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FILED

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DEPARTMENT OF REAL ESTATE
By B. Michels

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)	NO. H-12651 SF
)	
MICHELE LAVERNE JACQUES)	<u>ACCUSATION</u>
)	
Respondents.)	
)	

The Complainant, STEPHANIE YEE, acting in her official capacity as a
Supervising Special Investigator of the State of California, for cause of Accusation against
MICHELE LAVERNE JACQUES ("Respondent"), is informed and alleges as follows:

1.

Respondent is presently licensed and/or has license rights under the Real Estate
Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a restricted real
estate broker.

2.

At all times herein mentioned, Respondent held a restricted company mortgage
loan originator license with Nationwide Mortgage Licensing System and Registry ("NMLS"),
identification number 1195299. At all times herein mentioned, Respondent held a restricted
individual mortgage loan originator license with NMLS, identification number 1152062.

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1 3.

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

5 Section 10131(a) of the Code, including the operation and conduct of a real estate
6 resale brokerage with the public, wherein, on behalf of others, for compensation or in expectation
7 of compensation, Respondent sold and offered to sell, bought and offered to buy, solicited
8 prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the
9 purchase and resale of real property;

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

15 Section 10131(e) of the Code, including the operation and conduct of real estate
16 business with the public wherein Respondent sold, bought, or offered to buy, exchanged or
17 offered to exchange real property sales contracts, and/or promissory notes secured directly or
18 collaterally by liens on real property or on business opportunities, and performed services for the
19 holders thereof; and/or

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

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4.

In the course of the activities described above in Paragraph 3, Respondent was involved in originating, funding, negotiating and/or closing the following mortgage loan transactions:

	Borrower	Property Address	Date Closed	Lender
a.	Rajwant P.	1263 Plaza Court, Tracy, CA 95377	12/3/2021	Val-Chris Investments, Inc.
b.	Rajwant P.	536 Lake Park Ct. Oakley, CA 94561	12/7/2021	Val-Chris Investments, Inc.
c.	Gurtrude S. Living Trust	2319 73 rd Ave. Oakland, CA 94605	1/18/2022	Val-Chris Investments, Inc.

5.

Beginning on February 28, 2022, and continuing intermittently through September 16, 2022, the California Department of Real Estate (the "Department") conducted an audit of the books and records related the real estate activities of Respondent at Respondent's main office located at 2213 Buchanan Rd., Suite 212, Antioch, CA 94509, where the auditor examined records for the period of May 1, 2021, through January 31, 2022 ("audit period").

COUNT ONE

FAILURE TO DELIVER MORTGAGE LOAN DISCLOSURE STATEMENTS

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 10240 of the Code, a real estate broker acting within Section 10131(d) of the Code shall deliver to the borrower a written mortgage loan disclosure statement ("MLDS"), and obtain the borrower's signature on the MLDS within three days of receipt of the

1 loan application. Additionally, a real estate broker is required to maintain a copy of the MLDS
2 for three years.

3 8.

4 In the transactions noted above in Paragraphs 4(a) through 4(c), Respondent failed
5 to deliver a signed copy of the MLDS to the borrower within three business days after receipt of
6 the loan application.

7 9.

8 The acts and/or omissions of Respondent, as alleged above in Paragraphs 6
9 through 8, constitute grounds for the suspension or revocation of all licenses and license rights of
10 Respondent under Sections 10240, 10177(d), and/or 10177(g) of the Code.

11 **COUNT TWO**

12 **FAILURE TO PROVIDE FAIR LENDING NOTICE**

13 10.

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

16 11.

17 Pursuant to Section 35830 of the Health and Safety Code, and Section 7114 of
18 Title 21, California Code of Regulations ("the Regulations"), a real estate broker engaged in
19 mortgage banking shall provide each applicant for financial assistance upon the submission of a
20 written application as completed by and submitted by the application, a Fair Lending Notice
21 which sets forth the prohibitions of Chapter 3 of the Act, the complaint procedures set forth in
22 Chapter 4 of the Act, and the name and address of the office where complaints may be filed and
23 where questions may be asked.

24 12.

25 In the transactions noted above in paragraphs 4(a) through 4(c), Respondent failed
26 to provide each applicant with a Fair Lending Notice, as required by Pursuant to Section 35830
27 of the Health and Safety Code, and Section 7114 of Title 21 of the Regulations.

13.

The acts and/or omissions of Respondent, as alleged above in Paragraphs 10 through 12, constitute grounds for the suspension or revocation of all licenses and license rights of Respondent under Sections 10177(g) of the Code, and Section 35830 of the Health and Safety Code, in conjunction with Section 7114 of Title 21 of the Regulations.

COUNT THREE

FAILURE TO OBTAIN INVESTOR SUITABILITY STATEMENT

14.

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

15.

Pursuant to Section 10232.3(b) of the Code, no note or interest secured directly by an interest in one or more parcels of real estate shall be sold unless the purchaser meets specified income requirements and signs a statement, which shall be retained by the broker for four years, confirming that the transaction does not exceed a specified percentage of net worth or annual income.

