

FILED

NOV 19 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-10845 SF
CHARLENE GOODRICH LOAN SERVICING,)	
INC., MARLISA RODRIGUEZ and CHARLENE)	OAH NO. 2010020915
MARIE GOODRICH,)	
)	
Respondents.)	
_____)	


DECISION

The Proposed Decision dated October 11, 2010, 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 DEC 10 2010

IT IS SO ORDERED 11-18-2010

JEFF DAVI
Real Estate Commissioner



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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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DEPARTMENT OF REAL ESTATE

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In the Matter of the Accusation Against:

CHARLENE GOODRICH LOAN
SERVICING, INC.; MARLISA
RODRIGUEZ; and CHARLENE
MARIE GOODRICH,

Respondents.

Case No. H-10845 SF

OAH Case No. 2010020915

PROPOSED DECISION

Administrative Law Judge Marilyn A. Woollard, Office of Administrative Hearings (OAH), State of California, heard this matter in Sacramento, California, on August 26, 2010.

Richard Uno, Real Estate Counsel, Department of Real Estate (Department), represented complainant E.J. Haberer, II, a Deputy Real Estate Commissioner of the State of California (complainant).

J. Anne Rawlins, Attorney at Law, represented respondent Marlisa Rodriguez, who was present.

There was no appearance by or on behalf of respondents Charlene Goodrich or Charlene Goodrich Loan Servicing, Inc.

Oral and documentary evidence was received. At the conclusion of the hearing, the parties offered oral closing arguments. The record was then closed.

On September 30, 2010, OAH received a copy of the Department's Order Accepting Voluntary Surrender of Ms. Goodrich's Real Estate License. The record was reopened to accept this document, which was marked for identification and admitted as complainant's Exhibit 10. The matter was submitted for decision on September 30, 2010.

FACTUAL FINDINGS

1. On June 6, 1978, the Department issued a real estate salesperson license to respondent Charlene Marie Goodrich. On March 16, 1982, Ms. Goodrich was issued a broker license, License Number B/00665738. This license was scheduled to expire on March 28, 2010.
2. On April 2, 1997, the Department issued real estate corporation broker License Number C 01220325, to Charlene Goodrich Loan Servicing, Inc. (CGLS), of 375 E Street, Suite 120, Santa Rosa, California. CGLS's business activities have included mortgage loan brokerage and loan servicing within the meaning of Business and Professions Code section 10131, subdivision (d).¹ CGLS's corporate broker license expired on April 1, 2009 and has not been renewed.
3. On July 10, 2002, the Department issued a real estate salesperson license to respondent Marlisa Rodriguez. On March 1, 2007, Ms. Rodriguez was issued a broker license, License Number B/01342955. This license is set to expire on February 28, 2011.
4. Respondent Goodrich was CGLS's designated officer from its initial licensure until April 3, 2008. In late March 2008, respondent Goodrich sold CGLS to respondent Rodriguez. On April 3, 2008, respondent Rodriguez replaced respondent Goodrich as CGLS's designated officer, and she remained its designated officer until October 8, 2008, when CGSL closed its office and ceased doing business.
5. *Accusation:* On January 28, 2010, complainant made and signed an Accusation seeking to discipline the licenses of respondents CGLS, Charlene Goodrich and Marlisa Rodriguez based upon the findings of Department auditor Robert Leonard for the audit period from January 1, 2007 through July 30, 2008.

Complainant alleged that CGLS's conduct described below violated Title 10 of the California Code of Regulations (CCR), sections 2831.1, 2831.2, 2832, and 2834, and Business and Professions Code sections 10145, 10148, and 10240, by:

¹ Unless indicated otherwise, all references to statutes are to the California Business and Professions Code.

Section 10131, subdivision (d), provides that a "real estate broker . . . is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others: . . . (d) Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity."

failing to deposit all trust fund monies into designated trust accounts; failing to maintain separate beneficiary records for some accounts; failing to perform and/or maintain monthly reconciliation records for some accounts; having trust fund shortages of \$2,185.58 and \$767,000 in two accounts as of May 31, 2008; allowing unlicensed individuals without surety bonds to withdraw funds from some accounts; failing to maintain adequate copies of cancelled checks from some accounts; and failing to provide complete and accurate Lender Purchaser Disclosure Statements/Good Faith Estimates to two investors.

In addition, complainant alleged that respondent Marlisa Rodriguez violated sections 10145 and 10176, subdivisions (a) and (i), and CCR section 2832, by: transferring \$1,730,123.01 from nineteen single beneficiary reserve accounts to what the auditor designated as Bank #2 (see Finding 12 for bank designations), then transferring this amount to Bank #3 on April 10, 2008; transferring \$500,000 from Bank No. 3 to the American River Bank, the "Immobiliare, LLC" Account Number 410024184 (also called the Romo Account, for respondent Rodriguez's brother, David Romo) on April 11, 2008; transferring an additional \$267,000 from Bank No. 3 to the Romo Account on May 16, 2008; failing to obtain the written consent of the principals, who were the owners of the \$767,000 in trust funds for the transfers to the Romo Account; and (5) making two deposits of \$500,000 and \$267,000 to Bank No. 3 on June 30, 2008.

Finally, the complainant alleged that, during the audit period, either respondent Goodrich or respondent Rodriguez was CGLS's designated broker officer, and was responsible for the control and supervision of activities conducted by CGLS's officers and employees. Complainant alleged these individual respondents failed to exercise reasonable supervision and control over CGLS's property mortgage loan brokering activities in violation of section 10159.2 and CCR section 2715. The acts and omissions alleged were grounds for discipline under sections 10176, subdivisions (a) and/or (i), and 10177, subdivisions (d), (g), and/or (h).²

7. On February 3, 2010, respondent Rodriguez filed a Notice of Defense. Thereafter, the matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500, et. seq.

