

FILED

SEP 02 2011

DEPARTMENT OF REAL ESTATE

By *R. Jovan*

1
2 Department of Real Estate
3 P.O. Box 187007
4 Sacramento, CA 95818-7007
5
6 Telephone: (916) 227-0781
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of
12
13 ELITE REAL ESTATE ASSOCIATES
14 ARDEN, HA THI DO, and CRISELDA
15 CENTENO,
16 Respondents.

No. H-5442 SAC

16 In the Matter of the Accusation of
17
18 ELITE NORCAL CORPORATION, HA THI
19 DO, and AJAY KUMAR PEGANY,
20 Respondents.

No. H-~~506988~~ SAC (H-5443 SAC)

STIPULATION AND
AGREEMENT

21 It is hereby stipulated by and between ELITE REAL ESTATE ASSOCIATES
22 ARDEN, ELITE NORCAL CORPORATION, and HA THI DO, (hereinafter "Respondents")
23 represented by C. Breck Jones, and the Complainant, acting by and through Truly Sughrue,
24 Counsel for the Department of Real Estate, as follows for the purpose of settling and
25 disposing the Accusations H-5442 SAC and H-5443 SAC filed on August 16, 2010 in this
26 matter:

- 27 1. All issues which were to be contested and all evidence which was to be
presented by Complainant and Respondents at a formal hearing on the Accusations H-5442 SAC

1 and H-5443 SAC, which hearing was to be held in accordance with the provisions of the
 2 Administrative Procedure Act (hereinafter "APA"), shall instead and in place thereof be
 3 submitted solely on the basis of the provisions of this Stipulation and Agreement.

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

7 3. Respondents filed a Notice of Defense on Accusations H-5442 SAC and
 8 H-5443 SAC pursuant to Section 11505 of the Government Code for the purpose of requesting a
 9 hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily
 10 withdraw said Notice of Defenses. Respondents acknowledge that they understand that by
 11 withdrawing said Notice of Defenses they will thereby waive their rights to require the
 12 Commissioner to prove the allegations in the Accusations at a contested hearing held in
 13 accordance with the provisions of the APA, and that they will waive other rights afforded to them
 14 in connection with the hearing such as the right to present evidence in defense of the allegations
 15 in the Accusations and the right to cross-examine witnesses.

16 4. Respondents pursuant to the limitations set forth below, hereby admits that
 17 the factual allegations in the Accusations H-5442 SAC and H-5443 SAC filed in this proceeding
 18 are true and correct and the Real Estate Commissioner shall not be required to provide further
 19 evidence to prove such allegations.

20 5. Respondent HA THI DO (hereinafter "DO") understands that by agreeing
 21 to this Stipulation and Agreement for Accusation H-5442 SAC, she agrees to pay, pursuant to
 22 Section 10148 of the California Business and Professions Code (hereinafter "the Code"), the
 23 cost of the audit, which resulted in the determination that Respondent ELITE REAL ESTATE
 24 ASSOCIATES ARDEN (hereinafter "ELITE") committed the trust fund violation(s) found in
 25 Paragraph II of the Determination of Issues. The amount of said costs is \$4853.50.

26 6. Respondent DO understands that by agreeing to this Stipulation and
 27 Agreement for Accusation H-5443 SAC, she agrees to pay, pursuant to Section 10148 of the
 Code, the cost of the audit, which resulted in the determination that Respondent ELITE
 NORCAL CORPORATION (hereinafter "ENC") committed the trust fund violation(s) found in
 Paragraph IV of the Determination of Issues. The amount of said costs is \$5777.28.

1 7. Respondent DO further understands that by agreeing to this Stipulation
2 and Agreement in Settlement of Accusation H-5443 SAC, the findings set forth below in the
3 Determination of Issues become final, and that the Commissioner may charge said Respondent
4 for the costs of any audit conducted pursuant to Section 10148 of the Code to determine if the
5 violations have been corrected. The maximum costs of said audit shall not exceed \$5777.28.

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

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

17 10. In lieu of proceeding with Accusation H-5442 SAC in accordance with the
18 provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government
19 Code), ELITE wishes to voluntarily surrender its corporate real estate broker licenses issued by
20 the Department of Real Estate (hereinafter "Department"), pursuant to Code Section 10100.2.
21 DO is the designated broker-officer of ELITE, designated pursuant to Section 10211 of the Code,
22 and is authorized to sign this declaration on behalf of ELITE.

