March 3, 2006, in DRE Case No. H-3213 SD, FLINT's RES license was revoked for
9 violation of Code Sections 490 and 10177(b).

10 E. FLINT's DRE license will expire on February 14, 2020.

11 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

12 5.

13 **Disclosure of Licensed Status in Advertising - Code Section 10140.6 and Regulation 2773**

14 Pursuant to Code Section 10140.4 *Disclosure of Licensed Status in Advertising*:

15 "(a) A real estate licensee shall not publish, circulate, distribute, or cause to be
16 published, circulated, or distributed in any newspaper or periodical, or by mail, any matter
17 pertaining to any activity for which a real estate license is required that does not contain a
18 designation disclosing that he or she is performing acts for which a real estate license is required.
19

20 (b)(1) A real estate licensee shall disclose his or her name, license identification
21 number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing
22 System and Registry, if that licensee is a mortgage loan originator, and responsible broker's
23 identity, as defined in Section 10015.4, on all solicitation materials intended to be the first point
24 of contact with consumers and on real property purchase agreements when acting in a manner
25 that requires a real estate license or mortgage loan originator license endorsement in those
26 transactions. The commissioner may adopt regulations identifying the materials in which a
27 licensee must disclose a license identification number and unique identifier assigned to that
28

licensee by the Nationwide Mortgage Licensing System and Registry, and responsible broker's identity.

(2) For purposes of this section, "solicitation materials" include business cards, stationery, advertising flyers, advertisements on television, in print, or electronic media, "for sale," rent, lease, "open house," and directional signs, and other materials designed to solicit the creation of a professional relationship between the licensee and a consumer.

(3) Nothing in this section shall be construed to limit or change the requirement described in Section 10236.4 as applicable to real estate brokers.

(c) This section shall not apply to "for sale," rent, lease, "open house," and directional signs that do either of the following:

(1) Display the responsible broker's identity, as defined in Section 10015.4, without reference to an associate broker or licensee.

(2) Display no license identification information.

(d) "Mortgage loan originator," "unique identifier," and "Nationwide Mortgage Licensing System and Registry" have the meanings set forth in Section 10166.01.

(e) This section shall become operative on January 1, 2018."

6.

Pursuant to Regulation 2773 *Disclosure of License Identification Number on Solicitation Materials – First Point of Contact with Consumers:*

"(a) A real estate broker or salesperson, when engaging in acts for which a license is required, shall disclose its, his or her eight (8) digit real estate license identification number on all solicitation materials intended to be the first point of contact with consumers. If the name of more than one licensee appears in the solicitation, the license identification number of each licensee shall be disclosed. The license numbers of employing brokers or corporate brokers whose names or logos or trademarks appear on solicitation materials along with the names and

1 license numbers of licensed employees or broker associates do not need to appear on those
2 materials.

3 Solicitation materials intended to be the first point of contact with consumers, and in which a
4 licensee must disclose a license identification number, include the following:
5

- 6 (1) Business cards;
- 7 (2) Stationery;
- 8 (3) Websites owned, controlled, and/or maintained by the soliciting real estate
9 licensee; and
- 10 (4) Promotional and advertising fliers, brochures, email and regular mail,
11 leaflets, and any marketing or promotional materials designed to solicit the
12 creation of a professional relationship between the licensee and a
13 consumer, or which is intended to incentivize, induce or entice a consumer
14 to contact the licensee about any service for which a license is required.

15 The type size of the license identification number shall be no smaller than the
16 smallest size type used in the solicitation material.

17 (b) For purposes of Business and Professions Code Section 10140.6, solicitation
18 materials do not include the following:

- 19 (1) Advertisements in electronic media (including, without limitation, radio,
20 cinema and television ads, and the opening section of streaming video and audio);
21
- 22 (2) Print advertising in any newspaper or periodical; and
- 23 (3) "For Sale" signs placed on or around a property intended to alert the public
24 the property is available for lease, purchase or trade."

25 ///

26 ///

27 ///

28 ///

7.

Broker Supervision – Code Section 10159.2 and Regulation 2725

Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge*:

“(a) The officer designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

(b) A corporate broker licensee that has procured additional licenses in accordance with Section 10158 through officers other than the officer designated pursuant to Section 10211 may, by appropriate resolution of its board of directors, assign supervisory responsibility over salespersons licensed to the corporation to its broker-officers.

(c) A certified copy of any resolution of the board of directors assigning supervisory responsibility over real estate salespersons licensed to the corporation shall be filed with the Real Estate Commissioner within five days after the adoption or modification thereof.”

8.

Pursuant to Regulation 2725 *Broker Supervision*:

“A broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:

(a) Transactions requiring a real estate license.

(b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.

(c) Filing, storage and maintenance of such documents.

(d) The handling of trust funds.

(e) Advertising of any service for which a license is required.

