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**FILED**

**December 27, 2023**

**Department of Real Estate**

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-12688 SF
	)	
JOE L. VANNI,	)	<b><u>FIRST AMENDED</u></b>
	)	<b><u>ACCUSATION</u></b>
	)	
Respondent.	)	
_____	)	

The Complainant, Stephanie Yee, a Supervising Special Investigator for the Department of Real Estate ("Department" or "DRE") of the State of California, for cause of Accusation against JOE L. VANNI, a.k.a. "Joseph L. Vanni" ("Respondent"), alleges as follows:

1.

The Complainant, Stephanie Yee, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

1 LICENSE HISTORY

2 3.

3 a. Respondent has license rights with the Department as a real estate broker  
4 (DRE License ID 00680141). On or about August 23, 1985, Respondent was issued said real  
5 estate broker license, which is set to expire on July 29, 2024, unless renewed.

6 b. According to DRE records to date, Respondent currently maintains his main  
7 office at 78690 Purple Sagebrush Avenue in Palm Desert, California.

8 c. At all times relevant herein, Respondent conducted licensed real estate  
9 brokerage business using the following fictitious business names under his DRE license:

10 (1) "HRF Mortgage," active as of February 14, 1996;

11 (2) "HRF Servicing," active as of February 14, 1996; and

12 (3) "Fairway Realty and Investment," active as of May 27, 2011.

13 d. At the present time, Respondent has no salespersons nor broker associates  
14 nor branch offices registered under his real estate license.

15 e. At all times on or after November 30, 2010, Respondent has held and holds a  
16 Department-approved individual mortgage loan originator license endorsement (NMLS ID  
17 303229)

18 f. At all times on or after January 6, 2015, Respondent has held and holds a  
19 Department-approved company mortgage loan originator license endorsement (NMLS ID  
20 319785) as a sole proprietor of HRF Servicing and HRF Mortgage.

21 PREVIOUS DISCIPLINARY ACTIONS

22 4.

23 On or about November 20, 2013, in DRE Case No. H-11536 SF, Respondent's  
24 real estate broker license was suspended for twenty (20) days, with a stay of execution for one  
25 (1) year upon terms and conditions, for violating Code section 10177(d) (willful disregard or  
26 violation of the Real Estate Law), in conjunction with Code sections 10145, 10232, and  
27 10232.25 and Regulations 2831, 2832, 2831.2, and 2834. The grounds for said discipline in

1 DRE Case No. H-11536 SF included the following:

2 a. Respondent's failure to maintain separate records, in violation of Code  
3 section 10145 and Regulation 2831.1;

4 b. Respondent's failure to provide lenders with month-end reconciliations of the  
5 outstanding loan balance on each loan, in violation of Code section 10145 and Regulation  
6 2831.2;

7 c. Respondent's failure to provide to the Department the signed  
8 Lender/Purchase Disclosure Statements to the Department, in violation of Code section  
9 10231.2(a);

10 d. Respondent's failure to file with the Department a Multi-Lender Transaction  
11 Notice, in violation of Code section 10238.

12 5.

13 On or about June 22, 2016, in DRE Case No. H-11901 SF, Respondent's real  
14 estate broker license was suspended for sixty (60) days, with a stay of execution for one (1)  
15 year upon terms and conditions, for violating Code section 10177(d) (willful disregard or  
16 violation of the Real Estate Law) and section 10177(g) (demonstrated negligence in performing  
17 an act for which he is required to hold a license), in conjunction with Code sections 10145 and  
18 Regulation 2832. The grounds for said discipline in DRE Case No. H-11901 SF included the  
19 following:

20 a. Respondent's commingling of trust funds, in violation of Code section  
21 10176(e);

22 b. Respondent's failure to maintain separate records, in violation of Code  
23 section 10145 and Regulation 2831.1;

24 c. Respondent's use of personal funds to advance investors' payments, in  
25 violation of Code section 10233.1.

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27 ///

1 BROKER ACTIVITIES

2 6.

