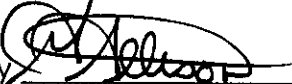


**FILED**

**August 9, 2011**

DEPARTMENT OF REAL ESTATE

By 

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	NO. H-11185 SF
	)	
RCI FINANCIAL CORPORATION	)	
and VLADISLAV CHERNOGUZ,	)	<u>ACCUSATION</u>
	)	
Respondents.	)	
	)	

The Complainant, E. J. HABERER, II, in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against RCI FINANCIAL CORPORATION (hereinafter "RCI") and VLADISLAV CHERNOGUZ (hereinafter "CHERNOGUZ"), (collectively referred to herein as "Respondents") is informed and alleges as follows:

1

RCI is presently licensed by the Department of Real Estate (hereinafter "the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code"), as a corporate real estate broker

1 (No. 01053240), and at all times relevant herein was acting by and through CHERNOGUZ as its  
2 designated officer broker.

3 2

4 At all times relevant herein, RCI had the following fictitious business name  
5 registered with the Department: "Rci Financial Corp".

6 3

7 CHERNOGUZ is presently licensed by the Department and/or has license rights  
8 under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker (No. 00815776).  
9

10 4

11 At all times relevant herein, CHERNOGUZ was licensed by the Department as the  
12 designated officer broker of RCI. As the designated officer broker, CHERNOGUZ was responsible,  
13 pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents,  
14 real estate licensees and employees of RCI for which a real estate license is required.

15 5

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

21 6

22 At all times herein mentioned, RCI engaged in activities on behalf of others within  
23 the State of California for or in expectation of compensation, for which a real estate license is  
24 required under Section 10131(d) of the Code, including the solicitation of borrowers or lenders for  
25 or negotiation of loans or collection of payments or performance of services for borrowers or  
26 lenders or note owners in connection with loans secured directly or collaterally by liens on real  
27 property or on a business opportunity.

1 FIRST CAUSE OF ACTION

2 As Against RCI

3 7

4 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is  
5 incorporated by this reference as if fully set forth herein.

6 8

7 Beginning on or about June 2, 2010, and continuing intermittently until June 15,  
8 2010, an audit was conducted at RCI's main office located at 369 Hayes Street, San Francisco,  
9 California, and the Department of Real Estate's Oakland District Office, wherein the Auditor  
10 examined RCI's records for the period of January 1, 2008, through April 30, 2010, (hereinafter "the  
11 audit period").

12 9

13 While acting as a corporate real estate broker as described in Paragraph 6, above, and  
14 within the audit period, RCI accepted or received funds in trust (hereinafter "trust funds") from or  
15 on behalf of borrowers, lenders, and/or others in connection with loans secured directly or  
16 collaterally by liens on real property or on a business opportunity, for or in expectation of  
17 compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust  
18 funds.

19 10

20 The trust funds accepted or received by RCI as described in Paragraph 9, above, were  
21 deposited or caused to be deposited by RCI into a bank account maintained by RCI for the handling  
22 of trust funds, and thereafter from time-to-time RCI made disbursements of said trust funds,  
23 identified as follows:

24 ///

25 ///

26 ///

27 ///

TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of America, 2835 Geary Blvd., San Francisco, California
Account No.:	XXXXXX4803
Entitled:	"RCI Financial Corp Trust Account"
Signatories:	Vladislav Chernoguz (REB/DO)
No. of Signatures Required:	One

11

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in the course and scope of the activities described in Paragraph 6, above, Respondents claimed, demanded, charged, received, and collected, and utilized written materials and solicitations for obtaining, advance fees from borrowers for services Respondents and/or Respondents' affiliates, the LAW OFFICES OF ORLANDO J. CASTANO JR. and AMERICAN MORTGAGE MODIFICATION, were to perform thereafter for or in expectation of compensation, including, but not limited to, the following transactions:

Name	Advance Fee Amount	Date Advance Fee Received	Property
Yuriychuk	\$3,500	09/16/08	5444 Toombs Street, Fair Oaks, California
Herrera	\$3,500	09/02/08	283 Verano Drive, Daly City, California
Shourd	\$1,000	01/14/09	530 Fourth Avenue, San Francisco, California
Volkov	\$3,500	10/30/08	462 Goodall Drive, Mountain House, California
Volkov	\$3,500	10/30/08	20948 San Miguel Avenue, Castro Valley, California

1  
2 The fees described in Paragraph 11, above, constituted an "advance fee" within the  
3 meaning of Section 10026 of the Code ("Advance Fee" is fee claimed, demanded, charged,  
4 received, collected or contracted from principal before completing services for listing, for offer to  
5 sell or lease property or business opportunity, for referral to brokers or salesmen, for soliciting  
6 borrowers or lenders, for negotiating real estate loans) and Section 10131.2 of the Code (Real  
7 estate broker is a person who engages in business of claiming, demanding, charging, receiving,  
8 collecting or contracting for advance fees in connection with any employment to promote sale,  
9 lease of real property or business opportunity, or exchange or to obtain loans on real property).  
10 Said fees constituted trust funds within the meaning of Section 10145 of the Code (broker accepts  
11 funds belonging to others in connection with acts requiring a real estate license) and Section 10146  
12 of the Code (advance fees collected by broker are trust funds).  
13  
14