8. *Status of Respondent Goodrich:* At the hearing, Mr. Uno advised that respondent Goodrich entered into a settlement with the Department, pursuant to which she voluntarily surrendered her broker license. On September 30, 2010, OAH

² At the commencement of the hearing and without objection, the Accusation was amended at page 5, line 11 to add an additional ground for discipline under section 10177, subdivision (g). As amended, page 5, line 11 asserts: "and are grounds for discipline under Section 10177(d) and Section 10177(g) of the Code."

received a copy of the Department's Order Accepting Voluntary Surrender of Real Estate License, incorporating respondent Goodrich's Declaration. (Exhibit 10.) The Order was signed by the Commissioner on September 29, 2010, and is effective October 20, 2010. Pursuant to this Order and section 10148, the real estate broker license of respondent Goodrich is surrendered and she is jointly and severally liable for the cost of Audit No. OK-08-0008, in the amount of \$14,852.19.

9. *Status of Respondent CGLS:* At hearing, it was established that CGLS was properly served with the Accusation and the Notice of Hearing. Pursuant to Government Code section 11520, the matter proceeded as a default against CGLS.

* * *

Audit and Audit Findings

10. A July 1, 2008, the Los Angeles Times published an article by Michael A. Hiltzik, entitled "*Malibu Investors Left High and Dry.*" The article stated that the "Malibu loans were brokered through Charlene Goodrich, 72, a Santa Rosa, Calif., loan broker who has been in the business since 1981." The loans were described as hard-money loans that are "commonly funded by individual investors who buy fractional interests in the transactions, enticed by the promise of double-digit returns safeguarded by the underlying property values." The article described Goodrich's 2005 solicitation of approximately \$6.4 million from 70, primarily elderly, investors for loans on four large parcels of property in Malibu that were subdivided into 13 parcels for residential development. This money was then disbursed to various Nevada partnership-borrowers for development. According to the article, "Disclosure statements Goodrich filed with the Corporations Department show that her portfolio began to deteriorate rapidly in 2007. During that year, she initiated or completed foreclosures on 28 loans owing more than \$14 million. Another \$5.8 million in loans was delinquent as a March 30 this year. That meant that 48% of her outstanding portfolio was delinquent, facing foreclosure or already foreclosed. . ." Investors had hired an attorney and had foreclosed on the land which "is worth just a fraction of its appraised value as prime home building property. But they're still trying to figure out where their money went."

11. Robert Leonard has been an auditor for the Department for nine years during which time he has conducted over 200 audits and testified in numerous audit hearings. On July 16, 2008, Mr. Leonard received an Audit Request form (DRE 4543) completed by his supervisor Ed Haberer. The form stated: "R allegedly arranged private money funding for R.E. Development Project with fraudulent disclosures." The article described above was attached to the request.

Mr. Leonard was assigned to conduct an audit of CGLS, Audit No. OK-08-0008 (IA/MLB), and did so for the audit period from January 1, 2007 to June 30, 2008. At the time of the audit, respondent Rodriguez was CGLS's designated broker

officer. CGLS was notified of the audit on July 24, 2008. On July 28, 2008, Mr. Leonard initially met with respondent Rodriguez and several CGLS employees; he later interviewed Ms. Goodrich three to four times, by telephone and at the office. He obtained requested records, including transaction files, and he prepared working documents to support the findings of the audit. He ultimately prepared an Audit Report dated September 19, 2008. In his testimony, Mr. Leonard characterized this audit as "unusual" because there was "a major trust fund handling issue." As established by Mr. Leonard's testimony, the audit report, and the working papers, the relevant findings of the audit are set forth below.

12. *Bank Accounts:* On July 28, 2008, respondent Rodriguez advised Mr. Leonard that CGLS maintained six bank accounts to hold trust funds during the period from April 3, 2008, to June 30, 2008.

During the audit, Mr. Leonard identified seven bank accounts used by CGLS to hold trust funds of multiple beneficiaries during the audit period. Four of the accounts were at the Sterling Savings Bank dba Sonoma Bank, 801 4th Street, Santa Rosa, CA 95404. These accounts were designated as: (1) Trust No. 1, Account No. 00001111574 (the "Charlene Goodrich Loan Ser Inc. CGLS Trust Account"); (2) Trust No. 2, Account No. 00001320621 ("Charlene Goodrich Loan Ser Inc. Investors Trust Account"); (3) Bank No. 1, Account No. 00001111459 ("Charlene Goodrich Loan Ser Inc. Escrow Account" [Escrow I]); and (4) Bank No. 2, Account No. 00001112820 ("Charlene Goodrich Loan Ser Inc." [Escrow II]). Another account, designated as Bank No. 3, was held at the North Coast Bank, located at 50 Santa Rosa Avenue, Santa Rosa, CA 95404, in Account No. 410024696 ("Charlene Goodrich Loan Ser Inc. CGLS Inc. Construction Account").³ The last two accounts were at the American River Bank located at 1545 River Park Drive, Sacramento, CA 95815: (1) Bank No. 4, Account No. 410024726 ("Charlene Goodrich Loan Servicing Interest Reserve Account") and (2) Bank No. 5, Account No. 410024924 ("Charlene Goodrich Loan Servicing Inc REO Account").

13. *Failure to Designate Accounts as Trust Fund Accounts:* As established by Mr. Leonard's testimony, audit report, and working papers, CGLS's Trust No. 1 and Trust No. 2 were appropriately designated as trust accounts. However, CGLS's multiple beneficiary accounts designated as Banks No. 1, 2, 3, 4, and 5 were each used by CGLS to hold trust funds but were not properly designated as trust accounts as required by section 10145 and CCR section 2832, subdivision (a). The bank account and/or signature cards failed to indicate trust status. Because they were not designated as trust accounts, these funds were unprotected, subject to lien or levy, and at risk of being withdrawn. In addition to these seven multiple beneficiary accounts, CGLS also had approximately 19 single owner accounts. The use of the acronym FBO (possibly meaning "for the beneficiary") failed to clearly indicate trust status.

³ Prior to April 10, 2008, CGLS maintained nineteen single owner "construction reserve" accounts; these accounts were consolidated into Bank No. 3.

The failure to properly designate accounts as trust account occurred throughout the audit period, including after respondent Rodriguez's purchase of CGLS in April 2008.

14. *Failure to Maintain Separate Beneficiary Records:* Separate beneficiary records are required for each beneficiary having funds in an account that holds trust funds. This requirement is important to protect individual beneficiaries whose monies are held in multiple beneficiary trust accounts. CCR section 2831.1, in pertinent part, provides that a "broker shall keep a separate record for each beneficiary or transaction, accounting for all funds which have been deposited to the broker's trust bank account and interest, if any, earned on the funds on deposit. . ."

