

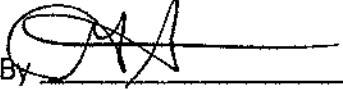
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FILED

October 30, 2012

RICHARD K. UNO, Counsel (SBN 98275)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

By 

Telephone: (916) 227-0789
(916) 227-2380 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
MIDTOWN MORTGAGE, INC., and)	NO. H-5902 SAC
RODDY WONG,)	
)	<u>ACCUSATION</u>
Respondents.)	
)	

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, for Accusation against Respondents MIDTOWN MORTGAGE, INC. (MIDTOWN) and RODDY WONG (WONG), collectively (Respondents) is informed and alleges as follows:

1

The Complainant makes this Accusation against Respondents in her official capacity.

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MIDTOWN is presently licensed by the Department of Real Estate (the Department) as a corporate real estate broker doing business as American Liberty Realty, California Mortgage funding and Midtown Realty.

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2 On or before October 5, 2012, MIDTOWN's corporate status was suspended by
3 the California Secretary of State.

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5 WONG is presently licensed and/or has license rights under the Real Estate Law,
6 Part 1 of Division 4 of the California Business and Professions Code (the Code) as a real estate
7 broker doing business as Midtown Realty Group, Capital Realty Group, American Diversified
8 Investments and Amcap Financial Co.

9 5

10 At all times herein mentioned, WONG was licensed by the Department as the
11 designated broker/officer of MIDTOWN. As the designated broker/officer, WONG was
12 responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the
13 officers, agents, real estate licensees and employees of WONG for which a real estate license is
14 required.

15 6

16 At all times herein mentioned, Respondents engaged in the business of, acted in
17 the capacity of, advertised, or assumed to act as a real estate broker within the State of California
18 within the meaning of Section 10131 (a) of the Code, including the operation and conduct of a
19 residential resale business with the public wherein, on behalf of others, for compensation or in
20 expectation of compensation, Respondents solicited prospective sellers or purchases of, solicited
21 listing of, negotiated the purchase, sale or exchange of real property or business opportunities.

22 7

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

1 FIRST CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 6, above, and incorporates them
4 herein by reference.

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6 At no time within the last three years did the Department license JAMES
7 RICHARD CLARY, JR. (CLARY), either as a real estate broker or as a real estate salesperson.

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9 Within the three year period prior to the filing of this Accusation, Respondents
10 MIDTOWN and WONG employed and compensated CLARY to perform the activities requiring
11 a real estate license as alleged in Paragraph 5, above.

12 11

13 At all times mentioned herein between on or about July 27, 2012, and continuing
14 up to at least November 1, 2012, CLARY engaged in the business of, acted in the capacity of, or
15 assumed to act as a real estate broker within the State of California within the meaning of Section
16 10131(a) of the Code, including solicitation of prospective sellers or purchases of, soliciting or
17 obtaining listing of, negotiating the purchase, sale or exchange of real property or a business
18 opportunities.

19 12

20 On July 27, 2012, a Special Investigator for the Department, who indicated that he
21 wanted to purchase a house, made a shop visit to MIDTOWN and spoke to CLARY.

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23 CLARY advised the Special Investigator that he would help him get a loan at
24 MIDTOWN'S cost. That CLARY would not be doing the loan for free, but would be paid by the
25 bank.

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CLARY represented that he and WONG were partners for quite some time.

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CLARY represented that he would show the special investigator the wholesale rate sheet and that he would need to complete and submit a mortgage application.

16

CLARY represented that a current client is staying with him and his wife while they are trying to find him a house and that he would discount the loan if the Special Investigator allowed him to represent him in purchasing a house.

17

CLARY began taking information for a written loan application.

18

The facts alleged above constitute cause for the suspension or revocation of the licenses and license rights of Respondents MIDTOWN and WONG under Section 10137 (Unlawful Employment) of the Code. The facts alleged above constitute case for the suspension or revocation of the licenses and license rights or Respondent MIDTOWN under Section 2742(a) of the Regulations.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 17, above, and incorporates them herein by reference.

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At all times herein above mentioned, WONG, was responsible as the supervising broker for MIDTOWN, for the supervision and control of the activities conducted on behalf of MIDTOWN's business by its employees. WONG failed to exercise reasonable supervision and control over the property management activities of MIDTOWN. In particular, WONG permitted, ratified and/or caused the conduct described above, to occur, and failed to take reasonable steps,

1 including but not limited to handling of trust funds, supervision of employees, and the
2 implementation of policies, rules, and systems to ensure the compliance of the business with the
3 Real Estate Law and the Regulations.

4 21

5 The above acts and/or omission of WONG violate Section 10159.2
6 (Responsibility/Directing Officer) of the Code and Section 2725 (Broker Supervision) of the
7 Regulations and constituted grounds for disciplinary action under the provisions of Section
8 10177(d) (Willful Disregard/Violation of Real Estate Law) and 10177(h) (Broker Supervision)
9 of the Code.

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

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16 
17 TRICIA D. SOMMERS
18 Deputy Real Estate Commissioner

19 Dated at Sacramento, California,
20 this 17th day of October, 2012.