

FILED

FEB 17 2017

BUREAU OF REAL ESTATE

By *mRobert*

1 Richard K. Uno, Counsel III (SBN 98275)

2 Bureau of Real Estate

3 P. O. Box 137007

4 Sacramento, CA 95813-7007

5 Telephone: (916) 263-8670

6
7
8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of)

12) NO. H-12055 SF

13 EILEEN YOLANDA PASSANISI,)

14) ACCUSATION

15 Respondent.)

16 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
17 State of California, for cause of Accusation against EILEEN YOLANDA PASSANISI
18 (PASSANISI) , is informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in her official capacity.

21 2

22 At all times herein mentioned, PASSANISI was and is presently licensed and/or
23 has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
24 Professions Code (the Code) by the Bureau of Real Estate (the Bureau) as a real estate broker.

25 3

26 At all times mentioned, PASSANISI engaged in the business of, acted in the
27 capacity of, advertised or assumed to act as a real estate broker in the State of California, within

1 the meaning of Section 10131(a) of the Code, including the operation and conduct of a
2 residential resale brokerage wherein PASSANISI bought, sold, or offered to buy or sell,
3 solicited or obtained listings of, and negotiated the purchase, sale or exchange of real property or
4 business opportunities, all for or in expectation of compensation.

5 4

6 On or about November 19, 2014, PASSANISI entered into a listing agreement
7 with Highwater Properties, LLC, (Sellers) for that certain real property commonly known as 500
8 Arkansas Street, Fairfield, California (Arkansas Property).

9 5

10 On or about December 19, 2014, Warner B. and Iris B. (Buyers) entered into an
11 Option Agreement with Sellers to purchase the Arkansas Property. Buyers agreed to pay
12 \$9,585.00 for the Option and gave PASSANISI a check for \$11,825.00, which included payment
13 for the Option and \$2,400.00 for one month's rent of the Arkansas Property.

14 6

15 On or about December 20, 2014, the check described in Paragraph 5, above, was
16 deposited into the personal checking account of PASSANISI and her son. PASSANISI's failure
17 to place the check into a trust account or into escrow was in violation of Section 2832 of the
18 Regulations and Section 10145 of the Code.

19 7

20 On or about December 20, 2014, PASSANISI deposited \$7,925.00 of the
21 \$11,825.00 received from Buyers, into Sellers' account. PASSANISI kept \$1,660.00 as her
22 commission for acting as the listing agent for Sellers.

23 8

24 PASSANISI asserts that Sellers agreed to an advance fee as commission, which
25 amounted to 1.25%. However the Listing Agreement did not provide for an advance fee, nor was
26 permission to take an advance fee reduced to writing in a separate document. In addition,
27 Paragraph 12 of the Listing Agreement provides that it is the "entire agreement".

PASSANISI did not have an advance fee agreement that was approved by the Bureau as required by Section 10085 of the Code.

10

The Arkansas Property was listed for \$319,500.00, but the appraisal came in at \$265,000.00. The deal with Buyers fell through. In or around December of 2015, the Arkansas Property was sold to different buyers for \$281,500.00

11

The facts alleged in Paragraphs 4 through 10, above, violate Sections 10176(j) (other conduct/fraud dishonest dealing) of the Code, and are grounds for the suspension or revocation of the licenses and license rights of PASSANISI under Section 10176(j) of the Code.

12

The facts alleged in Paragraphs 6 and 7, above, violate Section 2832 of the Regulations and Section 10145 of the Code, and are grounds for the suspension or revocation of the licenses and license rights of PASSANISI under Section 10177 (d) (violation of real estate law) and Section 10177 (g) (negligence of real estate licensee) of the Code.

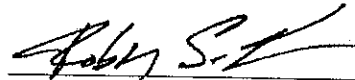
13

The facts alleged in Paragraph 9, above, violate Section 10085 (advance fee agreement) of the Code, and are grounds for the suspension or revocation of the licenses and license rights of PASSANISI under Section 10085 of the Code.

14

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondent under the Code, for the reasonable
4 cost of investigation and agency attorney's fees in this matter, and for such other and further
5 relief as may be proper under other provisions of law.

6
7 

8 ROBIN S. TANNER
Supervising Special Investigator

9 Dated at Sacramento, California,
10 this 10th day of February 2017.

11
12 DISCOVERY DEMAND

13 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
14 Bureau hereby makes demand for discovery pursuant to the guidelines set forth in the
15 *Administrative Procedure Act*. Failure to provide Discovery to the Bureau may result in the
16 exclusion of witnesses and documents at the hearing or other sanctions that the Office of
17 Administrative Hearings deems appropriate.