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**FILED**

JUL 07 2008

DEPARTMENT OF REAL ESTATE  
By L. Frost

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
)	NO. H-10245 SF
)	
RALPH EARL HODGEN, )	OAH NO. N2008010155
)	
Respondent. )	
)	

ORDER DENYING RECONSIDERATION

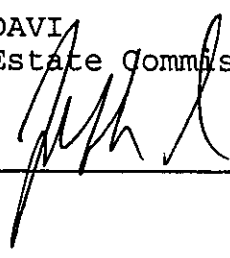
On May 14, 2008, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on June 5, 2008.

On May 22, 2008, Respondent requested a thirty-day stay to petition for reconsideration of the Decision of May 14, 2008.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of May 14, 2008, and reconsideration is hereby denied.

IT IS HEREBY ORDERED 7-3-08

JEFF DAVIS  
Real Estate Commissioner



FAC

**FILED**

MAY 27 2008

DEPARTMENT OF REAL ESTATE

By L. Frost

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-10245 SF
	)	
RALPH EARL HODGEN;	)	
	)	
Respondent.	)	
	)	

ORDER STAYING EFFECTIVE DATE

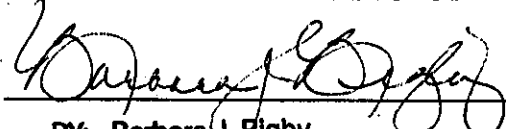
On May 14, 2008, a Decision was rendered in the above-entitled matter to become effective June 5, 2008.

IT IS HEREBY ORDERED that the effective date of the Decision of the Real Estate Commissioner of May 14, 2008, is stayed for a period of thirty (30) days.

The Decision of the Real Estate Commissioner of May 14, 2008, shall become effective at 12 o'clock noon on July 7, 2008.

DATED: 5/27/08

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

**FILED**

MAY 16 2008

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE  
By *[Signature]*

\* \* \*

In the Matter of the Accusation of )  
 )  
RALPH EARL HODGEN, )  
 )  
Respondent. )  
\_\_\_\_\_ )

NO. H-10245 SF  
OAH NO. 2008010155

DECISION

The Proposed Decision dated April 11, 2008, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon

on JUN 05 2008.

IT IS SO ORDERED 5-14-08.

JEFF DAVI  
Real Estate Commissioner

*[Signature]*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

RALPH EARL HODGEN,

Respondent.

Case No. H-10245 SF

OAH No. 2008010155

**PROPOSED DECISION**

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on March 13, 2008.

Complainant E. J. Haberer II, Deputy Real Estate Commissioner, was represented by Michael B. Rich, Counsel, Department of Real Estate.

Respondent Ralph Earl Hodgen represented himself.

The matter was submitted on March 13, 2008.

**FACTUAL FINDINGS**

1. Respondent Ralph Earl Hodgen is licensed and/or has licensing rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) as a real estate broker. At the time of the incidents alleged in the Accusation, respondent was, and is now, licensed by the Department as a real estate broker. Respondent's broker license, initially issued in 1992, expires on September 17, 2008.

2. The Accusation was filed on November 17, 2007. The incidents alleged in the Accusation occurred within three years prior to that date. At the time of the incidents alleged in the Accusation, respondent acted in the capacity of a real estate broker within the meaning of Business and Professions Code sections 10131, subdivisions (a) and (d), in that his business included buying and selling real property on behalf of his clients, and performing services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property.<sup>1</sup>

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<sup>1</sup> All statutory references are to the Business and Professions Code, unless otherwise indicated.

3. From September through December 2006, Raymond E. Areshenko, Department Auditor, audited respondent's records for the period between January 2005 and June 2006. The audit was conducted at respondent's main office located at 3080 Landess Avenue, San Jose, and one of his branch offices located at 1622 E. Capitol Expressway, San Jose.

4. Before he began the audit, Areshenko met with respondent on September 19, 1996 at respondent's main office. At Areshenko's request, respondent produced his files relating to mortgage loans, listing and sales transactions, licensing records and employment agreements for the real estate salespeople employed by respondent. In the course of the audit, Areshenko also collected the business cards of respondent's real estate salesperson employees. According to Areshenko, as of September 18, 2006, respondent had 79 real estate salespeople working for him. At the hearing respondent agreed that he had "78 or 79" real estate agents working for him under his broker license.

5. The audit was conducted by examining records on a sample basis. The purpose of the audit was to determine whether or not respondent had operated his business in accordance with real estate laws and regulations. At the hearing, Areshenko testified with credibility and candor regarding the numerous statutory and regulatory violations he found pursuant to his audit.

