

FILED

MAY 10 2013

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 ELK GROVE PROFESSIONAL SERVICE, INC., )  
14 ANNA NGUYEN, MINH-NHUT HUUDAO VO, )  
15 THAHN NGUYEN, and WILSON Q. BAO )  
16 Respondents. )

NO. H-5977 SAC

FIRST AMENDED  
ACCUSATION

17 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
18 of the State of California, for Accusation against Respondents ELK GROVE PROFESSIONAL  
19 SERVICE, INC. (EGPS), ANNA NGUYEN (A. NGUYEN), MINH-NHUT HUUDAO VO  
20 (VO), THAHN NGUYEN (T. NGUYEN) and WILSON Q. BAO (BAO) (herein collectively  
21 Respondents), is informed and alleges as follows:

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

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26 At all times herein mentioned, EGPS was and is presently licensed and/or has  
27 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and

1 Professions Code (the Code) by the Department of Real Estate (the Department) as a corporate  
2 real estate broker and holds a Mortgage Loan Originator Endorsement (MLO Endoresment)  
3 from the Department.

4 3

5 At all times herein mentioned, A. NGUYEN was and is presently licensed and/or  
6 has license rights under the Code by the Department as a real estate broker and holds an MLO  
7 Endorsement from the Department.

8 4

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

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

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

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

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24 At all times mentioned, EGPS engaged in the business of, acted in the capacity  
25 of, advertised or assumed to act as a real estate broker in the State of California, within the  
26 meaning of Section 10131(a) of the Code, including the operation and conduct of a residential  
27 resale brokerage wherein Respondents bought, sold, or offered to buy or sell, solicited or

1 obtained listings of, and negotiated the purchase, sale or exchange of real property or business  
2 opportunities, all for or in expectation of compensation.

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

9 FIRST CAUSE OF ACTION

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

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

18 12

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

22 13

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

25 "The Subject Property must be sold through an Arms Length Transaction..The  
26 Sort Sale must be between two unrelated parties...No party to this contract is a family member,  
27 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.

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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 20A

8 The facts alleged in Paragraphs 1 through 20, above, constitute cause for  
9 revocation or suspension of EGPS's and A. NGUYEN's MLO Endorsement under Sections  
10 10166.051(a) (Violates MLO Rules or Regulations) and/or 10166.051(b) (Fails to Meet Section  
11 10166.05 or .09 Requirements) of the Code.

12 SECOND CAUSE OF ACTION

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14 Complainant refers to Paragraphs 1 through 20A, above, and incorporates them  
15 herein by reference.

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

25 23

26 The above acts and/or omission of A. NGUYEN violate Section 10159.2  
27 (Responsibility/Directing Officer) of the Code and Section 2725 (Broker Supervision) of the

1 Regulations (Chapter 6, Title 10, California Code of Regulations) and constitute grounds for  
2 disciplinary action under the provisions of Section 10177(d) (Willful Disregard/Violation of Real  
3 Estate Law) and (h) (Broker Supervision) of the Code.

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

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

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TRICIA D. SOMMERS  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 6<sup>th</sup> day of May, 2013