1 (f) Familiarizing salespersons with the requirements of federal and state laws
2 relating to the prohibition of discrimination.

3 (g) Regular and consistent reports of licensed activities of salespersons.

4 The form and extent of such policies, rules, procedures and systems shall take into
5 consideration the number of salespersons employed and the number and location of branch
6 offices.

7
8 A broker shall establish a system for monitoring compliance with such policies,
9 rules, procedures and systems. A broker may use the services of brokers and salespersons to
10 assist in administering the provisions of this section so long as the broker does not relinquish
11 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

12 9.

13 **Place of Business: Contact Information – Code Section 10162 and Regulation 2715**

14 Pursuant to Code Section 10162 *Place of Business: Contact Information:*

15
16 “(a) Every licensed real estate broker shall have and maintain a definite place of
17 business in the State of California that serves as his or her office for the transaction of business.
18 This office shall be the place where his or her license is displayed and where personal
19 consultations with clients are held.

20
21 (b) A real estate license does not authorize the licensee to do business except
22 from the location stipulated in the real estate license as issued or as altered pursuant to Section
23 10161.8.

24
25 (c) (1) Every real estate broker and salesperson licensee shall provide to the
26 commissioner his or her current office or mailing address, a current telephone number, and a
27 current electronic mail address that he or she maintains or uses to perform any activity that
28 requires a real estate license, at which the bureau may contact the licensee.

1
2 (2) Every real estate broker and salesperson licensee shall inform the
3 commissioner of any change to his or her office or mailing address, telephone
4 number, or electronic mail address no later than 30 days after making the
5 change.

6
7 (d) Notwithstanding Section 10185, a violation of this section is not a
8 misdemeanor."

9 10.

10
11 Pursuant to Regulation 2715 *Business and Mailing Addresses of Licensees*:

12 "Every broker, except a broker acting in the capacity of a salesperson to another broker under
13 written agreement, shall maintain on file with the commissioner the address of his principal place
14 of business for brokerage activities, the address of each branch business office and his current
15 mailing address, if different from the business address. Every broker who is acting in the
16 capacity of a salesperson to another broker under written agreement shall maintain on file with
17 the commissioner the address of the business location where he expects to conduct most of the
18 activities for which a license is required and his current mailing address. A real estate
19 salesperson shall maintain on file with the commissioner his current mailing address, and when
20 applicable, the address of the principal business office of the broker to whom the salesperson is
21 at the time licensed. Whenever there is a change in the location or address of the principal place
22 of business or of a branch office of a broker, he shall notify the commissioner thereof not later
23 than the next business day following the change. This section shall apply to the holder of a real
24 estate license who fails to renew it prior to the period for which it was issued and who is
25 otherwise qualified for such license as set forth in Section 10201 of the Code."
26

27 11.

28 **Grounds for Denial, Suspension or Revocation - Code Section 10166.07**

Pursuant to Code Section 10166.07 *Mortgage Loan Business Activity Reports*:

“(a) A real estate broker who acts pursuant to a) Section 10131.1 or subdivision (d) or (e) of Section 10131 and who makes, arranges, or services one or more loans in a calendar year that are secured by real property containing one to four residential units, shall annually file a business activities report, within 90 days after the end of the broker's fiscal year or within any additional time as the commissioner may allow for filing for good cause. The report shall contain within its scope all of the following information for the fiscal year, relative to the business activities of the broker and those of any other brokers and real estate salespersons acting under that broker's supervision:

(1) Name and license number of the supervising broker and names and license numbers of the real estate brokers and salespersons under that broker's supervision. The report shall include brokers and salespersons who were under the supervising broker's supervision for all or part of the year.

(2) A list of the real estate-related activities in which the supervising broker and the brokers and salespersons under his or her supervision engaged during the prior year. The listing shall identify all of the following:

(A) Activities relating to mortgages, including arranging, making, or servicing.

(B) Other activities performed under the real estate broker's or salesperson's license.

(C) Activities performed under related licenses, including, but not limited to, a license to engage as a finance lender or a finance broker under the California Finance Lenders Law

(Division 9 (commencing with (C) Section 22000) of the Financial Code), or a license to engage as a residential mortgage lender or residential mortgage loan servicer under the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code).

(3) A list of the forms of media used by the broker and those under his or her supervision to advertise to the public, including print, radio, television, the Internet, or other means.

(4) For fixed rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest interest rate, highest interest rate, and a list of the institutional lenders of record. If the loan was funded by any lender other than an institutional lender, the broker shall categorize the loan as privately funded.

(B) The total number and aggregate principal amount of covered loans, as defined in Section 4970 of the Financial Code.

(C) The total number and aggregate principal amount of loans for which (C) Bureau of Real Estate form RE Form 885 or an equivalent is required.