In his audit report, Mr. Leonard determined that CGLS "failed to maintain, or failed to provide to the auditor, separate beneficiary records for Bank #1 and for Bank # 2, each used to hold trust funds." He testified that no separate beneficiary records for these accounts were provided to him during the audit, for the entire audit period, including after respondent Rodriguez became the designated officer. CGLS failed to maintain a separate record to account for \$399 in Bank No. 1 and for \$965.34 in Bank No. 2. In his testimony, Mr. Leonard indicated he could not identify to whom these funds were associated; he conceded that these amounts could conceivably go back to 2007, before respondent Rodriguez acquired CGLS.

15. *Failure to Perform and/or Maintain Monthly Reconciliation Records:* CCR section 2831.2 requires that "...A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions." Mr. Leonard testified that the reconciliation required by this regulation differs from the commonly understood bank reconciliation, which typically determines what funds are available. Reconciliation under CCR section 2831.2 requires that the balance of separate beneficiary records be compared and be equal to the balance of all trust funds received and disbursed. Records of reconciliation were requested from CGLS in a letter prior to the audit and during meetings with respondent Rodriguez and employees.

In his audit report, Mr. Leonard concluded that CGLS had (1) failed to perform the reconciliation of the trust records for Trust No. 2, Bank No. 1, Bank No. 2, and Bank No. 3; and (2) failed to maintain records of those reconciliations as required by CCR section 2831.2.

16. *Trust Fund Shortages:* Section 10145 provides, in pertinent part, that "all funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds." Accountability of trust funds means that the trust fund balance should equal to the sum of all separate beneficiary records as of a certain date. The balance of a trust fund for multiple beneficiaries may not be less than the total of the broker's

liability to all owners of funds in the account, unless there is a written consent of all owners for each disbursement.

After trust fund accountability was performed, Mr. Leonard determined that, as of May 31, 2008, Trust No. 2 had a shortage of \$2,185.58 and Bank No. 3 had a shortage of \$767,000. There were shortages in both accounts. Written consent from all the principals who were owners of funds in both Trust No. 2 and Bank No. 3, to authorize disbursements from these accounts, was never given to respondents.

Regarding Trust No. 2, shortage was caused by the negative balances in two beneficiary accounts. These were corrected on June 2 and 5, 2008. Regarding Bank No. 3, the shortage was caused by two unauthorized withdrawals by telephone transfer to Account Number 410024184 (Romo account), an account not identified as a trust fund account: one in the amount of \$500,000 on April 11, 2008, and a second in the amount of \$267,000 on May 16, 2008. These funds remained out of Bank No. 3 from April 11, 2008, through June 30, 2008. Mr. Leonard initially testified that the shortages in Bank No. 3 were not cured at the end of the audit period (June 30, 2008). If this had come to his attention, it would have been noted in the audit report which he signed on September 19, 2008. On further examination, however, Mr. Leonard clarified that, as of June 30, 2008, these funds were returned to Bank No. 3.

Mr. Leonard testified that respondent Rodriguez admitted transferring the funds out of Bank No. 3 into Account Number 410024184, which was not a trust account. As indicated in Finding 21, this testimony is consistent with that of respondent Rodriguez.

17. *Inappropriate Access to Accounts:* Under CCR section 2834, a person who is not the designated corporate officer or a licensed broker or salesperson, cannot withdraw funds from a trust account unless they have "fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time."

During the audit, Mr. Leonard reviewed the signatory cards for each account to determine who was authorized to sign on and withdraw from each account. Mr. Leonard discovered that Lisa Watts and Jack Bass were authorized signatories on several trust accounts. Ms. Watts was able to withdraw funds from Trusts No. 1 and 2, and Banks No. 1, 2, 3, and 5. Mr. Bass was authorized to withdraw funds from Trusts No. 1 and 2, and Banks No. 1 and 2. While some signature cards indicated that two signatures were required to transfer funds, there was no indication whether or not this restriction was accurately or consistently enforced. There was no evidence that these individuals were licensed or had fidelity or surety bonds. Department License Certification Change Transactions (DRE 599) certified that neither Ms. Watts nor Mr. Bass had any record of real estate licensure. The authorization periods for these individuals included time after respondent Rodriguez became CGLS's designated officer.

18. *Failure to Maintain Adequate Copies of Cancelled Checks:* Section 10148, subdivision (a), requires licensed real estate broker to retain various documents, including cancelled checks, for three years and to make them available to the Department on request.

Mr. Leonard testified that, during the audit he asked respondent Rodriguez for records, statements and cancelled checks. Some of the bank statements produced had small images of the front side of the checks but not the back side. The reverse side was also required to be maintained, but CGLS failed to maintain all cancelled checks for Trusts No. 1 and 2 and Banks No. 1 and 2. These documents are important source documents for withdrawals from trust funds; they can help confirm whether expenses were actually paid and are used to check the possibility of fraud. While respondent Rodriguez pointed out some additional copies of the front and back of cancelled checks for some accounts, Mr. Leonard's ultimate conclusions in the audit remained unchanged.

19. *Failure to Provide Complete and Accurate Lender Purchaser Disclosure Statements/Good Faith Estimates (LPDS/GFE):* As part of the audit, Mr. Leonard reviewed the files for two transactions that closed escrow respectively on June 11, and June 20, 2008: the Proffitt Loan No. 5989 with investor Blackburn, and the Clearlake Havens Loan No. 5994 with investor Bigliari. For the Proffitt loan, Mr. Leonard determined that the LPDS/GFE did not contain the signature of the broker or the designated representative of the broker. For the Clearlake Havens loan, the LPDS/GFE set forth inaccurate information regarding senior encumbrances. CGLS salesperson Ms. Triacca later provided a corrected LPDS/GFE for the Clearlake loan, but this was not signed by the lender or the broker or broker's designated representative. On further examination, Mr. Leonard clarified that while he might have written his finding on the Proffitt loan differently, his ultimate conclusion remained unchanged.

