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DEPARTMENT OF REAL ESTATE
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7
8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
) No. H-39014 LA
12 CHARLES F. WARREN JR.,)
doing business as OC Realty; and)
13) ACCUSATION
14 JAY ALLEN GORDON,)
)
15 Respondents,)

16 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
17 of California acting in her official capacity, for cause of Accusation against CHARLES F.
18 WARREN JR. doing business as OC Realty, and JAY ALLEN GORDON also known as Jay
19 Allen Thuna, is informed and alleges as follows:
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21 1.

22 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
23 of California, makes this Accusation in her official capacity.
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25 2.

26 All references to the "Code" are to the California Business and Professions Code
27

1 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

2 License Entities

3 3.

4 A. At all times mentioned, Respondent CHARLES F. WARREN JR.
5 ("WARREN"), was licensed or had license rights issued by the Bureau of Real Estate ("Bureau")
6 as a real estate broker. WARREN was originally licensed as a real estate salesperson on June 3,
7 1977 and as a real estate broker on September 19, 1991.
8

9 B. From October 29, 2007, until expiration on March 10, 2012, Respondent
10 JAY ALLEN GORDON ("GORDON") has been licensed as a restricted real estate salesperson
11 pursuant to Case Number H-33815 LA as more fully set forth below in Paragraph 12.
12 GORDON's restricted salesperson licensed had expired on October 29, 2011 through April 29,
13 2012. GORDON's restricted salesperson license will expire on April 29, 2016.
14

15 Table: GORDON's employment during Audit Period: June 1, 2009 to May 31, 2012

Employing Broker	Tenure
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

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21 Brokerage

22 4.

23 At all times mentioned, in the City of Buena Park, County of Orange,
24 Respondents WARREN and GORDON engaged in conduct for which a real estate license was
25 required within the meaning of Code Sections:
26
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1 A. Code Section 10131(b). Respondent WARREN operated a property
2 management brokerage with the public wherein, for or in expectation of compensation, for
3 another or others, Respondent WARREN leased or rented or offered to lease or rent, or placed
4 for rent, or solicited listings of places for rent, or solicited for prospective tenants, or collected
5 rents from real property, or improvements thereon; and,

6
7 B. Code Section 10132. Respondent GORDON acted as a restricted real estate
8 salesperson employed by and licensed under Respondent WARREN as set forth in the Table of
9 Paragraph 3, above.

10 FIRST CAUSE OF ACCUSATION
11 (Audit Examination)

12 5.

13 On November 19, 2012 the Bureau completed an audit examination of the books
14 and records of Respondent WARREN, pertaining to property management activities of his
15 brokerage and in particular to securing leases for tenants activity described in Paragraph 4, that
16 require a real estate license. The audit examination covered a period of time beginning on June
17 1, 2009 and ending on May 31, 2012. The audit examination revealed violations of the Code and
18 the Regulations as set forth below, and more fully discussed in Audit Report LA 110275 and the
19 exhibits and work papers attached.

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21 Bank Account

22 6.

23
24 At all times mentioned, in connection with the activities described in Paragraph 4,
25 above, Respondents WARREN and GORDON accepted or received funds including funds in
26 trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions
27

1 handled by GORDON including property owners and tenants. WARREN did not maintain a trust
2 account for property management brokerage activities although salesperson GORDON
3 maintained the following bank account for his leasing of real property:
4

5 1. BA 1

6 Account Name: OC House Rentals
7 Account No.: *****6219
8 Bank Name: Wells Fargo Bank
9 Bank Address: P.O. Box 6995
10 Portland, OR 97228-6995

11 (Property Management bank account used for collected rents and security deposits
12 from tenants by Jay Allen Gordon aka Jay Allen Thuna). Two individuals were
13 signatories, Phyllis M. Wodin and Jay Allen Thuna, of which only one signature was
14 required).

15 Violations of the Real Estate Law

16 7.

17 In the course of activities described in Paragraphs 4 and 6, above, and during the
18 audit examination period described in Paragraph 5, Respondents WARREN and GORDON and
19 acted in violation of the Code and the Regulations in which:

20 (a) (1) GORDON. 59 Hillrise Drive, Dove Canyon, CA 92679. Respondent
21 GORDON received a check on February 8, 2012 from prospective tenant Horen Kuecekyan in
22 the amount of \$3,650.00 to OC Rentals "trust account," to wit, BA 1 as the deposit for renting
23 Hillrise Drive. The lease of the Hillrise Drive failed to execute. GORDON's acceptance of
24 Kuecekyan's deposit on behalf of WARREN, the failure to deliver deposit into the hands of
25 WARREN, into a neutral escrow depository or into the broker's trust fund account, or return the
26 deposit to Kuecekyan, is in violation of Code Sections 10145(c), 10176(a), 10176(i), and
27 10177(g), and

1 (a)(2) GORDON. GORDON was non-broker affiliated during the pendency of
2 the Hillrise Drive transaction, in violation of Code Section 10130;

3 (b) WARREN. BA 1 was not in the name of the broker as trustee at a bank or
4 other financial institution, nor designated as a trust account, in violation of Code Section 10145
5 and Regulation 2832(a);

6 (c) WARREN. Collected advance fees within the meaning of Section 10026 of
7 the Code during the audit period, in the form of a "marketing deposit" collected by salesperson
8 GORDON from prospective tenants for leases of real property wherein broker WARREN failed
9 to provide to the tenants a pre-approved advance fee agreement issued by the Bureau. The failure
10 of WARREN to submit an advance fee agreement to the Bureau five days prior to its use in
11 violation of Code Section 10085 and Regulation 2970, is in violation of Code Section 10177(d);