23 11. DO understands that by so voluntarily surrendering ELITE's license,
24 ELITE may be relicensed as a broker corporation only by petitioning for reinstatement pursuant
25 to Section 11522 of the Government Code. DO also understands that by so voluntarily
26 surrendering ELITE's license, DO and ELITE agree to the following:

27 A. The filing of this Stipulation and Agreement shall be deemed as
Respondent ELITE's declaration and petition for voluntary surrender.

 B. It shall also be deemed to be an understanding and agreement by DO that
she waives all rights ELITE has to require the Commissioner to prove the allegations contained

1 in the Accusation H-5442 SAC at a hearing held in accordance with the provisions of the
 2 Administrative Procedure Act (Government Code Sections 11400 et seq.), and that DO also
 3 waives other rights afforded to ELITE in connection with the hearing such as the right to
 4 discovery, the right to present evidence in defense of the allegations in the Accusation and the
 right to cross-examine witnesses.

5 12. DO on behalf of ELITE further agrees that upon acceptance by the
 6 Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence
 7 obtained by the Department in this matter prior to the Commissioner's acceptance, and all
 8 allegations contained in the Accusation filed in the Department Case No. H-5442 SAC, may be
 9 considered by the Department to be true and correct for the purpose of deciding whether to grant
 10 relicensure or reinstatement pursuant to Government Code Section 11522.

11 13. DO on behalf of ELITE freely and voluntarily surrender all ELITE's
 12 licenses and license rights under the Real Estate Law.

13 * * *

14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations and waivers and solely for the purpose of
 16 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
 following determination of issues shall be made:

17 I

18 The acts and omissions of ELITE as described in the First Cause of Action of
 19 Accusation H-5442 SAC are grounds for the suspension or revocation of ELITE's licenses and
 20 license rights under Section 10177(d) of the Code in conjunction with Sections 10085 and
 21 10146 of the Code and Sections 2970 and 2972 of Title 10 of the California Code of
 Regulations (hereinafter "the Regulations").

22 II

23 The acts and omissions of ELITE as described in the Second Cause of Action of
 24 Accusation H-5442 SAC are grounds for the suspension or revocation of ELITE's licenses and
 25 license rights under the following sections of the Code and Regulations:

26 (a) As to Paragraph 15(a), under Section 10145 of the Code and Section 2832
 27 of the Regulations in conjunction with Section 10177(d) of the Code;

1 (b) As to Paragraph 15(b), under Section 2831 of the Regulations in
2 conjunction with Section 10177(d) of the Code;

3 (c) As to Paragraph 15(c), under Section 2831.1 of the Regulations in
4 conjunction with Section 10177(d) of the Code;

5 (d) As to Paragraph 15(d), under Section 2831.2 of the Regulations in
6 conjunction with Section 10177(d) of the Code; and

7 (e) As to Paragraph 15(e), under 10176(e) of the Code.

8 III

9 The acts and omissions of ENC as described in the First Cause of Action of
10 Accusation H-5443 SAC are grounds for the suspension or revocation of ENC's licenses and
11 license rights under Section 10177(d) of the Code in conjunction with Sections 10130 and
12 10137 of the Code.

13 IV

14 The acts and omissions of ENC as described in the Second Cause of Action of
15 Accusation H-5443 SAC are grounds for the suspension or revocation of ENC's licenses and
16 license rights under the following sections of the Code and Regulations:

17 (a) As to Paragraph 14, under Section 10240 of the Code in conjunction with
18 Section 10177(d) of the Code;

19 (b) As to Paragraph 15(a), under Section 2831 of the Regulations in
20 conjunction with Section 10177(d) of the Code;

21 (c) As to Paragraph 15(b), under Section 2726 of the Regulations in
22 conjunction with Section 10177(d) of the Code; and

23 (d) As to Paragraph 15(c), under Section 10160 of the Code and Section 2753
24 of the Regulations in conjunction with Section 10177(d) of the Code.

25 V

26 The acts and/or omissions of DO as described in the Third Cause of Action of
27 Accusation H-5442 SAC, and the Third Cause of Action of Accusation H-5443 SAC is cause
for the suspension or revocation of DO's license and/or license rights under Section 10177(h) of
the Code.

ORDER

I

All licenses and licensing rights of Respondent ENC under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Order; provided, however, that:

1) Thirty (30) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

- a) Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
- b) That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year from the effective date of this Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

II

All licenses and licensing rights of Respondent DO under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Order; provided, however, that:

1) Thirty (30) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

- a) Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and,
- b) That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year from the effective date of this Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

2) All licenses and licensing rights of Respondent DO are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and

1 successfully completed the continuing education course on trust fund accounting and
2 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof
3 of satisfaction of this requirement includes evidence that respondent has successfully
4 completed the trust fund account and handling continuing education course within 120 days
prior to the effective date of the Decision in this matter.

