

1 TAYLOR HERRLINGER, Counsel (314791)
2 Department of Real Estate
3 651 Bannon Street, Suite 507
4 Sacramento, CA 95811
5 Telephone: (916) 737-4498
6 Email: Taylor.Herrlinger@dre.ca.gov

FILED
JAN 14 2026
DEPARTMENT OF REAL ESTATE
By J. Taggart

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ACON INC, dba CAPITAL MANAGEMENT

and

DAVID NOVELO, individually
and as designated officer of ACON Inc dba
Capital Management,

Respondents.

No. H-7473 SAC

ACCUSATION

The Complainant, HEATHER NISHIMURA, a Supervising Special Investigator of the State of California, for cause of Accusation against ACON INC (“ACON”), dba Capital Management (“CAPITAL”), and DAVID NOVELO (“NOVELO”), hereinafter individually referred to as “Respondent” and/or collectively as “Respondents”, is informed and alleges as follows:

1

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

2

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”).

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

3

At all times mentioned, Respondent ACON was licensed by the Department as a real estate broker corporation. Since March 8, 2016, ACON's real estate broker license was and is a restricted real estate broker license subject to terms, conditions, and restrictions pursuant to Sections 10156.6 and 10156.7 of the Code.

4

At all times mentioned, Respondent NOVELO was individually licensed by the Department as a real estate broker and as the designated officer-broker of ACON. Since March 8, 2016, NOVELO's real estate broker license was and is a restricted real estate broker license subject to terms, conditions, and restrictions pursuant to Sections 10156.6 and 10156.7 of the Code.

5

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

6

At all times mentioned, Respondents 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 Sections 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

///
///

1 SUMMARY OF FACTS

2 7

3 On or about November 14, 2024, ACON dba CAPITAL, entered into a Property
4 Management Agreement (“PMA”) with Eastern Gardens Cooperative Inc. (“EASTERN
5 GARDENS”) for a period of two-years commencing November 15, 2024, whereby CAPITAL
6 was to manage the day-to-day operations of EASTERN GARDENS property located at 3045
7 Eastern Avenue, Sacramento, CA 95821.

8 8

9 EASTERN GARDENS is a partially subsidized United States Department of
10 Housing and Urban Development (“HUD”) housing project with a Housing Assistance Payment
11 (“HAP”) contract consisting of forty (40) units.

12 9

13 Pursuant to the PMA, CAPITAL, in exchange for compensation, is responsible
14 for leasing, operating, managing and maintaining EASTERN GARDENS property in accordance
15 with California Real Estate Law and as per the HAP contract granted by HUD.

16 10

17 EASTERN GARDENS is and was governed by an elected Board of Directors
18 (“BOARD”) responsible for policy development, administration, maintenance, and social
19 activities for the community and property.

20 11

21 The BOARD is and was responsible for securing the PMA with CAPITAL on or
22 about November 14, 2024. At that time, elected President, Shirley Brown (“BROWN”), signed
23 the PMA on behalf of EASTERN GARDENS, and NOVELO signed on behalf of CAPITAL as
24 its Chief Executive Officer (“CEO”).

25 ///

26 ///

27 ///

1 FIRST CAUSE OF ACTION

2 12

3 Complainant refers to paragraphs 1 through 11 above and incorporates the same,
4 herein, by reference.

5 13

6 On or about November 15, 2024, EASTERN GARDENS, through BROWN's
7 signature, and CAPITAL, through NOVELO's, executed a third-party contract with HUD,
8 authorizing CAPITAL to act as property manager for EASTERN GARDENS and to provide for
9 HAP benefits via a 90-day conditional HUD-9839-B form ("HUD FORM"). The terms of the
10 agreement were to last from November 14, 2024, through February 12, 2025, with a non-self-
11 renewal provision.

12 14

13 In or around July 2025, members of the BOARD discovered that a new HUD-
14 9839-B form ("NEW HUD FORM") entitled "Management Agreement" was uploaded to
15 CAPITAL's AppFolio account for EASTERN GARDENS on or about June 12, 2025. Upon
16 review, the BOARD determined that the NEW HUD FORM extended CAPITAL's property
17 management services over EASTERN GARDENS and the HAP benefits from February 12,
18 2025, through November 15, 2026.