12 (d) WARREN. With reference to the lack of an advance fee agreement for the
13 marketing deposits collected by GORDON, WARREN, failed to provide a complete description
14 of services to be rendered provided to each prospective tenant; 10 point type font; and, an
15 allocation and disbursement of the amount collected as the advance fee, in violation of Code
16 Section 10146 and Regulation 2972, in violation of Code Section 10177(d);

17 (e) WARREN. Respondent WARREN employed and compensated GORDON,
18 as a property manager whose licensed had expired between the period of October 29, 2011 and
19 April 29, 2012, for performing acts for which a real estate license is required, including
20 soliciting for and negotiating with property owners and tenants, in violation of Code Sections
21 10130 and 10137;

22 (f) WARREN. Used the fictitious names "OC Coast Realty", "OC House
23 Rentals," "Orange Coast Realty," "ochouserentals.com" and "OCHouseRentals.com" to conduct
24 licensed activities, without holding a license bearing said fictitious business names, in violation
25 of Code Section 10159.5 and Regulation 2731;
26
27

1 (g) WARREN. Conducted activities requiring a real estate license including
2 property management activities at 668 N. Coast Highway, Suite #419, Laguna Beach,
3 California, prior to obtaining a branch office license from the Bureau, in violation of Code
4 Section 10163 and Regulation 2715;

5 (h) WARREN and GORDON. Failed to disclose WARREN and GORDON's
6 real estate license identification numbers and Mortgage Loan Originator number(s) on the
7 Nationwide Mortgage Licensing System Registry identification numbers on WARREN and
8 GORDON's residential lease and/or month-to-month rental agreements, in violation of Code
9 Section 10140.6(b);
10

11 (i) WARREN. Failed to retain all records of his activity during the audit period
12 requiring a real estate broker license, in violation of Code Section 10148. WARREN did not
13 provide or retain essential accounting content including a columnar control record kept in
14 chronological order, a record of all receipts and disbursement, separate records on trust funds in
15 the form of rental receipts and security deposits for each beneficiary including landlords and
16 tenants, deposit details and cancelled checks; and
17

18 (j) WARREN. Respondent WARREN failed to exercise reasonable control and
19 supervision over the activities conducted by WARREN's employees and/or licensees, including
20 GORDON, as necessary to secure full compliance with the Real Estate laws, in violation of
21 10177(h) and Regulation 2725.
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23 Disciplinary Statures and Regulations

24 8.

25 The conduct of Respondent GORDON, as alleged and described in Paragraph 7,
26 above, violated the Code and the Regulations as set forth below:
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PARAGRAPH

PROVISIONS VIOLATED

- 7(a)(1) Code Sections 10145(c), 10176(a), 10176(i) and 10177(g)
- 7(a)(2) Code Section 10130
- 7(b) Code Sections 10145 and 10146
- 7(c) Code Section 10085 and Regulation 2970
- 7(d) Code Section 10146 and Regulation 2972
- 7(e) Code Sections 10130 and 10137
- 7(f) Code Section 10159.5 and Regulation 2731
- 7(g) Code Section 10163
- 7(h) Code Section 10140.6(b)
- 7(i) Code Section 10148
- 7(j) Code Sections 10177(h) and Regulation 2725 (WARREN)

WARREN. The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondent WARREN, under the provisions of Code Sections 10177(d), 10177(g) and 10177(h) WARREN.

GORDON. The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondent GORDON, under the provisions of Code Sections 10130, 10137, 10177(d), 10176(a), 10176(i), 10177(g) and 10177(h) WARREN.

THIRD CAUSE OF ACCUSATION
(Negligence)

9.

The overall conduct of Respondents WARREN and GORDON constitutes negligence or incompetence. This conduct and violation are cause for discipline of the real estate license and license rights of said Respondent pursuant to Code Section 10177(g).

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THIRD CAUSE OF ACCUSATION
(Breach of Fiduciary Duty)

10.

The conduct, acts and omissions of Respondents WARREN and GORDON constitutes a breach of fiduciary duty of good faith, trust, confidence and candor, within the scope of their professional relationship, owed to said Respondents' real estate consumers and property management clientele. This conduct and violation are cause for discipline of the real estate license and license rights of WARREN and GORDON pursuant to Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION
(Supervision)

11.

The overall conduct of Respondent WARREN constitutes a failure on his part to exercise reasonable supervision and control over the licensed activities of his brokerage, in violation of Code Section 10177(h) and Regulation 2725. Respondent WARREN failed to keep his brokerage in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondent WARREN.

PRIOR ACTION BY FORMER DEPARTMENT OF REAL ESTATE

12.

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

13.

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2 Code Section 10106 provides, in pertinent part, that in any order issued in
3 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may
4 request the administrative law judge to direct a licensee found to have committed a violation of
5 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
6 the case.
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14.

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9 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge
10 a real estate broker for the cost of any audit, if the commissioner has found in a final decision
11 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
12 or rule of the commissioner interpreting said section.
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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 the license and license rights of Respondent CHARLES F. WARREN JR., and
4 JAY ALLEN GORDON, under the Real Estate Law (Part 1 of Division 4 of the Business and
5 Professions Code)) and for such other and further relief as may be proper under other applicable
6 provisions of law, including but not limited to, restitution, costs investigation, enforcement and
7 audit.
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9 Dated at Los Angeles, California

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11 This 21 day of August, 2013.


ROBIN TRUJILLO

Deputy Real Estate Commissioner

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22 cc: Charles F. Warren Jr.
23 Jay Allen Gordon
24 Robin Trujillo
25 Audits – Bitra Yazdani
26 Sacto
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