

1 RICHARD K. UNO, Counsel III (SBN 98275)
2 Department of Real Estate
3 P. O. Box 137007
4 Sacramento, CA 95813-7007
5 Telephone: (916) 263-8670
6 (916) 263-3767 (Fax)
7 (916) 263-8679 (Direct)

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DEPARTMENT OF REAL ESTATE
By K. Knapp

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
CAL WEST HOME LOANS, INC.,) NO. H-6718 SAC
and MICHAEL BRUNO,) ACCUSATION
Respondents.)

The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the State of California, for Accusation against Respondents CAL WEST HOME LOANS, INC. (CWHL) and MICHAEL BRUNO (BRUNO), sometimes collectively referred to as Respondents, is informed and alleges as follows:

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

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At all times herein mentioned, CWHL was and is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (the Code) by the Department of Real Estate (the Department) as a corporate real estate broker. CWHL also holds a Mortgage Loan Originator (MLO) Endorsement.

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BRUNO is presently licensed and/or has license rights under the Code as a real estate broker and holds an MLO Endorsement.

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At all times herein mentioned, BRUNO was licensed by the Department as the designated broker/officer of CWHL. As the designated broker/officer, BRUNO 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 CWHL for which a real estate license is required.

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At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged negotiated, processed, and consummated such loans.

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

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 6, above, and incorporates the same herein.

Beginning December 8, 2017, and continuing intermittently through January 5, 2018, an audit was conducted of Respondents' mortgage loan business at CWHL's main office located at 569 Laurel Street, San Carlos, California, and at the Oakland District Office of the Department of Real Estate at 1515 Clay Street, Suite 702, Oakland, California, where the auditor examined records for the period of January 1, 2016, through October 31, 2017 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, CWHL accepted or received funds in trust from investors and others in connection with those activities, and deposited or caused to be deposited those funds into bank accounts maintained by CWHL, at First Bank, 24 E. 4th Avenue, San Mateo, CA 94401, as described below:

TRUST ACCOUNT #1	
Account No.:	XXXXXXX0724
Entitled:	Cal West Home Loans, Inc. Trustee Account (Michael Bruno, Broker)

TRUST ACCOUNT #2	
Account No.:	XXXXXXX8664
Entitled:	Cal West Home Loan, Inc. Investor's Trust Account, Michael Bruno, Broker

and thereafter from time-to-time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

- 1 (a) An accountability was conducted for Trust Account No. 1 and as of October
 2 31, 2017, a shortage of \$388.34 was discovered, in violation of Section 10145
 3 of the Code;
- 4 (b) CWHL commingled broker's funds with trust funds in Trust Account #1 in
 5 violation of Section 10176(e) of the Code and Section 2835 of the
 6 Regulations;
- 7 (c) For two (2) Multi-Lender transactions, CWHL advanced broker funds on
 8 behalf of borrowers for Loan Nos. C2590 and C2451, for a least five (5)
 9 months, in violation of Section 10238(k)(2) of the Code;
- 10 (d) For one (1) Single-Lender Transaction CWHL advanced broker funds on
 11 behalf of borrower for Loan No. C2571, in violation of Section 10233.1 of the
 12 Code and;
- 13 (e) For four (4) loans, CWHL failed to provide Mortgage Loan Disclosure
 14 Statements (MLDS) to borrowers within three (3) business days after receipt
 15 of completed written loan application from borrowers, in violation of Section
 16 10240 of the Code, as follows:

17 Loan #	Borrower	Amount	Date	Loan App	MLDS Date
			Loan Closed	Date	
19 C-2681	Miriam V.	\$300,000	05/17/17	05/01/17	07/08/15
20 C-2589	R. Trust	\$170,000	04/05/16	03/10/16	03/30/16
21 C-2571	F Fund	\$150,000	01/15/16	08/14/15	10/12/16
22 C-2590	F Fund	\$100,000	03/25/16	08/14/15	03/24/16

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24 The acts and/or omissions of CWHL as alleged above violate Section 2835 of the
 25 Regulations and Sections 10145, 10233.1, 10238 (k)(2) and 10240 of the Code and are grounds
 26 for disciplinary action under Section 10177 (d) (willful disregard/violation of Real Estate Law)
 27 and 10177 (g) (negligence/incompetence of real estate licensee) of the Code.

1 SECOND CAUSE OF ACTION

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

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6 At all times herein above mentioned, BRUNO was responsible, as the designated
7 broker/officer of CWHL, for the supervision and control of the activities conducted
8 on behalf of the corporation by its officers and employees. BRUNO failed to exercise
9 reasonable supervision and control over the property management brokering activities of
10 CWHL. In particular, BRUNO permitted, ratified and/or caused the conduct described above, to
11 occur, and failed to take reasonable steps, including but not limited to the handling of trust
12 funds, supervision of employees, and the implementation of policies, rules, procedures, and
13 systems to ensure the compliance of the corporation with the Real Estate Law and the
14 Regulations.

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16 The above acts and/or omissions of BRUNO violate Section 10159.2 of the Code
17 and Section 2725 of the Regulation and are grounds for disciplinary action under Sections
18 10177 (d) and 10177 (g) of the Code.

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

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

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6 CHIKA SUNQUIST
7 Supervising Special Investigator

8 Dated at Sacramento, California,
9 this 17th day of August, 2018.

10 DISCOVERY DEMAND

11 The Department of Real Estate hereby requests discovery pursuant to Section
12 11507.6 of the California Government Code. Failure to provide discovery to the Department
13 may result in the exclusion of witnesses and/or documents at the hearing, and other sanctions as
14 the Administrative Law Judge deems appropriate.