Respondent Rodriguez's Evidence

20. Respondent Rodriguez testified that she does not dispute the ultimate conclusions reached by Mr. Leonard in the Audit Report. Her testimony is summarized as follows:

21. Ms. Rodriguez was a teacher and school counselor for many years. In approximately 2002, after learning that her daughter had a heart defect, Ms. Rodriguez began to seek ways to work more flexibly. She became a real estate salesperson and worked with Prudential part time. She obtained her broker license in 2007 and worked with Sycamore Homes. As a broker, Ms. Rodriguez became familiar with Ms. Goodrich's business of arranging construction loans for her older brother, David Romo. In 2008, Ms. Rodriguez learned that CGLS was available to purchase due to Ms. Goodrich's impending retirement. Ms. Rodriguez made an offer in reliance on Ms. Goodrich's representation that CGLS was a well-established, going

concern and the fact that Ms. Goodrich was a broker with over 30 years of experience in the industry. Ms. Rodriguez reviewed Ms. Goodrich's 2006, but not her 2007, tax return. She did not obtain any third-party assessment of CGLS's financial status. Ms. Rodriguez believed she was purchasing a productive business. She also conceded that she was aware of the Malibu loan problems before she purchased CGLS and that she did no independent investigation and simply relied on the representations of Ms. Goodrich.

In March 2008, Ms. Rodriguez (as LV Lending Group) put down \$125,000 towards the purchase of CGLS. Part of the purchase agreement was for Ms. Goodrich to provide Ms. Rodriguez with a ninety-day transition/training period. Within days of the purchase, Ms. Rodriguez learned that there were insufficient funds to make the payroll and that angry Malibu investors were constantly calling and at the door seeking explanations about the status of their funds. Due to concerns about potential lawsuits, Ms. Goodrich asked Ms. Rodriguez not to tell the investors about her purchase of CGLS, but to say they had merged. Ms. Rodriguez agreed to this arrangement, but insisted that she change Department records to reflect that she, and not Ms. Goodrich, was CGLS's designated officer. Ms. Rodriguez therefore became responsible for CGLS effective April 3, 2008.

Ms. Rodriguez was overwhelmed. She described her activities at that time as putting out one fire after another. Ms. Rodriguez estimated that five of the trust accounts were in existence when Ms. Rodriguez came on board, plus 19 separate construction accounts. Ms. Goodrich added Ms. Rodriguez as signatory to the accounts. Ms. Rodriguez had no understanding about why the accounts were not set up as trust accounts; she assumed that, as an experienced broker, Ms. Goodrich had set up her accounts appropriately. Ms. Rodriguez took the following actions: she consolidated the 19 accounts into Bank No. 3; she hired Baldwin Certified Public Accountants to set up Quick Books, a software program that was capable of generating reports; and she kept Janice Smith on as CGLS's bookkeeper so she could do reconciliations and quarterly payroll reports.

Due to CGLS's persistent financial difficulties, Ms. Rodriguez spoke to her brother, David Romo, a self-employed developer of residential and commercial properties since 1992. Mr. Romo, who is not a broker, suggested that Ms. Rodriguez obtain a line of credit. As indicated in his August 13, 2010 declaration, Mr. Romo "advised her that I was aware of banks that would lend 1.75 percent of the amount on deposit as working capital, if she deposited her accounts with them. I suggested that I would use my contacts with various banks to see if I could set up a line of credit for her company." Based upon this understanding, Ms. Rodriguez transferred a total of \$767,000 in funds from Bank No. 3 to the Immobiliare, LLC/Romo Account, owned by her brother. She made the transfers on April 11 and May 16, 2008.

Ms. Rodriguez testified that the "turning point" in her understanding that her conduct was inappropriate occurred during a conversation with CGLS's bookkeeper Smith. Ms. Smith was preparing reconciliation reports and asked Ms. Rodriguez how to characterize the \$500,000 and \$267,000 transfers. Ms. Rodriguez told her to classify these transactions as "miscellaneous." As soon as she said this, Ms. Rodriguez realized that this was wrong and that she was "in way over my head." Ms. Rodriguez transferred the funds out of the Romo account and back into Bank No. 3. These transfers occurred before Ms. Rodriguez had notice that the Department intended to conduct an audit. Ms. Rodriguez also contacted her attorney to see if she could rescind her purchase of CGLS, and learned that she could not do so. On approximately July 1, 2008, Ms. Goodrich told her to close down the office. Once she became aware of the audit, Ms. Rodriguez kept the office open to allow the audit to occur. Before closing the company, Ms. Rodriguez arranged for a transition of the loans to a reliable loan servicing company. On September 16, 2008, Ms. Rodriguez sent all of CGLS's investors and borrowers a letter explaining that CGLS ceased business on September 15, 2008, but that they would continue to work "diligently to properly transition your loans."

Ms. Rodriguez told Mr. Leonard that whatever records he needed for the audit would be available. She directed him to staff (Ms. Watts and Ms. Triacca) who were more knowledgeable about how to obtain necessary information reports. Ms. Rodriguez admitted that she transferred the funds out of Bank No. 3 to the account of someone she trusted. In her opinion, reconciliations were available to Mr. Leonard through Ms. Smith. The \$2,186 negative balance in Trust No. 2 was a voided check that was then corrected; there was never a negative balance in this account.

Ms. Rodriguez testified that she did not personally benefit from her three-month relationship with CGLS. It cost her approximately \$200,000: \$125,000 down payment and \$75,000 to keep the business going. She did not receive any training from Ms. Goodrich, as promised. Ms. Rodriguez conceded that the DRE website contains the "Broker Compliance Evaluation Manual" (February 2002) which provides information about the laws and regulations governing brokers, including how to handle trust funds. Ms. Rodriguez agreed that she did not investigate her responsibility for trust fund accounts. She acknowledged that, for the period from April 11 through June 30, 2008, she placed over a half million dollars of trust funds at risk. Ms. Rodriguez explained that, initially, she saw her conduct as using investors' money to ultimately benefit them with a line of credit that could be used to service the loans, maintain properties, and continue the project. Ms. Rodriguez now realizes that the investors' money could have been seized or depleted as a result of her conduct.

Ms. Rodriguez credibly testified that she regrets her conduct and that she became involved in a situation that she ultimately realized was "over her head." Because all the investors and employees were looking to her for answers, Ms. Rodriguez felt she had to do something to try to save the company. Ms. Rodriguez

currently works at Sterling Communities, managing their construction projects. She wants to keep her license and stay in the real estate business.

