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NOV 15 2022

DEPARTMENT OF REAL ESTATE

By PJ dew

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-7084 SAC
)	
MEDALLION GOLD INC)	<u>ACCUSATION</u>
and BRENDA SUE VOELKER,)	
)	
Respondents.)	

The Complainant, RUTH CORRAL, acting in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against Respondents MEDALLION GOLD INC (MGI) and BRENDA SUE VOELKER (VOELKER), sometimes collectively referred to as Respondents, is informed and alleges as follows:

1

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).

2

At all times mentioned, MGI was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation.

3

At all times mentioned herein, VOELKER was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of MGI. As the

1 designated broker officer, VOELKER was responsible, pursuant to Section 10159.2 of the
2 Code, for the supervision of the activities of officers, agents, real estate licensees and employees
3 of MGI for which a real estate license is required to ensure the compliance of the corporation
4 with the Real Estate Law and Regulations.

5 4

6 At all times herein mentioned, Respondents engaged in the business of, acted in
7 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
8 within the meaning of Sections 10131 (d) and (e) of the Code, including the operation and
9 conduct of a mortgage loan brokerage business with the public wherein Respondents solicited
10 lenders and borrowers for loans secured directly or collaterally by liens on real property or a
11 business opportunity, and wherein such loans were arranged, negotiated, processed and
12 consummated by Respondents on behalf of others and wherein promissory notes or interests
13 therein were sold or purchased on behalf of another or others for compensation or in expectation
14 of a compensation.

15 FIRST CAUSE OF ACTION

16 5

17 Each and every allegation in Paragraphs 1 through 4, inclusive, is incorporated by
18 this reference as if fully set forth herein.

19 6

20 On or about August 27, 2020, a broker office survey (BOS) was conducted
21 regarding the real estate activities of Respondents. During the BOS, the Department Special
22 Investigator discovered, in the course of activities described in Paragraph 4, Respondents
23 arranged, negotiated and/or serviced the following loan, including, but not limited to:

24

Loan No.	Borrower	Property Address	Close of Escrow
25 G-JAQ001	26 Jaqui' Foundation Inc.	1934 83 rd Avenue, Oakland	May 20, 2020

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7

In the course of the activities described in Paragraphs 4 and 6, it was determined that Respondents failed to obtain information relating to Investor Questionnaires to determine investor suitability, as required by Section 10232.45 of the Code.

8

The acts and/or omissions described above constitute violations of Sections 10232.45 of the Code and are grounds for discipline under Sections 10177 (d) and/or 10177 (g) of the Code.

SECOND CAUSE OF ACTION

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

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On or about March 17, 2021, and continuing intermittently through May 28, 2021, an audit was conducted of the records of MGI. The auditor examined records for the period of January 1, 2019, through March 31, 2021 (the audit period).

11

While acting as real estate brokers as described in Paragraph 4, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in connection with mortgage loan brokerage activities, deposited or caused to be deposited those funds into bank accounts maintained by Respondents, at Wells Fargo Bank, 80 Moraga Way, Orinda, California 94563, including, but not limited to the following:

TRUST ACCOUNT #1	
Account No.:	XXXXXXX3770
Entitled:	MEDALLION GOLD INC SERVICING TRUST ACCOUNT REAL ESTATE TRUST ACCOUNT

TRUST ACCOUNT #2	
Account No.:	XXXXXX3243
Entitled:	MEDALLION GOLD INC MEDALLION GOLD TRUST REAL ESTATE TRUST ACCOUNT

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

12

In the course of the activities described above in Paragraphs 4, Respondents arranged, negotiated and/or serviced the following multi-lender construction loans, including, but not limited to:

Loan No.	Borrower	Property Address	Close of Escrow
JIE066	Xiao H. Z. and Jie M.	57 Summit Lane, Copperopolis	December 13, 2019
RAN005	Rana Lacuna Investments, LLC	101 Falling Leaf Court, Copperopolis	May 6, 2020
JIE070	Jie M.	140 Blue Oak Court, Copperopolis	August 31, 2020