#### First Cause of Action

6. Areshenko reviewed respondent's files pertaining to transactions in which he acted as a mortgage loan broker for a number of clients. Areshenko found that documents relating to written disclosure statements were missing or were inadequate in the following four instances: Regarding a loan in the Simmons matter, the written disclosure statement had not been signed by the borrower. Regarding two loans in the Juarez matter, there were no written disclosure statements for either loan. Regarding the loan in the Ledesma matter, respondent had not signed the written disclosure statements. Areshenko also noted that respondent had failed to sign the written disclosure documents executed in connection with three loans obtained by Tai Nguyen.

7. At the hearing, respondent initially testified that he did not know what a borrower disclosure statement was. Later, however, he produced copies of the mortgage loan disclosure forms for the clients referenced above. Respondent produced the written disclosure statement for the Simmons loan that was unsigned by the borrower. In the Juarez and Tai Nguyen matters, respondent acknowledged that the disclosure forms were unsigned by him, and that instead, real estate salesperson Lisa Nguyen signed her name as the broker. He further acknowledged that neither his name nor his broker license number were on the form. In the Ledesma matter, respondent acknowledged that the disclosure form was unsigned by him, and that instead, real estate salesperson Dinh Nguyen signed his name as the broker. Respondent further acknowledged that neither his name nor his broker license number were on the form. Respondent postulated that perhaps the information missing from the forms was on the original disclosure forms, which were forwarded to the lender.

8. Areshenko also found that the "good faith estimate" disclosure forms executed by Simmons, Ledesma, Nguyen, and Juarez were defective in that the forms lacked the following information: respondent's license number; a clear and conspicuous statement that the "good faith estimate" does not constitute a loan commitment; and the Department's license information telephone number. At the hearing respondent submitted his copies of the "good faith estimate forms." He agreed that they lacked the information noted by Areshenko.

9. Respondent stated that he "sporadically" reviews the buyer disclosure statements for accuracy. He also stated that other people in his office who were not brokers, reviewed the accuracy of buyer disclosure statements.

### Second Cause of Action

10. During his audit, Areshenko compiled a list of the real estate salespeople employed by respondent and compared it to Department records. Areshenko determined that respondent had not produced salesperson licenses for the following real estate salespeople employed by him: Helen Lok Lee, My Cuc Ly, Dinh Quac Nguyen, Billy Phat Nguyen, Duc Thai, Larry S. Perez, Bang Van Tran, Vuong Nguyen and Gregory Onzo. At the hearing, respondent produced copies of the salesperson licenses for these salespeople, with the exception of Perez and Onzo. Respondent testified that he did not have a license for Onzo because Onzo only "joined" respondent for "less than a year." Respondent did not offer any explanation as to why he failed to produce these records at the audit. He did say, however, that the task of maintaining the license certificates of his real estate salesperson employees is an ongoing "work in progress."

11. Areshenko also compared the list of salespeople in respondent's office to the Department's license certification history for respondent, which was submitted into evidence at the hearing. From this comparison of records, Areshenko determined that respondent failed to timely notify the Department regarding his employment of Anna Nguyen and Mylien Thi Nguyen, after they renewed their licenses. At the hearing respondent "could not say what happened." He stated that he had sent the Department the required paperwork, but that he could not "make" the Department add his name as sponsoring broker to his employees' real estate salesperson license.

12. Areshenko further determined that respondent failed to notify the Department that the following real estate salespeople were employed by him: Garrett Hung Dang, Alfonso Armendariz, Ricky James Vasquez, and Fatollah Ghlichoo. The supporting documentation submitted in evidence with Areshenko's audit report contained business cards from each of these salespeople, bearing the address of respondent's main or branch office. At the hearing, respondent initially testified that these salespeople never worked for him. He then testified that they did not work for him at the time of the audit. Upon further questioning, he said he did not remember if they worked for him. Later, he testified that

"Garrett might have worked for him," and that Alfonso "came around for awhile." He denied, however, knowing "Ricky" or "Fatollah" at all.

13. Based upon his review of respondent's employment records, Areshenko also found that respondent did not have written broker-agent employment agreements containing respondent's signature for the following real estate salespeople: Carlos Martinez, Jr., Lisa Loc Nguyen, Vuong Khac Nguyen, Bang Tran and Pawandee Phangureh. Areshenko noted that Phangureh's broker-agent agreement with respondent was signed by Anna Nguyen, instead of respondent. At the hearing, respondent produced written employment agreements bearing his signature for Martinez, Jr., Vuong Khac Nguyen, and Bang Tran. He did not offer any explanation as to why these records were not produced at the audit.