(5) For adjustable rate loans made, brokered, or serviced, all of the following:

(A) The total number, aggregate principal amount, lowest beginning interest rate, highest beginning interest rate, highest margin, and a list of the institutional lenders of record. If the

1
2 loan was funded by any lender other than an institutional
3 lender, the broker shall categorize the loan as privately
4 funded.

5 (B) The total number and aggregate principal amount of covered
6 loans, as defined in (B) Section 4970 of the Financial
7 Code.

8 (C) The total number and aggregate principal amount of loans for
9 which Bureau of Real Estate form RE Form 885 or an equivalent
10 is required.
11

12 (6) For all loans made, brokered, or serviced, the total number and
13 aggregate principal amount of loans funded by institutional lenders, and
14 the total number and aggregate principal amount of loans funded by
15 private lenders.
16

17 (7) For all loans made, brokered, or serviced, the total number and
18 aggregate principal amount of loans that included a prepayment
19 penalty, the minimum prepayment penalty length, the maximum
20 prepayment penalty length, and the number of loans with prepayment
21 penalties whose length exceeded the length of time before the
22 borrower's loan payment amount could increase.
23

24 (8) For all loans brokered, the total compensation received by the broker,
25 including yield spread premiums, commissions, and rebates, but
26 excluding compensation used to pay fees for third-party services on
27 behalf of the borrower.
28

1
2 (9) For all mortgage loans made or brokered, the total number of loans
3 for which a mortgage loan disclosure statement was provided in a
4 language other than English, and the number of forms provided per
5 language other than English.

6 (10) For all mortgage loans serviced, the total amount of funds advanced
7 to be applied toward a payment to protect the security of the note being
8 serviced.

9 (11) For purposes of this section, an institutional lender has the meaning
10 specified in (11) paragraph (1) of subdivision (c) of Section 10232 .
11

12 (b) A broker subject to this section and b) Section 10232.2 may file consolidated
13 reports that include all of the information required under this section and Section 10232.2 Those
14 consolidated reports shall clearly indicate that they are intended to satisfy the requirements of
15 both sections.

16 (c) If a broker subject to this section fails to timely file the report required under
17 this section, the commissioner may cause an examination and report to be made and may
18 charge the broker one and one-half times the cost of making the examination and report. In
19 determining the hourly cost incurred by the commissioner for conducting an examination and
20 preparing the report, the commissioner may use the estimated average hourly cost for all
21 department audit staff performing audits of real estate brokers. If a broker fails to pay the
22 commissioner's cost within 60 days of the mailing of a notice of billing, the commissioner may
23 suspend the broker's license or deny renewal of that license. The suspension or denial shall
24 remain in effect until the billed amount is paid or the broker's right to renew a license has
25 expired. The commissioner may maintain an action for the recovery of the billed amount in
26 any court of competent jurisdiction.
27
28

1
2 (d) The report described in this section is exempted from any requirement of
3 public disclosure by (d) paragraph (2) of subdivision (d) of Section 6254 of the Government
4 Code .

5 (e) The commissioner may waive the requirement to submit certain information
6 described in paragraphs (1) to (10), inclusive, of subdivision (a) if the commissioner
7 determines that this information is duplicative of information required by the Nationwide
8 Mortgage Licensing System and Registry, pursuant to (e) Section 10166.08.

9 12.

10 Further Grounds for Disciplinary Action – Code Section 10177

11 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*: “The
12 commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a
13 license of a real estate licensee, or deny the issuance of a license to an applicant, who has done
14 any of the following, or may suspend or revoke the license of a corporation, delay the renewal of
15 a license of a corporation, or deny the issuance of a license to a corporation, if an officer,
16 director, or person owning or controlling 10 percent or more of the corporation’s stock has done
17 any of the following:
18

19 ...

20 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
21 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
22 regulations of the commissioner for the administration and enforcement of the Real Estate Law
23 and Chapter 1 (commencing with Section 11000) of Part 2.

24 ...

25 (g) Demonstrated negligence or incompetence in performing an act for which he
26 or she is required to hold a license.

1 (h) As a broker licensee, failed to exercise reasonable supervision over the
2 activities of his or her salespersons, or, as the officer designated by a corporate broker licensee,
3 failed to exercise reasonable supervision and control of the activities of the corporation for which
4 a real estate license is required.”

5
6 FACTS DISCOVERED BY THE DEPARTMENT:

7 VIOLATIONS OF THE REAL ESTATE LAW

8 13.

9 DRE Broker Office Survey

10 On or about April 10, 2018, DRE Special Investigator Kristy Rodrigues (“SI
11 Rodrigues”) sent a letter to TRIUMPH and D.O. FLINT at 155 S. Highway 101, Suite 7, Solano
12 Beach, CA 92075 (“Solana Beach address”) informing of a Broker Office Survey (“BOS”) to
13 take place on April 17, 2018 at the same address, with required attendance by D.O. FLINT. On
14 April 17, 2018, SI Rodrigues conducted said BOS inspection of the books and records of
15 TRIUMPH; during the BOS, SI Rodrigues also interviewed D.O. FLINT.

