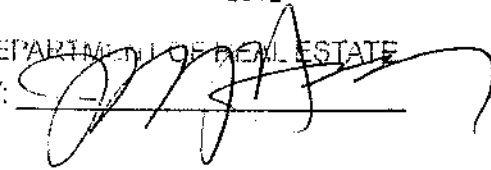


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FILED

DEC 11 2012

DEPARTMENT OF REAL ESTATE
BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation

No. H- 38606 LA

13 OCTAGON INTERNATIONAL)
14 BUSINESS INVESTMENTS INC.;)
15 and RHETT PASCUAL,)
16 individually, and as desig-)
17 nated officer for Octagon)
18 International Business)
Investments, Inc.,)
Respondents.)

ACCUSATION

19
20 The Complainant, Howard Alston, a Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against OCTAGON INTERNATIONAL BUSINESS INVESTMENTS INC.
23 ("OCTAGON") and RHETT PASCUAL ("PASCUAL"), individually, and as
24 designated officer for OCTAGON, is informed and alleges as
25 follows:

26 1.

27 The Complainant, Howard Alston, a Deputy Real Estate

1 Commissioner of the State of California, makes this Accusation in
2 her official capacity.

3 2.

4 At all times relevant herein OCTAGON was licensed
5 and/or had license rights under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code, hereinafter
7 "Code"), as a real estate corporation acting by and through
8 PASCUAL as its designated broker-officer. On or about April 26,
9 2012, the license of OCTAGON expired. Pursuant to Code Section
10 10201 OCTAGON retains renewal rights. Pursuant to Section 10103
11 the Department retains jurisdiction.

12 3.

13 PASCUAL is presently licensed and/or has license rights
14 under the Real Estate Law as a real estate broker. At all times
15 relevant herein PASCUAL was the designated broker-officer of
16 OCTAGON.

17 4.

18 At no time has Robert A. Vaughan ("Vaughan") been
19 licensed by the Department in any capacity.

20 5.

21 All further references to respondents herein include
22 OCTAGON and PASCUAL, and also include officers, directors,
23 employees, agents and real estate licensees employed by or
24 associated with OCTAGON and PASCUAL, and who at all times herein
25 mentioned were engaged in the furtherance of the business or
26 operations of OCTAGON and PASCUAL, and who were acting within the
27

1 course and scope of their authority and employment.

2 6.

3 At all times relevant herein PASCUAL, as the officer
4 designated by OCTAGON, pursuant to Section 10211 of the Code, was
5 responsible for the supervision and control of the activities
6 conducted on behalf of OCTAGAON by its officers and employees as
7 necessary to secure full compliance with the Real Estate Law as
8 set forth in Section 10159.2 of the Code.

9 7.

10 PASCUAL ordered, caused, authorized or participated in
11 the conduct of OCTAGON, as is alleged in this Accusation.

12 8.

13 At all times material herein, Respondents were engaged
14 in the business of, acted in the capacity of, advertised or
15 assumed to act as real estate brokers and/or real estate
16 corporations in the State of California, within the meaning of
17 Code Section 10131(d) of the Code. Said activities included
18 soliciting borrowers and lenders and negotiating the terms of
19 loans secured by real property between borrowers and third party
20 lenders for or in expectation of compensation.

22 FIRST CAUSE OF ACCUSATION
23 (Violation of Code Section 10085.6)

24 9.

25 At all times mentioned herein Respondents engaged in
26 the business of advance fee brokerage within the definition of
27 Code Section 10131.2 by claiming, demanding, charging, receiving,

1 collecting or contracting for the collection of an advance fee,
2 within the meaning of Code Section 10026, in connection with
3 employment undertaken to obtain a loan or loans.

4 10.

5 Respondent engaged in advance fee activities including,
6 but not limited to, the following loan modification activities
7 with respect to loans which were secured by liens on real
8 property:

9 a. On or about December 10, 2009, Vaughn solicited
10 Wayne K., Jimmy L. and William M. (collectively the "consumers")
11 to pay an advance fee of \$1,495 to OCTAGON, doing business as
12 Affinity Realty. The advance fee was to be paid pursuant to the
13 provisions of an agreement pertaining to loan solicitation,
14 negotiation, and modification services to be provided by OCTAGON
15 with respect to a loan secured by the real property located at
16 517 Dahlia Court, Fairfield, California 94533. In response to
17 the foregoing solicitation, on or about December 14, 2009, the
18 consumers mailed Respondents an advance fee in the amount of
19 \$1,495 by cashier's check dated December 12, 2009, which was made
20 payable to "Affinity Realty."
21

22 11.

