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FILED

JUL 13 2017

BUREAU OF REAL ESTATE
By B. Nicholas

9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of:)
13)
14 BROKER'S NETWORK, INC., and)
MICHAEL MARK MENDOZA,)
Respondents.)

No. H-12097 SF
ACCUSATION

15 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against BROKER'S NETWORK, INC. and
17 MICHAEL MARK MENDOZA ("Respondents"), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
21 State of California, makes this Accusation in her official capacity.

22 2

23 Respondents are presently licensed and/or have license rights under the Real
24 Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code") whose licenses
25 were, and now are, restricted subject to the provisions of section 10156.7 of the Code and to the
26 enumerated additional terms, conditions and restrictions imposed under the authority of section
27 10156.6 of the Code.

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Beginning on or about April 5, 2002, BROKER'S NETWORK, INC. ("BNI") was and continues to be licensed by the State of California Bureau of Real Estate ("Bureau") as a corporate real estate broker.

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Beginning on or about October 29, 2014, BNI'S corporate real estate license was revoked and BNI was issued a restricted corporate real estate license pursuant to the terms, conditions, and restrictions specified in the Stipulation and Agreement in Settlement and Order ("Order"), per Bureau Case No. H-11702 SF.

5

Beginning on or about June 25, 1991, MICHAEL MARK MENDOZA ("MENDOZA") was and continues to be licensed by the Bureau as a real estate broker.

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Beginning on or about October 29, 2014, MENDOZA'S real estate broker license was revoked and MENDOZA was issued a restricted real estate broker license pursuant to the terms, conditions, and restrictions specified in the Order, per Bureau Case No. H-11702 SF.

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At all times herein mentioned MENDOZA is the sole shareholder and licensed designated officer of BNI. As the designated officer, MENDOZA is responsible, pursuant to section 10159.2 of the Code, for supervising the activities of BNI'S officers, agents, real estate licensees, and employees for which a license is required.

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

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 in the State of California, within the meaning of section 10131(a) of the Code by engaging with the public in residential property resale activities, on behalf of others, for compensation or in expectation of compensation, Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property.

On or about April 25, 2016, a follow-up audit was conducted of the records of BNI. The Bureau's auditor examined business records for the period of January 1, 2015, through March 31, 2016.

On or about November 5, 2001, BNI became registered with the Secretary of State, having entity number C2364630.

On or about January 2, 2015, through April 18, 2016, BNI was "FTB Suspended" by the Secretary of State.

CAUSE OF ACTION

15 Chase Street, Vallejo, CA ("Chase Street Property")

On or about March 17, 2015, MENDOZA, while acting as a real estate broker, entered into a six-month, exclusive Residential Listing Agreement with seller Charmaine F., wherein MENDOZA obtained the exclusive and irrevocable right to sell or exchange the Chase Street Property.

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On or about July 15, 2015, MENDOZA, while acting as a representative of BNI, signed a Residential Income Property Purchase Agreement and Joint Escrow Instructions.

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On or about September 18, 2015, the Chase Street Property transaction closed. BNI received real estate broker fees in the amount of approximately \$5,375.

620 Mariposa Avenue, Mountain View, CA ("Mariposa Avenue Property")

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On or about March 31, 2015, MENDOZA, while acting as a real estate broker, entered into a three-month, exclusive Residential Listing Agreement with seller David H. Living Trust, wherein MENDOZA obtained the exclusive and irrevocable right to sell or exchange the Mariposa Avenue Property.

17

On or about April 20, 2015, MENDOZA, while acting as a representative of BNI, signed a California Residential Purchase Agreement.

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On or about May 15, 2015, the Mariposa Avenue Property transaction closed. BNI received real estate broker fees in the amount of approximately \$12,825.

3370 Jericho Lane, San Jose, CA ("Jericho Lane Property")

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On or about June 4, 2015, Paul Thottungal ("Thottungal"), while acting as a real estate salesperson for BNI, entered into a Residential Purchase Agreement with buyer Sunil K. for the sale of the Jericho Lane Property.

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2 On or about June 26, 2015, the Jericho Lane Property transaction closed.

