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DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

NO. H-11374 SF

12 JULIAN AVILA MANCIAS,
13 CHRIS ANTHONY PISCIOTTA and
14 KATHERINE ANN JONES PISCIOTTA,
15
16 Respondents.

ACCUSATION

17 The Complainant, E. J. HABERER, II, in his official capacity as a Deputy Real
18 Estate Commissioner of the State of California, for cause of Accusation against JULIAN AVILA
19 MANCIAS, CHRIS ANTHONY PISCIOTTA and KATHERINE ANN JONES PISCIOTTA
20 (collectively referred to herein as "Respondents"), is informed and alleges as follows:

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22 Respondent JULIAN AVILA MANCIAS (hereinafter "MANCIAS") is presently
23 licensed by the California Department of Real Estate (hereinafter "the Department") and/or has
24 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
25 Professions Code (hereinafter "the Code"), as a real estate broker.

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At no time mentioned herein, as of July 31, 2010, were any fictitious business names licensed under MANCIAS's broker license.

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4
Respondent CHRIS ANTHONY PISCIOTTA (hereinafter "CHRIS PISCIOTTA") is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate salesperson and at all times relevant herein was employed as a real estate salesperson by MANCIAS.

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Respondent KATHERINE ANN JONES PISCIOTTA (hereinafter "KATHERINE PISCIOTTA") is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate salesperson and at all times relevant herein was employed as a real estate salesperson by MANCIAS.

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

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At all times relevant herein, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity; and Section 10131(b) of the Code,

1 including the leasing or renting or offer to lease or rent, or placing for rent, or solicitation of
2 listings of places for rent, or solicitation of prospective tenants, or negotiation of the sale,
3 purchase or exchanges of leases on real property, or on a business opportunity, or collection of
4 rents from real property, or improvements thereon, or from business opportunities.

5 FIRST CAUSE OF ACTION

6 (As Against All Respondents)

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

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11 Beginning on or about August 16, 2010, and continuing intermittently until August
12 26, 2010, an audit was conducted at MANCIAS's office locations on Cochrane Road in Morgan
13 Hill, California and North Tenth Street in San Jose, California, wherein the Auditor examined
14 Respondents' records for the period of July 1, 2009 through July 31, 2010 (hereinafter "the audit
15 period").

16 9

17 While acting as a real estate broker as described in Paragraph 6, above, and within
18 the audit period, Respondents accepted or received funds in trust (hereinafter "trust funds") from
19 or on behalf of owners, tenants and others in connection with the rental or lease of residential
20 property, and from or on behalf of sellers, buyers, and others in connection with the sale of
21 residential property, for or in expectation of compensation, as alleged herein, and thereafter from
22 time-to-time made disbursements of said trust funds.

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The trust funds accepted or received by Respondents as described in Paragraph 9, above, were deposited or caused to be deposited by Respondents into two bank accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

BANK ACCOUNT # 1

Bank:	Bank of American, N.A., P.O. Box 37175, San Francisco, CA 94137
Account # Last 4 Digits:	6111
Entitled:	"Chris Pisciotta Real Estate Trust Account"
Signatories:	Katherine Jones Pisciotta (RES), Chris Pisciotta (RES), Julian Avila Mancias (REB)
Purpose:	Trust fund handling for property management activities. Account closed on 3/11/10.

BANK ACCOUNT # 2

Bank:	Bank of American, N.A., P.O. Box 37175, San Francisco, CA 94137
Account # Last 4 Digits:	1493
Entitled:	"Kath Jones – Pisciotta Real Estate Trust Account"
Signatories:	Katherine Jones Pisciotta (RES), Chris Pisciotta (RES), Julian Avila Mancias (REB)
Purpose:	Trust fund handling for property management activities beginning on 1/1/10.