### Third Cause of Action

14. At the audit, respondent provided Areshenko with a list of branch offices and employees in each office. Areshenko called each of the branch offices and determined that respondent was conducting business from each branch office. He further determined that respondent had neither applied for nor obtained from the Department a license for each branch office from which he was conducting business. In total, Areshenko determined that respondent had operated eight unlicensed branch offices at the following addresses: 98 S. Abel Street, Milpitas; 1600 5th Place, Delano; 9456 Stonespring Road, Elk Grove; 1313 N. Milpitas Blvd., Suite 130, Milpitas; 2355 Oakland Road, Suite 8, San Jose; 513 Victor Street, Salinas; 1500 Wyatt Drive, Suite 3, Santa Clara; and, 3078 Landess Avenue, San Jose.

15. At the hearing, respondent stated that he did not apply to the Department for licenses for these sites because they were not branch offices. He also submitted into evidence a spread-sheet listing the offices described above. With the exception of the office located at 3078 Landess Avenue, which respondent designated as "active" on his spread-sheet, all other offices were annotated as "never a branch or DBA," or closed for years prior to the audit.

16. Upon questioning, however, respondent testified otherwise. He stated that a number of real estate salespeople registered to him were doing business on his behalf at the unlicensed addresses: Carolyn and Don Do were sales agents working under his license on 98 S. Abel Street; Lu Arucan was a part-time agent for him at 1600 5th Place. He further stated that he didn't apply for a branch license because the amount of business Arucan conducted did not, in his opinion, "justify" filing for a branch office license. Jenny La was an agent with his company who worked out of the office at 9456 Stonespring Road. While respondent testified that this office closed a few years ago, his spread-sheet indicated that this office closed in "1998-1999." Despite these representations, Areshenko's audit report indicated that on December 21, 2006, office manager CP Chauhan verified to Areshenko that the office on Stonespring Road was active. Respondent also acknowledged that agents Stacy Truong and Trina Nguyen worked in the 2355 Oakland Road office in early 2006, but that the office "didn't fly" and was closed sometime in 2006. Respondent also acknowledged the existence of a branch office at 1313 N. Milpitas Blvd. He maintained that it had been

previously registered as a branch, and that it had closed in 2003. Respondent also acknowledged that a branch office was located at 513 Victor Street. He maintained, however, that it had been previously registered as a branch, and that it had closed in 2002. Respondent acknowledged that real estate salespeople Anna and Bruce Nguyen worked for him at the office located at 3078 Landess Avenue. He never applied for a branch license because, in respondent's words, they "weren't producing much."

17. Respondent also named four real estate salespeople who are employed by him and work out of their homes in Brentwood, Pittsburg, San Joaquin County and Fresno. He stated that he supervises their work over the telephone, by facsimile, and sometimes in person.

#### Fourth Cause of Action

18. During the course of the audit, respondent also provided Areshenko with a list of fictitious business names that were being used at his offices. Areshenko determined that respondent was using the following fictitious business names, for which he had neither applied for nor obtained licensure from the Department: American Real Estate, Realty World, Sterling Realty and Finance, SMG Associates, Centeno Home and Mortgage, and California Home Loans. Respondent's spread-sheet indicated that he never did business under these names. Later in his testimony, however, he acknowledged that business was conducted at many, if not all, of these establishments under these names. He also stated that he registered Realty World as a "dba" but that it closed in 2003.

19. Areshenko also determined that respondent was using the fictitious business name of Prudential California Realty on office signage, mortgage loan documents, sales and listing agreements, and employee business cards. Areshenko further determined that respondent had provided a deficient application for licensure in 2004, and that he had never obtained licensure for using the name of Prudential California Realty. According to respondent, he did not apply for a "dba" license for Prudential California Realty, because that location was not very busy.

#### Fifth Cause of Action

20. When Areshenko audited respondent's listing files, he noted that respondent had failed to retain a copy of the listing agreement to sell real property located at 795 Allen Way, Yuba City, California. The listing agreement was not in the file at the time of the audit. At the hearing, respondent produced a copy of the listing agreement, but the agreement was not signed by respondent or by the real estate salesperson, and it did not contain either of their license numbers.

#### Sixth Cause of Action

21. When Areshenko audited respondent's files, he noted that respondent had failed to keep records relating to pest control reports and certification and notice of work



completed, including a record of delivery of such documents, in connection with the sale of real property located at 795 Allen Way, Yuba City, California. At the hearing, respondent produced documents from the sale of the property at 795 Allen Way. The documents contained a transmittal receipt from the buyer for the termite inspection report. The records produced by respondent at the hearing did not contain a copy of the actual inspection report or a notice of work completed.

