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**FILED**

DEC 05 2019

DEPARTMENT OF REAL ESTATE  
By *[Signature]*

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

10 \* \* \*

11 In the Matter of the Accusation of: ) NO. H-6861 SAC  
12 )  
13 KENCO INVESTMENTS INC., and ) ACCUSATION  
14 KENNETH ROBERT BOYD, )  
15 Respondents. )

16 The Complainant, CHIKA SUNQUIST, acting in her official capacity as a  
17 Supervising Special Investigator of the State of California, for cause of Accusation against  
18 KENCO INVESTMENTS INC. ("KENCO") and KENNETH ROBERT BOYD ("BOYD"),  
19 (collectively referred to herein as "Respondents"), is informed and alleges as follows:

20 1.

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

23 2.

24 At all times mentioned herein, KENCO was and is licensed by the State of  
25 California, Department of Real Estate ("Department"), as a restricted real estate broker  
26 corporation. At all times herein mentioned, KENCO was and is licensed by the Department as a

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1 company mortgage loan originator with Nationwide Mortgage Licensing System and Registry  
2 ("NMLS") identification number 316360.

3 3.

4 At all times mentioned herein, BOYD was and is licensed by the Department as a  
5 restricted real estate broker. At all relevant times, BOYD was the designated broker officer of  
6 KENCO. As the designated officer-broker, BOYD was responsible, pursuant to Section 10159.2  
7 of the Code, for the supervision of the activities of the officers, agents, real estate licensees, and  
8 employees of KENCO. At all times herein mentioned, Respondent was and is licensed by the  
9 Department as an individual mortgage loan originator with NMLS identification number 320641.

10 4.

11 At all times mentioned herein, Respondents engaged in the business of, acted in  
12 the capacity of, advertised, or assumed to act as real estate licensees, in the State of California, on  
13 behalf of others, for compensation or in expectation of compensation, within the meaning of:

14 Section 10131(d) of the Code, including the operation and conduct of real estate  
15 business with the public wherein Respondents solicited borrowers or lenders for or negotiated  
16 loans or collected payment or performed services for borrowers or lenders or note owners in  
17 connection with loans secured directly or collaterally by liens on real property or on a business  
18 opportunity;

19 Section 10131(e) of the Code, including the operation and conduct of real estate  
20 business with the public wherein Respondents sold or offered to sell, bought or offered to buy, or  
21 exchanged or offered to exchange a real property sales contract, or a promissory note secured  
22 directly or collaterally by a lien on real property or on a business opportunity, and performed  
23 services for the holders thereof; and/or

24 Section 10131.1 of the Code, including the operation and conduct of a real estate  
25 business with the public wherein Respondents engaged as a principal in the business of making  
26 loans or buying from, selling to, or exchanging with the public, real property sales contracts or  
27 promissory notes secured directly or collaterally by liens on real property, or who made

1 agreements with the public for the collection of payments or for the performance of services in  
2 connection with real property sales contracts or promissory notes secured directly or collaterally  
3 by liens on real property.

4 5.

5 In the course of the activities described above in Paragraph 4, Respondents were  
6 involved in originating, funding, negotiating and/or closing the following mortgage loan  
7 transactions:

	<b>Borrower</b>	<b>Property Address</b>	<b>Date Closed</b>	<b>Lender</b>
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9				
10	a. Fonseca	3534 S. Congress Ave. Kerman, CA	6/1/2018	Simpson (LA Produce Inc.)
11	b. Llamas	633 S. 8 <sup>th</sup> Street, Kerman, CA	7/9/2018	Smith Trust
12	c. Reynoso	26750 Club Drive, Madera, CA	7/5/2018	Dragoo
13	d. Kenco Inv. Inc.	4563 N. Bendel Lane, Fresno, CA	7/23/2018	O'Malley Profit Sharing Plan
14	e. Kenco Inv. Inc.	4482 N. Bendel Lane, Fresno, CA	5/26/17	James Torosian, Trustee of James Torosian Trust
15	f. Kenco Inv. Inc.	5043 N. Cornelia, Fresno, CA	5/3/17	Burks Trust
16				

17 **COUNT ONE**  
18 **FAILURE TO OBTAIN MORTGAGE LOAN DISCLOSURE STATEMENTS**  
19 (As to Respondents KENCO and BOYD)

20 6.