3 **604 Sandalwood Court, Milpitas, CA ("Sandalwood Court Property")**

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5 On or about July 1, 2015, Thottungal, while acting as a real estate salesperson for
6 BNI, entered into a Residential Purchase Agreement with buyers Augustine R. and Liza R. for
7 the sale of the Sandalwood Court Property.

8 22

9 On or about July 31, 2015, the Sandalwood Court Property transaction closed.
10 BNI received a real estate broker fee in the amount of approximately \$24,375.

11 **13275 Santa Teresa Blvd., San Martin, CA ("Santa Teresa Blvd. Property")**

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13 On or about July 24, 2015, BNI entered into a three-month, exclusive Vacant
14 Land Listing Agreement with owner Arturo F., wherein BNI obtained the exclusive and
15 irrevocable right for the Santa Teresa Blvd. Property.

16 24

17 On or about September 23, 2015, MENDOZA, while acting as a representative for
18 BNI, entered into a Vacant Land Purchase Agreement and Joint Escrow Instructions with buyers
19 Craig R. and Kelly R. for the Santa Teresa Blvd. Property.

20 25

21 On or about November 2, 2015, the Santa Teresa Blvd. Property transaction
22 closed. BNI received a real estate broker fee in the amount of approximately \$3,850.

23 **523 Lanning Court, San Jose, CA ("Lanning Court Property")**

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25 On or about September 14, 2015, Respondents entered into a three-month,
26 exclusive Residential Listing Agreement with seller Ana H., wherein Respondents gained the
27 exclusive and irrevocable right to sell or exchange the Lanning Court Property.

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On or about October 9, 2015, MENDOZA, while acting as a representative for BNI, signed a Residential Purchase Agreement and Joint Escrow Instructions from buyer Valerie T. for the Lanning Court Property.

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On or about November 3, 2015, the Lanning Court Property transaction closed. BNI received a real estate broker fee in the amount of approximately \$19,950.

1768 Deer Creek Court, San Jose, CA ("Deer Creek Court Property")

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On or about December 17, 2015, Respondents entered into a three-month, exclusive Residential Listing Agreement with seller H. Michael L. Sr., wherein Respondents obtained exclusive and irrevocable rights to sell or exchange the Deer Creek Court Property.

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On or about January 5, 2016, MENDOZA signed a Residential Purchase Agreement and Joint Escrow Instructions, as a representative of BNI, with buyers Chang K. and David Y. for the Deer Creek Court Property.

31

On or about February 24, 2016, the Deer Creek Court Property transaction closed. BNI received commission in the amount of approximately \$17,500.

561 Brooks Avenue, San Jose, CA ("Brooks Avenue Property")

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On or about February 2, 2016, Respondents entered into a three-month, exclusive Residential Listing Agreement with seller Louis S., wherein Respondents obtained the exclusive and irrevocable right to sell or exchange the Brooks Avenue Property.

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On or about February 22, 2016, MENDOZA signed a Residential Purchase Agreement and Joint Escrow Instructions, as a representative of BNI, with buyers Gregor M. and Eva M. for the Brooks Avenue Property.

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On or about April 6, 2016, the Brooks Avenue Property transaction closed. BNI received commission in the amount of approximately \$30,100.

632 N. 10th Street, San Jose, CA ("10th Street Property")

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On or about April 2, 2016, Respondents entered into a three-month, exclusive Residential Listing Agreement with seller Sally E., wherein Respondents obtained the exclusive and irrevocable right to sell or exchange the 10th Street Property.

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The Residential Listing Agreement sets the compensation to broker at five percent of the listing price.

GROUND FOR DISCIPLINE AS TO BNI

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The facts described above in Paragraphs 1 through 36 constitute cause for the suspension or revocation of the license and license rights of BNI pursuant to Section 10177(d) (willfully disregarded or violated real estate law), Section 10177(j) (engaging in conduct that constitutes fraud or dishonest dealings), and Section 10177(f) (had a license revoked or suspended by an agency of this state for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license) of the Code, in conjunction with Section 2742(c), Title 10, California Code of Regulations ("Regulations") (a licensed corporation shall not engage in the business of a real estate broker while not in good legal standing with the Office of the Secretary of State).

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DISCOVERY DEMAND

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

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