16.

In the transactions noted above in paragraphs 4(a) through 4(c), Respondent failed to obtain a signed statement of the investors' income or net worth qualifications, as required by Section 10232.3(b) of the Code.

17.

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

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1 **COUNT FOUR**

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

3 18.

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

6 19.

7 Pursuant to Section 10232.4 of the Code, a real estate broker who solicits and
8 negotiates with a person to make a loan secured by real property or to purchase a real property
9 sales contract, or a note secured by a deed of trust shall provide the person solicited with a
10 lender/purchaser disclosure statement as early as practicable and before the receipt by the broker
11 of any funds from that person. The broker is required to retain a copy of the executed statement
12 for three years.

13 20.

14 The transactions noted above in Paragraph 4(a) through 4(c), Respondent failed to
15 obtain a signed lender/purchaser disclosure statement as required by Section 10232.4 of the
16 Code.

17 21.

18 The acts and/or omissions of Respondent, as alleged above in Paragraphs 18
19 through 20, are grounds for the revocation or suspension of Respondent's real estate licenses or
20 license rights under Sections 10177(d) and/or 10177(g) of the Code, in conjunction with Section
21 10232.4 of the Code.

22 **COUNT FIVE**

23 **FAILURE TO NOTIFY DEPARTMENT OF MEETING THRESHOLD CRITERIA**

24 22.

25 Each and every allegation in Paragraphs 1 through 21, inclusive, above, is
26 incorporated by this reference as if fully set forth herein.

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1 23.

2 Pursuant to Section 10232(e) of the Code, a real estate broker who collects
3 payments on behalf of obligors of promissory notes secured directly or collaterally by liens on
4 real property in an aggregate amount of two hundred fifty thousand dollars (\$250,000) or more in
5 a successive three month period shall notify the Department in writing within 30 days after that
6 determination is made.

7 24.

8 The total value of the three loans noted above in paragraphs 4(a) and 4(c)
9 exceeded \$856,800, yet Respondent failed to notify the Department in writing within 30 days of
10 meeting the threshold requirement, as required by Section 10232(e) of the Code.

11 25.

12 The acts and/or omissions of Respondent, as alleged above in Paragraphs 22
13 through 24, constitute grounds for the suspension or revocation of all licenses and license rights
14 of Respondent under Sections 10177(d) and/or 10177(g) of the Code, in conjunction with
15 Section 10232(e) of the Code.

16 **COUNT SIX**

17 **FAILURE TO SUBMIT QUARTERLY TRUST FUND REPORTS**

18 26.

19 Each and every allegation contained above in Paragraphs 1 through 30, inclusive,
20 is incorporated by this reference as if fully set forth herein.

21 27.

22 Pursuant to Section 10232.25 of the Code, a real estate broker who meets the
23 criteria of Section 10232(a) of the Code shall, within 30 days after the end of each of the first
24 three fiscal quarters of the broker's fiscal year, submit to the Department a statement attending to
25 the fact that the broker did not receive any trust funds in cash or convertible to cash during the
26 fiscal quarter.

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1 28.

2 Respondent failed to submit a quarterly trust fund non-accountability report,
3 described above in Paragraph 27, for the second and third quarters of 2021, as required by
4 Section 10232.25 of the Code.

5 29.

6 The acts and/or omissions of Respondent, as alleged above in Paragraphs 26
7 through 28, are grounds for the revocation or suspension of Respondent's real estate licenses or
8 license rights under Sections 10177(d) and/or 10177(g) of the Code, in conjunction with Section
9 10232.25 of the Code.

10 **COUNT SEVEN**

11 **FAILURE TO SUBMIT ANNUAL TRUST FUND REPORT**

12 30.

13 Each and every allegation contained above in Paragraphs 1 through 29, inclusive,
14 is incorporated by this reference as if fully set forth herein.

15 31.

16 Pursuant to Section 10232.2(b) of the Code, a real estate broker who meets the
17 criteria of Section 10232 of the Code shall, within 30 days after the end of the broker's fiscal
18 year, submit to the Department a statement attending to the fact that the broker did not receive
19 any trust funds in cash or convertible to cash during the fiscal year.

20 32.

21 Respondent failed to submit to the Department an annual trust fund non-
22 accountability report within 30 days of the of Respondent's 2021 fiscal year, as required by
23 Section 10232.2(b) of the Code.

24 33.

25 The acts and/or omissions of Respondent, as alleged above in Paragraphs 30
26 through 32, are grounds for the revocation or suspension of Respondent's real estate licenses or

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1 license rights under Sections 10177(d) an/or 10177(g) of the Code, in conjunction with Section
2 10232.2(b) of the Code.

3 **COUNT EIGHT**

4 **FAILURE TO SUBMIT ANNUAL MORTGAGE LOAN ACTIVITY REPORT**

5 34.

6 Each and every allegation contained above in Paragraphs 1 through 33, inclusive,
7 is incorporated by this reference as if fully set forth herein.

8 35.

