

1 RICHARD K. UNO, Counsel (SBN 98275)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 576-8700
6 (916) 576-7848 (Direct)

FILED

JUN 05 2020

DEPARTMENT OF REAL ESTATE
By K. L. L. L.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-6957 SAC
13 A C O N, INC.)
14 and DAVID ALBERT NOVELO,) ACCUSATION
15 Respondents.)

16 The Complainant, Tricia D. Parkhurst, a Supervising Special Investigator of the
17 State of California, for Accusation against Respondent A C O N, INC. (A C O N), and
18 Respondent DAVID ALBERT NOVELO (NOVELO), collectively Respondents, is informed
19 and alleges as follows:

20 1

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

23 2

24 At all times mentioned, A C O N was and now is licensed by the Department as a
25 corporate real estate broker whose license has at all times mentioned herein, since March 18,
26 2016, been and now is a restricted corporate real estate broker license subject to terms,
27 conditions, and restrictions pursuant to Sections 10156.6 and 10156.7 of the Code.

1 3

2 From July 2, 2018, through April 2, 2019, A C O N's corporate status was not in
3 good standing with the California Secretary of State's Office.

4 4

5 At all times mentioned, NOVELO was and now is licensed by the Department as
6 a real estate broker whose license has at all times mentioned herein, since March 18, 2016, been
7 and now is a restricted real estate broker license subject to terms, conditions, and restrictions
8 pursuant to Sections 10156.6 and 10156.7 of the Code.

9 5

10 At all times during the audit period, NOVELO was licensed by the Department as
11 the designated broker/officer of A C O N. As the designated broker/officer, NOVELO was
12 responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the
13 officers, agents, real estate licensees, and employees of A C O N for which a real estate license is
14 required to ensure the compliance of the corporation with the Real Estate law and the
15 Regulations.

16 6

17 At all times herein mentioned, Respondents engaged in the business of, acted in
18 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
19 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
20 property management business with the public wherein, on behalf of others, for compensation or
21 in expectation of compensation, collected rents from tenants on behalf of landlords, offered to
22 rent and performed other duties regarding property owned by landlords.

23 7

24 At all times mentioned, Respondents engaged in the business of, acted in the
25 capacity of, advertised or assumed to act as a real estate broker in the State of California, within
26 the meaning of Section 10131(a) of the Code, including the operation and conduct of a
27 residential resale brokerage wherein Respondents bought, sold, or offered to buy or sell,

1 solicited or obtained listings of, and negotiated the purchase, sale or exchange of real property or
2 business opportunities, all for or in expectation of compensation.

3 8

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

9
10 FIRST CAUSE OF ACTION

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12 Complainant refers to Paragraphs 1 through 8, above and incorporates the same,
13 herein, by reference.

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15 Beginning on January 21, 2020, through January 27, 2020, an audit was
16 conducted of A C O N's main office located at 10100 Fair Oaks Blvd., Ste. 1, Fair Oaks,
17 California, where the auditor examined records for the period of July 1, 2018 through August
18 31, 2019 (the audit period).

19 11

20 While acting as a real estate broker as described in Paragraph 5, above, and
21 within the audit period, A C O N accepted or received funds in trust (trust funds) from tenants
22 on behalf of landlords in connection with the property management activities and deposited or
23 caused to be deposited those funds into a bank account maintained by A C O N as follows:

24 Wells Fargo Bank, Fair Oaks, California, Account No. XXXXXX4214, entitled,
25 and thereafter from time to time made disbursements of said trust funds.

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In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, A C O N:

- (a) Conducted property management activities, including, but not limited to, the collection of rent and disbursement of property management fees for properties commonly known as: 2085 Monroe Street, Sacramento; 7713 Elmsmere Court, Elk Grove; 3514 Roberson Ave., Sacramento; and 5728 San Vicente Way, North Highlands, while its corporate status was not in good standing with the California Secretary of State, in violation of Section 2742 of the Regulations and Section 10130 of the Code.

13

The acts and/or omissions of A C O N as alleged above violate Section 2742 (good standing with secretary of state) of the Regulations and Section 10130 (unlicensed activity) of the Code and are grounds for discipline under Section 10177(d) (Willful Disregard/Violation of Real Estate Law) and 10177(g) (negligence/incompetence of licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 13, above, and incorporates them herein by reference.

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Between July 2, 2018, and April 2, 2019, while A C O N corporate status was not in good standing, it conducted residential sales transactions, including, but not limited to, the following properties:

Address:	Date of Contract:	Close of Escrow:
655 Betterly Lane, Auburn	12/20/18	1/11/19

1	7742 La Mancha Way, Sacramento	12/30/18	3/15/19
2	2033 Benita #3, Rancho Cordova	2/13/19	3/22/19

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4 The facts alleged above violate Section 10130 of the Code and constitute cause
5 for the suspension or revocation of the licenses and license rights of Respondent A C O N under
6 Sections 10130, 10177(d) and 10177(g) of the Code.

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8 THIRD CAUSE OF ACTION

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10 Complainant refers to Paragraphs 1 through 16, above, and incorporates them
11 herein by reference.

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13 At all times during the audit period, NOVELO was responsible, as the designated
14 broker officer of A C O N, for the supervision and control of the activities conducted on behalf
15 of the corporation by its officers and employees to ensure its compliance with the Real Estate
16 Law and the Regulations. NOVELO failed to exercise reasonable supervision and control over
17 the property management brokering activities of A C O N. In particular, NOVELO permitted,
18 ratified, and/or caused the conduct described in the First and Second Causes of Action, above, to
19 occur and failed to take reasonable steps, including but not limited to the handling of trust funds,
20 supervision of employees, and the implementation of policies, rules, procedures, and systems to
21 ensure the compliance of the corporation with the Real Estate Law and the Regulations.

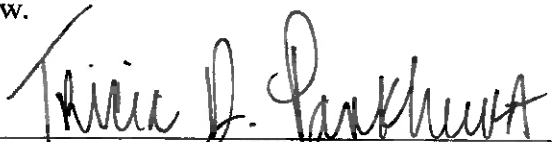
22 19

23 The above acts and/or omissions of NOVELO violate Section 2725 (Broker
24 Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the
25 Code and are grounds for disciplinary action under the provisions of Section 10177(d) (Willful
26 Disregard/Violation of Real Estate Law and (h) (Broker Supervision) 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 Respondents 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.


Tricia D. Parkhurst
Supervising Special Investigator

Dated at Sacramento, California,
this 29th 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.