

FILED

January 4, 2012

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3 Department of Real Estate
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DEPARTMENT OF REAL ESTATE

By



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

10 * * *

11 In the Matter of the Accusation of)

12 OMAR GALINDO,)

13 Respondent.)

No. H-5750 SAC

ACCUSATION

14
15 The Complainant, Tricia Sommers, a Deputy Real Estate Commissioner of the
16 State of California, for cause of Accusation against OMAR GALINDO (hereinafter
17 "Respondent"), is informed and alleges as follows:

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

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

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2 At no time prior to October 4, 2010, was Tleco, Inc. licensed by the Department
3 in any capacity. Respondent is the Chief Executive Officer, Secretary, Chief Financial Officer,
4 and a Director of Tleco, Inc.

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6 At all times mentioned, Respondent engaged in the business of, acted in the
7 capacity of, advertised or assumed to act as a real estate licensee in the State of California within
8 the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate
9 resale brokerage with the public wherein, on behalf of others, for compensation or in expectation
10 of compensation, Respondent sold and offered to sell, bought and offered to buy, solicited
11 prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the
12 purchase and resale of real property.

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14 On or about October 14, 2009, in the course of the activities described in
15 Paragraph 4, Respondent entered into a written agreement whereby sellers, Daniel and Dominga
16 Barajas (hereinafter "seller"), granted Respondent, on behalf of Century 21 Realty Alliance,
17 exclusive employment and authorization to sell and offer to sell, solicit prospective purchasers
18 of, and negotiate the purchase and sale of real property identified as 9757 Tundra Swan Circle,
19 Elk Grove (hereinafter "property"). The agreement did not contain a definite, specified date of
20 final and complete termination as required by Section 10176(f) of the Code.

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22 On or about April 6, 2010, Respondent received a written offer for the purchase
23 of the property by Andy and Sarbjeet Bassi (hereinafter "buyer"). On or about April 21, 2010,
24 the sellers accepted the purchase offer.

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26 On or about June 28, 2010, Respondent submitted a short sale package to Bank
27 of America NA regarding the sale described in Paragraph 6.

On or about July 12, 2010, Respondent, on behalf of the seller, made a written counteroffer to the buyer. The counteroffer included, but not limited to, a term that the buyer sign the processing fee and Affiliated Business Disclosure. The buyer signed the counteroffer on or about July 13, 2010.

On or about July 12, 2010, Respondent, on behalf of seller, received a Short Sale Approval Letter from Bank of America NA for the property. The short sale approval limited commission paid to \$12,600, to be split between the agents.

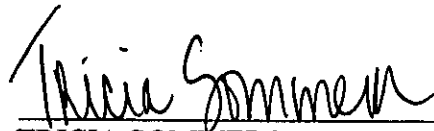
On or about July 13, 2010, Respondent presented to both the buyer and seller a Processing Agreement wherein Tleco, Inc. would act as the processor in "processing a discounted mortgage payoff on behalf of the Seller(s) and for the benefit of Buyer(s) of the Property offered for sale." Tleco, Inc. was to receive \$6,500 in compensation for its services, to be paid as non-recurring closing cost to the buyer, and seller credit buyer in the amount of the processing fee. Buyer and Seller signed the Processing Agreement.

At no time was Bank of America NA made aware of the processing fee to be paid to Respondent through Tleco, Inc.

Respondent's attempt to collect the additional processing fee, as alleged in Paragraphs 5 through 11, constitutes cause under Sections 10176(a), 10176(i), 10177(g), and/or 10177(j) of the Code for suspension or revocation of all licenses and license rights of Respondent.

The facts alleged in Paragraph 5, is grounds for the suspension or revocation of Respondent's licenses and license rights under Section 10176(f) of the Code.

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

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7 TRICIA SOMMERS
8 Deputy Real Estate Commissioner

9 Dated at Sacramento, California,
10 this 16th day of December, 2011

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13 DISCOVERY DEMAND:

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