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JAMES DEMUS, Counsel (SBN 225005)  
Department of Real Estate  
320 West Fourth St., #350  
Los Angeles, CA 90013  
  
(213) 576-6982  
(213) 576-6910 (direct)

**FILED**

AUG 24 2012

DEPARTMENT OF REAL ESTATE  
BY: *Guadalupe Valencia*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of  
  
K2 CAPITAL MANAGEMENT INC, and  
LAUREN KERR LAYTON, individually,  
and as former designated officer of  
K2 Capital Management Inc,  
  
Respondents.

No. H-38374 LA  
A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate  
Commissioner of the State of California, for cause of  
Accusation against K2 CAPITAL MANAGEMENT INC and LAUREN KERR  
LAYTON, individually, and as former designated officer of K2  
Capital Management Inc, is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate  
Commissioner of the State of California, makes this Accusation  
in her official capacity.

1 2.

2 K2 CAPITAL MANAGEMENT INC, (hereinafter "K2") is  
3 presently licensed and/or has license rights under the Real  
4 Estate Law (Part 1 of Division 4 of the Business and  
5 Professions Code, hereinafter "Code"), as a corporate real  
6 estate broker. K2 was initially licensed by the California  
7 Department of Real Estate ("Department") on May 1, 2009.

8 3.

9 LAUREN KERR LAYTON (hereinafter "LAYTON") is  
10 presently licensed and/or has license rights under the Real  
11 Estate Law, as a real estate broker. She was a designated  
12 officer of K2 from May 1, 2009 to September 9, 2010.

13 4.

14 Pursuant to Code Section 10159.2, Respondent LAYTON  
15 was responsible for the supervision and control of the  
16 activities conducted on behalf of Respondent K2 and by its  
17 officers and employees as necessary to secure full compliance  
18 with the provisions of the Real Estate Law, including the  
19 supervision of salespersons licensed to the corporation in the  
20 performance of acts for which a real estate license is  
21 required.

22 FIRST CAUSE OF ACCUASTION

23 (Advance Fee Agreements)

24 5.

25 George T. Transaction

26 On or about September 2, 2009, George T. entered into  
27 an agreement with K2 in which K2 agreed to negotiate a

1 modification of a loan secured by George T's real property, in  
2 exchange for George T's payment of advance fees to K2. \$2,500  
3 in advance fees was received by K2 on September 2, 2009.

4 6.

5 Edward M. Transaction

6 On or about October 5, 2009, Edward M. entered into  
7 an agreement with K2 in which K2 agreed to negotiate a  
8 modification of a loan secured by Edward M's real property, in  
9 exchange for Edward M's payment of advance fees to K2. \$3,000  
10 in advance fees was received by K2 on October 10, 2009.

11 7.

12 The agreements described in Paragraphs 5 and 6 above,  
13 constitute advance fee agreements within the meaning of Code  
14 Section 10026. On June 22, 2009 the Department received an  
15 advance fee agreement from LAYTON, on behalf of K2. The  
16 Department advised LAYTON and K2 that the agreement could not  
17 be used, in a letter dated June 26, 2009. On September 8,  
18 2009, LAYTON submitted another advance fee agreement to the  
19 Department, on behalf of K2. The Department advised LAYTON and  
20 K2 that the agreement could not be used, in a letter dated  
21 October 20, 2009.

22 8.

23 Therefore, neither the agreements described in  
24 paragraphs 5 and 6 above, nor any other advance fee agreements  
25 used by LAYTON and K2, were approved by the Department. The  
26 use of the advance fee agreements, referred to in Paragraphs 5  
27 and 6 above, was in violation of Code Sections 10085 and

1 10085.5 and Regulation 2970. This provides cause for the  
2 suspension or revocation of the licenses and license rights of  
3 K2 and LAYTON, pursuant to Code Sections 10085, 10177(d) and/or  
4 10177(g).

5 9.

6 In aggravation, between March 17, 2009 and August 19,  
7 2009, K2 entered into the following advance fee agreements,  
8 which were not approved by the Department:

9

10 Consumer(s)	Agreement Date	Advance Fee
11 Michael M.	3/17/09	\$3,490
12 Virginia G.	4/24/09	\$3,495
13 Clarence & Amy C.	8/3/09	\$2,995
14 Barbara R.	8/5/09	\$2,995
15 David E.	8/17/09	\$2,995
16 Frances B. & Veda M.	8/19/09	\$3,000

17 10.

18 The overall conduct of Respondent LAYTON constitutes  
19 a failure on her part, as an officer designated by a corporate  
20 broker licensee, to exercise the reasonable supervision and  
21 control over the licensed activities of K2 as required by Code  
22 Section 10159.2, and to keep K2 in compliance with the Real  
23 Estate Law, and is cause for the suspension or revocation of  
24 the real estate licenses and license rights of LAYTON pursuant  
25 to the provisions of Code Sections 10177(d), 10177(g) and  
26 10177(h).

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3 SECOND CAUSE OF ACCUSATION

4 (Lack of Corporate Standing)

5 11.

6 On or about February 1, 2012, the Franchise Tax Board  
7 of the State of California forfeited K2's powers, rights and  
8 privileges pursuant to the provisions of the California Revenue  
9 and Taxation Code, and the entity's powers, rights and  
10 privileges remain forfeited to date.

11 12.

12 The conduct of Respondent K2, as alleged above, is in  
13 violation of Section 2742 of Title 10, Chapter 6, California  
14 Code of Regulations, and subjects its real estate licenses and  
15 license rights to suspension or revocation pursuant to Code  
16 Section 10177(d), 10177(g) and/or 10177(f).

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3 WHEREFORE, Complainant prays that a hearing be  
4 conducted on the allegations of this Accusation and that upon  
5 proof thereof, a decision be rendered imposing disciplinary  
6 action against all the licenses and license rights of  
7 Respondents K2 CAPITAL MANAGEMENT INC and LAUREN KERR LAYTON,  
8 under the Real Estate Law, that Complainant be awarded its  
9 costs of investigation and prosecution of this case, and for  
10 such other and further relief as may be proper under other  
11 applicable provisions of law.

12 Dated at Los Angeles, California  
13 this 23<sup>rd</sup> day of August 2012

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16   
17 Maria Suarez  
18 Deputy Real Estate Commissioner

19  
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24  
25 cc: K2 CAPITAL MANAGEMENT INC  
26 LAUREN KERR LAYTON  
27 Maria Suarez  
Sacto.