



1 FINDINGS OF FACT

2 1. On or about April 21, 2004, BORGHESANI was issued a real estate  
3 broker license, REB No. 01293953.

4 2. On March 14, 2014, the Bureau filed an Accusation, in Case No. H-6094  
5 SAC, against BORGHESANI'S real estate broker license alleging grounds for the suspension  
6 or revocation of all licenses and licensing rights pursuant to Sections 10177(d), 10177(g),  
7 10177(h), 10140.6, 10145, 10159.5, 10162, and 10163 of the Business and Professions Code  
8 ("Code"), and Sections 2831, 2831.2, 2832, 2832.1, 2731, and 2715 of Title 10 of the  
9 California Code of Regulations ("Regulations").

10 3. Effective October 13, 2015, BORGHESANI and the Commissioner  
11 entered into a Stipulation and Agreement. It was stipulated between the parties, for the purpose  
12 of settling the Accusation filed on March 14, 2014, as follows:

- 13 a. That the acts and omissions of BORGHESANI, as described in the  
14 Accusation, Case No. H-6094 SAC, are grounds for the suspension or  
15 revocation of the license and license rights of BORGHESANI under  
16 Sections 10177(g)(negligence or incompetence); 10177(h)(broker  
17 supervision); 10145(trust fund handling); 10159.5(operating under a  
18 fictitious business name without approval from the Bureau);  
19 10162(maintaining a place of business); 10163(procuring a license for  
20 each branch office when more than one place of business is maintained  
21 within the state); and 10140.6(disclosure of license status in advertising)  
22 of the Code, in conjunction with Sections 2715(maintaining a proper  
23 business address); 2725(broker supervision); 2731(unauthorized use of  
24 fictitious business name); 2831(failure to maintain written control  
25 records); 2831.2(failure to maintain monthly trust account  
26 reconciliations); 2832(trust fund handling); and 2832.1(trust fund  
27 shortage) of the Regulations;

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- b. All license and licensing rights of BORGHESANI are revoked; provided, however, a restricted real estate broker license shall be issued if BORGHESANI makes application to the Commissioner and pays the appropriate fee for the restricted license within 90 days from the effective date of the Decision and Order;
- c. That BORGHESANI shall, within six months from the effective date of the Decision and Order, take and pass the Professional Responsibility Examination;
- d. That BORGHESANI shall take and successfully complete the continuing education courses on trust fund account and handling as specified in Section 10170.5(a)(3) of the Code, no earlier than 120 days prior to the effective date of the Decision and Order;
- e. That BORGHESANI shall take and successfully complete continued education courses on risk management as specified in Section 10170.5(a)(5) of the Code, no earlier than 120 days prior to the effective date of the Decision and Order;
- f. That BORGHESANI shall, within nine months from the effective date of the Decision and Order, take and successfully complete the continued education requirements of Article 2.5 of Chapter 3 of the Real Estate Law;
- g. That BORGHESANI shall, with 60 days of receiving an invoice from the Bureau, pay the sum of \$9,098.7 for the Commissioner's costs of the audit that led to the disciplinary action;
- h. That BORGHESANI shall, within 60 days of receiving an invoice from the Bureau, pay the reasonable costs, not to exceed \$9,098.73, for a follow-up audit to determine if the violations alleged in the Accusation were corrected;

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- i. That BORGHESANI shall pay the sum of \$2,776.50 for the Commissioner's reasonable costs of investigation and enforcement; and
- j. That BORGHESANI shall, within six months from the effective date of the Decision and Order, provide proof to the Bureau that the trust fund shortage alleged in the Accusation has been cured.

4. BORGHESANI failed to apply for a restricted real estate broker license and pay the appropriate fees within 90 days of the effective date of the Order and Decision.

5. BORGHESANI failed to take and pass the Professional Responsibility Test within six months of the effective date of the Order and Decision.

6. BORGHESANI failed to present proof to the Commissioner that the trust fund shortage alleged in the Accusation was cured within six months from the effective date of the Decision and Order.

7. Having failed to complete the terms and conditions of the Stipulation and Agreement, Case No. H-6094 SAC, BORGHESANI'S real estate broker license was revoked, and remained revoked, as of October 13, 2015.

8. From September 15, 2016, through October 14, 2016, the Bureau conducted a follow-up audit of BORGHESANI'S records for the period of October 13, 2015, through October 31, 2016 ("Audit Period"). The follow-up audit revealed that BORGHESANI continued to conduct real estate license activities after his real estate broker license was revoked.

9. During the Audit Period, and while unlicensed by the Bureau, BORGHESANI was active in real estate property management, including managing approximately 127 residential properties, with approximately 142 units, for approximately 120 property owners.

10. During the Audit Period and while unlicensed by the Bureau, BORGHESANI maintained two bank accounts for the purpose of holding and distributing trust funds in connection with the property management activities described in Paragraph 9.

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1 **Notice:** Business and Professions Code Section 10139 provides that “Any person acting as a  
2 real estate broker or real estate salesperson without a license or who advertises using words  
3 indicating that he or she is a real estate broker without being so licensed shall be guilty of a  
4 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by  
5 imprisonment in the county jail for a term not to exceed six months, or by both fine and  
6 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars  
7 (\$60,000).”  
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