22. Ms. Rodriguez's husband, Arturo Rodriguez, works at the Department of Justice as a criminal intelligence specialist. He testified briefly to his wife's good character, her honesty and trustworthiness. He corroborated that she was overwhelmed during her brief time with CGLS. Mr. Rodriguez had no personal knowledge about any of the details of the CGLS transactions or audit.

23. Ms. Rodriguez offered various letters of recommendation which were admitted and considered to the extent permitted by Government Code section 11513, subdivision (d).⁴ These letters can be divided into two broad categories: those relating to her experience as a teacher and counselor, and those related to her more recent experience in real estate.

Ms. Rodriguez's abilities as a teacher and school counselor in the late 1990s were highly praised in letters from teaching and counseling professionals Maria Hernandez, Barbara Barnett, Jenevieve Labosky-Ceja, Jane Lawrence and Gloria Hernandez. Her abilities were also positively documented in her 1999 Elk Grove Unified School District Teacher Evaluation.

In the real estate arena, letters in support of Ms. Rodriguez were provided by satisfied home buyers and sellers (Leticia Aguirre, Gabriela R. Villa), as well as by personal and professional friends in real estate. In letters from Kevin Stevens (Vice President of Sterling Communities), Nina Visser (Sterling coworker), and Eyasu Mulatu (an agent under her brokerage at Sycamore Homes), Ms. Rodriguez is described as an honest, intelligent, hard working, straight forward person who continues to encourage others to better themselves and to conduct business in a truthful manner. Daniel Fuller worked with Ms. Rodriguez "in an Investor Relations role" at the time she acquired CGLS. He opined that "Marly Rodriguez had noble intentions for CGLS but unfortunately the operational difficulties proved greater than she expected them to be. I found that Marly was very proactive in attempting to ensure that all practices were proper and in line with the best practices and legal regulations of the industry."

24. There was no evidence that Ms. Rodriguez had any complaints or disciplinary action taken against her license in her five years as a real estate salesperson.

⁴ Government Code section 11513, subdivision (d), provides in pertinent part that "hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions..."

Discussion

25. The undisputed evidence establishes that respondent CGLS, through its designated officers, engaged in the acts and omissions identified in Audit No. OK-08-0008.

26. While respondent Rodriguez offered some evidence in opposition to certain audit findings, she did not dispute any of the ultimate conclusions in Audit No. OK-08-0008. None of the evidence offered changed any of Mr. Leonard's audit conclusions.

27. Ms. Rodriguez's testimony about her actions as CGLS's designated officer from April 3, 2008 through June 30, 2008, was very credible. Ms. Rodriguez never denied or tried to obfuscate her role in transferring funds from Bank No. 3 to the Romo account. She admitted it to the Department without hesitancy. Ms. Rodriguez independently realized her error and returned the money to Bank No. 3. This remedial conduct was not undertaken due to pressure from an impending audit: the record establishes that CGLS was not aware of the Department's decision to subject it to an audit until after Ms. Rodriguez transferred the funds back on June 30, 2008. Ms. Rodriguez took positive action to initiate the use of new bookkeeping software and she cooperated with the auditor.

28. Ms. Rodriguez did not benefit financially from her acquisition of CGLS. To the contrary, it is undisputed that she lost a substantial sum of money. Her motivation and efforts to keep the company afloat and to protect its employees and investors appear to have been genuine. Ms. Rodriguez's conduct of transferring substantial amounts of trust fund monies to the Romo account was intentional; however, the evidence does not establish that Ms. Rodriguez's conduct constituted misrepresentation, fraud or dishonest dealing.

29. As a broker and as the designated officer of a corporate broker, Ms. Rodriguez has an obligation to know the laws and regulations governing brokers' conduct and to take action to ensure compliance with those laws and regulations. In her acquisition and management of CGLS, Ms. Rodriguez simply accepted the representations of Ms. Goodrich and assumed that Ms. Goodrich had accurately fulfilled her responsibilities as CGLS's designated officer. Ms. Rodriguez failed to carefully investigate or to obtain third-party assessments of CGLS's financial status or the manner in which it maintained its trust accounts. She was "in over her head," but she failed to consult readily available resources discussing her responsibilities as a broker, particularly regarding handling trust funds. Ms. Rodriguez's conduct, particularly regarding the maintenance of trust accounts and trust shortages, demonstrated both negligence and incompetence. As CGLS's designated officer, Ms. Rodriguez failed to exercise reasonable supervision and control over CGLS's activities.

30. When all the facts and circumstances are considered, it would be against the public interest to allow respondent Rodriguez to continue functioning as a broker, even on a restricted basis at this time. Ms. Rodriguez requires additional training in trust accounts before she can safely operate in this capacity. It would not be against the public interest at this time to allow respondent Rodriguez to apply for a restricted salesperson license, subject to terms and conditions outlined below.

LEGAL CONCLUSIONS

1. In an Accusation seeking to revoke, suspend, or otherwise discipline respondents' professional licenses, the agency has the burden of proof to establish the allegations in the Accusation by "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App. 3d 853, 856.) As set forth below, complainant has met its burden that the corporate broker license issued to respondent CGLS and the individual broker license issued to respondent Rodriguez should be revoked pursuant to section 10177, subdivisions (d), (g), and (h), of the Business and Professions Code.

2. *Corporate Broker/Designated Officer*: Pursuant to section 10211, where a licensee is a corporation, "the license issued to it entitles one officer thereof, on behalf of the corporation, to engage in the business of real estate broker without the payment of any further fee, such officer to be designated in the application of the corporation for a license. . ." Section 10159.2, subdivision (a), provides that "the officer designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required."

3. Section 10177, subdivisions (d), (g), and (h), authorize the commissioner to suspend or revoke the license of a real estate licensee or of a real estate corporation, where the individual licensee or an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

[¶] . . . [¶]

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

As set forth in the Factual Findings as a whole, the Department has met its burden of establishing that both respondents CGLS and Rodriguez violated each of these subdivisions of section 10177.

4. Section 10176, subdivisions (a) and (i), provide that the commissioner may “. . . temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following: (a) Making any substantial misrepresentation. . . (i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.”