3 At all times relevant herein, Respondent engaged in the business of, acted in the  
4 capacity of, advertised or assumed to act as a real estate broker in the State of California,  
5 within the meaning of Section 10131(d) of the Code, when he engaged, for a compensation or  
6 in expectation of a compensation, in soliciting borrowers or lenders for or negotiating loans or  
7 collecting payments or performing services for borrowers or lenders or note owners in  
8 connection with loans secured directly or collaterally by liens on real property or on a business  
9 opportunity.

10 CAUSE FOR ACCUSATION

11 (AUDIT SD220005)

12 7.

13 On or about October 4, 2021, the Department received a complaint from R.  
14 Schmidt ("Schmidt"), who was the financial advisor of M. O'Connell ("O'Connell")<sup>1</sup>, stating  
15 that his client O'Connell, along with four (4) other investors, invested \$100,000 in a purchase  
16 loan of \$975,000 that was made to Virginia Vanni, Respondent's wife, for a residential  
17 property located at 1812 Hunsaker Canyon Road, Lafayette, California 94549 ("Lafayette  
18 Property"). Schmidt alleged, among others, the following: (a) The undated Loan Servicing  
19 Agreement between O'Connell and Respondent's dba "HRF Servicing" listed the borrower of  
20 the loan for the Lafayette Property as "Vanni Lafayette" instead of the true, real name of  
21 Respondent's wife, Virginia Vanni; (b) Respondent failed to provide notice to O'Connell that  
22 the title to the Lafayette Property was changed from V. Vanni ultimately to C. Osoka; and (c)  
23 When interest on the loan note for the Lafayette Property was no longer paid beginning  
24 February 2020, Respondent failed to provide correct statements that showed the missed  
25 payments and instead re-sent O'Connell's January 2020 statement multiple times.

26 \_\_\_\_\_  
27 <sup>1</sup> Initials are used in place of individuals' first names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondents and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

8.

On or about January 31, 2023, the Department completed an audit examination of the books and records of Respondent's mortgage loan brokerage and servicing activities, pursuant to Code section 10131(d). The audit examination covered the period of time from September 1, 2020 to August 31, 2022. The primary purpose of the examination was to determine whether Respondent conducted real estate activities in accordance with the Real Estate Law and the Commissioner's Regulations. The audit was performed intermittently from September 27, 2022 to January 31, 2023.

9.

Based on the examination of records provided for the audit examination and discussions with Respondent, Respondent engaged in mortgage loan servicing that included negotiating hard money loans for borrowers and private investors and performing loan and principal payment collection services for borrowers and lenders. According to the auditor's discussions with Respondent and the review of records provided, Respondent collected more than \$792,500 during the last twelve successive months of the audit period, thereby meeting the threshold broker criteria by collecting more than \$250,000 in successive twelve months period, and Respondent met the quarterly reporting requirement criteria by collecting more than \$125,000 in three (3) consecutive months during the audit period.

10.

Based on the examination of records provided for the audit examination and discussions with Respondent, Respondent maintained one (1) bank account ("TA 1") at California Bank of Commerce for handling of trust fund receipts and disbursements for Respondent's mortgage loan servicing activity during the audit period:

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Trust Account 1 ("TA 1")

Bank: California Bank of Commerce

Bank Address: 2999 Oak Road, Suite 210  
Walnut Creek, CA 94597

Account Name: Joe L. Vanni REB DBA HRF Servicing Trust Account

Account Number: xxx8998

Signatory: Joe Vanni

Signatures required: One (1) signature

Purpose: The bank account for multiple beneficiaries was maintained for handling the receipts and disbursements of trust funds in connection with Vanni's mortgage loan servicing activities.

11.

The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in the consolidated Audit Report No. SD220005 and the exhibits and work papers attached to the audit report.

12.

