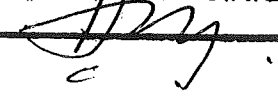


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AUG 22 2013

DEPARTMENT OF REAL ESTATE

BY: 

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7  
8  
9 BEFORE THE BUREAU OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 DEBRA LADEAN GORDON, individually )  
14 and as designated officer of Laguna Coast )  
15 Properties West Inc., and )  
16 JAY ALLEN GORDON, )  
17 Respondents, )

No. H- 39012 LA

ACCUSATION

18 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the  
19 State of California, for cause of Accusation against DEBRA LADEAN GORDON aka Debra  
20 Thuna ("LADEAN "), individually and as designated officer of Laguna Coast Properties West  
21 Inc. and JAY ALLEN GORDON ("GORDON") aka Jay Allen Thuna (collectively  
22 "Respondents"), is informed and alleges as follows:  
23

24 1.

25 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the  
26 State of California, makes this Accusation in her official capacity.



1  
2 Table: GORDON's employment during Audit Period: January 1, 2010 to December 31, 2012

Employing Broker	Tenure
Debra LaDean Gordon	June 2, 2008 to July 31, 2011
Charles F. Warren Jr.	September 8, 2011 through December 31, 2012
Non-Broker Affiliated	October 29, 2011 through April 29, 2012
Charles F. Warren Jr.	April 30, 2012 through December 31, 2012

7  
8 6.

9 LCPWI is owned forty-nine percent by LADEAN, corporate Secretary and fifty-  
10 one percent by GORDON, President.

11 7.

12 Whenever reference is made in an allegation in this Accusation to an act or  
13 omission of "Respondents", such allegation shall be deemed to mean that the officers, directors,  
14 employees, agents and real estate licensees employed by or associated with Respondents  
15 committed such act or omission while engaged in the furtherance of the business or operations  
16 of Respondents and while acting within the course and scope of their corporate authority and  
17 employment including LADEAN and GORDON.

18 FIRST CAUSE OF ACCUSATION  
(Audit of Laguna Coast Properties West Inc.)

19 8.

20 At all times mentioned, in the City of Laguna Beach, County of Orange,  
21 Respondent LADEAN acted as a real estate broker and conducted licensed activities within the  
22 meaning of:

23 A. Code Section 10131(a). LCPWI and Respondent LADEAN engaged in the  
24 business of conducting a residential resale brokerage and acted in the capacity of, advertised or  
25 assumed to act as a real estate broker, including the solicitation and negotiation of the sale of  
26 real property as the agent of others; and

1 B. Code Section 10132. During the audit period, set forth below in Paragraph 9,  
2 GORDON acted as a restricted real estate salesperson, below; GORDON was licensed as set  
3 forth in Paragraph 5 Table, above.

4 Audit

5 9.

6  
7 On May 31, 2013, the Bureau completed an audit examination of the books and  
8 records of LCPWI pertaining to the residential resale activities described in Paragraph 8, which  
9 require a real estate license. The audit examination covered a period of time beginning on  
10 January 1, 2010 and ending on December 31, 2012. The audit examination revealed violations of  
11 the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA  
12 120159 and the exhibits and work papers attached.

13 Bank Accounts

14 10.

15  
16 At all times mentioned, in connection with the activities described in Paragraph  
17 8, above, LCPWI accepted or received funds including funds in trust (hereinafter "trust funds")  
18 from or on behalf of actual or prospective parties to real estate transactions. Thereafter LCPWI  
19 made deposits and or disbursements of such trust funds. From time to time herein mentioned  
20 during the audit period, said trust funds were deposited and/or maintained by LCPWI in the  
21 bank accounts herein set forth.

22 Bank Account 1: (BA 1)

23 Bank: JP Morgan Chase Bank (Ladera Ranch branch)

24 Account Name: Laguna Coast Properties West Inc. dba OC Coast Realty/Client  
25 Trust Account

26 Account Number: \*\*\*\*\*0845

1  
2 Bank Account 2: (GA 1)

3 Bank: JP Morgan Chase Bank (Ladera Ranch branch)

4 Account Name: Laguna Coast Properties West Inc. dba OC Coast Realty

5 Account Number: \*\*\*\*\*6110  
6

7 Bank Account 3: (GA 2)

8 Bank: JP Morgan Chase Bank (Ladera Ranch branch)

9 Account Name: Laguna Coast Properties West Inc. dba OC Coast Realty

10 Account Number: \*\*\*\*\*6128  
11

12 Violations of the Real Estate Law

13 11.