As set forth in Factual Finding 28, there is insufficient evidence to establish that respondent Rodriguez’s license should be revoked under this section.

5. *Trust Fund Accounts*: Section 10145 provides, in pertinent part, as follows:

(a)(1) A real estate broker who accepts funds belonging to others in connection with a transaction subject to this part shall deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker’s principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.

[¶] . . . [¶]

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds.

[¶] . . . [¶]

The Department's regulations, commencing at CCR section 2830.1, further delineate requirements for brokers regarding the maintenance and handling of trust accounts. For example, CCR section 2831 mandates that brokers "keep a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal," and specifically details the information required.

CCR section 2832, subdivision (a), provides that "compliance with Section 10145 of the Code requires that the broker place funds accepted on behalf of another into the hands of the owner of the funds; into a neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson."

CCR section 2831.2. provides:

The balance of all separate beneficiary or transaction records maintained pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds received and disbursed required by Section 2831, at least once a month, except in those months when the bank account did not have any activities. A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.

CCR section 2834, subdivision (b), authorizes withdrawals from trust fund accounts of a licensed corporation only upon the signature of: (1) an officer through whom the corporation is licensed pursuant to section 10158 or 10211 of the Code; or (2) on written authorization by the corporate officer to: (1) a salesperson licensed to the broker; (2) a person licensed as a broker who has entered into a written agreement pursuant to section 2726 with the broker; or (3) an unlicensed employee of the broker with fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time. An arrangement to authorize withdrawal of trust funds "shall not relieve an individual broker, or the broker-officer of a corporate broker licensee, from responsibility or liability as provided by law in handling trust funds in the broker's custody." (Cal. Code Regs., tit. 10, § 2834, subd. (c).)

6. Pursuant to section 10148, subdivision (a), a licensed real estate broker "shall retain for three years copies of all listings, deposit receipts, *canceled checks*, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required" and, after notice, make these records available for examination, inspection, and

copying by the commissioner or his or her designated representative. . ." [italics added.]

7. *Lender Purchaser Disclosure Statements/Good Faith Estimates:* Section 10240 provides, in pertinent part, that every real estate broker who negotiates a loan to be secured directly or collaterally by a lien on real property "shall, within three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower a statement in writing, containing all the information required by Section 10241. It shall be personally signed by the borrower and by the real estate broker negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan. When so executed, an exact copy thereof shall be delivered to the borrower at the time of its execution. The real estate broker negotiating the loan shall retain on file for a period of three years a true and correct copy of the statement as signed by the borrower. No real estate licensee shall permit the statement to be signed by a borrower if any information required by Section 10241 is omitted."

8. As set forth in Factual Findings and Legal Conclusions as a whole, and particularly in Findings 12 through 19, respondents have violated sections 10145, 10148, subdivision (a), and 10240, and CCR sections 2831.1, 2831.2, 2832, and 2834. Legal cause is established to revoke the broker licenses of respondents CGLS and Rodriguez.

9. As set forth in Factual Findings 26 through 30, it would not be contrary to the public interest to allow respondent Rodriguez to apply for a restricted license as a real estate salesperson, subject to conditions, including payment of audit costs and completion of courses on trust funds.

ORDER

1. *Respondent Goodrich:* Pursuant to the Department's September 29, 2010 Order Accepting Voluntary Surrender of Real Estate License, the broker license of respondent Charlene Goodrich is surrendered.

2. *Respondent CGLS:* All licenses and licensing rights of Respondent Charlene Goodrich Loan Servicing, Inc., under the Real Estate Law are revoked.

3. *Respondent Rodriguez:* All licenses and licensing rights of Respondent Marlisa Rodriguez, under the Real Estate Law are revoked; provided, however, that a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of

Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

b. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

d. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(1) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(2) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

e. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

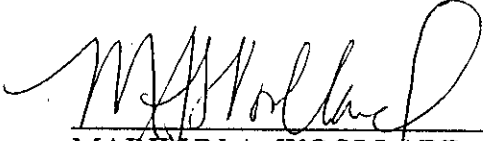
f. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

g. Trust Fund Violations: Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for the audit which led to this disciplinary action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

h. Trust Fund Violation Course Requirement: Respondent shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

4. Respondents are jointly and severally liable for the costs of Audit No. OK-08-0008, in an amount determined by the Commission as described in Order 3, subdivision (g).

DATED: October 11, 2010


MARILYN A. WOOLLARD
Administrative Law Judge
Office of Administrative Hearings

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FILED

SEP 29 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

CHARLENE GOODRICH LOAN
SERVICING, INC.,
MARLISA RODRIGUEZ
and CHARLENE MARIE GOODRICH,

Respondents.

No. H-10845 SF

(As to Respondent
Charlene Marie Goodrich only.)

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On February 1, 2010, an Accusation was filed in this matter against Respondents
CHARLENE GOODRICH LOAN SERVICING, INC., MARLISA RODRIGUEZ and
CHARLENE MARIE GOODRICH.

On August 24, 2010, Respondent CHARLENE MARIE GOODRICH petitioned
the Commissioner to voluntarily surrender her real estate broker license pursuant to Section
10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent CHARLENE MARIE
GOODRICH'S petition for voluntary surrender of her real estate broker license is accepted as of
the effective date of this Order as set forth below, based upon the understanding and agreement

1 expressed in Respondent's Declaration dated August 24, 2010 (attached as Exhibit "A" hereto).
2 Respondent's license certificate and pocket card shall be sent to the below listed address so that
3 they reach the Department on or before the effective date of this Order:

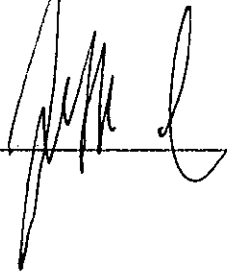
4 DEPARTMENT OF REAL ESTATE
5 Attn: Licensing Flag Section
6 P. O. Box 187000
7 Sacramento, CA 95818-7000

8 This Order shall become effective at 12 o'clock noon
9 on OCT 20 2010

10 DATED: _____

9/29/2010

11 JEFF DAVI
12 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
) No. H-10845 SF
CHARLENE GOODRICH LOAN SERVICING,)
INC., MARLISA RODRIGUEZ and)
CHARLENE MARIE GOODRICH,)
)
Respondents.)
)

DECLARATION

My name is CHARLENE MARIE GOODRICH, and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am represented by James K. Cobb in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my license(s), I may be re-licensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to

///



1 Section 11522 of the Government Code. I also understand that by so voluntarily surrendering
2 my license(s), I agree to the following:

3 1. The filing of this Declaration shall be deemed as my petition for voluntary
4 surrender.

