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FILED

MAY 28 2020

DEPARTMENT OF REAL ESTATE

By X. H. H. H.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H- 6953 SAC
13 ALEXIS ZACHROS MCGEE,) ACCUSATION
14)
15 Respondent.)

16 The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the
17 State of California, for Accusation against Respondent ALEXIS ZACHROS MCGEE
18 (MCGEE), is informed and alleges as follows:

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20 The Complainant makes this Accusation against MCGEE in her official capacity.

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22 At all times herein mentioned, MCGEE was and is presently licensed and/or has
23 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
24 Professions Code (the Code) by the Department of Real Estate (the Department) as a real estate
25 broker.

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27 At no time mentioned herein did MCGEE have a Mortgage Loan Originator
Endorsement (MLO Endorsement).

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At all times herein mentioned, MCGEE engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker 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, MCGEE solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein MCGEE arranged negotiated, processed, and consummated such loans.

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 4, above, and incorporates the same, herein, by reference.

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Sandy Owensby Morgan (Morgan) was a member of MCGEE'S "Meeting" investment group and over time came to trust MCGEE.

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Sometime before May, 2017, MCGEE approached Morgan and solicited her to invest \$45,000 as a private lender on real property commonly known as 40 Iris Lane, Walnut Creek, California (Iris Lane Property).

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MCGEE took Morgan to view the Iris Lane Property and represented to Morgan that her loan was for the purpose of the owner, Dave Simmons (Simmons), building a garage on the property.

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MCGEE represented to Morgan that the loan would be repaid after a short time and would result in a significant gain.

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Based on MCGEE's representations that the loan was for a short term and would bear a high interest rate, Morgan agreed to lend the money to Simmons, through Peak Financial Group LLC, which is a Simmons entity organized in the State of Nevada and registered with the California Secretary of State.

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On or about May 16, 2017, MCGEE provided the preliminary title report for the Iris Lane Property, which showed that property taxes were delinquent. It also showed two deeds of trust, which would be senior to Morgan's investment. The preliminary title report did not show that the senior loans were delinquent.

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On or about May 23, 2017, Morgan made the then \$55,000 investment on the Iris Lane Property.

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MCGEE drafted the promissory note for the \$55,000 loan which was secured by the Iris Lane Property, which bore a 14% per annum interest rate, due at "maturity." The note was dated May 23, 2017, and provided that the borrower shall pay Morgan \$1,925.00, 3 months upfront interest on August 26, 2017.

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MCGEE represented to Morgan that the loan to Simmons on the Iris Lane Property was a good investment.

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In or around February 1, 2018, Wendy Bauman (Bauman), a real estate broker, advised Morgan that the senior loans on the Iris Lane Property were going to be foreclosed. Bauman pressured Morgan to release her lien rights in the \$55,000 loan to allow a short sale of the Iris Lane Property to proceed.

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Morgan was offered a minimal sum of money to release her loan rights on her loan, which she rejected, and ultimately received \$27,500 from the proceeds of the short sale. At Morgan's insistence, MCGEE and Simmons agreed that the promissory note, although now unsecured, would remain in force after the short sale.

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Bauman represented Simmons in the short sale and was the only licensee listed on the initial Disclosure of Agency Form. On or about February 3, 2018, an Additional Broker Agreement showed that MCGEE was also a listing agreement for the short sale of the Iris Lane Property.

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Morgan has received no further payment on the promissory note from Simmons or MCGEE.

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MCGEE made numerous misrepresentations to Morgan, as set forth above. The true facts were that MCGEE knew Simmons was a credit risk since she represented him in the past, that the investment was risky since the two senior liens were in default at the time MCGEE solicited Morgan to make the \$55,000 loan, that Bauman was a broker associate of hers, that she, MCGEE, would also receive a commission on the short sale since she was a listing agent for the subject Iris Lane Property.

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The acts and omissions of MCGEE, set forth above, violate Sections 10176(a) (substantial misrepresentation), 10176(b) (false promise to induce), 10176(d) (acting for more than one party w/o consent), and 10176(i) (other conduct: fraud, dishonest dealing) of the Code and are grounds for the suspension or revocation of MCGEE's real estate license pursuant to Sections 10176(a), 10176(b), 10176(d), 10176(i), 10177(d) (willfully violate real estate law), and 10177(g) (negligence/incompetence real estate licensee) of the Code.

1 SECOND CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 through 20, above, and incorporates the same
4 herein, by reference.

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6 In the course of performing mortgage loan activities on the Iris Lane Property,
7 MCGEE represented both Morgan and Simmons through Simmons' Peak Financial Group LLC.

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9 A review of Morgan's file, the broker file and the escrow filed, revealed that
10 MCGEE failed to make several disclosures required by law, including the following:

- 11 a. Lender Purchaser Disclosure Statements as required by Section 10232.5 of
12 the Code;
- 13 b. Investor Questionnaire/Suitability Form as required by Section 10232.45 of
14 the Code;
- 15 c. Investor Qualification Statement was required by Section 10232.3(b);
- 16 d. Provide disclosures or consent to MCGEE representing more than one party
17 on the short sale of the Iris Lane Property;
- 18 e. Morgan's file contained no appraisal or broker evaluation of the Iris Lane
19 Property.

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21 The acts and omissions of MCGEE, set forth above, violate Sections 10176(a)
22 10176(c), 10176(i), 10232.3(a)(3), 10232.3(b), 10232.45, 10232.5, and 10166.02(b) (MLO
23 Endorsement requirement) of the Code and are grounds for the suspension or revocation of
24 MCGEE's real estate license pursuant to Sections 10166.02(b) (b) (MLO Endorsement
25 Requirement), 10176(a), 10176(c), 10176(i), 10177(d), and 10177(g) of the Code.

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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 imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), 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 19th day of May, 2020.

DISCOVERY DEMAND

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