15  
16 In the course of the activities described in Paragraph 6, above, and within the audit  
17 period, RCI:

- 18 (a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be  
19 reduced to an amount which, as of April 29, 2010, was approximately  
20 \$280.00 less than the aggregate liability of Trust Account #1 to all owners of  
21 such funds, without the prior written consent of each and every owner of such  
22 funds, in violation of Section 10145 of the Code and Section 2832.1 of Title  
23 10 of the California Code of Regulations (hereafter "the Regulations");  
24  
25 (b) failed to reconcile the total of separate beneficiary records with a control  
26 record on a monthly basis for Trust Account #1, in violation of Section 10145  
27

of the Code and Section 2831.2 of the Regulations;

(c) In connection with the collection, receipt, and handling of the advance fees as described in Paragraph 11, above, RCI provided to the borrowers, or directed and/or caused to be provided to the borrowers, written materials used to solicit, promote, advertise and/or negotiate an agreement to obtain advance fees that had not been submitted to, reviewed, and approved by, the Department of Real Estate prior to use as required by Sections 10085 and 10085.5 of the Code and Section 2970 of the Regulations;

(d) In connection with the collection, receipt and handling of advance fees described in Paragraph 11, above, RCI failed to provide to the borrowers or failed to maintain a record of or failed to provide to the Department's representative after notice, the required verified accounting of the advance fee trust funds and failed to provide any accounting expressly representing the amounts of trust funds disbursed, the date of trust fund disbursement, the commission paid, and overhead and profit as required by Section 10146 of the Code and containing the information required by Section 2972 of the Regulations; and

(e) In connection with the collection, receipt and handling of advance fees described in Paragraph 11, above, RCI failed to maintain a Record of All Trust Funds Received – Not Placed in Brokers Trust Account, in violation of Section 2831(a)(6) of the Regulations.

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14

The acts and/or omissions of RCI described in Paragraph 13, above, constitute grounds for the suspension or revocation of RCI's license and license rights pursuant to Section 10177(d) (Willful Disregard/Violation of Real Estate Law) and/or Section 10177(g) (Negligent/Incompetence in Performing Act Requiring Licensee) of the Code.

15

The acts and/or omissions of RCI as alleged in Paragraph 13, above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (Reimbursement for Cost of Audit for Trust Fund Handling Violation) of the Code.

SECOND CAUSE OF ACTION

As Against CHERNOGUZ

16

Each and every allegation in Paragraphs 1 through 15, inclusive, above, is incorporated by this reference as if fully set forth herein.

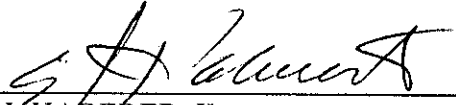
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CHERNOGUZ, as the designated officer broker of RCI, was required to exercise reasonable supervision and control over the activities of RCI and its employees pursuant to Section 10159.2 (Reasonable Supervision by Designated Officer) of the Code and Section 2725 of the Regulations (Reasonable Supervision by Broker).

18

CHERNOGUZ failed to exercise reasonable supervision over the acts and/or omissions of RCI and its employees in such a manner as to allow the acts and/or omissions as described in Paragraph 13, above, to occur, which constitutes cause for the suspension or revocation of the licenses and license rights of CHERNOGUZ under Sections 10177(h) (Failure to Exercise Reasonable Supervision) and 10159.2 (Reasonable Supervision by Designated Officer) of the Code, and 10177(d) (Willful Disregard/Violation of Real Estate Law) and/or 10177(g) (Negligence/Incompetence in Performing Act Requiring License), of the Code.

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

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7   
8 E. J. HABERER, II  
9 Deputy Real Estate Commissioner

10 Dated at Oakland, California

11 this 5 day of August, 2011.  
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**FILED**  
AUG - 9 2011

DEPARTMENT OF REAL ESTATE  
By R. Uno

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9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 DO H. KANG, ) No. H-11187 SF  
14 Respondent. ) ACCUSATION  
15 )

16 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of  
17 the State of California, for cause of Accusation against DO H. KANG, (Respondent), is  
18 informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in his official capacity.

21 2

22 Respondent is presently licensed and/or has license rights under the Real Estate  
23 Law Part 1 of Division 4 of the Business and Professions Code (the Code) as a real estate  
24 salesperson.

25 3


26 On or about June 15, 2011, in the Superior Court of the State of California,  
27 County of San Mateo, Case No. NF 398917A, Respondent was convicted of violating Section

1 422 of the California Penal Code (Threaten With Intent to Terrorize), a misdemeanor and a  
2 crime which bears a substantial relationship under Section 2910, Title 10, California Code of  
3 the Regulations to the qualifications, functions or duties of a real estate licensee.

4 4

5 The facts alleged in Paragraph 3, above, constitutes cause under Sections 490  
6 (Conviction of Substantially Related Crime) and 10177(b) (Further Grounds for Disciplinary  
7 Action- Conviction of Crime) of the Code for suspension or revocation of all licenses and  
8 license rights of Respondent under the Real Estate Law.

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

14  
15   
16 E. J. HABERER, II  
17 Deputy Real Estate Commissioner

18 Dated at Oakland, California,  
19 this 5 day of August, 2011.  
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