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DEPARTMENT OF REAL ESTATE
By B. Nicholas

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

FIRST CALIFORNIA MORTGAGE)
COMPANY and DAVID WILLIAM)
ARMSTRONG,)

Respondents.)

No. H-6850 SAC

ACCUSATION

The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the
State of California, for cause of Accusation against FIRST CALIFORNIA MORTGAGE
COMPANY and DAVID WILLIAM ARMSTRONG (collectively "Respondents"), is informed
and alleges as follows:

PRELIMINARY ALLEGATIONS

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The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the
State of California, makes this Accusation in her official capacity.

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Respondents are presently licensed and/or have license rights under the Real
Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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At all times mentioned, Respondent FIRST CALIFORNIA MORTGAGE COMPANY (FCMC) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation.

At all times mentioned, Respondent DAVID WILLIAM ARMSTRONG (ARMSTRONG) was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of FCMC. As said designated officer-broker, ARMSTRONG 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 FCMC for which a license is required.

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

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 8, inclusive, above are incorporated by this reference as if fully set forth herein.

On or about June 11, 2018, after proceedings comparable to the Administrative Procedure Act in which FCMC was given fair notice of the charges, an opportunity for a hearing, and other due process protections the Department of Business Oversight of the State of California, ordered that the FCMC's California Residential Mortgage Lending (RML) license be revoked for acts which, if done by a real estate licensee, would be grounds for the suspension or

1 revocation of a California real estate license pursuant to the provisions of Sections 10177(d),
2 10162, 10145, and/or 10176(e) of the Code.

3 8

4 The revocation of FCMC's RML license as described in Paragraph 7, constitutes
5 cause for the suspension or revocation of all licenses and license rights of FCMC under the Real
6 Estate Law pursuant to Section 10177(f) of the Code.

7 SECOND CAUSE OF ACTION

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9 Each and every allegation in Paragraphs 1 through 8, inclusive, above are
10 incorporated by this reference as if fully set forth herein.

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12 At no time did Respondents provide notice to the Department of the disciplinary
13 action taken by another licensing agency, as described in Paragraph 7 above, as required by
14 Section 10186.2 of the Code.

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16 The facts alleged in paragraphs 7 and 10 constitute cause for the suspension or
17 revocation of Respondents' licenses and license rights under Sections 10177(d) and 10186.2 of
18 the Code.

19 THIRD CAUSE OF ACTION

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21 Each and every allegation in Paragraphs 1 through 11, inclusive, above are
22 incorporated by this reference as if fully set forth herein.

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24 On or about February 12, 2016, FCMC informed the Department that its main
25 office and mailing address was 1400 N. McDowell Blvd., Suite 300, Petaluma, California 94954.

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At no time to the date of the filing of this Accusation has the Department received notice from FCMC that its main office and/or mailing addresses has changed from 1400 N. McDowell Blvd., Suite 300, Petaluma, California 94954.

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On or about June 27, 2018, a Special Investigator from the Department's Mortgage Lending Activities Sections drove to 1400 N. McDowell Blvd., Suite 300, Petaluma, California 94954, and found that the location was vacant.

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The acts and/or omissions of FCMC as described in the Third Cause of Action violate Section 10162 of the Code and Section 2715 Title 10, California Code of Regulations (Regulations), and are grounds for the revocation or suspension of all Respondent's licenses and/or license rights under Section 10177(d) of the Code.

FOURTH CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 16, inclusive, is incorporated by this reference as if fully set forth herein.

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Respondent ARMSTRONG failed to exercise reasonable supervision over the acts of FCMC in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of ARMSTRONG as described in Paragraph 18, constitutes failure on the part of ARMSTRONG, as designated broker-officer for FCMC, to exercise reasonable supervision and control over the licensed activities of FCMC as required by Section 10159.2 of the Code and Section 2725 of the Regulations.

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The facts described above as to the Fourth Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent ARMSTRONG under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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 revoking all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.



CHIKA SUNQUIST
Supervising Special Investigator

Dated at Sacramento, California,
this 28th day of June, 2019

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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Government Code*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.