#### Matter in Aggravation: Prior Discipline

22. Effective November 28, 2005, respondent's real estate broker license was suspended for 15 days. The suspension was stayed for two years, subject to respondent's payment of a monetary penalty and his satisfaction of other terms and conditions. Respondent's license was suspended for violating section 10177, subdivision (h). As the designated broker officer of corporate real estate broker licensee California Home Loans Bancorp, Inc., he failed to properly supervise the activities of the corporation, thereby causing the corporation to commit the following violations of statutes and regulations relating to trust account record-keeping and management: title 10, California Code of Regulations, sections 2831, 2831.1, 2832, and 2834; and sections 10145 and 10176, subdivision (e). The violations were discovered after a Department audit of records of the period from January 1, 2001 through August 30, 2002. At the prior hearing, respondent described the audit as a "wake-up call." He stated his intention to diligently monitor the activities of his business in the future, to ensure that it complied with applicable laws and regulations.

At the hearing in the instant case, respondent asserted that his prior discipline should not be considered because "From November 28, 2005 until November 28, 2007, there was no further cause for disciplinary action against him."

### LEGAL CONCLUSIONS

#### First Cause of Action

1. Section 10240, subdivision (a), provides that a broker who negotiates a mortgage loan on behalf of a borrower within the meaning of section 10131, must provide the borrower with a written disclosure statement. Such statements must be signed by the borrower and the broker, or by a real estate licensee acting for the broker in negotiating the loan. Such statement must contain all of the information, as required by section 10241.<sup>2</sup> Based on the matters set forth in Factual Findings 6 and 7, cause for discipline exists under this section as it interacts with section 10177, subdivision (d).

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<sup>2</sup> Section 10241 sets forth a lengthy list of items that must be contained in a borrower disclosure Statement.

2. Section 10240, subdivision (c), requires, in pertinent part, that borrowers must be provided with a "good faith estimate" disclosure containing the broker's license number as well as a "clear and conspicuous statement on the face of the document stating that the 'good faith estimate' does not constitute a loan commitment." Based on the matters set forth in Factual Finding 8, cause for discipline exists under this section, as it interacts with section 10177, subdivision (d).

3. Section 10236.4, subdivision (b), provides that the disclosures required by section 10240 must include the broker's license number as well as the Department's license information telephone number. Based on the matters set forth in Factual Findings 6 through 8, cause for discipline exists under this section, as it interacts with section 10177, subdivision (d).

### Second Cause of Action

4. Section 10160 requires that the employing real estate broker have in his possession the real estate salesperson license, until such license is cancelled or until the salesperson leaves the employ of the broker. Under section 10160, the broker is also required to make the licenses of his salespeople available for inspection by the commissioner or his designated representative. Similar provisions are contained in title 10, California Code of Regulations, section 2753. Based on the matters set forth in Factual Finding 10, cause for discipline exists under these sections, as they interact with sections 10165 and 10177, subdivision (d).

5. Section 10161.8 requires that the broker shall immediately notify the Department in writing whenever a real estate salesperson either enters or terminates employment with the broker. Title 10, California Code of Regulations, section 2752, provides that when a real estate salesperson enters the employ of a broker, the broker must notify the Department of that fact within five days. This regulation also sets forth the detailed information that must be provided to the Department. It further provides that that notification shall be given on a form provided by the Department, and signed by the broker and real estate salesperson. Based on the matters set forth in Factual Findings 11 and 12, cause for discipline exists under these sections as they interact with sections 10165 and 10177, subdivision (d).

6. Title 10, California Code of Regulations, section 2726, provides that a real estate broker must have a written agreement with each of his salespeople, which shall be dated and signed by the parties. This section further provides that the agreement must include provisions regarding the supervision of licensed activities, duties and compensation. Based on the matters set forth in Factual Finding 13, cause for discipline exists under this section, as it interacts with section 10177, subdivision (d).

### Third Cause of Action

7. Section 10163 provides that brokers must apply for and obtain a license for each branch office maintained by him. That section further provides that the Department may determine whether or not a broker is operating a brokerage business at any location, which requires a branch office license. Title 10, California Code of Regulations, section 2715, provides that every broker shall maintain on file with the Department the address of his principal place of business, and the address of each branch business office. That section further provides that if the address or location of the principal place of business or a branch office changes, the broker must notify the Department of such change no later than the next business day following the change. Based on the matters set forth in Factual Findings 14 and 16, cause for discipline exists under these sections, as they interact with sections 10177, subdivision (d) and 10165.

### Fourth Cause of Action

8. Title 10, California Code of Regulations, section 2715, prohibits a broker from using a fictitious name in the course of conducting his business as a broker, unless the broker applies for and obtains a license from the Department that bears the fictitious name. Section 10159.5 provides that where a broker desires to have his license issued under a fictitious business name, he must file "with his application a certified copy of his fictitious business name statement filed with the county clerk." Based on the matters set forth in Factual Findings 18 and 19, cause for discipline exists under these sections, as they interact with sections 10177, subdivision (d) and 10165.