23 On October 11, 2009, Code Section 10085.6 went into
24 effect. By its terms Section 10085.6 prohibits any real estate
25 licensee who negotiates, attempts to negotiate, arranges,
26 attempts to arrange, or otherwise offers to perform a loan
27 modification with respect to residential property to "claim,

1 demand, charge, collect, or receive any compensation until after
2 the licensee has fully performed each and every service the
3 licensee contracted to perform or represented that he, she, or it
4 would perform."

5 12.

6 By virtue of the application of newly enacted Code
7 Section 10085.6 to the advance fee transaction described in
8 Paragraph 10, above, Respondents violated the statute's
9 provisions when Respondents collected an advance fee after such
10 fees were prohibited by Code Section 10085.6.

11 13.

12 The conduct, acts and/or omissions of Respondents, as
13 set forth above, is cause for the suspension or revocation of the
14 licenses and license rights of Respondents pursuant to Code
15 Sections 10177(d) and/or 10177(g).

16 SECOND CAUSE OF ACCUSATION

17 (Violation of Code Section 10137 by Respondents in Employing
18 and/or Compensating an Unlicensed Individual)

19 14.

20 Complainant hereby incorporates by reference the
21 allegations set forth in Paragraphs 1 through 13, above.

22 15.

23 The activities described in Paragraph 10, above,
24 require a real estate license under Sections 10131(d) and 10131.2
25 of the Code. Respondents violated Section 10137 of the Code by
26 employing and/or compensating individuals who were not licensed
27

1 as a real estate salesperson or as a broker to perform activities
2 requiring a license, including but not limited to, the following:

3 a. Respondents employed and/or compensated Vaughn to
4 perform some or all of the services alleged in Paragraph 10,
5 above, though he was not licensed as a salesperson or broker.

6 16.

7 The conduct, acts and/or omissions of Respondents, as
8 set forth in Paragraph 15, above, violate Code Section 10137, and
9 is cause for the suspension or revocation of the licenses and
10 license rights of Respondents pursuant to Code Sections 10137,
11 10177(d) and/or 10177(g).

12 THIRD CAUSE OF ACCUSATION
13 (Failure to Maintain Definite Place of Business)

14 17.

15 Complainant hereby incorporates by reference the
16 allegations set forth in Paragraphs 1 through 16, above.

17 18.

18 On or about April 27, 2008, OCTAGON advised the
19 Department that its current business address was 3777 Long Beach
20 Boulevard, Suite 100, Long Beach, California.

21 19.

22 At a time known to Respondents, but unknown to the
23 Department, OCTAGON left and/or abandoned its former business,
24 and on or about March 30, 2011 and at all times through and
25 including April 13, 2012, was maintaining no definite place of
26 business in the State of California to serve as its office for
27

1 the transaction of business requiring a real estate license, in
2 violation of Code section 10162 and Section 2715, Title 10,
3 Chapter 6, California Code of Regulations ("Regulations").

4 20.

5 The conduct, acts and/or omissions of Respondents, as
6 set forth above, are cause for the suspension or revocation of
7 the licenses and license rights of Respondents pursuant to Code
8 Sections 10165, 10177(d), and/or 10177(g).

9 FOURTH CAUSE OF ACCUSATION
10 (Corporate Suspension of Respondent OCTAGON)

11 21.

12 Complainant hereby incorporates by reference the
13 allegations set forth in Paragraphs 1 through 20, above.

14 22.

15 On or about November 2, 2009, the Franchise Tax Board
16 of the State of California suspended the powers, rights and
17 privileges of OCTAGON pursuant to the provisions of the
18 California Revenue and Taxation Code. The corporate powers,
19 rights and privileges of OCTAGON remain suspended to date.

20 23.

21 The conduct of Respondent as alleged above, is in
22 violation of Section 2742(c) of the Regulations, and subjects its
23 real estate license and license rights to suspension or
24 revocation pursuant to Code Section 10177(d), 10177(f), and/or
25 10177(g).

26 ///

27 ///

1 California Business and Professions Code Section 10106
2 provides, in pertinent part, that in any order issued in
3 resolution of a disciplinary proceeding before the department,
4 the Commissioner may request the administrative law judge to
5 direct a licensee found to have committed a violation of this
6 part to pay a sum not to exceed the reasonable costs of
7 investigation and enforcement of the case.

8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all the licenses and license rights of Respondents
12 OCTAGON INTERNATIONAL BUSINESS INVESTMENTS INC. and RHETT PASCUAL
13 under the Real Estate Law (Part 1 of Division 4 of the Business
14 and Professions Code), for the cost of investigation and
15 enforcement as permitted by Code Section 10106, and for such
16 other and further relief as may be proper under other applicable
17 provisions of law.

18 Dated at Los Angeles, California
19 this 11th day of December, 2012.

21
22 

23 Howard Alston
24 Deputy Real Estate Commissioner

25
26 cc: OCTAGON INTERNATIONAL BUSINESS INVESTMENTS INC.
27 RHETT PASCUAL
Howard Alston
Sacto