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FILED

MAY 11 2022

DEPARTMENT OF REAL ESTATE

By B. Nicholas

7
8 **BEFORE THE DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of:) NO. H-12592 SF
12)
13 CHURCH CAPITAL CORPORATION) ACCUSATION
14 and KEVIN JOSEPH HESLIN,)
15 Respondents.)

16 The Complainant, STEPHANIE YEE, acting in her official capacity as a
17 Supervising Special Investigator of the State of California, for cause of Accusation against
18 CHURCH CAPITAL CORPORATION ("CHURCH CAPITAL") and KEVIN JOSEPH
19 HESLIN ("HESLIN"), (collectively referred to herein as "Respondents"), is informed and
20 alleges as follows:

21 1.

22 Respondents are presently licensed and/or have license rights under the Real
23 Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

24 2.

25 At all times mentioned herein, CHURCH CAPITAL was and is licensed by the
26 State of California, Department of Real Estate ("Department"), as a real estate broker
27 corporation.

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3.

At all times mentioned herein, HESLIN was and is licensed by the Department as a restricted real estate broker. At all relevant times, HESLIN was the designated broker officer of CHURCH CAPITAL. As the designated officer-broker, HESLIN was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees, and employees of CHURCH CAPITAL.

4.

At all times mentioned herein, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate licensees, in the State of California, on behalf of others, for compensation or in expectation of compensation, within the meaning of:

Section 10131(d) of the Code, including the operation and conduct of real estate business with the public wherein Respondents solicited borrowers or lenders for or negotiated loans or collected payment or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity;

Section 10131(e) of the Code, including the operation and conduct of real estate business with the public wherein Respondents sold or offered to sell, bought or offered to buy, or exchanged or offered to exchange a real property sales contract, or a promissory note secured directly or collaterally by a lien on real property or on a business opportunity, and performed services for the holders thereof; and/or

Section 10131.1 of the Code, including the operation and conduct of a real estate business with the public wherein Respondents engaged as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who made agreements with the public for the collection of payments or for the performance of services in connection with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

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5.

In the course of the activities described above in Paragraph 4, Respondents were involved in originating, funding, negotiating and/or closing the following a mortgage loan transaction involving the following real property:

Borrower	Property Address	Date Closed	Lender
J. Brown as Trustee of the J. Brown Living Family Trust	4851 Walnut St. Oakland, CA 94619 and 1246 79 th Ave. Oakland, CA 94621	June 6, 2019	David A.

COUNT ONE

FAILURE TO ASSIGN NOTE PROPERLY

(As to Respondents CHURCH CAPITAL and HESLIN)

6.

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

7.

Pursuant to Section 10232.3(a)(6) of the Code, if a note or interest will be secured by more than one parcel of real property, each security property shall be assigned a portion of the note or interest that shall not exceed a specified percentage of the current market value.

8.

In the transaction noted above in Paragraph 5, Respondents failed to assign a portion of the note to each of the secured property proportionally.

9.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 6 through 8, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10232.3(a)(6), 10177(d), and/or 10177(g) of the Code.

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1 **COUNT TWO**

2 **FAILURE TO PROVIDE LENDER/PURCHASER DISCLOSURE STATEMENT**

3 (As to Respondents CHURCH CAPITAL and HESLIN)

4 10.

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

7 11.

8 Pursuant to Section 10232.4(a) of the Code, a real estate broker who solicits or
9 negotiates a loan secured by real property shall provide the prospective purchaser with a
10 complete statement that includes specified information about the subject property and the
11 prospective borrower(s) before the prospective purchaser becomes obligated to make the loan or
12 purchase.

13 12.

14 In the transactions noted above in paragraphs 5, Respondents failed to provide the
15 prospective purchaser with the complete statement that included all of the information required
16 by Section 10232.4(a) of the Code.

17 13.

18 The acts and/or omissions of Respondents, as alleged above in Paragraphs 10
19 through 12, constitute grounds for the suspension or revocation of all licenses and license rights
20 of Respondents under Sections 10177(d), 10177(g) and/or 10232.4(a) of the Code.

21
22 **COUNT THREE**

23 **FAILURE TO PROVIDE NOTE PURCHASER QUALIFICATIONS STATEMENT**

24 (As to Respondents CHURCH CAPITAL and HESLIN)

25 14.

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

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15.

Pursuant to Section 10232.3(b) of the Code, in any transaction involving the sale of a note secured by interest in one or more parcels of real property, a note or interest shall not be sold unless the purchaser of the note meets specified qualifications and signs a statement regarding their net worth or adjusted gross income, and the broker retains said statement for four years.

16.

In the transaction noted above in paragraph 5, Respondents failed obtain and/or maintain the statement from the purchaser of the note, as required by Section 10232.3(b) of the Code.

17.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 14 through 16, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d), 10177(g) and/or 10232.3(b) of the Code.

COUNT FOUR

FAILURE TO SUPERVISE

(As to Respondent HESLIN Only)

18.

Each and every allegation in Paragraphs 1 through 17 inclusive, above, is incorporated by this reference as if fully set forth herein.

19.

HESLIN, as the designated officer of CHURCH CAPITAL, was required to exercise reasonable supervision and control over the activities of CHURCH CAPITAL, its employees, and the real estate activities being conducted by CHURCH CAPITAL.

20.

HESLIN failed to exercise reasonable supervision over the acts and/or omissions of CHURCH CAPITAL and its employees, in such a manner as to allow the acts and/or

1 omissions as described above in the First, Second, and Third Causes of Action to occur, which
2 constitutes cause for the suspension or revocation of the license(s) and license rights of HESLIN
3 under Sections 10177(d), 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with
4 Section 2725 of Title 10 of the California Code of Regulations.

5 **PRIOR DISCIPLINARY ACTIONS**

6 21.

7 Effective February 6, 2014, in Case No. H-11393 SF, the Real Estate
8 Commissioner issued an Order, pursuant to a Stipulation and Agreement, revoking HESLIN's
9 real estate broker licenses and granting HESLIN the right to apply for a restricted real estate
10 broker license, among other terms and conditions, for violations of Sections 490 and 10177(b) of
11 the Code. Effective November 14, 2016, HESLIN's petition for reinstatement of a plenary
12 broker license was denied.

13 **COST RECOVERY**

14 22.

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

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

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9 STEPHANIE YEE
Supervising Special Investigator

10 Dated at Oakland, California,
11 this 11th day of May, 2022.

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13 DISCOVERY DEMAND

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