5 3) Pursuant to Section 10148 of the Code, DO shall pay the sum of \$4853.50 for the

6 Commissioner's cost of the audit which led to Accusation H-5442 SAC. Respondent shall
7 pay such cost within sixty (60) days of receiving an invoice therefore from the
8 Commissioner. The Commissioner may suspend Respondent's license pending a hearing
9 held in accordance with Section 11500, et seq., of the Government Code, if payment is not
10 timely made as provided for herein, or as provided for in a subsequent agreement between the
11 Respondent and the Commissioner. The suspension shall remain in effect until payment is
12 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
13 provide for payment, or until a decision providing otherwise is adopted following a hearing
held pursuant to this condition.

14 4) Pursuant to Section 10148 of the Code, DO shall pay the sum of \$5777.28 for the

15 Commissioner's cost of the audit, which led to Accusation H-5443 SAC. Respondent shall
16 pay such cost within sixty (60) days of receiving an invoice therefore from the
17 Commissioner. The Commissioner may suspend Respondent's license pending a hearing
18 held in accordance with Section 11500, et seq., of the Government Code, if payment is not
19 timely made as provided for herein, or as provided for in a subsequent agreement between the
20 Respondent and the Commissioner. The suspension shall remain in effect until payment is
21 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
22 provide for payment, or until a decision providing otherwise is adopted following a hearing
held pursuant to this condition.

23 5) Pursuant to Section 10148 of the Code, DO shall pay the Commissioner's reasonable cost, not

24 to exceed \$5777.28, for an audit to determine if Respondents have corrected the trust fund
25 violation(s) found in Paragraph IV of the Determination of Issues. In calculating the amount
26 of the Commissioner's reasonable cost, the Commissioner may use the estimated average
27 hourly salary for all persons performing audits of real estate brokers, and shall include an

1 allocation for travel time to and from the auditor's place of work. Respondent shall pay such
 2 cost within sixty (60) days of receiving an invoice therefore from the Commissioner detailing
 3 the activities performed during the audit and the amount of time spent performing those
 4 activities. The Commissioner may suspend Respondent's license pending a hearing held in
 5 accordance with Section 11500, et seq., of the Government Code, if payment is not timely
 6 made as provided for herein, or as provided for in a subsequent agreement between
 7 Respondent and the Commissioner. The suspension shall remain in effect until payment is
 8 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
 9 provide for payment, or until a decision providing otherwise is adopted following a hearing
 held pursuant to this condition.

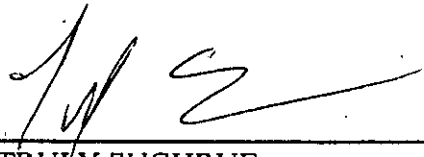
III

ELITE's petition for voluntary surrender of its corporate real estate broker

11 licenses is accepted as of the effective date of this Order as set forth below, based upon the
 12 understanding and agreement expressed in Respondent's Declaration incorporated herein as part
 13 of this Stipulation and Agreement. Respondent's license certificates, pocket cards and any
 14 branch office license certificates shall be sent to the below listed address so that they reach the
 15 Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
 Attn: Licensing Flag Section
 P. O. Box 187000
 Sacramento, CA 95818-7000

9-Aug-11
DATED


 TRULY SUGHRUE
 Counsel for Complainant

23 I have read the Stipulation and Agreement, discussed it with my counsel, and its
 24 terms are understood by me and are agreeable and acceptable to me. I understand that I am
 25 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
 26 intelligently and voluntarily waive those rights, including the right of requiring the
 27 Commissioner to prove the allegations in the Accusations 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.

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08/04/11

Ha Thi Do

DATED

Ha Thi Do, on behalf of
ELITE REAL ESTATE ASSIATES
ARDEN
Respondent

08/04/11

Ha Thi Do

DATED

Ha Thi Do, on behalf of
ELITE NORCAL CORPORATION
Respondent

8/04/11

Ha Thi Do

DATED

HA THI DO
Respondent

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

Aug 3, 2011

C. Breck Jones

DATED

C. BRECK JONES
Attorney for Respondents

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on SEP 22 2011, 2011.