21 Each and every allegation contained above in Paragraphs 1 through 5, inclusive, is  
22 incorporated by this reference as if fully set forth herein.

23 7.

24 Pursuant to Section 10240 of the Code, a real estate broker acting within Section  
25 10131(d) of the Code shall deliver to the borrower a written mortgage loan disclosure statement  
26 ("MLDS"), and obtain the borrower's signature on the MLDS within a specified time period.  
27 Additionally, a real estate broker is required to maintain a copy of the MLDS for three years.

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8.

In the transactions noted above in Paragraphs 5(a) through 5(c), Respondents failed to deliver an MLDS to the borrower, failed to obtain the borrower's signature on the MLDS, and/or failed to maintain an MLDS regarding the subject transactions.

9.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 6 through 8, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10240, 10177(d), and/or 10177(g) of the Code.

**COUNT TWO**  
**FAILURE TO OBTAIN INVESTOR SUITABILITY QUESTIONNAIRE**  
(As to Respondents KENCO and BOYD)

10.

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

11.

Pursuant to 10232.45 of the Code, a real estate broker who negotiates a transaction that involves the sale of a note secured directly by an interest in one or more parcels of real property, or the sale of an undivided interest in a note secured directly by one or more parcels of property, shall obtain an investor suitability questionnaire or equivalent evaluation of the purchaser, and maintain record of such for at least four years.

12.

In the transactions noted above in paragraphs 5(a) through 5(c), Respondents failed obtain an investor suitability questionnaire or equivalent evaluation of the purchaser, and/or maintain record of such for at least four years, as required by Section 10232.45 of the Code.

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13.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 10 through 12, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d), 10177(g) and/or 10232.45 of the Code.

**COUNT THREE**  
**FAILURE TO PROVIDE PROSPECTIVE LENDERS WITH COMPLETE**  
**LENDER/PURCHASER DISCLOSURE STATEMENTS**  
(As to Respondents KENCO and BOYD)

14.

Each and every allegation set forth above in Paragraphs 1 through 13, inclusive, is incorporated by this reference as if fully set forth herein.

15.

Pursuant to Section 10232.5 of the Code, a real estate broker who performs acts described in subdivision (d) of Section 10131 shall provide the prospective purchaser with a complete statement that includes specified information about the subject property and the prospective borrower(s).

16.

In the transactions noted above in paragraphs 5(b) and 5(d) through 5(f), Respondents failed to provide the prospective purchaser with the complete statement that included all of the information required by Section 10232.5 of the Code.

17.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 14 through 16, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d), 10177(g) and/or 10232.5 of the Code.

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**COUNT FOUR**  
**FAILURE TO PROVIDE DRE WITH LENDER/PURCHASER**  
**DISCLOSURE STATEMENT**

(As to Respondents KENCO and BOYD)

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18.

Each and every allegation in Paragraphs 1 through 17, inclusive, above, is incorporated by this reference as if fully set forth herein.

19.

Pursuant to Section 10231.2(a) of the Code, a real estate broker performing acts described in Subdivision (d) or (e) of Section 10131 of the Code who causes the solicitation or acceptance of funds to be applied to a purchase or loan transaction, shall submit the lender/purchaser disclosure statement to the Department prior to providing the lender/purchaser disclosure statement to the lender.

20.

In the transactions noted above in paragraphs 5(e) and 5(f), Respondents failed to submit the lender/purchaser disclosure statement to the Department prior to providing the lender/purchaser disclosure statement to the lender, as required by Section 10231.2(b) of the Code.

21.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 18 through 20, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d), 10177(g) and/or 10231.2 of the Code.

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**COUNT FIVE**  
**EXCEEDING LOAN TO VALUE LIMITS**

(As to Respondents KENCO and BOYD)

22.