### Fifth Cause of Action

9. Section 10148, subdivision (a), requires that a licensed real estate broker retain copies of all listings executed or obtained by him in connection with transactions for which a real estate broker license is required for a period of three years. Based on the matters set forth in Factual Finding 21, cause for discipline exists under this section, as it interacts with section 10177, subdivision (d).

### Sixth Cause of Action

10. Section 10148, subdivision (a), requires that a licensed real estate broker retain copies of all listings executed or obtained by him in connection with transactions for which a real estate broker license is required, for a period of three years. Respondent's failure to maintain copies of the pest control inspection report and certification and notice of work completed, as set forth in Factual Finding 22, constitutes cause for discipline under this section, as it interacts with section 10177, subdivision (d).

11. Title 10, California Code of Regulations, section 2905, requires a real estate broker to deliver copies of the pest control inspection report, certification and notice of work completed to the buyer. Inasmuch as respondent produced evidence that the termite

inspection report was provided to the buyers of the subject property, cause for discipline does not exist under this section.

### Appropriate Discipline

12. The Department is charged with the responsibility of monitoring the activities of its licensees to ensure compliance with applicable rules and regulations. In order to ensure the public's protection, the Department must be satisfied that its licensees are willing and able to conduct their business within the bounds of the law, and that they exercise diligence in doing so. This is especially true in cases such as this, where a broker employs approximately 80 real estate salespeople dispersed in a number of offices and geographical locations. Respondent's misconduct demonstrated a pattern of failing to comply with numerous statutes and regulations, including failing to obtain proper licensing for his branch offices and for his use of fictitious business names. He further failed to notify the Department regarding his employment and/or termination of numerous estate licensees. He also failed to retain proper records relating to the employment of real estate employees, or for clients served by them. Respondent also failed to affix his signature to a variety documents. In several instances, his real estate licensees signed documents on the line indicated for the broker's signature. Other loan-related documents failed to include dates and other information as mandated by law.

As set forth above, respondent's failure to keep the Department informed as to the existence of his branch offices, his use of fictitious names, and the salespeople employed by him makes it impossible for the Department to monitor respondent's activities, or the licensees in his employ. Additionally, when documents are missing from respondent's files, or where they are unsigned, the Department cannot determine if respondent has properly reviewed the work of his licensees. Where, as here, a broker is unable or unwilling to comply with the applicable laws and regulations, the Department lacks assurances that the public will be adequately served in the future.

Respondent failed to establish that he has rehabilitated himself from his misconduct. Moreover, it is particularly troubling that, as reflected in his prior disciplinary proceedings, respondent's failure to conduct his business in accordance with statutory rules and regulations are not isolated instances. The present disciplinary proceedings demonstrated that respondent has not followed through with his commitment at his prior hearing, to comply with applicable rules and regulations. Consequently, respondent failed to prove that he is rehabilitated to the point that it would be in the public interest to allow him to retain his real estate broker license, even on a restricted basis. Accordingly, it is determined that revocation is the appropriate discipline.

ORDER

By reason of Legal Conclusions 1 through 12, jointly and individually, all licenses and licensing rights of respondent Ralph Earl Hodgen under the Real Estate Law are revoked.

DATED: April 11, 2008



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DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings

**FILED**

NOV 16 2007

DEPARTMENT OF REAL ESTATE

By *[Signature]*

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6  
7 Telephone: (916) 227-0789

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-10245 SF  
13 )  
14 RALPH EARL HODGEN, ) ACCUSATION  
15 )  
16 Respondent. )

17 The Complainant, E. J. HABERER II, a Deputy Real  
18 Estate Commissioner of the State of California, for Causes of  
19 Accusation against RALPH EARL HODGEN dba BETTER HOMES AND  
20 FINANCE, CALIFORNIA HOME AND MORTGAGE, CALIFORNIA HOME AND,  
21 MORTGAGE-FIVESTAR, FUTURE HOMES REALTY, MIKASA REALTY & HOME  
22 LOANS, NEST REAL ESTATE, STATEWIDE HOME LOANS, and SUPREME HOME  
23 AND MORTGAGE, is informed and alleges as follows:

24 FIRST CAUSE OF ACTION

25 I

26 Respondents RALPH EARL HODGEN, (hereafter referred to as  
27 "Respondent") is presently licensed and/or has license rights

1 under the Real Estate Law, Part 1 of Division 4 of the California  
2 Business and Professions Code (hereafter "the Code").

3  
4 II

5 The Complainant, E. J. HABERER II, a Deputy Real  
6 Estate Commissioner of the State of California, makes this  
7 Accusation against Respondent in his official capacity and not  
8 otherwise.