IT IS SO ORDERED 8/23/11, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

Barbara J. Bigby

FILED

FEB 14 2011

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 ELITE NORCAL CORPORATION,)
 HA THI DO, and)
 AJAY KUMAR PEGANY,)
)
 Respondents.)

No. H-5443 SAC

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on December 17, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent AJAY KUMAR PEGANY (hereinafter "PEGANY") express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On August 6, 2010, Tricia Sommers made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified and regular mail, to Respondent last known mailing address on file with the Department on August 16, 2010.

On December 17, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code").

3

At all times mentioned, Respondent PEGANY was and is licensed by the Department as a real estate salesperson. From on or about, December 20, 2008 through April 10, 2009 PEGANY's real estate salesperson license was suspended pursuant to Section 10153.4 of the Code.

4

At all times mentioned, Respondent PEGANY 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, Respondent 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.

5

Between on or about December 20, 2008 and April 10, 2009, while PEGANY's license was suspended, PEGANY negotiated and arranged the purchase and sale of real property, including but not necessarily limited to:

Property Address	Buyer
683 Equinox Loop, Lincoln	Gina S. Rallo

6

In acting as described above PEGANY violated and/or willfully disregarded the provisions of Sections 10130 and 10137 of the Code.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent PEGANY exists pursuant to Sections 10130 and 10137 of the Code in conjunction with Section 10177(d) of the Code.

///

///

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

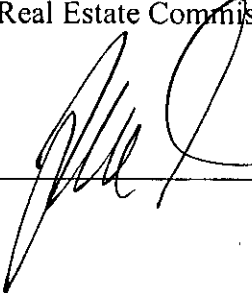
All licenses and licensing rights of Respondent AJAY KUMAR PEGANY under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on

MAR - 7 2011

DATED: 1-7-11

JEFF DAVI
Real Estate Commissioner



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

4 Telephone: (916) 227-0789

FILED

DEC 17 2010

DEPARTMENT OF REAL ESTATE

[Signature]

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)

No. H-5443 SAC

11 ELITE NORCAL CORPORATION,)
12 HA THI DO, and)
13 AJAY KUMAR PEGANY,)

DEFAULT ORDER

14 Respondents.)
15

16
17 Respondent, AJAY KUMAR PEGANY, having failed to file a Notice of Defense
18 within the time required by Section 11506 of the Government Code, is now in default. It is,
19 therefore, ordered that a default be entered on the record in this matter.

20 IT IS SO ORDERED December 17, 2010.

21 JEFF DAVI
22 Real Estate Commissioner

23
24 By:

[Signature]

25 CHARLES W. KOENIG
26 Regional Manager
27

FILED

AUG 16 2010

DEPARTMENT OF REAL ESTATE

[Signature]

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789
7 (916) 227-0781 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

No. H-5443 SAC

12 ELITE NORCAL CORPORATION,
13 HA THI DO, and
14 AJAY KUMAR PEGANY,

ACCUSATION

15 Respondents.

16
17 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
18 State of California, for cause of Accusation against ELITE NORCAL CORPORATION,
19 HA THI DO, and AJAY KUMAR PEGANY (hereinafter "Respondents"), are informed and
20 alleges as follows:

21 PRELIMINARY ALLEGATIONS

22 1

23 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
24 State of California, makes this Accusation in her official capacity.

25 2

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

1 3

2 At all times mentioned, Respondent ELITE NORCAL CORPORATION,
3 (hereinafter "ENC") was and is licensed by the State of California Department of Real Estate
4 (hereinafter "Department") as a real estate broker corporation.

5 4

6 At all times mentioned, Respondent HA THI DO, (hereinafter "DO") was and is
7 licensed by the Department individually and as the designated broker officer of ENC. As said
8 designated officer-broker, DO was and now is responsible pursuant to Section 10159.2 of the
9 Code for the supervision of the activities of the officers, agents, real estate licensees and
10 employees of ENC for which a license is required.

11 5

12 At all times mentioned, Respondent AJAY KUMAR PEGANY (hereinafter
13 "PEGANY") was and is licensed by the Department as a real estate salesperson. From on or
14 about, December 20, 2008 through April 10, 2009 PEGANY's restricted real estate salesperson
15 license was suspended pursuant to Section 10153.4 of the Code.