13

In the course of the activities described in Paragraphs 4 and 12, it was determined that:

- (a) Respondents allowed a person licensed as a broker to be a signatory on Trust Account # 1 and Trust Account #2, without having entered into a written agreement with MGI pursuant to Section 2726 of Title 10, Chapter 6, California Code of Regulations (Regulations), in violation of Section 10145 of the Code and Section 2834 of the Regulations;

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1 (b) Respondents failed to meet the following safeguards for construction loans
2 (Loan Nos. JIE066, RAN005, and JIE070), in which the current market value
3 was deemed to be the value of the completed project, as required under
4 Section 10238 (h)(4) of the Code:

- 5 i. An independent neutral third-party escrow holder was not used for all
6 deposits and reimbursements, as required under Section 10238
7 (h)(4)(A) of the Code; and
8 ii. Appraisals were not completed by a qualified and licensed appraiser in
9 accordance with the Uniform Standards of Professional Appraisal
10 Practice, as required under Section 10238 (h)(4)(E);

11 (c) Respondents sold notes or interests to more than 10 persons in Loan Nos.
12 JIE066 and RAN005, in violation of Section 10238 (f) of the Code;

13 (d) Respondents failed to obtain from each person to whom notes and deeds of
14 trust or interests therein were sold information relating to Investor
15 Questionnaires to determine investor suitability in Loan Nos. JIE066,
16 RAN005, and JIE070, as required by Section 10232.45 of the Code.

17 14

18 The acts and/or omissions described above constitute violations of Sections 2834
19 of the Regulations and of Sections 10145, 10232.45, 10238 (f), 10238 (h)(4)(A), 10238
20 (h)(4)(E) of the Code, and are grounds for discipline under Sections 10177(d) and/or 10177(g)
21 of the Code.

22 THIRD CAUSE OF ACTION

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24 Each and every allegation in Paragraphs 1 through 14, inclusive, is incorporated
25 by this reference as if fully set forth herein.

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On or about January 29, 2021, Respondents, in connection with the website, <http://www.medallionservicing.com> (MGI website), conducted real estate activities, as described in Paragraph 4.

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On the MGI website, in the FAQ section for investors, under the subject line, “Who are my servicers/trustees and what do they do?” Respondents advertised the following, “Once the loan is made the collections are made to Medallion Servicing, LLC. Payments are made into this audited checking account and then disbursed to the investors.”

18

However, the auditor’s review of the loan servicing activities conducted during the audit period, including receipt of payments, disbursements to investors, and loan servicing agreement did not indicate any loan servicing payments were collected and disbursed by Medallion Servicing, LLC.

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The acts and/or omissions described above constitutes a violation of Section 10235 of the Code, and are grounds for discipline under Sections 10177(d) and/or 10177(g) of the Code.

FOURTH CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 19, inclusive, is incorporated by this reference as if fully set forth herein.

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Respondent VOELKER failed to exercise reasonable supervision and control over the mortgage loan brokerage activities of MGI. In particular, VOELKER permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the

1 implementation of policies, rules and systems to ensure the compliance of the business with the
2 Real Estate Law and the Regulations.

3 22

4 The above acts and/or omissions of VOELKER violate Section 2725 (Broker
5 Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the
6 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
7 10177(g) and/or 10177(h) (Broker Supervision) of the Code.

8 COST RECOVERY

9 23

10 Audit Costs

11 The acts and/or omissions of Respondents, as alleged above, entitle the
12 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs
13 for Trust Fund Handling Violations) of the Code.

14 24

15 Costs of Investigation and Enforcement

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

20 WHEREFORE, Complainant prays that a hearing be conducted on the
21 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
22 disciplinary action against all licenses and license rights of Respondents under the Real Estate
23 Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the

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1 audit as permitted by law, and for such other and further relief as may be proper under other
2 provisions of law.

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4 RUTH CORRAL
5 Supervising Special Investigator

6 Dated at Sacramento, California,
7 this 21st day of October, 2022.

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9 DISCOVERY DEMAND

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