**(a) Trust Fund Accountability and Balances for Multiple Beneficiaries**  
**(Code section 10145 and Regulation 2832.1).**

Bank reconciliation for TA 1, in connection with the mortgage loan servicing activity, was prepared with the cutoff date of August 31, 2022. The accountability of TA 1 was determined based on the separate records provided by the Respondent. The adjusted bank balance was compared to the accountability, as follows:

<i>Balance per bank statements:</i>	\$ 51,188.14
<i>Deposit in transit:</i>	\$ 0.00
<i>Outstanding checks:</i>	<u>\$ &lt;55,024.23&gt;</u>
<i>Adjusted bank balance:</i>	\$ < 3,836.09>
<i>Trust fund accountability of \$6,750.83:</i>	

1	Identified accountability	\$ 5,910.99	
2	Broker's fees/funds allowed	\$ 216.57	
3	Unidentified/unaccounted for funds	<u>\$ 623.27</u>	
4	(Total)	\$ 6,750.83	<u>\$ 6,750.83</u>
5	<i>Trust Fund Shortage</i>		<b>\$&lt;10,586.92&gt;</b>

6 As of August 31, 2022, there was a minimum trust fund shortage of  
7 \$<10,586.92> in TA 1. The causes of the trust fund shortage were (1) investors' negative  
8 balances of \$<4,675.93> and (2) commingled/conversion of trust funds of \$<5,910.99>.

9 The investors' negative balances of \$<4,675.93> were caused by disbursements  
10 related to investors' accounts when there were no sufficient funds to do so. Examples of  
11 investors' negative balances include the following:

12	<u>Investor Name</u>	<u>Borrower Name</u>	<u>Amount</u>
13	R. Cosca III	Nahshal	<\$1,093.75>
14	C. Cosca	Nahshal	<\$ 875.00>
15	J. Boyd	Bangora	<\$1,723.08>
16	HRF Mortgage Inc.	Manning	<\$ 740.00>
17	M. O'Connell	C. Osoka	<\$ 51.20>
18	J. Boyd	C. Osoka	<u>&lt;\$ 192.90&gt;</u>

19 Investors' Negative Balance TOTAL: <\$4,675.93>

20 Respondent commingled and converted trust funds with his personal funds by  
21 depositing trust funds into his personal, general business bank account in the amount totaling  
22 \$<5,910.99>.

23 Respondent provided no evidence that the owners of the trust funds had given  
24 their written consent to allow Respondent to reduce the balance of the funds in TA 1 to an  
25 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145  
26 and Regulations 2832.1.

27 ///

**(b) Commingled Trust Funds in Personal/General Business Bank Account /  
 Mishandling of Trust Funds / Conversion of Trust Funds / Unauthorized Disbursements  
 (Code sections 10145, 10176(e), 10176(i), and Regulation 2832)**

During the audit period, Respondent commingled trust funds with his personal/general funds by depositing trust funds into his personal/general bank account at Charles Schwab, bank account number 9046-2157 ("GA 1"), which caused part of the total trust fund shortage in TA 1 as of August 31, 2022. There were commingled trust funds from TA 1 into GA 1 totaling <\$5,910.99> as of August 31, 2022.

Respondent also converted trust funds that were placed in GA 1 when he used those trust funds to pay for his personal and financial obligations from GA 1 without the written consent of the owners/beneficiaries of the trust funds. The bank balance of GA 1 was reduced to an amount that was less than the amount of the trust funds deposited into GA 1. The balance of GA 1 went as low as \$5,055.41 on May 31, 2022, as low as \$2,420.44 on June 30, 2022, as low as \$1,766.54 on July 31, 2022, and as low as \$99.86 on August 31, 2022.

Examples of the conversion of trust funds are:

<u>Date Check Cleared</u>	<u>Check No.</u>	<u>Amount</u>	<u>Purpose/Notes on Check</u>
05/16/2022	438	\$2,500.00	Bills
06/01/2022	439	\$3,968.02	REO
07/01/2022	440	\$1,987.00	REO
08/23/2022	441	\$3,000.00	Bills

**(c) Commingled Trust Funds in Personal/General Business Bank Account /  
 Mishandling of Trust Funds / Unauthorized Disbursements  
 (Code sections 10145 and 10176(e), and Regulation 2832)**

On or about November 19, 2021, Respondent received \$50,000 from borrower, C. Osoka, via wire from Shalimar Escrow Inc. into TA 1. The \$50,000 were the interest payments for the servicing of loan number 7417, for the property located at Lafayette Property and for the following investors of said property: M. O'Connell, R. Cosca Jr., D. Dalton, J.