5 2. It shall also be deemed to be an understanding and agreement by me that I
6 waive all rights I have to require the Commissioner to prove the allegations contained in the
7 Accusation filed in this matter at a hearing held in accordance with the provisions of the
8 Administrative Procedure Act (Government Code Sections 11400 et seq.), and that I also waive
9 other rights afforded to me in connection with the hearing such as the right to discovery, the right
10 to present evidence in defense of the allegations in the Accusation and the right to cross-examine
11 witnesses.

12 3. I further agree that upon acceptance by the Commissioner, as evidenced by an
13 appropriate order, all affidavits and all relevant evidence obtained by the Department in this
14 matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation
15 filed in the Department Case No. H-10845 SF, may be considered by the Department to be true
16 and correct for the purpose of deciding whether to grant re-licensure or reinstatement pursuant to
17 Government Code Section 11522.

18 4. I further understand that pursuant to Business and Professions Code Section
19 10148, that I shall be jointly and severally liable for the cost of Audit No. OK-08-0008 in the
20 amount of \$14,852.19.

21 I, CHARLENE MARIE GOODRICH, declare under penalty of perjury under the
22 laws of the State of California that the above is true and correct and that I freely and voluntarily
23 surrender all my licenses and license rights under the Real Estate Law.

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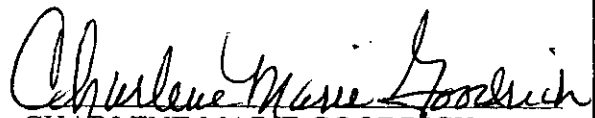
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8/24/10

DATED


CHARLENE MARIE GOODRICH
Respondent

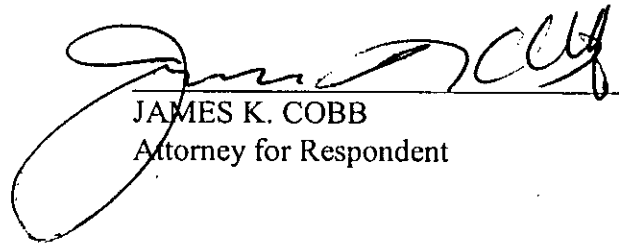
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* * *

I have reviewed this Declaration as to form and content and have advised my client accordingly.

8-24-10

DATED



JAMES K. COBB
Attorney for Respondent

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) 227-2380

FILED

FEB - 1 2010

DEPARTMENT OF REAL ESTATE

By E. Mar

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-10845 SF
13 CHARLENE GOODRICH LOAN)
14 SERVING, INC.,) ACCUSATION
15 MARLISA RODRIGUEZ,)
16 and CHARLENE MARIE GOODRICH,)
Respondents.)

17 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of
18 the State of California, for Accusation against Respondent CHARLENE GOODRICH LOAN
19 SERVING, INC., (CGLS), Respondent MARLISA RODRIGUEZ, (RODRIGUEZ), and
20 CHARLENE MARIE GOODRICH (GOODRICH), is informed and alleges as follows:

21 1

22 The Complainant makes this Accusation against Respondents in his official
23 capacity.

24 2

25 RODRIGUEZ is presently licensed and/or has license rights under the Real
26 Estate Law, Part 1 of Division 4 of the California Business and Professions Code (the Code) as
27 a real estate broker.

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GOODRICH is presently licensed and/or has license rights under the Code as a real estate broker.

4

CGLS is presently licensed by the Department of Real Estate (the Department) as a corporate real estate broker.

5

At all times herein mentioned until April 4, 2008, GOODRICH and as of April 4, 2008 to the present, RODRIGUEZ, respectively were licensed by the Department as the designated broker/officer of CGLS. As the designated broker/officer, GOODRICH and RODRIGUEZ were responsible during the time each was the designated broker/officer, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of CGLS for which a real estate license is required.

6

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

7

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

1 FIRST CAUSE OF ACTION

2 8

3 Beginning July 28, 2008, and continuing intermittently through September 17,
4 2008, an audit was conducted of CGLS's main office located at 375 E Street, #120, Santa Rosa,
5 California, where the auditor examined records for the period of January 1, 2007 through July
6 30, 2008 (the audit period). The auditor also reviewed eight transactions which were funded
7 during 2005 and 2006, but found no violations regarding these transactions. A December 10,
8 2004 transaction was reviewed, with no specific violation found regarding that transaction.

9 9

10 While acting as a real estate broker as described in Paragraph 6, above, and
11 within the audit period, CGLS accepted or received funds in trust (trust funds) from or on behalf
12 of lenders, investors, borrowers and others in connection with mortgage loan brokerage
13 activities, deposited or caused to be deposited those funds into a number of bank accounts
14 maintained by CGLS as follows:

15 a) Sterling Savings Bank dba Sonoma Bank, 801 -4th Street, Santa Rosa,
16 California 95404, Account #00001111574, entitled "Charlene Goodrich Loan Ser. Inc.
17 CGLS Trust Account" (Trust #1);

18 b) Sterling Savings Bank dba Sonoma Bank, 801 -4th Street, Santa Rosa,
19 California 95404, Account #00001320621, entitled "Charlene Goodrich Loan Ser. Inc.
20 Investors Trust Account" (Trust #2);

21 c) Sterling Savings Bank dba Sonoma Bank, 801 -4th Street, Santa Rosa,
22 California 95404, Account #00001111459, entitled "Charlene Goodrich Loan Ser. Inc.
23 Escrow Account" (Bank #1);

24 d) Sterling Savings Bank dba Sonoma Bank, 801 -4th Street, Santa Rosa,
25 California 95404, Account #00001112820, entitled "Charlene Goodrich Loan Ser. Inc."
26 (Bank #2);

27 ///

1 e) North Coast Bank, 50 Santa Rosa Avenue, Santa Rosa, California 95404,
2 Account #410024696, entitled "Charlene Goodrich Loan Servicing, Inc. CGLS Inc.
3 Construction Account" (Bank #3);

4 f) American River Bank, 1545 River Park Drive, Suite 107, Sacramento,
5 California 95815, Account #410024726, entitled "Charlene Goodrich Loan Servicing"
6 (Bank #4) and

7 g) American River Bank, 1545 River Park Drive, Suite 107, Sacramento,
8 California 95815, Account #410024924, entitled "Charlene Goodrich Loan Servicing
9 Inc. REO Account" (Bank #5).