9 Pursuant to Section 10232.2 of the Code, a real estate broker who meets the
10 criteria of Section 10232 of the Code shall, within 90 days after the end of the broker's fiscal
11 year, submit to the Department an annual Mortgage Loan Business Activity Report specifying the
12 receipts and disposition of funds of others relative to the business activities of the broker.

13 36.

14 Respondent failed to submit to the Department an annual Mortgage Loan Business
15 Activity Report within 90 days of the of Respondent's 2021 fiscal year, as required by Section
16 10232.2 of the Code.

17 37.

18 The acts and/or omissions of Respondent, as alleged above in Paragraphs 34
19 through 36, are grounds for the revocation or suspension of Respondent's real estate licenses or
20 license rights under Sections 10177(d) and/or 10177(g) of the Code, in conjunction with Section
21 10232.2 of the Code.

22 **COUNT NINE**

23 **FAILURE TO OBTAIN INVESTOR SUITABILITY QUESTIONNAIRE**

24 38.

25 Each and every allegation contained above in Paragraphs 1 through 37, inclusive,
26 is incorporated by this reference as if fully set forth herein.

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1 39.

2 Pursuant to 10232.45 of the Code, a real estate broker who negotiates a transaction
3 that involves the sale of a note secured directly by an interest in one or more parcels of real
4 property, or the sale of an undivided interest in a note secured directly by one or more parcels of
5 property, shall obtain an investor suitability questionnaire or equivalent evaluation of the
6 purchaser, and maintain record of such for at least four years.

7 40.

8 The transactions noted above in Paragraphs 4(a) through 4(c), Respondent failed
9 obtain an investor suitability questionnaire or equivalent evaluation of the purchaser, and/or
10 maintain record of such for at least four years, as required by Section 10232.45 of the Code.

11 41.

12 The acts and/or omissions of Respondent, as alleged above in Paragraphs 38
13 through 40, are grounds for the revocation or suspension of Respondent's real estate licenses or
14 license rights under Sections 10177(d) and/or 10177(g) of the Code, in conjunction with Section
15 10232.45 of the Code.

16 **COUNT TEN**

17 **FAILURE TO ADEQUATELY DISCLOSE DUAL AGENCY RELATIONSHIP**

18 42.

19 Each and every allegation contained above in Paragraphs 1 through 41, inclusive,
20 is incorporated by this reference as if fully set forth herein.

21 43.

22 In or about April 2021, Rainsford M. ("Seller") entered into an agreement to
23 have Respondent serve as the Seller's listing agent to sell the property located at 3847 Rockford
24 Dr., Antioch, CA 94509 ("Rockford Dr. Transaction").

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1 44.

2 On or about April 27, 2021, Respondent made an offer on behalf of Timothy S.
3 ("Buyer") to purchase the Subject Property for \$620,000. The Residential Purchase Agreement
4 completed by Respondent on behalf of Buyer did not indicate by checking the appropriate boxes
5 that Respondent represented both the buyer and the Seller in the Rockford Dr. Transaction.
6 Seller accepted the offer.

7 45.

8 Additionally, pursuant to Civil Code section 2079.17, as soon as practicable, the
9 seller's agent shall disclose to the seller whether the seller's agent is acting as a dual agent
10 representing both the buyer and seller. The confirmation required by this section shall be in the
11 following form:

12 "(Name of Seller's Agent, Brokerage firm and license number)

13 is the broker of (check one):

14 ☐ the seller; or

15 ☐ both the buyer and seller. (dual agent)"

16 46.

17 On or about July 15, 2021, escrow closed in the Rockford Dr. Transaction and
18 Respondent received a commission of \$14,260. At no time prior to the close of escrow did
19 Respondent adequately notify Seller of the dual agency transaction or complete and submit the
20 form described above in Paragraph 45 indicating the Rockford Dr. Transaction involved a dual
21 agency relationship.

22 47.

23 Respondent's acts and/or omissions in failing to properly notify Seller and Buyer
24 of the dual agency relationship involved in the subject transaction, as described above in
25 Paragraphs 42 through 46, are grounds for the revocation or suspension of Respondent's real
26 estate license and license rights under Sections 10176(d), 10177(d), and/or 10177(g) of the Code.

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1 of Respondent, revoking the company mortgage loan originator license endorsement of
2 Respondent, and revoking the individual mortgage loan originator license endorsement of
3 Respondent, and granting Respondent the right to apply for a restricted real estate broker license,
4 a restricted company mortgage loan originator license endorsement, and a restricted individual
5 mortgage loan originator license endorsement, among other terms and conditions, for violating
6 Sections 10145, 10166.07, 10176(e), 10177(d), 10177(g), 10231.2, and 10240 of the Code,
7 Section 35830 of the Health and Safety Code, Section 2835 of Title 10 of the Regulations, and
8 Section 7114 of Title 21 of the Regulations.

9 COST RECOVERY

10 54.

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

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

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22 STEPHANIE YEE
23 Supervising Special Investigator

24 Dated at Oakland, California,
25 this 23rd day of June, 2023.

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