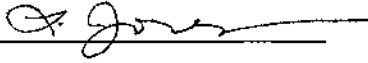


FILED

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

December 31, 2012

DEPARTMENT OF REAL ESTATE

By 

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

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
ANTONIO GARNICA TORRES,)
Respondent.)

No. H-5880 SAC
FIRST AMENDED
ACCUSATION

15 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of
16 the State of California, for cause of Accusation against ANTONIO GARNICA TORRES,
17 (Respondent), are informed and alleges as follows:

1

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

2

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 (Code).

3

25 At all times mentioned, Respondent was and is licensed by the Department as a
26 real estate salesperson. From on or about July 29, 2009, through present, Respondent's
27 salesperson license was affiliated under the brokerage of Michael Thompson (Thompson). At no

1 time mentioned has Respondent been issued a mortgage loan originator endorsement by the
2 Department.

3 4

4 At all times mentioned, Respondent engaged in the business of, acted in the
5 capacity of, advertised or assumed to act as a real estate broker in the State of California within
6 the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage
7 loan brokerage business with the public wherein, for or in expectation of compensation, for
8 another or others, solicited borrowers or lenders or negotiated loans or collected payments or
9 performed services for borrowers or lenders or note owners in connection with loans secured
10 directly or collaterally by liens on real property or on a business opportunity.

11 5

12 Beginning on or about 2011, Respondent, in the course of the real estate activities
13 described in Paragraph 4, using the business name Allied Financial Mortgage and without the
14 knowledge and supervision of Thompson, solicited lenders and borrowers for or negotiated loans
15 or collected payments and/or performed services for borrowers or lenders or note owners in
16 connection with loans secured directly or collaterally by liens on real property for or in
17 expectation of compensation, including but not limited to the following:

18
19 PROPERTY OWNER

PROPERTY LOCATION

20 Christopher and Katie Martinez

Brentwood, CA

21 Darren M.

7560 Saint Lukes Way, Sacramento

22 6

23 In connection with the operation and conduct of the activities and transactions
24 described in Paragraph 5, Respondent:

25 (a) engaged in the business and acted in the capacity of a real estate broker
26 within the State of California as defined by Section 10131(b) of the Code.

27 ///

1 (b) engaged in business as a mortgage loan originator as that term is defined
2 by Section 10166.01(b)(1) of the Code, which includes but is not limited to the conduct of
3 mortgage loan origination activities, and failed to obtain and maintain a real estate license
4 endorsement identifying that Respondent is a licensed mortgage loan originator, in violation of
5 Section 10166.02(b) (failure to obtain license endorsement) of the Code.

6 7

7 The facts alleged above are grounds for the suspension or revocation of the
8 licenses of Respondent under Section 10177(d) (willful disregard or violation of Real Estate
9 Law) of the Code in conjunction with Sections 10166.02(b)(2) (failure to obtain licensee
10 endorsement) and 10130 (license required) of the Code.

11 PRIOR PROCEEDING

12 8

13 On or about July 8, 2009, in Case No. H-5239 SAC before the Department of
14 Real Estate, the Real Estate Commissioner issued an Order to Desist and Refrain against
15 Respondent for violation of Section 10131(d) of the Code.

16 COST RECOVERY

17 10

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

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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 licenses and license rights of Respondent under the Code, for the cost of
4 investigation and enforcement as permitted by law, and for such other and further relief as may
5 be proper under the provisions of law.

6
7 

8 TRICIA SOMMERS
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 28th day of December, 2012

12
13
14 DISCOVERY DEMAND

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