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FILED

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DEPARTMENT OF REAL ESTATE

By K. Knapp

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Application of:) NO. H-6641 SAC
12)
13 SUSANA D. SILVA) STATEMENT OF ISSUES
14)
Respondent.)
_____)

15 The Complainant, CHIKA SUNQUIST, acting in his official capacity as an
16 Supervising Special Investigator of the State of California, for Statement of Issues against
17 SUSANA D. SILVA (hereinafter "Respondent"), is informed and alleges as follows:

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19 Respondent is presently license and/or has license rights under the Real Estate
20 Law Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code") as a real
21 estate salesperson.

22 2

23 On or about March 19, 2014, Respondent made application to the State of
24 California Department of Real Estate (hereinafter "the Department") for a mortgage loan
25 originator license endorsement (hereinafter "License Endorsement"). The License Endorsement
26 is the only subject of this Statement of Issues.

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FIRST GROUND FOR DENIAL
Prior Departmental Action

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Each and every allegation contained above in Paragraphs 1 and 2, inclusive, is incorporated by this reference as if fully set forth herein.

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On or about June 13, 1995, the Department issued Respondent a real estate broker license ("broker license").

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On or about January 22, 2004, in Case Number H-8635 SF, the Department filed an Accusation against Respondent alleging cause to discipline Respondent's broker license under Business and Professions Code § 10176(i) (fraud or dishonest dealings) on the grounds that in 2002, Respondent negotiated or attempted to negotiate several fraudulent loans in the course and scope of her mortgage loan brokerage activities.

6

On or about May 11, 2004, in Department Case Number H-8635 SF, Respondent stipulated to voluntarily surrender her broker license and license rights.

7

On or about July 19, 2005, Respondent petitioned for reinstatement of her broker license. Effective January 11, 2007, the Real Estate Commissioner ("the Commissioner") denied Respondent's July 19, 2005, petition to reinstate her broker license.

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On or about January 15, 2008, Respondent petitioned again for reinstatement of her broker license. Effective May 6, 2008, the Commissioner denied Respondent's January 15, 2008, petition to reinstate her broker license but granted Respondent a restricted real estate salesperson license.

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On or about May 10, 2010, Respondent petitioned again for reinstatement of her broker license. Effective September 15, 2010, the Commissioner denied Respondent's May 10, 2010, petition to reinstate her broker license but granted Respondent an unrestricted real estate salesperson license.

The facts alleged above in Paragraphs 3 through 9 constitute grounds for denial of Respondent's application for a License Endorsement under sections 480(a) and 10166.05(c) of the Code.

SECOND GROUND FOR DENIAL
Civil Fraud Judgment

Each and every allegation contained above in Paragraphs 1 through 10, inclusive, is incorporated by this reference as if fully set forth herein.

On or about November 14, 2012, in the Superior Court of the State of California, County of Monterey, Case Number M109797, the Monterey County District Attorney's Office filed a First Amended Complaint ("FAC") for Unfair Competition, Injunctive Relief, Restitution and Civil Penalties against Respondent and Respondent's Co-defendants for the following:

- (a) acting or failing to act so as to create the reasonable but false perception that Respondent was a real estate professional and/or broker in good standing in the state of California, when, in fact, Respondent held a real estate salesperson license at the time;
- (b) between April 6, 2006 and May 8, 2008, Respondent engaged in activity requiring a real estate broker license when she did not possess such a license;
- (c) knowingly, and grossly, overstated a borrower's income on mortgage loan applications to induce financial institutions to fund the corresponding loans; and

- 1 (d) failing to retain or maintain and/or causing to be destroyed documents which
2 Respondent was required to retain or maintain.

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4 On or about March 7, 2014, in the civil action described above in Paragraph 12,
5 the Superior Court of the State of California, County of Monterey, issued a Statement of
6 Decision:

- 7 (a) permanently enjoining Respondent and Respondent's Co-defendants from
8 engaging in the unfair, illegal, and fraudulent business practices as described in
9 the FAC;
10 (b) holding Respondent and Respondent's Co-defendants jointly and severally
11 responsible for making restitution to the victim described in the FAC in the
12 amount of \$29,575; and
13 (c) requiring Respondent and Respondent's Co-defendants to jointly and severally
14 pay \$120,425 in civil penalties to the Monterey County Treasurer.

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16 Respondent timely appealed the Decision outlined above in Paragraph 13. On
17 November 28, 2017, in Case No. H-041209, the Court of Appeal of the Sixth Appellate District,
18 State of California, upheld the decision against Respondent, but remanded the case back to the
19 Superior Court to reduce the restitution amount described above in Paragraph 13(b) to \$19,625,
20 and to reduce the amount of the civil penalties described above in Paragraph 13(c) to \$98,925.

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22 To date Respondent has paid neither the full amount of the restitution nor the full
23 amount of the civil penalty described above in Paragraph 14.

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25 The facts alleged above in Paragraphs 11 through 15 constitute grounds for denial
26 of Respondent's application for a License Endorsement under sections 480(a) and 10166.05(c) of
27 the Code, and section 2758.3(a)(1) of title 10 of the California Code of Regulations.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Statement of Issues, and that upon proof thereof, a decision be rendered that the
3 Commissioner refuse to authorize the issuance of, and deny the issuance of, a License
4 Endorsement to Respondent, and for such other and further relief as may be proper under the
5 provisions of law.

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8 CHIKA SUNQUIST
Supervising Special Investigator

9 Dated at Sacramento, California,
10 this 13th day of July, 2018.

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12 DISCOVERY DEMAND

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