14  
15 In the course of activities described in Paragraphs 6 and 8, above, and during the  
16 examination period described in Paragraph 7, Respondents LCPWI, LADEAN and GORDON  
17 acted in violation of the Code and the Regulations in which Respondents:

18 (a) LADEAN and GORDON. Permitted, allowed or caused the disbursement of  
19 trust funds from the bank accounts BA 1 and GA 1, below, into which were deposited trust funds  
20 and where the disbursement of funds reduced the total of aggregate funds said bank accounts, to  
21 an amount which, on July 7, 2012 and July 6, 2012, respectively, was less than the existing  
22 aggregate trust fund liability of LCPWI to every principal who was an owner of said funds,  
23 without first obtaining the prior written consent of the owners of said funds, in violation of Code  
24 Section 10145 and 10176(i) and Regulation 2832.1. This shortage was caused Respondents  
25 LADEAN and GORDON using trust fund beneficiaries' monies to pay LCPWI's operating  
26 expenses:

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<u>Bank Account</u>	<u>Deficit</u>
BA 1	\$14,450.00
GA 1	\$ 550.00
Total Deficit	<u>\$15,000.00</u>

<u>Bank Account</u>	<u>Deficit</u>
BA 1	\$14,450.00
GA 1	\$ 550.00
Total Deficit	<u>\$15,000.00</u>

(b)(1) LADEAN and GORDON. 30707 Calle Chueca, San Juan Capistrano

A combined Bureau audit and investigation revealed that LCPWI received \$20,000.00 from buyer Brian H. to place offers on real properties including short sale properties. On August 30, 2010, LCPWI dba OC Coast Realty presented an offer on a property located at 30707 Calle Chueca, San Juan Capistrano ("Calle Chueca"). The Offer was accepted on September 2, 2010. On October 19, 2010, LCPWI wired an earnest money deposit payment in the amount of \$5,000.00 from the \$20,000.00 received from buyer to the escrow company, Executive Escrow Company. On February 5, 2011, the Calle Chueca purchase was canceled. On February 8, 2011, subsequent to the cancellation, buyer received \$3,825.00 reimbursement from Executive Escrow Company for the cancelled Calle Chueca escrow from the \$5,000.00 deposit it had previously received, and buyer was debited \$1,675 by said escrow company for costs and fees. LCPWI however, failed to refund to buyer the remaining balance of \$15,000.00 previously provided to LCPWI by buyer Brian H.

///  
///

1  
2 (b)(2) LADEAN and GORDON. \$10,000.00 Loan to LCPWI from Brian H.

3 In addition to but separate from the Calle Chueca purchase, buyer Brian. H.  
4 loaned LCPWI a sum of \$10,000.00 "LCPWI dba OC Coast Realty" thereby issuing check no.  
5 1023 dated July 22, 2010 for said purpose. Subsequently, buyer sought return of the loaned  
6 \$10,000.00, in addition to the shorted escrow funds of \$15,000.00 due and owing to buyer,  
7 totaling \$25,000.00. Pursuant to a subsequent court stipulated judgment between LADEAN,  
8 GORDON, OC Coast Realty, the fictitious business name of LCPWI, and the buyer, OC Coast  
9 Realty was ordered to pay buyer Brian H. in payments totaling \$26,075.75. To date the sum of  
10 \$26,075.75 remains due and owing Brian H.  
11

12 (b)(3) LADEAN and GORDON. The conduct of LADEAN and GORDON,  
13 with respect to the Calle Chueca property and in combination with the \$10,000 received from  
14 buyer Brian H., is in violation of Code Sections 10176(a), 10176(b), 10176(c), 10176(i) and  
15 10177(g);  
16

17 (c) LADEAN. Failed to maintain a control record in the form of a columnar  
18 record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account"  
19 for BA 1 and GA 1, in violation of Code Section 10145 and Regulation 2831;

20 (d) LADEAN. Failed to maintain a separate record for each beneficiary or  
21 transaction for BA 1 and GA 1, in violation of Code Section 10145 and Regulation 2831.1;  
22

23 (e) LADEAN. Failed to perform a monthly reconciliation of the balance of all  
24 separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the  
25 record of all trust funds received and disbursed by BA 1 and GA 1, in violation of Code Section  
26 10145 and Regulation 2831.2;

1 (f) LADEAN and GORDON. Failed to place trust funds, including earnest  
2 money deposits, accepted on behalf of another into the hands of the owner of the funds, a neutral  
3 escrow depository or into a trust fund account in the name of the trustee at a bank or other  
4 financial institution not later than three business days following receipt of the funds by the  
5 broker or by the broker's salesperson, in violation of Code Section 10145 and Regulation  
6 2832(d);  
7