10 10

11 In the course of the activities described in Paragraph 6, in connection with the
12 collection and disbursement of trust funds, CGLS:

- 13 (a) Failed to designate Bank #1, Bank #2, Bank #3, Bank #4 and Bank #5 as
14 trust accounts as required by Section 2832 of Title 10, California-Code of
15 Regulations (Regulations);
- 16 (b) Failed to maintain separate beneficiary records for Bank #1 and Bank #2,
17 as required by Section 2831.1 of the Regulations;
- 18 (c) Failed to perform and/or maintain records of the monthly reconciliation
19 of the balance of all beneficiary records for Bank #1, Bank #2 and Bank
20 #3, as required by Section 2831.2 of the regulations;
- 21 (d) Trust Fund Accountability was performed and for Trust #2, as of May 31,
22 2008, there was a shortage of \$2,185.58; for Bank #3, as of May 31,
23 2008, there was a shortage of \$767,000.00; in violation of Section 10145
24 of the Code;
- 25 (e) Allowed Lisa Watts who has no real estate license and has no surety bond
26 to withdraw funds from Trust #1, Trust #2, Bank #1, Bank #2, Bank #3
27 and Bank #5 and Jack Bass who has no real estate license and has no

1 surety bond to withdraw funds from Trust #1, Trust #2, Bank #1 and
2 Bank #2, in violation of Section 2834 of the Regulations;

3 (f) Failed to maintain adequate copies of cancelled checks for Trust #1, Trust
4 #2, Bank #1 and Bank #2 as required by Section 10148 of the Code and

5 (g) Failed to provide complete and accurate Lender Purchaser Disclosure
6 Statements/Good Faith Estimates for Investors Blackburn and Bigliari as
7 required by Section 10240 of the Code.

8 11

9 The acts and/or omissions of CGLS as alleged above violate Sections 2831.1,
10 2831.2, 2832 and 2834 of the Regulations and Sections 10145, 10148 and 10240 of the Code
11 and are grounds for discipline under Section 10177(d) of the Code.

12 SECOND CAUSE OF ACTION

13 12

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

16 13

17 On or about April 10, 2008, trust funds from nineteen single beneficiary
18 construction reserve accounts totaling \$1,730,123.01 were transferred to Bank #2 by
19 Respondent RODRIGUEZ.

20 14

21 On or about April 10, 2008, RODRIGUEZ transferred \$1,730,123.01 from
22 Bank#2 to Bank #3.

23 15

24 On or about April 11, 2008, RODRIGUEZ transferred \$500,000.00 from Bank
25 #3 to American River Bank, Account No. 410024184, entitled "Immobiliare LLC" (Romo
26 Account). On May 16, 2008, RODRIGUEZ transferred an additional \$267,000.00 from Bank
27 #3 to the Romo Account, for which authorized signers were Stacey Romo and David Romo,

1 RODRIGUEZ' brother. At no time did RODRIGUEZ obtain the written consent of every
2 principal, who were the owners of the \$767,000.00 in trust funds to disburse said trust funds to
3 the Romo Account. On June 30, 2008, deposits of \$500,000.00 and \$267,000.00 were made to
4 Bank #3.

5 16

6 RODRIGUEZ told the Deputy Commissioner that the transfers were in order to
7 secure a line of credit for CGLS. When asked how transferring funds from a CGLS account to
8 the Romo Account helped CGLS obtain a line of credit, RODRIGUEZ could not provide an
9 answer. She also refused to identify the owners of the Romo Account, which was in the name
10 of Immobiliare, LLC.

11 17

12 GOODRICH told the Deputy Commissioner that she had brokered loans for
13 RODRIGUEZ' brother David Romo, in the past and that Romo was in default on at least one
14 loan. GOODRICH ultimately sold CGLS to RODRIGUEZ.

15 18

16 The acts/omissions described in Paragraphs 12 through 17, above, violate
17 Sections 2832.1 of the Regulations and Sections 10145, 10176(a) and (i) of the Code and are
18 grounds for discipline under Section 10176(a) and/or (i) and 10177(d) of the Code.

19 THIRD CAUSE OF ACTION

20 19

21 Complainant refers to Paragraphs 1 through 18, above, and incorporates them
22 herein by reference.

23 20

24 At all times herein above mentioned, either GOODRICH and RODRIGUEZ was
25 responsible, as the designated broker officer of CGLS, for the supervision and control of the
26 activities conducted on behalf of CGLS by its officers and employees. GOODRICH and
27 RODRIGUEZ failed to exercise reasonable supervision and control over the property mortgage

1 loan brokering activities of CGLS. In particular, GOODRICH and RODRIGUEZ permitted,
2 ratified and/or caused the conduct described in the First and Second Causes of Action, above, to
3 occur, and failed to take reasonable steps, including but not limited to the handling of trust
4 funds, supervision of employees, and the implementation of policies, rules, procedures, and
5 systems to ensure the compliance of the corporation with the Real Estate Law and the
6 Regulations.

7 21

8 The above acts and/or omissions of GOODRICH and RODRIGUEZ violate
9 Section 10159.2 of the Code and Section 2725 of the Regulations and constitute grounds for
10 disciplinary action under Section 10177(h) of the Code.

11 WHEREFORE, Complainant prays that a hearing be conducted on the
12 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
13 disciplinary action against all licenses and license rights of Respondents under the Real Estate
14 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
15 relief as may be proper under other provisions of law.

16
17 

18 E. J. HABERER, II
19 Deputy Real Estate Commissioner

20 Dated at Oakland, California,
21 this 28th day of January, 2010.