19 15

20 Upon closer inspection, the BOARD realized that page 2 of the NEW HUD
21 FORM was a copy of the November 15, 2024, executed HUD FORM. It was determined that
22 President BROWN did not sign the NEW HUD FORM, nor did she authorize the reuse and/or
23 copy of page 2 from the prior HUD FORM to extend CAPITAL as its property manager through
24 HUD. Furthermore, on page 3 of the NEW HUD FORM, where a HUD project manager was
25 required to sign, NOVELO's signature was substituted instead and dated February 12, 2025.

26 ///

27 ///

1 THIRD CAUSE OF ACTION

2 23

3 Complainant refers to paragraphs 1 through 22 above and incorporates the same,
4 herein, by reference.

5 24

6 On or about January 15, 2025, EASTERN GARDENS utilized the services of
7 Capital Staffing, Inc.'s ("STAFFING") Maintenance Technician George Espinoza
8 ("ESPINOZA") to install three (3) security cameras in and around the property office building.
9 ESPINOZA was paid an hourly rate of \$35.65 for the work, which STAFFING then billed to
10 EASTERN GARDENS through ACON dba CAPITAL.

11 25

12 On or about January 15, 2025, EASTERN GARDENS, through ACON dba
13 CAPITAL, received an invoice from CPM Facilities Management ("CPM FACILITIES"), an
14 entity controlled and operated by ACON dba CAPITAL, for labor performed installing a phone
15 system and camera monitoring system. The invoice reflected eight (8) hours of work performed
16 at a rate of \$65.00 per hour, totaling \$520.00.

17 26

18 Upon review, EASTERN GARDENS' BOARD determined that it was twice
19 billed by CPM FACILITIES for the work that STAFFINGS' employee ESPINOZA had already
20 performed.

21 GROUND FOR DISCIPLINE

22 27

23 The acts and/or omissions of Respondents as alleged in the above paragraphs
24 constitute grounds for the suspension or revocation of all licenses and license rights of
25 Respondents pursuant to Sections 10176(a) (substantial misrepresentations), 10176(c) (continued
26 and flagrant course of misrepresentation or making false promises through licensees), 10176(i)
27 (fraud or dishonest dealing), 10177(d) (willful disregard or violation of real estate laws),

1 10177(g) (negligence or incompetence), 10177(j) (fraud or dishonest dealing) and/or 10177(k)
2 (violation of order restricting real estate license) of the Code.

3 PRIOR ADMINISTRATIVE ACTIONS

4 28

5 Case No. H-7250 SAC

6 Effective August 20, 2024, in Department Case No. H-7250 SAC, the Real Estate
7 Commissioner revoked Respondents' real estate licenses, granting the right to restricted licenses
8 under terms and conditions. The grounds for said discipline were numerous audit violations of
9 the California Code of Regulations, Chapter 6, Title 10 ("Regulations") and Sections 10145,
10 10176(e), 10177(d) and 10177(g) of the Code. Further grounds for discipline of NOVELO were
11 failure to supervise under Section 10177(h) of the Code.

12 29

13 Case No. H-6957 SAC

14 Effective May 21, 2021, in Department Case No. H-6957 SAC, the Real Estate
15 Commissioner revoked Respondents' real estate licenses, granting the right to restricted licenses
16 under terms and conditions. The grounds for said discipline were numerous audit violations of
17 the Regulations and Sections 10145, 10177(d) and 10177(g) of the Code. Further grounds for
18 discipline of NOVELO were failure to supervise under Section 10177(h) of the Code.

19 30

20 Case No. H-6099 SAC

21 Effective March 8, 2016, in Department Case No. H-6099 SAC, the Real Estate
22 Commissioner revoked Respondents' real estate licenses, granting the right to restricted licenses
23 under terms and conditions. The grounds for said discipline were numerous audit violations of
24 the Regulations and Sections 10145, 10176(a) and (i), 10177(d), (g), and (j) of the Code. Further
25 grounds for discipline of NOVELO were failure to supervise under Section 10177(h) of the
26 Code.

27 ///

1 COST RECOVERY

2 31

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

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
9 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondents under the Code, for the cost of
11 investigation and enforcement as permitted by law, and for such other and further relief as may
12 be proper under the provisions of law.

13
14 

15 HEATHER NISHIMURA

16 Supervising Special Investigator

17
18
19 Dated at Sacramento, California,

20 This 31st day of December, 2025

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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.