8 (g) LADEAN. Permitted GORDON, president and fifty-one (51%) owner of  
9 LCPWI and a restricted salesperson, to be a signatory on TA 1, BA 1, GA 1, and GA 2, into  
10 which were trust funds deposited and/or transferred from GA 1 into GA 2, when not authorized  
11 to do so by LADEAN, in violation of Code Section 10145 and Regulation 2834. At all relevant  
12 times GORDON was licensed under real estate broker LADEAN, real estate broker Charles F.  
13 Warren Jr., or non-broker affiliated, as tabled in Paragraph 5, above. GORDON was not  
14 licensed by LCPWI during the audit period;  
15

16 (h) LADEAN. Mixed and commingled trust funds and personal funds by  
17 depositing earnest money deposits received from depositor/buyers into GA1, one of LCPWI's  
18 general operating accounts, in violation of Code Sections 10145 and 10176(e) and Regulation  
19 2832;  
20

21 (i) LADEAN and GORDON. Converted trust funds by depositing trust funds in  
22 the form of earnest money deposits solicited depositor/buyers for residential purchases and then  
23 making inter-account transfers of said deposits from general operating accounts GA 1 into  
24 GA 2, which reduced the amount in GA 1 to an amount less than the amount of the trust funds  
25 deposited before the inter account transfer from GA 1 into GA 2, constituting conversion, in  
26 congruence with Paragraph 11(a), above, in violation of Code Sections 10145 and 10176(i):



1 Table: Conversion of Buyer Earnest Money Deposits

2

3

<u>Date</u>	<u>Received From</u>	<u>TF Deposited in GA1</u>	<u>TF Transferred to GA2</u>	<u>TF Balance in GA1</u>
5 01/25/10	Brian H.	\$20,000.00		\$20,000.00
6 09/29/10	GA1		\$2,500.00	17,500.00
7 10/04/10	GA1		1,250.00	16,250.00
8 10/12/10	GA1		1,800.00	14,450.00
9	Totals	<u>\$20,000.00</u>	<u>\$&lt;5,550.00&gt;</u>	<u>\$14,450.00</u>

10

11 (j) LADEAN and GORDON. Negotiated residential leases for three real

12 properties: 32252 Ridgeway, 28402 Calle Pinata, and 6 Almadorin, between July and August

13 2011, when LCPWI's corporate license had expired as on July 11, 2011, in violation of Section

14 10130;

15 (k) LADEAN and GORDON. Failed to notify the BUREAU of the employment

16 of salesperson Jay Allen Gordon, who negotiated on behalf of and was the agent representing

17 buyers Brian H., James A. and Frank/Debra C., during a time when GORDON was not licensed

18 to LCPWI, in violation of Code Section 10161.8 and Regulation 2752;

19 (l) LADEAN. Failed to retain all records of LCPWI's activity during the audit

20 period requiring a real estate broker license, in violation of Code Section 10148.

21 (m) LADEAN. Respondent LADEAN failed to exercise reasonable control and

22 supervision over the activities conducted by LCPWI's employees and/or licensees as necessary

23 to secure full compliance with the Real Estate laws, as required under Code Section 10159.2 and

24 Regulation 2725, in violation of Code Section 10177(h).

25

26

10.

The conduct of Respondents LADEAN and GORDON, described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11(a)	Code Sections 10145 and 10176(i) and Regulation 2832.1
11 (b)	Code Section 10176(a), 10176(b), 10176(c), 10176(i) and 10177(g)
11 (c)	Code Section 10145 and Regulation 2831
11 (d)	Code Section 10145 and Regulation 2831.1
11 (e)	Code Section 10145 and Regulation 2831.2
11 (f)	Code Section 10145 and Regulation 2832(d)
11 (g)	Code Section 10145 and Regulations 2834
11 (h)	Code Sections 10145 and 10176(e) and Regulation 2832
11 (i)	Code Sections 10145 and 10176(i)
11(j)	Code Section 10130
11 (k)	Code Section 10161.8 and Regulation 2752
11 (l)	Code Section 10148
11 (m)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (LADEAN)

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondent LADEAN under the provisions of Code Sections 10176(a), 10176(b), 10176(c), 10176(i), 10177(d), 10177(g) and 10177(h), and Respondent GORDON under the provisions of Code Sections 10176(i), 10177(d) and 10177(g), for allegations paragraphs 11 (a), 11(b) and 11 (i).

1 SECOND CAUSE OF ACCUSATION  
2 (Scheme to Defraud)

3 13.

4 General Allegations

5 At all times mentioned herein, Respondent GORDON was the president and de  
6 facto operational manager of LCPWI due to a lack of oversight and supervision of LCPWI by  
7 designated officer LADEAN. GORDON engaged in the business of a residential realty resales  
8 including operating a brokerage therefore which requires a real estate broker license to operate,  
9 within the definition of Code Section 10131(a) as described in Paragraph 8 above.

10 14.

