

S. auto

FILED

1 ELLIOTT MAC LENNAN, SBN 66674
2 Bureau of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

DEC - 9 2013

5 Telephone: (213) 576-6911 (direct)
6 (213) 576-6982 (office)
7 (213) 576-6917 (facsimile)

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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.,)	
13 doing business as OC Realty; and)	<u>FIRST AMENDED ACCUSATION</u>
)	
14 JAY ALLEN GORDON,)	
)	
15 Respondents,)	

16
17 The Accusation filed on August 23, 2013, is hereby amended in its entirety

18 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
19 of California acting in her official capacity, for cause of Accusation against CHARLES F.
20 WARREN JR. doing business as OC Realty, and JAY ALLEN GORDON also known as Jay
21 Allen Thuna, is informed and alleges as follows:
22

23 1.

24 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
25 of California, makes this Accusation in her official capacity.
26
27

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

License Entities

3.

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

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

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

///

///

///

///

Brokerage

4.

At all times mentioned, in the City of Buena Park, County of Orange, Respondents WARREN and GORDON engaged in conduct for which a real estate license was required within the meaning of Code Sections:

A. Code Section 10131(b). Respondent WARREN operated a property management brokerage with the public wherein, for or in expectation of compensation, for another or others, Respondent WARREN leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or collected rents from real property, or improvements thereon; and,

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

FIRST CAUSE OF ACCUSATION
(Audit Examination)

5.

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

1 the amount of \$3,650.00 to OC Rentals "trust account," to wit, BA 1 as the deposit for renting
2 Hillrise Drive. The lease of the Hillrise Drive failed to execute. GORDON's acceptance of
3 Kuecekyan's deposit on behalf of WARREN, the failure to deliver deposit into the hands of
4 WARREN, into a neutral escrow depository or into the broker's trust fund account, or return the
5 deposit to Kuecekyan, is in violation of Code Sections 10145(c), 10176(a), 10176(i), 10177(d)
6 10177(g), and

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

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

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

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

23 (e) WARREN. Respondent WARREN employed and compensated GORDON,
24 as a property manager whose licensed had expired between the period of October 29, 2011 and
25 April 29, 2012, for performing acts for which a real estate license is required, including
26
27

1 soliciting for and negotiating with property owners and tenants, in violation of Code Sections
2 10130 and 10137;

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

7
8 (g) WARREN. Conducted activities requiring a real estate license including
9 property management activities at 668 N. Coast Highway, Suite #419, Laguna Beach,
10 California, prior to obtaining a branch office license from the Bureau, in violation of Code
11 Section 10163 and Regulation 2715;

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

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

24
25 (j) WARREN. Respondent WARREN failed to exercise reasonable control and
26 supervision over the activities conducted by WARREN's employees and/or licensees, including
27

1 GORDON, as necessary to secure full compliance with the Real Estate laws, in violation of
2 10177(h) and Regulation 2725.

3 Disciplinary Statutes and Regulations

4 8.

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

8 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9 7(a)(1)	Code Sections 10145(c), 10176(a), 10176(i), 10177(d) and 10177(g)
10 7(a)(2)	Code Section 10130
11 7(b)	Code Sections 10145 and 10146
12 7(c)	Code Section 10085 and Regulation 2970
13 7(d)	Code Section 10146 and Regulation 2972
14 7(e)	Code Sections 10130 and 10137
15 7(f)	Code Section 10159.5 and Regulation 2731
16 7(g)	Code Section 10163
17 7(h)	Code Section 10140.6(b)
18 7(i)	Code Section 10148
19 7(j)	Code Sections 10177(h) and Regulation 2725 (WARREN)

20
21 WARREN. The foregoing violations constitute cause for discipline of the real estate broker
22 license and license rights of Respondent WARREN, under the provisions of Code Sections
23 10177(d), 10177(g) and 10177(h) (WARREN).

24
25 GORDON. The foregoing violations constitute cause for discipline including suspension of the
26 restricted real estate license and license rights of Respondent GORDON, under the provisions of
27 Code Sections 10130, 10176(a), 10176(i), 10177(d) and 10177(g).

PRIOR ACTION BY FORMER DEPARTMENT OF REAL ESTATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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 issued on October 29, 2007 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.

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

14.

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

///
///
///
///

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.
8

9 Dated at Los Angeles, California

10
11 This 3 day of Dec, 2013.


12
13 ROBIN TRUJILLO
14 Deputy Real Estate Commissioner
15
16
17
18
19
20
21

22 cc: Charles F. Warren Jr.
23 Jay Allen Gordon
24 Robin Trujillo
25 Audits – Bitu Yazdani
26 Sacto
27