16 14.

17 On April 17, 2018, when SI Rodrigues arrived at the Solana Beach address, she
18 observed that neither the corporation broker license for TRIUMPH nor the individual REB license
19 for FLINT were displayed, in violation of **Code Section 10162**.

20 15.

21 At the April 17, 2018 BOS D.O. FLINT provided his business card to SI
22 Rodrigues. The business card listed “George O. Flint, MSBA Finance” on the first line;
23 “Janitor” on the second line; and no designation for Broker, Agent, Realtor, Loan Correspondent,
24 or an abbreviation of bro., agt., or other similar terms or abbreviations, in violation of
25 **Regulation 2770.1**.

26 16.

1 The business card that D.O. FLINT provided to SI Rodrigues contained
2 TRIUMPH's Arizona mortgage broker license identification; however, it did not contain
3 TRIUMPH's DRE license ID number, in violation of **Code Section 10140.6(b)1 and**
4 **Regulation 2773(a)(1).**
5

6 ///

7 17.

8 According to TRIUMPH's office lease for the Solana Beach address, executed on
9 September 20, 2017, TRIUMPH's main office location became the Solana Beach address on or
10 about the lease date. At the April 17, 2018 BOS, D.O. FLINT confirmed to SI Rodrigues that
11 the Solana Beach address is the main office location for TRIUMPH and that this address had not
12 been updated with the DRE's records. To date, TRIUMPH's mailing address of record with the
13 DRE is the above-referenced address in Encinitas, and there is no main office address on file, in
14 violation of **Code Section 10162.**

15 18.

16 At the April 17, 2018 BOS, D.O. FLINT represented to SI Rodrigues that he had
17 licensed to his REB license two RES (Anthony De Castro, DRE license Id 01773204 and James
18 Holland, DRE license ID 01975536) and one REB Associate (Brendan Hill Ochinerro, DRE
19 license ID 01905440). D.O. FLINT produced the Broker-Salesperson agreements for the two (2)
20 RES, but stated that he did not have an agreement with Ochinerro, in violation of **Regulation**
21 **2726.**
22

23 19.

24 At the April 17, 2018 BOS, D.O. FLINT provided an electronic copy of the loan
25 documents for borrower Ashot T. for property located on Goodland Avenue in North
26 Hollywood, California wherein the Deed of Trust ("DOT") was executed by the borrower on
27 July 15, 2016. Although the DOT listed the lender as Conquest Capital Partners, Inc.
28 (TRIUMPH's former name), FLINT represented that the funds used to fund the loan were not in

1 fact that of Conquest Capital Partners, Inc. but of an individual. The DOT for Ashot T.'s real
2 property did not list the actual and correct lender, in violation of **Code Section 10234**.

3
4 20.

5 TRIUMPH did not file its annual RE881 Business Activity Report for the 2017
6 and 2018 reporting years, in violation of **Code Section 10166.07**.

7 21.

8 The facts alleged in Paragraphs 13 through 20, above, constitute cause for
9 discipline of the license and license rights of **TRIUMPH CAPITAL PARTNERS, INC.**
10 pursuant to **Code Section 10162; Regulation 2770.1; Code Section 10162; Regulation 2726;**
11 **Code Section 10234; Code Section 10166.07; Code Section 10177(d); and Code Section**
12 **10177(g).**

13 22.

14 The facts alleged in Paragraphs 13 through 20, above, constitute cause for
15 discipline of the license and license rights of **GEORGE OCTAVIO FLINT**, as D.O. of
16 TRIUMPH, pursuant to **Code Section 10159.2 and Regulation 2725 and Code Section**
17 **10177(h).**

18 **COSTS**

19 23.

20 **Code Section 10106** provides, in pertinent part, that in any order issued in
21 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
22 administrative law judge to direct a licensee found to have committed a violation of this part to
23 pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.
24

25 ///

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all the licenses and license rights of Respondents TRIUMPH CAPITAL
4 PARTNERS, INC. and GEORGE OCTAVIO FLINT under the Real Estate Law (Part 1 of
5 Division 4 of the Business and Professions Code), and for such other and further relief as may be
6 proper under other applicable provisions of law.
7

8 Dated at Sacramento, California
9

10 this 18th day of June, 2019.
11
12

13 
14 Chika Sunquist
15 Supervising Special Investigator
16
17
18
19
20
21

22 cc: TRIUMPH CAPITAL PARTNERS, INC.
23 GEORGE OCTAVIO FLINT
24 Chika Sunquist
25 Sacto.
26
27
28