Boyd, and S. Boyd.

On the same day, on November 19, 2021, Respondent, without authorization, wrote out check number 10227 from TA 1 in the amount of \$50,000, which cleared TA 1 on November 24, 2021, and deposited said check into GA 1. Said funds were commingled with Respondent's personal/general funds, since GA 1 was used for Respondent's personal and general business activities.

**(d) Commingling – Broker's Funds/Commission Deposited into Trust Account**

**(Code sections 10145 and 10176(e))**

Respondent commingled broker's funds/commission with trust funds by depositing his loan fees collected from arranging institutional loans in connection with mortgage loans secured by liens on real property into TA 1. Some examples include:

<u>Loan number</u>	<u>Commission/loan fees</u>	<u>Date deposited into TA</u>	<u>Property</u>
7034810	\$6,590	11/02/2021	6320 Swiss Ranch Rd.
6000028286	\$6,830	03/03/2022	29 Solano Ave.

**(e) Trust Fund Records to be Maintained (Code section 10145 and Regulation 2831)**

During the audit period, Respondent failed to maintain a complete and accurate records of all trust funds received and disbursed (control records) for TA 1, in violation of Code section 10145 and Regulation 2381.

The control record was missing the date the trust funds were deposited and missing the daily balance. Some checks were also written out from TA 1 but not recorded in the control record of TA 1. Some examples include:

<u>Date</u>	<u>Check No.</u>	<u>Amount</u>	<u>Investor Name</u>	<u>Borrower Name</u>
08/30/2022	10852	\$ 989.58	R. Casca III	Nahshal
08/30/2022	10853	\$ 791.67	C. Casca	Nahshal
08/30/2022	10857	\$ 1,531.41	J. Boyd	Bangora
08/30/2022	10872	\$ 740.00	HRF Mortgage Inc.	Manning

**(f) Separate Record for Each Beneficiary of Transaction**

**(Code section 10145 and Regulation 2831.1).**

(i) During the audit period, Respondent failed to maintain a complete and/or accurate separate records for TA 1, in violation of Code section 10145 and Regulation 2831.1.

Some receipts were recorded on the separate records of TA 1 but were not received at the time said receipts were recorded and thus the separate records did not have accurate running balances. Some examples include:

<u>Date Recorded</u>	<u>Date Received</u>	<u>Amount</u>	<u>Investor Name</u>	<u>Borrower Name</u>
08/30/2022	09/07/2022	\$ 1,093.75	R. Casca III	Nahshal
08/30/2022	09/07/2022	\$ 875.00	C. Casca	Nahshal
08/30/2022	09/02 & 09/30/2022	\$ 1,723.08	J. Boyd	Bangora
08/30/2022	09/07/2022	\$ 740.00	HRF Mortgage Inc.	Manning

In addition, the separate records were missing the check numbers of the investors' proceeds disbursed from TA 1. Some examples include:

<u>Loan #</u>	<u>Date</u>	<u>Check No.</u>	<u>Amount</u>	<u>Borrower Name</u>	<u>Investor Name</u>
7482	05/30/2022	10681	\$ 2,871.28	J. Lopez	T. Earl
7444	05/30/2022	10676	\$ 395.83	H. Simmons	A. Cosca
7469	02/28/2022	10497	\$ 625.00	M. Feusier	R. Cosca
7436	02/28/2022	10460	\$ 1,187.50	J. Bautist	A. Fleisch
7479	05/30/2021	9889	\$ 2,796.50	A. Nasher	A. Fleisch

Further, some receipts were recorded on the separate records of TA but were not deposited into TA 1. Some examples include:

<u>Date Recorded</u>	<u>Amount</u>	<u>Loan #</u>	<u>Investor Name</u>	<u>Borrower Name</u>
03/30/2022	\$ 1,250.00	7417	R. Cosca, Jr.	C. Osoka
03/30/2022	\$ 2,916.67	7417	D. Dalton	C. Osoka
03/31/2022	\$ 2,000.00	7417	S. Boyd	C. Osoka

Moreover, some disbursements were recorded on the separate records of TA 1 but were not disbursed from TA 1. Some examples include:

<u>Date Recorded</u>	<u>Amount</u>	<u>Loan #</u>	<u>Investor Name</u>	<u>Borrower Name</u>
03/31/2022	\$ 1,125.00	7417	R. Cosca, Jr.	C. Osoka
03/31/2022	\$ 125.00	7417	R. Cosca, Jr.	C. Osoka
03/31/2022	\$ 2,625.00	7417	D. Dalton	C. Osoka
03/31/2022	\$ 291.67	7417	D. Dalton	C. Osoka
03/31/2022	\$ 1,800.00	7417	S. Boyd	C. Osoka
03/31/2022	\$ 200.00	7417	S. Boyd	C. Osoka

(ii) During the audit period, Respondent did not maintain a separate record for his broker's fees/funds in TA 1. During the course of the audit, Respondent reconstructed a separate record for his broker's fees/funds from May 2022 to August 2022.

(iii) Respondent failed to maintain a separate record for the "unidentified/unaccounted for funds" held in TA 1 totaling \$623.27 as of August 31, 2022.

**(g) Trust Account Reconciliation (Code section 10145 and Regulation 2831.2).**

(i) Based on the separate records and the control record provided for the audit, Respondent did not perform the monthly reconciliation comparing the balance of all the separate beneficiaries' records to the balance of the control record for TA 1 as required in connection with the loan servicing activity during the audit period.

(ii) Respondent failed to reconcile the "unidentified/unaccounted for funds" held in TA 1 totaling \$623.27 as of August 31, 2022.

**(h) Loan To Value and Other Requirements / Lender's signed Statement Indicating Percentage of Investment – Sale of Existing Note (Code sections 10232.3(b) and 10238(f))**

Respondent failed to obtain and retain lender's signed statement indicating that his/her investment in the transaction does not exceed either 10% of his/her net worth or 10% of his/her adjusted gross income as required in all of the single-lender loan files and the multi-lender loan file sampled for examination in connection with the sale of the existing note. Some

examples include:

Loan #	Amount	Lender Name	Property
7480	\$ 370,000	T. & V. Earl	74 Hill Street
7482	\$ 382,837	T. & V. Earl	1247 Pine Street
7483	\$ 234,000	T. & V. Earl	3632 Branch Street
7484	\$ 226,000	J. Boyd / L. Jordon	1837 1 <sup>st</sup> Street
7481	\$ 656,500	J. Boyd/J. Henry/C. Cosca	1342 Fitzgerald Street

**(i) Investor Questionnaire/Suitability – Sale of Existing Note**

**(Code sections 10232.45(c) and 10232.45(d))**

Respondent failed to obtain and retain investor questionnaire or determine investor suitability (Form RE870) from the investors as required in all of the single-lender loan files and the multi-lender loan file sampled for examination in connection with the sale of the existing note.

**(j) Recordation of Trust Deeds, Assignments – Sale of Existing Note**

**(Code section 10234(c))**

Respondent did not record with the county recorder of the county in which the real property is located the assignment of deed of trust in the name of purchasers/investors, within 10 working days after Respondent received the funds from the investors. Based on loan files examined, “HRF Mortgage,” which is Respondent’s licensed fictitious business name, was the lender on the loan documents. Respondent stated he would fund the loan with his own funds and then sell said loan with the same loan terms to the private investors. Respondent did not deliver the trust deed to the investors with a written recommendation that the assignment thereof be recorded forthwith in most of the loan files sampled for examination in connection with the sale of the existing note.

**(k) Delivery of Copies of Deed of Trust – Sale of Existing Note (Code section 10234.5)**

Respondent failed to deliver copies of the recorded assignment of the deed of trust to the investors in most of the loan files sampled for examination in connection with the

sale of the existing note.

