

FILED

MAR 12 2014

DEPARTMENT OF REAL ESTATE

BY: 

1 Elliott Mac Lennan, Counsel (SBN 66674)
2 Bureau of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 Direct: (213) 576-6911
7 Facsimile: (213) 576-6917

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

11 * * *

12	In the Matter of the Accusation of)	
13	REDLANDS REALTY INC.,)	No. H- 39365 LA
14	doing business as Redlands Mortgage;)	<u>ACCUSATION</u>
15	JEFFREY THOMAS NOVAK, individually)	
16	and as designated officer of Redlands Realty)	
17	Inc., and,)	
18	RAMONA KAY NOVAK,)	
19	Respondents,)	
20)	

21 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
22 State of California, for cause of Accusation against REDLANDS REALTY INC. ("RRI"),
23 JEFFREY THOMAS NOVAK ("JEFFREY NOVAK"), individually and as designated officer
24 of REDLANDS REALTY INC., and RAMONA KAY NOVAK ("KAY NOVAK")
25 (collectively "Respondents"), is informed and alleges as follows:
26

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

1.

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

2.

From October 23, 1998, Respondent RRI has been licensed as a real estate corporation. At all times relevant herein, RRI was acting by and through Respondent JEFFREY NOVAK as its designated broker-officer from its inception on October 23, 1998 to date, pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. On January 2, 2013, RRI became Non Broker Affiliated upon JEFFREY NOVAK's cancellation as RRI's designated officer.

3.

From October 23, 1998, through the present, Respondent JEFFREY NOVAK has been licensed as a real estate broker. On October 22, 2014, Respondent's broker license expired. Respondent retains rights of renewal until February 18, 2016 pursuant to Code Section 10201.

4.

From November 7, 1988, Respondent KAY NOVAK was originally licensed as a real estate salesperson. Respondent was employed by RRI from July 24, 2004 until January 2, 2013. Respondent is non broker affiliated as of January 2, 2013.

On September 28, 2004, her salesperson license was revoked with right to a restricted license as more fully set forth below in Paragraph 22, in former Department of Real Estate case H-1757 SA. On November 10, 2007, Respondent's petition for restoration of her plenary salesperson license was granted

5.

RRI is owned equally by JEFFREY NOVAK, its chief executive officer and his wife, RAMONA KAY NOVAK, RRI's vice president, chief financial officer and secretary and real estate salesperson licensed under NOVAK's individual license.

1 Table: Management Structure of Redlands Realty Inc.

2

Name	Title	License	Ownership
Jeffrey Novak	CEO	Broker	50%
Kay Novak	VP, Secretary, CFO	Salesperson	50%

3
4
5

6
7 6.

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

14 FIRST CAUSE OF ACCUSATION

15 7.

16 A. At all times mentioned, in the City of Redland, County of Riverside,
17 Respondents RRI and JEFFREY NOVAK acted as real estate brokers and conducted licensed
18 activities within the meaning of Code Section 10131(d). Respondents engaged in a mortgage
19 and loan and short sale brokerage including conducting activities with the public wherein
20 institutional lenders and borrowers were solicited for loans secured directly or collaterally by
21 liens on real property, and wherein such loans were arranged, negotiated, processed,
22 consummated, packaged and serviced on behalf of others for compensation or in expectation of
23 compensation and for fees often collected in advance.

24 B. KAY NOVAK was employed by RRI from July 24, 2004 until January 2,
25 2013, as a salesperson pursuant to Code Section 10132.

26 ///

///

1 On December 23, 2011, RRI issued check no. 1717, for the refund of \$124,200
2 from RRI's bank BA2, to borrower. However, David K. was informed by RRI's bank that the
3 balance was insufficient to cover the refund check.

4 David K. was also informed that BA2 was closed on January 19, 2012 due to
5 "Fraud." David K. was informed by KAY NOVAK that second down payment money was
6 deposited into another trust account.

7 On January 12, 2012, as a result of this situation, RRI and David K. entered into a
8 "Confidential Hold Harmless Agreement and Mutual Release," wherein RRI agreed to pay
9 David. K. \$124,200 on January 30, 2012. As of February 27, 2012, David K. did not receive the
10 \$124,200 from RRI.

11 KAY NOVAK informed David K. that RRI withdrew David K.'s \$124,200
12 deposit from BA1 on December 16, 2011 and deposited it into BA2 on December 19, 2011. This
13 withdrawal from BA 1 and re-deposit into BA 2 reduced the balance in BA 1 to an amount that
14 was less than the amount of trust funds deposited into BA 1 during the period from November 7,
15 2011 to December 13, 2011. On March 7, 2012, RRI restored David K.'s deposit of \$124,200 to
16 Lois Lauer Inc. the escrow agent which cleared the bank on March 15, 2012.