9  
10 III

11 At all times herein mentioned, Respondent was and is  
12 licensed by the Department of Real Estate (hereafter "the  
13 Department") as a real estate broker.

14 IV

15 At all times herein mentioned, Respondent engaged in  
16 the business of, acted in the capacity of, advertised, or  
17 assumed to act as real estate brokers within the meaning of  
18 Sections 10131(a) and 10131(d), including:

19 (a) Selling or offering to sell, buying or offering to  
20 buy, soliciting prospective sellers or purchasers  
21 of, soliciting or obtaining listings of, or  
22 negotiating the purchase, sale or exchange of real  
23 property or a business opportunity; and,

24 (b) Soliciting borrowers or lenders for or negotiating  
25 loans or collecting payments or performing  
26 services for borrowers or lenders or note owners  
27 in connection with loans secured directly or

1 collaterally by liens on real property or on a  
2 business opportunity.

3 V

4 Within the three year period next preceding the filing  
5 of this Accusation, in connection with the loan brokerage  
6 business described in Paragraph IV(b), above, Respondent failed  
7 to provide and/or failed to retain for a period of three (3)  
8 years the "Borrower Disclosure" statement, as signed and dated  
9 by the borrowers and/or by the broker, as required by Section  
10 10240 of the Code, in conformance with Section 10241 of the  
11 Code, including, but not limited to, the following transactions:

<u>Borrower</u>	<u>Property</u>	<u>Close Date</u>
14 Kil Ye Simmons	3539 Ivalynn Circle San Jose, California	11/23/05
15	Borrower Disclosure Statement not signed by borrower.	
16		
17 Josephine Juarez	811 Kennedy Place Tracy, California	4/21/06
18	No Borrower Disclosure statements maintained by broker.	
19		
20 Pedro Ledesma	2561 Arctic Avenue San Jose, California	5/1/06
21	Borrower Disclosure Statement has no dates for borrowers' signatures; broker did not sign.	
22		
23 Tai Nguyen	15 Astrida Dive #1 Hayward, California	3/17/05
24	Borrower Disclosure Statement has no date for borrower's signature; broker did not sign.	

25 VI

26 Within the three year period next preceding the filing  
27 of this Accusation, in connection with the loan brokerage



1 business described in Paragraph IV(b), above, Respondent failed  
2 to provide and/or failed to retain for a period of three (3)  
3 years the "Good Faith Estimate," as required by Section 10240 of  
4 the Code, containing, in conformance with Section 10240(c) of  
5 the Code a clear and conspicuous statement that the Good Faith  
6 Estimate "does not constitute a loan commitment" and which sets  
7 forth the broker's real estate license number, including, but  
8 not limited to, the following federally regulated loan  
9 transactions:

<u>Borrower</u>	<u>Property</u>	<u>Close Date</u>
Kil Ye Simmons	3539 Ivalynn Circle San Jose, California	11/23/05
Josephine Juarez	811 Kennedy Place Tracy, California	4/21/06
Pedro Ledesma	2561 Arctic Avenue San Jose, California	5/1/06
Tai Nguyen	15 Astrida Dive #1 Hayward, California	3/17/05

VII

21 Within the three year period next preceding the filing  
22 of this Accusation, in connection with the loan brokerage  
23 business described in Paragraph IV(b), above, Respondent failed  
24 to provide and/or failed to retain for a period of three (3)  
25 years the "Borrower Disclosure" statement, as signed and dated  
26 by the borrowers and/or by the broker, as required by Section  
27 10240 of the Code, containing, in conformance with Section

1 10236.4(b) of the Code, the broker's real estate license number  
2 and the Department's license information telephone number,  
3 including, but not limited to, the following transactions:

<u>Borrower</u>	<u>Property</u>	<u>Close Date</u>
Kil Ye Simmons	3539 Ivalynn Circle San Jose, California	11/23/05
Josephine Juarez	811 Kennedy Place Tracy, California	4/21/06
Pedro Ledesma	2561 Arctic Avenue San Jose, California	5/1/06
Tai Nguyen	15 Astrida Dive #1 Hayward, California	3/17/05

VIII

15 The acts and/or omissions of Respondent as alleged  
16 above constitute grounds for the revocation or suspension of  
17 Respondent's license and/or license rights under the following  
18 provisions:

- 19 (a) As alleged in Paragraph V, under Section 10240  
20 and 10241 of the Code under the provisions of  
21 Section 10177(d) of the Code;
- 22 (b) As alleged in Paragraph VI, under Section 10240  
23 and 10240(c) of the Code under the provisions of  
24 Section 10177(d) of the Code; and,
- 25 (d) As alleged in Paragraph VII, under Section 10240  
26 and 10236.4(b) of the Code under the provisions  
27 of Section 10177(d) of the Code.