In the course of the activities described in Paragraph 6, above, and within the audit period, Respondents:

- (a) caused, suffered, or permitted the balance of funds in Bank Account # 1 to be reduced to an amount which, as of March 11, 2010, was approximately \$2,159.17 less than the aggregate liability of Bank Account # 1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (hereafter "the Regulations");

- 1 (b) caused, suffered, or permitted the balance of funds in Bank Account # 2 to
2 be reduced to an amount which, as of April 30, 2010, was approximately
3 \$740.00 less than the aggregate liability of Bank Account # 2 to all owners
4 of such funds, without the prior written consent of each and every owner of
5 such funds, in violation of Section 10145 of the Code and Section 2832.1 of
6 the Regulations;
- 7 (c) failed to maintain a separate beneficiary records for unidentified deposits
8 totaling \$15,522.20 as of March 11, 2010 for Bank Account #1, and
9 \$5,801.36 as of April 30, 2010 for Bank Account #2, in violation of Section
10 10145 of the Code and Section 2831.1 of the Regulations;
- 11 (d) failed to maintain an accurate and complete record of trust funds received
12 and not placed in broker's trust account, including information identifying
13 when an earnest money deposit was received or forwarded to escrow for
14 buyer Hieu T., in violation of Section 10145 of the Code and Section
15 2831.1(a)(6) of the Regulations;
- 16 (e) failed to designate Bank Account # 1 and 2 as a trust fund account in the
17 name of Respondent, as trustee, in violation of Section 10145 of the Code
18 and Section 2832 of the Regulations;
- 19 (f) failed to perform the reconciliation of the sum of the separate beneficiary
20 records to the records of all trust funds received and disbursed on at least a
21 monthly basis for Bank Account # 1 and 2, in violation of Section 10145 of
22 the Code, and Section 2831.2 of the Regulations;
- 23 (g) conducted real estate activities using the fictitious business name "Pisciotta
24 Realty" prior to June 28, 2010, without first registering this fictitious name
25 with the Department as required by Section 10159.5 of the Code and
26 Section 2731 of the Regulations;

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1 (h) operated a real estate brokerage business at 281 North 10th Street, San Jose,
2 California, a branch office and location which requires a real estate license,
3 without first procuring a real estate license for that branch office location in
4 violation of Section 10163 of the Code and Section 2715 of the Regulations;
5 and,

6 (i) represented to property owner Frank C. that an earnest money deposit was
7 obtained from the buyers Vincent A. and Cheryl H. on 7/25/09, and was
8 being held by Respondents when the buyers made the offer on the property.
9 However, the true facts were that Respondents had received no funds from
10 the buyers when the buyers made their offers on the property on 7/25/09.
11 Such misrepresentations are in violation of Section 10176(a), (b), and (i)
12 and Section 10177(g) and (j) of the Code.

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14 The acts and/or omissions of Respondents as alleged in Paragraph 11, above,
15 constitute grounds for discipline of all licenses and license rights of Respondents pursuant to
16 Sections 10177(d) and/or 10177(g) of the Code, and Sections 10177(j), 10176(a), 10176(b), and
17 10176(i) of the Code.

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19 The acts and/or omissions of Respondents as alleged in Paragraph 11, above, entitle
20 the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) of the
21 Code.

22 SECOND CAUSE OF ACTION

23 (As Against MANCIAS)

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25 Each and every allegation in Paragraphs 1 through 13, inclusive, above, is
26 incorporated by this reference as if fully set forth herein.

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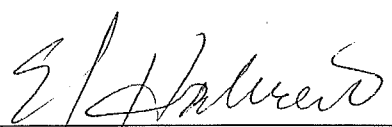
At all times relevant herein, MANCIAS was required to exercise reasonable supervision and control over the activities of MANCIAS's employees, agents and others acting on MANCIAS's behalf, including but not limited to CHRIS PISCIOTTA and KATHERINE PISCIOTTA, pursuant to Section 2725 of the Regulations (Reasonable Supervision by Broker).

MANCIAS failed to exercise reasonable supervision over the acts and/or omissions of MANCIAS's employees, agents and others acting on MANCIAS's behalf in such a manner as to allow the acts and/or omissions as described in Paragraph 11, above, to occur, which constitutes cause for the suspension or revocation of the licenses and license rights of MANCIAS under Section 10177(h) of the Code and Section 10177(d) and/or 10177(g) of the Code.

COST RECOVERY

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

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


E. J. HABERER, II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 10 day of May, 2012.