17 The conduct, acts and omissions of Respondents RRI, JEFFREY NOVAK and
18 KAY NOVAK is in violation of Code Sections 10145, 10145(a)(1) and 10176(i)/10177(j) and
19 Regulations 2831 and 2832(e), and individually alleged below;

20 (b) RRI, JEFFREY NOVAK and KAY NOVAK. Failed to properly disburse
21 borrower David K.'s down payment of \$124,000 in accordance with his instructions, in
22 violation of Code Section 10145(a)(1);

23
24
25
26 ///

1 (c) RRI, JEFFREY NOVAK and KAY NOVAK. Converted David K.'s
2 \$124,000 down payment that was deposited into BA 1, withdrawn, and re-deposited into BA 2,
3 in violation of Code Section 10145, 10176(i) and/or 10177(j);
4

5 Borrower David K.'s down payment of \$124,200 for the purchase of 907 Walnut
6 Avenue, in Redlands, California was deposited into RRI's bank account BA 1 on October 28,
7 2011. Thereafter, operating expenses and payrolls were disbursed from BA1 during the audit
8 period from October 2011 to December 2011. The balance in BA1 was then reduced to an
9 amount that was less than the amount of trust fund balance of \$124,200 in BA1 during the period
10 from November 2011 to December 2011, constituting conversion;
11

12 There was no evidence examined that borrower-beneficiary David K. who was
13 the owner of the trust funds had given Respondents written consent to allow RRI to reduce the
14 balance of funds in BA1 to an amount less than the existing aggregate trust fund liability;
15

16 (d) RRI and JEFFREY NOVAK. Mixed and commingled borrower David K.'s
17 second down payment with RRI's general funds, in violation of Code Section 10176(e) and
18 Regulation 2832(e) by impermissibly mixing his down payment with RRI's funds in BA until
19 the down payment was withdrawn from BA 1 on October 28, 2011 and subsequently deposited
20 \$124,200 into RRI's bank account BA 2;

21 (e) RRI and JEFFREY NOVAK. Failed to maintain a control record in the form
22 of a columnar record in chronological order for all trusts funds received, deposited and
23 disbursed for BA 1 and BA 2, in violation of Code Section 10145(a)(1), in reference to David
24 K.'s \$124,200 second down payment. RRI did not maintain a columnar record for David K.'s
25 \$124,200 down payment trust funds handled by RRI's bank accounts BA 1 and BA 2;
26

1 (f) RRI and JEFFREY NOVAK. Failed to provide and/or maintain an accurate,
2 complete and approved Mortgage Loan Disclosure Statement containing all the information
3 required by Code Section 10241(c) before borrower Shannon C. became obligated to perform
4 under the terms of her respective loan, as required by and in violation of Code Section 10240
5 and Regulations 2840 and 2840.1.
6

7 (g) RRI and JEFFREY NOVAK. Failed to provide accurate and complete
8 salesperson license certificates for salespersons Mary Beyerle, Anthony Duhu, Michelle
9 Hartnett, KAY NOVAK, and Raymond Zuscar, in violation of Code Section 10161.8;

10 (h) RRI and JEFFREY NOVAK. Failed to retain all records of RRI's activity
11 during the audit period requiring a real estate broker license, in violation of Code Section 10148.
12 RRI's bank statements for BA 2 and bank records for BA 1 and BA 2 for David K' mortgage
13 loan transaction were not provided; and
14

15 (i) Respondent JEFFRY NOVAK failed to exercise reasonable control and
16 supervision over the activities conducted by RRI's employees, including KAY NOVAK as
17 necessary to secure full compliance with the Real Estate laws especially in regard to trust fund
18 handling for broker-controlled escrows, as required under Code Section 10159.2 and Regulation
19 2725, in violation of Code Section 10177(h).
20

21 11.

22 The conduct of Respondents RRI, JEFFREY NOVAK and KAY NOVAK,
23 described in Paragraph 10, above, violated the Code and the Regulations as set forth below:

24	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
25	10(a)	Code Section 10145(a)(1)
26	10(b)	Code Section 10145, 10176(i)/10177(j) and Regulations 2831 and 2832(e)
	10(c)	Code Sections 10145, 10176(i)/10177(j)

- 1 10(d) Code Sections 10145 and 10176(e) and Regulation 2832(e)
2 10(e) Code Section 10145 and Regulation 2831
3 10(f) Code Section 10240 and Regulation 2840
4 10(g) Code Section 10161.8
5 10(h) Code Section 10148
6 10(i) Code Sections 10159.2 and 10177(h) and Regulation 2725
(JEFFREY NOVAK)

7
8 RRI and JEFFREY NOVAK. The foregoing violations constitute cause for discipline of the real
9 estate licenses and license rights of Respondents RRI and JEFFREY NOVAK pursuant to the
10 provisions of Code Sections 10176(e), 10176(i), 10177(d), 10177(g), and 10177(h) (JEFFREY
11 NOVAK).

12
13 KAY NOVAK. The foregoing violations constitute cause for discipline of the real estate
14 licenses and license rights of Respondent KAY NOVAK pursuant to the provisions of Code
15 Sections 10176(i), 10177(d) and 10177(g).

16 SECOND CAUSE OF ACCUSATION
(Mortgage Loan Fraud, Trust Fund Conversion and Dishonest Dealing)

17 12.