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SECOND CAUSE OF ACTION

IX

There is hereby incorporated in this Second, separate and distinct Cause of Action, all of the allegations contained in Paragraphs I through VI, inclusive, of the First Cause of Action with the same force and effect as if herein fully set forth.

X

Within the three year period next preceding the filing of this Accusation and at all times herein mentioned, Respondent employed Helen Lok Lee, My Cuc Ly, Dinh Quac Nguyen, Billy Phat Nguyen, Duc Thai, Larry S. Perez, Bang Van Tran, Vuong Nguyen and Gregory Onzo as licensed real estate salesperson employees without having actual possession of the license certificate of said employees and/or failed to make said licenses available for inspection by the designated representative of the Real Estate Commissioner in violation of Section 10160 of the Code and Section 2753 of Chapter 6, Title 10, California Code of Regulations (hereinafter "the Regulations").

XI

Within the three year period next preceding the filing of this Accusation Respondent employed Anna Nguyen as a licensed real estate salesperson beginning on or about April 4, 2006. Respondent did not notify the Commissioner of the Department of Real Estate until on or about December 11, 2006, of his employment of Anna Nguyen in violation of Section 10161.8 of the Code and Section 2752 of the Regulations.

1 XII

2 Within the three year period next preceding the filing  
3 of this Accusation and at all times herein mentioned, Respondent  
4 employed Mylien Thi Nguyen as a licensed real estate  
5 salesperson. Respondent did not notify the Commissioner of the  
6 Department of Real Estate until on or about July 18, 2007, of  
7 his employment of Mylien Thi Nguyen in violation of Section  
8 10161.8 of the Code and Section 2752 of the Regulations.

9 XIII

10 Within the three year period next preceding the filing  
11 of this Accusation and at all times herein mentioned, Respondent  
12 employed Garrett Hung Dang, Alfonso Armendariz, Ricky James  
13 Vasquez, and Fatollah Ghlichloo as licensed real estate  
14 salespersons. Respondent did not notify the Commissioner of the  
15 Department of Real Estate of his employment of Garrett Hung  
16 Dang, Alfonso Armendariz, Ricky James Vasquez, and Fatollah  
17 Ghlichloo in violation of Section 10161.8 of the Code and Section  
18 2752 of the Regulations.

19 XIV

20 Within the three year period next preceding the filing  
21 of this Accusation and at all times herein mentioned, Respondent  
22 employed Carlos Martinez, Jr., Lisa Loc Nguyen, Vuong Khac  
23 Nguyen, Bang Tran, and Pawandee Phangureh as licensed  
24 salesperson employees without a written employment agreement as  
25 signed by the broker in violation of Section 2726 of the  
26 Regulations.

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1 XV

2 The facts alleged above constitute cause for the  
3 suspension or revocation of the licenses and license rights of  
4 Respondent under the following provisions:

- 5 (a) As alleged in Paragraph X, under Section 10160 of  
6 the Code and Section 2753 of the Regulations  
7 under the provisions of Sections 10165 and  
8 10177(d) of the Code;
- 9 (b) As alleged in Paragraphs XI, XII, and XIII under  
10 Section 10161.8 of the Code under the provisions  
11 of Sections 10165 and 10177(d) of the Code; and,
- 12 (c) As alleged in Paragraph XIV, under Section 2726  
13 of the Code under the provisions of Section  
14 10177(d) of the Code.

15 THIRD CAUSE OF ACTION

16 XVI

17 There is hereby incorporated in this Third, separate  
18 and distinct Cause of Action, all of the allegations contained  
19 in Paragraphs I through XV, inclusive, of the First and Second  
20 Causes of Action with the same force and effect as if herein  
21 fully set forth.

22 XVII

23 Within the three year period next preceding the filing  
24 of this Accusation and at all times herein mentioned, Respondent  
25 maintained more than one place of business and failed to apply  
26 for and procure an additional license for each branch office so  
27 maintained at the following locations:

- 1 (a) 98 S. Abel Street, Milpitas California;  
2 (b) 1600 5th Place, Delano, California;  
3 (c) 9456 Stonespring Road, Elk Grove, California;  
4 (d) 1313 N. Milpitas Blvd., Suite 130, Milpitas,  
5 California;  
6 (e) 2355 Oakland Road, Suite 8, San Jose, California;  
7 (f) 513 Victor Street, Salinas, California;  
8 (g) 1500 Wyatt Drive, Suite 3, Santa Clara,  
9 California; and,  
10 (h) 3078 Landess Avenue, San Jose, California.