**(l) Broker Advancing Other Than Borrower's Funds**

**(Code sections 10233.1 and 10238(k)(2))**

When Respondent serviced a multi-lender note secured by the Lafayette Property, Respondent caused funds other than funds received from the borrower, C. Osoka, to be applied towards the interest installment payments. The source of funds advanced to the investor M. O'Connell was Respondent himself. Respondent failed to give written notice to the other investors, within ten (10) days after making said interest installment payments, the date and amount of payment, the name of the person to whom payment was made, the source of funds, and the reason for making the payment. Some examples of advance payments made to M. O'Connell from Respondent's own funds include:

<u>Deposit Date</u>	<u>Check Date</u>	<u>Check No.</u>	<u>Amount</u>
04/28/2022	04/30/2022	10590	\$750.00
05/31/2022	05/30/2022	10644	\$750.00
06/30/2022	06/30/2022	10717	\$750.00
08/31/2022	08/30/2022	10830	\$750.00

**(m) Quarterly Multi-Lender Servicing Reports**

**(Code section 10238(j)(4), 10238(j)(5), 10238(j)(6), and 10238(k)(3))**

Respondent met the requirement for multi-lender payments collected by collecting more than \$125,000 in three (3) consecutive months and failed to file with the DRE the Quarterly Multi-Lender servicing reports (RE852) within thirty (30) days after the end of each of the following fiscal quarters of Respondent's fiscal years: for the quarters ending September 30, 2021 and March 31, 2022. Some examples include:

<u>Loan No.</u>	<u>Date Collected</u>	<u>Amount Collected</u>	<u>Borrower</u>	<u>Investor</u>
7456	03/03/2022	\$280,107.50	J. Lopez	D. Dalton/M.Vanni/V.Vanni
7456	02/24/2022	\$ 1,618.75	J. Lopez	D. Dalton
7439	09/15/2021	\$170,782.87	B. Benson	A. Cosca / V. Vanni

7439 08/13/2021 \$ 892.50 B. Benson A. Cosca

**(n) Notice of Multi-Lender (Code sections 10238(a) and 10238(b) and Regulation 2846.1)**

Respondent failed to file with the DRE an amended or original Multi-Lender Transaction Notice (RE860) within thirty (30) days to notify the DRE that he met the requirements for multi-lender payments collected. In 2019 and in 2022, pursuant to the DRE's request, Respondent submitted the Multi-Lender Transaction Notices (RE860) wherein he reported having done a multi-lender transaction but not meeting the threshold criteria to be reporting on a quarterly basis as a Multi-Lender.

**(o) Identifying the Loan Transaction – Claim of Exemption From Securities Qualification**

**(Code sections 10236.7(a) and 10236.7(b))**

Respondent sold a multi-lender loan and did not clearly indicate in the transaction file the code section, qualification, or exemption under which the multi-loan transaction was being conducted and arranged, as required. In addition, there was no proof in the transaction file that the investors were given said written notice of the code section, qualification, or exemption under which the multi-loan transaction was being conducted and arranged. One example is the sale of the multi-lender transaction of loan number 7481 in the amount of \$656,500 for investors J. Boyd, J. Henry, and C. Costa, for the property located at 1342 Fitzgerald in Oakland, California.

**(p) Authorization Required to Service Promissory Note / Written Servicing Agreements**

**(Code sections 10233(a), 10238(k)(1)(b)(2), and 10238(k)(1)(b)(5))**

All the loan servicing agreements maintained by Respondent and sampled for examination did not satisfy the requirements of Code sections 10233(a), 10238(k)(1)(b)(2), and 10238(k)(1)(b)(5). Some examples include:

<u>Loan No.</u>	<u>Lender Names</u>	<u>Property</u>
7480	T. & V. Earl	74 Hill Street
7484	J. Boyd / L. Jordon	1837 1 <sup>st</sup> Street
7417	M. O'Connell/ R. Cosca/ J. Boyd/ S. Boyd	1812 Hunsaker Canyon Road