18
19 At all times mentioned herein, Respondents RRSI, JEFFREY NOVAK and KAY
20 NOVAK engaged in the business of a mortgage loan, refinance and short sale brokerage
21 requiring a real estate license to operate, within the definition of Code Sections 10131(d) and
22 10131.2, as described in forth in Paragraph 7, above.

23 13.

24 Lisa T.

25 On or about September 2011, JEFF NOVAK obtained a short-sale listing on
26 property located at 35566 Stockton Street in Beaumont, California which was owned by Lisa

1 T.'s brother Von A. Muse. Lisa T. claims that KAY NOVAK convinced her that she could help
2 Lisa T. and her husband to obtain the property in a short-sale transaction.

3 On or about August 29, 2011, Lisa T. gave KAY NOVAK a cashier's check for
4 \$50,000 payable to RRI. On or about March 2012, KAY NOVAK suggested that Lisa T. made
5 a cash offer of \$180,000. On March 12, 2012, Lisa T. gave KAY NOVAK another cashier's
6 check for \$130,000 payable to RRI.
7

8 On or about June 14, 2012, Lisa T. and her husband demanded a full refund of
9 their \$180,000. On 6/14/2012, KAY NOVAK gave Lisa T. two checks in the amounts of
10 \$50,000 and \$130,000. Both checks were returned Non Sufficient Funds. To date, Lisa T. has
11 not received any refund.
12

13 14.

14 Carla C.

15 On or about December 2010, Carla C. met with ROMANA NOVAK for the
16 purpose of refinancing the mortgage on her residence located at 606 Cypress Circle, Redlands,
17 California. ROMANA NOVAK informed Carla C. that her mortgage loan exceeded the equity.
18 ROMANA NOVAK advised Carla C. that in order to obtain a refinance of her residence she
19 would need to give her a check for \$110,270.35. On December 4, 2010, Carla C. wrote a check
20 for \$110,270.35 payable to Redlands Mortgage; cashed by Redlands Mortgage on December 6,
21 2010. During June 2011, Carla C. executed a second set of loan documents. During December
22 2012, KAY NOVAK falsely informed Carla C. that she had the loan documents regarding the
23 refinance. To-date, December 4, 2010 has not obtained a refinance and ROMANA NOVAK has
24 not returned her money. In the interim, Carla C.'s residence was foreclosed.

25 ///

26 ///

1 FIFTH CAUSE OF ACCUSATION
2 (Fiduciary Duty)

3 18.

4 The conduct, acts and omissions of Respondents RRI, JEFFREY NOVAK and RAMONA
5 NOVAK constitute a breach of fiduciary duty, owed to RRI's clients and trust fund beneficiaries
6 of good faith, trust, confidence and candor, within the scope of their contractual and escrow
7 relationship, in violation of Code Section 10177(g) and constitutes cause for discipline of the
8 real estate license and license rights of said Respondents pursuant to the provisions of said Code
9 Section.

10 SIXTH CAUSE OF ACCUSATION
11 (Supervision and Compliance)

12 19.

13 The overall conduct of Respondent JEFFREY NOVAK constitutes a failure on
14 said Respondent's part, as officer designated by a corporate broker licensee, to exercise the
15 reasonable supervision and control over the licensed activities of RRI and KAY NOVAK, as
16 required by Code Section 10159.2 and Regulation 2725, and to keep RRI in compliance with the
17 Real Estate Law, and is cause for discipline of the real estate license and license rights of
18 Respondents pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

19 20.

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

25 ///

26 ///

21.

Code Section 10148(b) provides, in pertinent part the Commissioner of the Bureau of Real Estate 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.

22.

On March 31, 1994, in former Department of Real Estate Case No. H-1757 SA, an Accusation was filed against respondent RAMONA KAY NOVAK that resulted in discipline for said Respondent for violations of Code Section 10177(d) and Section 490 of Title 10, Chapter 6, California Code of Regulations. On September 28, 2004, Respondent's salesperson license was revoked with right to a restricted licensed as more fully set forth below in Paragraph 22, in former Department of Real Estate case H-1757 SA. On November 10, 2007, Respondent's petition for restoration of her plenary salesperson license was granted.

///

///

///

///

///

///

///

///

///

///

///

///

1
2 WHEREFORE, Complainant prays that a hearing be conducted on the
3 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
4 disciplinary action against all licenses and/or license rights of Respondents REDLANDS
5 REALTY INC., JEFFREY THOMAS NOVAK, individually and as designated officer of
6 Redlands Realty Inc., and RAMONA KAY NOVAK, under the Real Estate Law (Part 1 of
7 Division 4 of the California Business and Professions Code) and for such other and further relief
8 as may be proper under other applicable provisions of law, including, but not limited to,
9 restitution in minimum amount of \$290,000, audit costs of \$14,780.92, and investigation and
10 enforcement costs.
11

12 Dated at Los Angeles, California.

13
14 this 11 day of March, 2014.

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

22 cc: Redlands Realty Inc.
23 Jeffrey Thomas Novak
24 Ramona Kay Novak
25 Robin Trujillo
26 Audits – Chona T. Soriano
Sacto