11 XIV

12 The facts alleged in Paragraph XVII, above, are a  
13 violation of Section 2715 of the Regulations and Section 10163 of  
14 the Code and are grounds for the suspension or revocation of  
15 Respondent's license under the provisions of Section 10165 and  
16 Section 10177(d) of the Code.

17 FOURTH CAUSE OF ACTION

18 XV

19 There is hereby incorporated in this Fourth, separate  
20 and distinct Cause of Action, all of the allegations contained  
21 in Paragraphs I through XIV, inclusive, of the First, Second,  
22 and Third Causes of Action with the same force and effect as if  
23 herein fully set forth.

24 XVI

25 Within the three year period next preceding the filing  
26 of this Accusation and at all times herein mentioned, Respondent  
27 utilized and conducted his real estate brokerage activities, as

1 set forth in Paragraph IV, above, under the following fictitious  
2 business names:

- 3 (a) American Real Estate;
- 4 (b) Realty World;
- 5 (c) Sterling Realty and Finance;
- 6 (d) ZMG Associates;
- 7 (e) Centeno Home and Mortgage;
- 8 (f) California Home Loans; and,
- 9 (g) Prudential Realty

10 XVII

11 At no time did the Department issue a real estate  
12 license to Respondent bearing any of the fictitious business  
13 names recited in Paragraph XVI, above.

14 XVIII

15 The facts, as alleged in Paragraphs XVI and XVII,  
16 above, constitute a violation of Section 2731 of the Regulations  
17 and Section 10159.5 of the Code and are grounds for the  
18 suspension or revocation of Respondent real estate broker  
19 license under the provisions of Section 10177(d) of the Code.

20 FIFTH CAUSE OF ACTION

21 XIX

22 There is hereby incorporated in this Fifth, separate  
23 and distinct Cause of Action, all of the allegations contained  
24 in Paragraphs I through XVIII, inclusive, of the First, Second,  
25 Third, and Fourth Causes of Action with the same force and  
26 effect as if herein fully set forth.  
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XX

Respondent failed to maintain copies of all listings executed by him or obtained by him in connection with transactions for which a real estate license is required for a period of three years as required by Section 10148 of the Code, including the listing agreement to sell real property identified as 795 Allen Way, Yuba City, California on behalf of seller XSI Intermediary.

XXI

Respondent failed to maintain a record of delivery of the pest control inspection report and certification and notice of work completed to buyers for a period of three years as required under Section 2905 of the Regulations and as required by Section 10148 of the Code, in connection with the sale of real property identified as 795 Allen Way, Yuba City, California to buyers Felix J. Montoya and Jovich Jacobo on behalf of seller XSI Intermediary.

XXII

The facts alleged above constitute cause for the suspension or revocation of the licenses and license rights of Respondent under the following provisions:

- (a) As alleged in Paragraph XX, under Section 10148(a) of the Code under the provisions of Section 10177(d) of the Code; and,
- (b) As alleged in Paragraphs XXI under Section 2905 of the Regulations and Section 10148 of the Code under the provisions of Section and 10177(d).



1 XXIII

2 MATTERS IN AGGRAVATION

3 PRIOR PROCEEDING


4 Effective November 28, 2005, in Case No. H-3921 SAC and  
5 OAH Case No. N2005060403, the real estate broker license of  
6 Respondent was suspended for fifteen (15) days, subject to stay  
7 for a period of two years upon payment of a monetary penalty of  
8 \$250.00 per day for a total penalty of \$3,750.00 upon terms and  
9 conditions that said stay shall become permanent if no further  
10 cause for disciplinary action occurs within two (2) years of the  
11 effective date of the Decision. Respondent's broker license was  
12 suspended for violating Section 10177(h) of the Business and  
13 Professions Code for failure, as designated broker officer of  
14 corporate real estate broker licensee CALIFORNIA HOME LOANS  
15 BANCORP, INC., to properly supervise the licensed activities of  
16 said corporation and thereby permitting or causing said corporate  
17 licensee to violate Section 10145 of the Code and Sections 2831,  
18 2831.1, 2831.2, 2832, and 2834 of the Regulations in conjunction  
19 with Section 10177(d) of the Code and to violate Section 10176(e)  
20 of the Code.

21 WHEREFORE, Complainant prays that a hearing be  
22 conducted on the allegations of this Accusation and that upon  
23 proof thereof a decision be rendered imposing disciplinary  
24 action against all license(s) and license rights of Respondent  
25 under the Real Estate Law (Part 1 of Division 4 of the Business

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1 and Professions Code), and for such other and further relief as  
2 may be proper under other provisions of law.

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5 \_\_\_\_\_  
6 E. J. HABERER II  
Deputy/Commissioner

7  
8 Dated at Oakland, California  
9 this 5<sup>th</sup> day of November, 2007

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