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

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23.

Pursuant to Section 10232.3(a)(1) of the Code, any transaction that involves the sale of or offer to sell a note secured directly by an interest in real property shall not exceed specified loan to value limits.

24.

In the transaction noted above in paragraph 5(a), Respondents failed to adhere to the specified loan limits, as required by Section 10232.3(a)(1) of the Code.

25.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 22 through 24, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d), 10177(g) and/or 10232.3 of the Code.

**COUNT SIX**  
**FAILURE TO ASSIGN PORTIONS OF NOTE SECURED BY**  
**MORE THAN ONE PROPERTY**  
(As to Respondents KENCO and BOYD)

26.

Each and every allegation in Paragraphs 1 through 25, inclusive, above, is incorporated by this reference as if fully set forth herein.

27.

Pursuant to Section 10232.3(a)(6) of the Code, for transactions involving notes secured by more than one parcel of real property, each security property shall be assigned a portion of the note or interest that shall not exceed the loan limits specified in Section 10232.3(a)(1) of the Code.

28.

In the transactions noted above in paragraphs 5(a) and 5(b), Respondents failed to assign a portion of the note to ensure the loan-to-value ratios did not exceed the loan limits specified in Section 10232.3(a)(1) of the Code, as required by Section 10232.3(a)(6) of the Code.

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29.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 26 through 28, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d), 10177(g) and/or 10232.3 of the Code.

**COUNT SEVEN**  
**FAILURE TO SUPERVISE**  
(As to Respondent BOYD Only)

30.

Each and every allegation in Paragraphs 1 through 29 inclusive, above, is incorporated by this reference as if fully set forth herein.

31.

BOYD, as the designated officer of KENCO, was required to exercise reasonable supervision and control over the activities of KENCO, its employees, and the real estate activities being conducted by KENCO.

32.

BOYD failed to exercise reasonable supervision over the acts and/or omissions of KENCO and its employees, in such a manner as to allow the acts and/or omissions as described above in the First through Sixth Causes of Action to occur, which constitutes cause for the suspension or revocation of the license(s) and license rights of BOYD under Sections 10177(d), 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of Title 10 of the California Code of Regulations.

**PRIOR DISCIPLINARY ACTIONS**

33.

Effective May 7, 2014, in Case No. H-2700 FR, the Real Estate Commissioner issued an Order, pursuant to a Stipulation and Agreement, revoking Respondents' real estate broker licenses and granting Respondents the right to apply for a restricted real estate broker licenses, among other terms and conditions, for violation by Respondents of Sections 10177(d) and 10177(g) of the Code.



1 34.

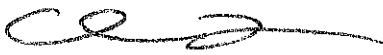
2 Effective January 3, 2018, in Case No. H-3080 FR, the Real Estate Commissioner  
3 issued an Order, pursuant to a Stipulation and Agreement, revoking Respondents' real estate  
4 broker licenses and granting Respondents the right to apply for a restricted real estate broker  
5 licenses, among other terms and conditions for violations by KENCO of Sections 10141.6,  
6 10177(d), 10232.3, 10232.5, 10240, and 10241 of the Code and Sections 2840 and 2846 of the  
7 Regulations, and violation by BOYD of Section 10177(h) of the Code.

8 COST RECOVERY

9 35.

10 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
11 resolution of a disciplinary proceeding before the Department, the Commissioner may request the  
12 Administrative Law Judge to direct a licensee found to have committed a violation of this part to  
13 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

14 WHEREFORE, Complainant prays that a hearing be conducted on the  
15 allegations of this Accusation and that upon proof thereof, a decision be rendered revoking all  
16 licenses and license, endorsements and endorsement rights of Respondent under the Real Estate  
17 Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation  
18 and enforcement as permitted by law, and for such other and further relief as may be proper  
19 under other provisions of law.

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22 CHIKA SUNQUIST  
Supervising Special Investigator

23 Dated at Sacramento, California,  
24 this 4<sup>th</sup> day of December, 2019.

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DISCOVERY DEMAND

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

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