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At all times herein mentioned, A. NGUYEN was and is presently licensed and/or has license rights under the Code by the Department as a real estate broker and holds a Mortgage Loan Originator Endorsement for the Department.

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

5

At all times herein mentioned, VO was and is presently licensed and/or has license rights under the Code by the Department as a real estate salesperson.

6

At all times herein mentioned, T. NGUYEN was and is presently licensed and/or has license rights under the Code by the Department as a real estate salesperson.

7

At all times herein mentioned, BAO was and is presently licensed and/or has license rights under the Code by the Department as a real estate salesperson.

8

At all times mentioned, EGPS 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 residential resale brokerage wherein Respondents bought, sold, or offered to buy or sell, solicited or obtained listings of, and negotiated the purchase, sale or exchange of real property or business opportunities, all for or in expectation of compensation.

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

FIRST CAUSE OF ACTION

10

Complainant refers to Paragraphs 1 through 9, above, and incorporates them herein by reference.

11

On or about September 17, 2010, VO agreed to sell T. NGUYEN's property commonly known as 7235 Buffy Lane, Sacramento (Buffy Lane Property) and entered into an Exclusive Listing Agreement with T. NGUYEN. The property was to be sold through a short sale and Wells Fargo Bank held a mortgage lien third position.

12

On or about December 23, 2010, T. NGUYEN accepted an offer from BAO to purchase the Buffy Lane Property. EGPS represented BAO, as well as T. NGUYEN on this transaction.

13

On or about January 6, 2011, T. NGUYEN, BAO and BO signed an addendum for Wells Fargo which stated, in relevant part:

"The Subject Property must be sold through an Arms Length Transaction..The Sort Sale must be between two unrelated parties...No party to this contract is a family member, business associate, or shares a business interest with the mortgagor (seller)".

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In fact, BAO, the prospective buyer, is a nephew to T. NGUYEN, the seller.

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On or about April 26, 2011, T. NGUYEN signed a letter for Wells Fargo which stated, in relevant part:

“The borrower(s) affirmatively state that they are not related to the person(s) named as the buyer(s) in the contract for the sale of the property, by blood, marriage, friendship, commercial enterprise, or in any other manner”.

16

Also on April 26, 2011, T NGUYEN, BAO and VO signed a letter for Wells Fargo that stated, in relevant part:

“Under penalty of perjury, you certify that: ...The seller is not selling to anyone that the seller is related to, or has a close personal or business relationship with.”

17

On April 29, 2011, escrow closed on the Buffy Lane transaction.

18

Had Wells Fargo known that BAO and T. NGUYEN were related, they would not have approved the transaction.

19

The representations made by RESPONDENTS to Wells Fargo were false, and RESPONDENTS knew that they were false when those representations were made. The true facts were that BOA, the buyer, and T. NGUYEN, the seller, were related and that RESPONDENTS made these misrepresentations to get the benefit of a short sale and to make a commission on the sale of the Buffy Lane Property.

20

The facts alleged above are violations of Sections 10176(a) (Substantial Misrepresentation), 10176(b) (False Promises to Influence, Persuade or Induce), 10176(c)

1 (Continued/Flagrant Course of Misrepresentation), 10176(i) (Other Conduct Involving Fraud or
2 Dishonest Dealing) and are grounds for the suspension or revocation of the licenses and license
3 rights of EGPS, A. NGUYEN, VO, T. NGUYEN, and BAO under Sections 10176(a), 10176(c),
4 10176 (c), 10176(i), 10177(d) (Willful Disregard/Violation of Real Estate Law), 10177(g)
5 (Negligence/Incompetence Real Estate Licensee) or 10177(j) (Conduct Constitutes
6 Fraud/Dishonest Dealing) of the Code.

7
8 SECOND CAUSE OF ACTION

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10 Complainant refers to Paragraphs 1 through 20, above, and incorporates them
11 herein by reference.

12 22

13 At all times herein above mentioned, A. NGUYEN was responsible as the
14 supervising broker for EGPS, for the supervision and control of the activities conducted on
15 behalf of EGPS's business by its employees. A. NGUYEN failed to exercise reasonable
16 supervision and control over the property management activities of EGPS. In particular, A.
17 NGUYEN permitted, ratified and/or caused the conduct described above, to occur, and failed to
18 take reasonable steps, including but not limited to handling of trust funds, supervision of
19 employees, and the implementation of policies, rules, and systems to ensure the compliance of
20 the business with the Real Estate Law and the Regulations.

21 23

22 The above acts and/or omission of A. NGUYEN violate Section 10159.2
23 (Responsibility/Directing Officer) of the Code and Section 2725 (Broker Supervision) of the
24 Regulations (Chapter 6, Title 10, California Code of Regulations) and constitute grounds for
25 disciplinary action under the provisions of Section 10177(d) (Willful Disregard/Violation of Real
26 Estate Law) and (h) (Broker Supervision) of the Code.

27 ///

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

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 D. Sommers
TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 26th day of March, 2013