11 Specific Allegations

12 Through the instrumentality of unauthorized writing and forgery of LADEAN's  
13 signature, LADEAN represented that as of the date of writing a letter of October 27, 2010 "To  
14 whom it may concern" provided to the Bureau of Real Estate that a \$20,00.00 earnest money  
15 deposit of from Brian H. was for the purchase of a property, to wit the Calle Chueca property,  
16 was deposited and was being held in "the company trust account at Chase bank account number  
17 xxxxxx6110", to wit, GA1. In truth and in fact the balance in GA 1 had reduced below the  
18 \$20,000.00 deposit, as of said date.

19 Disciplinary Statutes

20 15.

21 The conduct of Respondent GORDON, described in Paragraphs 13 and 14, above,  
22 violated the Code and the Regulations as set forth below:

23 PARAGRAPH

PROVISIONS VIOLATED

24 13-14

Code Sections 10176(a) and 10176(i) and 10177(j)

25 ///

26 ///

1 The foregoing violations constitute cause for discipline of the real estate licenses and license  
2 rights of Respondents LADEAN and GORDON under the provisions of said sections.

3  
4 THIRD CAUSE OF ACCUSATION  
(Negligence)

5 16.

6 The overall conduct of Respondents LADEAN and GORDON, constitutes  
7 negligence and is cause for discipline of the real estate license and license rights of said  
8 Respondents pursuant to the provisions of Code Section 10177(g).

9 FOURTH CAUSE OF ACCUSATION  
10 (Fiduciary Duty)

11 17.

12 The conduct, acts and omissions of Respondents LADEAN and GORDON,  
13 constitutes a breach of fiduciary duty, owed to LCPWI's clients and trust fund beneficiaries of  
14 good faith, trust, confidence and candor, within the scope of their contractual and brokerage  
15 relationship, in violation of Code Section 10177(g) and constitutes cause for discipline of the  
16 real estate license and license rights of said Respondents pursuant to the provisions of said Code  
17 Sections.

18 FIFTH CAUSE OF ACCUSATION  
19 (Supervision and Compliance)

20 18.

21 The overall conduct of Respondent LADEAN constitutes a failure on said  
22 Respondent's part, as officer designated by a corporate broker licensee, to exercise reasonable  
23 supervision and control over the licensed activities of LCPWI and its officers and employees  
24 including GORDON, as required by Code Section 10159.2 and Regulation 2725, and to keep  
25 LCPWI in compliance with the Real Estate Law, and is cause for discipline of the real estate  
26 license and license rights of Respondent LADEAN pursuant to the provisions of Code Sections  
10177(d), 10177(g) and 10177(h).

1  
2 PRIOR ACTION BY THE FORMER DEPARTMENT OF REAL ESTATE

3 19.

4 On March 15, 2007, in Case No. H-33815 LA, a Statement of Issues was filed  
5 against Respondent JAY ALLEN GORDON then known as Jay Allen Thuna which resulted in  
6 discipline by means of a restricted real estate salesperson license for said respondent for  
7 violations of Sections 475(a), 480(a)(1), 480(c), 10177(a) and 10177(b) and 10161.8 of the  
8 California Business and Professions Code and Sections 2752, 2831, 2831.1, 2831.2, 2832 of  
9 Title 10, Chapter 6, California Code of Regulations.  
10

11 20.

12 Code Section 10106 provides, in pertinent part, that in any order issued in  
13 resolution of a disciplinary proceeding before the BUREAU of Real Estate, the Commissioner  
14 may request the administrative law judge to direct a licensee found to have committed a  
15 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.  
17

18 21.

19 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge  
20 a real estate broker for the cost of any audit, if the commissioner has found in a final decision  
21 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation  
22 or rule of the commissioner interpreting said section.  
23

24 ///

25 ///

26 ///

1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all licenses and/or license rights of Respondents DEBRA LADEAN GORDON,  
4 individually and as designated officer of Laguna Coast Properties West Inc. and JAY ALLEN  
5 GORDON, under the Real Estate Law (Part 1 of Division 4 of the California Business and  
6 Professions Code) and for such other and further relief as may be proper under other applicable  
7 provisions of law, including, but not limited to restitution, restoration of trust fund shortage of  
8 \$14,450.00, costs of audit, investigation and enforcement.  
9

10  
11 Dated at Los Angeles, California.  
12

13 this 21 day of August, 2013.  
14

15   
16 ROBIN TRUJILLO  
17 Deputy Real Estate Commissioner  
18  
19  
20  
21

22 cc: Laguna Coast Properties West Inc.  
23 Debra LaDean Gordon  
24 Jay Allen Gordon  
25 Robin Trujillo  
26 Audits – Isabel Beltran  
Sacto