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DEPARTMENT OF REAL ESTATE

By g dew

1 DEPARTMENT OF REAL ESTATE

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8 BEFORE THE STATE OF CALIFORNIA

9 DEPARTMENT OF REAL ESTATE

11 To:) NO. H-12290 SF
12)
13 CARLOS BERNARDO CARBAJAL and) ORDER TO DESIST AND REFRAIN
14 RED ANGEL, LLC) (B&P Code Section 10086)
15)

16 The Real Estate Commissioner (Commissioner) of the California Department of
17 Real Estate (Department) caused an investigation to be made of the activities of CARLOS
18 BERNARDO CARBAJAL (CARBAJAL) and RED ANGEL, LLC, aka RED ANGEL
19 HOUSING SOLUTIONS and RED ANGEL EXECUTIVE APARTMENTS (RAL)¹, including
20 engaging in the business of, acting in the capacity of, advertising, or assuming to act as a real
21 estate broker in the State of California within the meaning of Section 10131 (b) of the California
22 Business and Professions Code (Code). Based upon the findings of that investigation as set forth
23 below, the Commissioner has determined and is of the opinion that:

24 CARBAJAL and RAL have violated Section 10130 of the Code by engaging in
25 the business of or acting as a real estate broker, within the meaning of Section 10131 (b)

26 ¹ On or about July 3, 2018, CARBAJAL, on behalf of RAL, filed an Articles of Incorporation with
27 Statement of Conversion with the State of California Secretary of State under the name, Red Angel Corporation.

1 (Engaging in Property Management Activities) of the Code without first having obtained a real
2 estate broker license from the Department.²

3 Furthermore, based on the investigation, the Commissioner hereby issues the
4 following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the
5 authority of Section 10086 of the Code.

6 Whenever acts referred to below are attributed to RAL and/or CARBAJAL those
7 acts are alleged to have been done by RAL, acting by itself, or by and/or through one or more
8 agents, associates, affiliates, and/or co-conspirators, and using other names or fictitious names
9 unknown at this time.

10 FINDINGS OF FACT

11 1. At no time herein mentioned was CARBAJAL licensed by the Department as
12 a real estate broker or real estate salesperson.

13 2. At no time herein mentioned was RAL licensed by the Department as a real
14 estate broker corporation.

15 3. During the period of the time set out below, CARBAJAL and RAL performed
16 one or more of the following acts for another or others, for compensation or in expectation of
17 compensation, within the meaning of Section 10131 (b) of the Code including leasing, renting, or
18 offering places to rent, negotiating the sale or purchase of leases of real property or collecting
19 rents on real property for compensation or in expectation of compensation.

20
21 ² The Department recognizes and acknowledges that "the Real Estate Law provides and or allows
22 for specific and narrow statutory exemptions from the requirement that only a real estate licensee (a real estate
23 broker or a real estate salesperson working under the supervision of a broker) can perform those property
24 management functions listed in the Code." (Bell, *Alert to Real Estate Licensees and Others Who Solicit, Offer, and*
25 *Manage "Short-Term" Residential Rentals as Agents for Another or Third Parties: The Importance of Knowing –*
26 *and the Pitfalls of Failing to Strictly Follow – the Laws and Rules Pertaining to the "Transient Occupancies"*
27 *Exemption to the Real Estate Licensing Law*, April 2016, California Department of Real Estate,
<<http://calbre.ca.gov/files/pdf/adv/LicenseeAlert2016shorttermrentals.pdf>> [as of June 7, 2018].) Section 10131.01
(a) of the Code states, "Subdivision (b) of Section 10131 does not apply to...any person or entity, including a person
employed by a real estate broker, who, on behalf of another or others, solicits or arranges, or accepts reservations or
money, or both, for transient occupancies [defined in Section 1940 of the Civil Code and Section 7280 of the
Revenue and Taxation Code, but requiring the stay/rental to not exceed 30 days]..."

4. On or about March 7, 2018, CARBAJAL solicited a Department Special Investigator to perform property management services on her behalf for compensation. CARBAJAL indicated that RAL could "provide all services on leases, collecting rents, and getting repair people as needed."

5. CARBAJAL maintains that he is engaged in the business of performing property management for short-term rentals with leases of thirty (30) to sixty (60) days through RAL.³

CONCLUSIONS OF LAW

Based on the Findings of Fact contained in Paragraphs 1 through 5, above, CARBAJAL and RAL have performed and/or participated in property management activities which require a real estate broker license under Section 10131 (b) of the Code. Thus, CARBAJAL and RAL violated Section 10130 of the Code.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, CARLOS BERNARDO CARBAJAL and RED ANGEL, LLC ARE HEREBY ORDERED to immediately Desist and Refrain from performing any and all acts within the State of California for which a real estate broker license is required, unless and until a real estate broker license is obtained.

DATED: October 31, 2018

ACTING REAL ESTATE COMMISSIONER


DANIEL J. SANDRI

³ Respondent's property management business services short-term rentals that lease for longer than 30 days and therefore does not meet the statutory exemption for transient occupancies.

-NOTICE-

Business and Professions Code Section 10139 provides that “Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000)....”