1 **(q) Written Disclosure Statement / Approved Borrower Disclosure Statements**

2 **(Code section 10240(a) and Regulation 2840)**

3 Respondent solicited borrowers and lenders and arranged and/or brokered loans  
4 for compensation in connection with mortgage loans secured by liens on real property and did  
5 not retain a complete copy of the DRE-approved Mortgage Loan Disclosure Statement  
6 ("MLDS," Form RE882) as signed by the borrowers in all of the institutional loan files sampled  
7 for examination. Some examples are:

8 Loan No.	Date Loan Closed	Borrower Name
9 Z20100773	01/19/2021	J. & L. Mann
10 1010012996	01/22/2021	H. & C. Simmons
11 7034810	11/02/2021	M. Sanchez
12 6000028286	03/03/2022	M. Sanchez & J. Lopez

13 A Separate Disclosure was not provided at the same time as the Loan Estimate,  
14 that would include a statement that the Loan Estimate does not constitute a loan commitment  
15 and that the borrower may check the license status of the broker and/or loan officer by calling  
16 the California Department of Real Estate's licensing information telephone number at (877)  
17 373-4542 or by visiting the California Department of Real Estate's website at [www.dre.ca.gov](http://www.dre.ca.gov).

18 **(r) Fair Lending Notice / The Housing Financial Discrimination Act of 1977**

19 **(California Health and Safety Code section 35800 through 35833)**

20 Respondent failed to obtain and retain the fair lending notice (RE867) as signed  
21 by the borrowers in all of the institutional loan files sampled for examination.

22 **(s) Secret Profit or Undisclosed Compensation / Broker Placement of Trust Funds with**  
23 **Financial Institutions (Code section 10176(g) and Regulation 2830)**

24 Respondent engaged in an earnings credit relationship with California Bank of  
25 Commerce whereby Respondent received earnings credit from trust funds available in TA 1 in  
26 connection with the loan servicing activity. The earnings credit was used to offset bank service  
27 charges incurred on TA 1, but it was not disclosed in writing in all of the loan servicing

1 agreements sampled for examination.

2 **(t) Making Substantial Misrepresentation (Code section 10176(a))**

3 On November 18, 2019, the deed of the Lafayette property, for which  
4 Respondent serviced a multi-lender note, was quitclaimed to borrower, C. Osaka. Respondent  
5 failed to notify, in writing, the investor M. O'Connell and other investors of the title name  
6 changes. Respondent also failed to generate new monthly statements to the investors of the  
7 Lafayette Property, which would have shown the missed interest payments by borrower C.  
8 Osaka.

9 13.

10 Each of the foregoing violations constitutes cause for the suspension or  
11 revocation of the real estate license and/or license rights of Respondents under the provisions of  
12 Code sections 10176(a), 10177(d), and/or 10177(g).

13 **COSTS**

14 (AUDIT COSTS)

15 14.

16 Code section 10148(b) provides, in pertinent part, that the Real Estate  
17 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner  
18 has found in a final decision, following a disciplinary hearing, that the broker has violated  
19 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code  
20 section.

21 (INVESTIGATION AND ENFORCEMENT COSTS)

22 15.

23 Section 10106 of the Code, provides, in pertinent part, that in any order issued in  
24 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the  
25 administrative law judge to direct a licensee found to have committed a violation of this part to  
26 pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

27 ///



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 imposing  
3 disciplinary action against all the licenses and/or license rights of Respondent under the Real  
4 Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of  
5 the audit, and for such other and further relief as may be proper under other applicable  
6 provisions of law.

7  
8 Dated at Oakland, California, on Dec 27, 2023.

9  
10 

11 Stephanie Yee (Dec 27, 2023 15:38 PST)

12 Stephanie Yee  
13 Supervising Special Investigator  
14  
15  
16  
17

18 cc:    JOE L. VANNI  
19       Stephanie Yee  
20       Sacto.  
21       Audits – Zaky Wanis  
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