16 6

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

23 7

24 At all times mentioned, Respondents engaged in the business of, acted in the
25 capacity of, advertised or assumed to act as a real estate broker in the State of California within
26 the meaning of:

27 ///

1 (a) Section 10131(a) of the Code, including the operation and conduct of a
2 real estate resale brokerage with the public wherein, on behalf of others, for compensation or in
3 expectation of compensation, Respondents sold and offered to sell, bought and offered to buy,
4 solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated
5 the purchase and resale of real property; and

6 (b) Section 10131(d) of the Code, including the operation and conduct of a
7 mortgage loan brokerage business with the public wherein Respondents solicited lenders and
8 borrowers for loans secured directly or collaterally by liens on real property or a business
9 opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by
10 Respondent on behalf of others for compensation or in expectation of a compensation.

11 FIRST CAUSE OF ACTION

12 8

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

15 9

16 Between on or about December 20, 2008 and April 10, 2009, ENC employed and
17 compensated PEGANY, while PEGANY's license was suspended, to perform the acts and
18 conduct the real estate activities described in Paragraph 7, above, including but not limited to the
19 activities described in Paragraph 10.

20 10

21 Between on or about December 20, 2008 and on or about April 10, 2009, in
22 course of the employment and activities described in Paragraph 9, above, PEGANY negotiated
23 and arranged the purchase and sale of real property, including but not necessarily limited to:

24

Property Address	Buyer
683 Equinox Loop, Lincoln	Gina S. Rallo

25
26

1 11

2 In acting as described in Paragraphs 8 through 10 ENC and PEGANY violated
3 and/or willfully disregarded the provisions of Sections 10130 and 10137 of the Code.

4 12

5 The facts described above as to the First Cause of Accusation constitute cause to
6 suspend or revoke all licenses and license rights of Respondents ENC and PEGANY pursuant to
7 the provisions of Sections 10130 and 10137 of the Code in conjunction with Section 10177(d) of
8 the Code.

9 SECOND CAUSE OF ACTION

10 13

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

13 14

14 In connection with the mortgage loan brokerage business described in
15 Paragraph 7, CWM violated and/or willfully failed to comply with Section 10240 of the Code
16 by:

- 17 (a) Failing to cause to be delivered to the borrowers the written Mortgage
18 Loan Disclosure Statement as required by Section 10241 of the Code; and/or,
19 (b) Failing to obtain the signature of the borrowers on written Mortgage Loan
20 Disclosure Statements; and/or,
21 (c) Failing to retain on file for a period of three years a true and correct copy
22 of a written Mortgage Loan Disclosure Statements signed by the borrowers.

23 15

24 In course of the activities described in Paragraph 7, ENC:

- 25 (a) Failed to maintain a written control record of all trust funds received and
26 not placed in broker's trust account containing all information required by Section 2831 of the
27 Regulations.

1 (b) Employed real estate salespersons, including but not limited to Adrain
2 Edwards and Nancy Anguiano to engage in activities requiring a real estate salesperson license
3 without first entering into the broker-salesperson relationship agreement with such salespersons
4 as required by Section 2726 of the Regulations.

5 (c) Failed to retain the real estate salesperson license certificates of Anthony
6 Angelo Alfano, Nancy Anguinano, Anil Bharadwaj, Ashu Bhutano, Shayla Nicole Emken,
7 nenita A. Flores, Godwin Okechichwu Ikeri, Hilaray A. Inneh, Kimberley Jackson, and Hong Q.
8 Lam at his main office as required by Section 10160 of the Code and Section 2753 of the
9 Regulations.

10 16

11 The acts and/or omissions of ENC as alleged in the Second Cause of Action
12 constitute grounds for disciplinary action under the following provisions:

13 (a) As to Paragraph 14, under Section 10240 of the Code in conjunction with
14 Section 10177(d) of the Code;

15 (b) As to Paragraph 15(a), under Section 2831 of the Regulations in
16 conjunction with Section 10177(d) of the Code;

17 (c) As to Paragraph 15(b), under Section 2726 of the Regulations in
18 conjunction with Section 10177(d) of the Code; and

19 (d) As to Paragraph 15(c), under Section 10160 of the Code and Section 2753
20 of the Regulations in conjunction with Section 10177(d) of the Code.

21 THIRD CAUSE OF ACTION

22 17

23 Each and every allegation in Paragraphs 1 through 16, inclusive, above, is
24 incorporated by this reference as if fully set forth herein.

25 18

26 Respondent DO failed to exercise reasonable supervision over the acts of
27 Respondent ENC in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of DO described in Paragraph 18, constitute failure on the part of DO, as designated broker-officer for ENC, to exercise reasonable supervision and control over the licensed activities of ENC required by Section 10159.2 of the Code.

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 Respondent DO 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.

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 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.



TRICIA SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 6th day of August, 2010