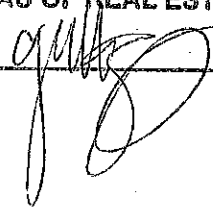


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DEC 27 2016

BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ALPHA ONE GROUP INC.,

Respondent.

CalBRE NO. H-39997 LA

OAH NO. 2015120927

ORDER STAYING EFFECTIVE DATE

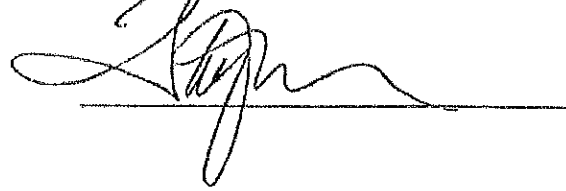
On December 02, 2016, a Decision was rendered in the above-entitled matter to become effective January 02, 2017.

IT IS HEREBY ORDERED that the effective date of the Decision of December 02, 2016, is stayed for a period of 30 days to allow Respondent ALPHA ONE GROUP INC. to file a petition for reconsideration.

The Decision of December 02, 2016, shall become effective at 12 o' clock noon on February 01, 2017.

DATED: 12/27/2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER



FILED

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	CalBRE NO. H-39997 LA
JONATHAN L VIEGAS,)	OAH NO. 2015120927
Respondent.)	

ORDER STAYING EFFECTIVE DATE

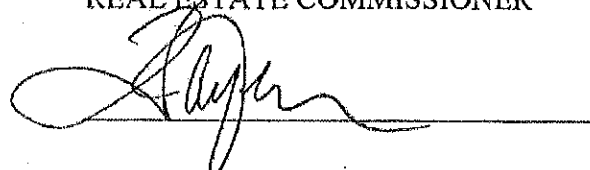
On December 02, 2016, a Decision was rendered in the above-entitled matter to become effective January 02, 2017.

IT IS HEREBY ORDERED that the effective date of the Decision of December 02, 2016, is stayed for a period of 30 days to allow Respondent JONATHAN L VIEGAS to file a petition for reconsideration.

The Decision of December 02, 2016, shall become effective at 12 o' clock noon on February 01, 2017.

DATED: 12/22/2016

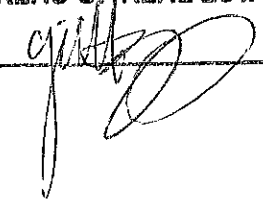
WAYNE S. BELL
REAL ESTATE COMMISSIONER



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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
YGNACIO ANTONIO RIVERA,
Respondent.

) CalBRE NO. H-39997 LA
) OAH NO. 2015120927
)
)

ORDER STAYING EFFECTIVE DATE

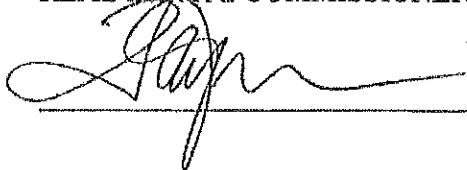
On December 02, 2016, a Decision was rendered in the above-entitled matter to become effective January 02, 2017.

IT IS HEREBY ORDERED that the effective date of the Decision of December 02, 2016, is stayed for a period of 30 days to allow Respondent YGNACIO ANTONIO RIVERA to file a petition for reconsideration.

The Decision of December 02, 2016, shall become effective at 12 o' clock noon on February 01, 2017.

DATED: 12/27/2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER



FILED

DEC 13 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	CalBRE No. H-39997 LA
)	
ALPHA ONE GROUP INC, and)	OAH No. 2015120927
JONATHAN L. VIEGAS, individually and as)	
designated officer of Alpha One Group, Inc.,)	
and YGNACIO ANTONIO RIVERA,)	
<u>Respondents.</u>)	

DECISION

The Proposed Decision dated November 1, 2016 of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

Legal Conclusions, Page 10, Paragraph #'s 2, 3 and 4 should read 10176 (a) instead of 10177 (a).

The Decision suspends or revokes one or more real estate licenses.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on JAN -2 2017.

IT IS SO ORDERED

12/2/2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER



A handwritten signature in black ink, appearing to read 'Wayne S. Bell', is written over a horizontal line.

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ALPHA ONE GROUP, INC., and
JONATHAN L. VIEGAS, individually and as
designated officer of Alpha One Group, Inc., and
YGNACIO ANTONIO RIVERA,

Respondents.

No. H-39997 LA

OAH No. 2015120927

PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on October 19, 2016, in Los Angeles, California. Complainant was represented by Lissete Garcia, Counsel for the Bureau of Real Estate (Bureau). Alpha One Group, Inc., Jonathan L. Viegas, and Ygnacio Antonio Rivera (collectively Respondents) were represented by Rizza Gonzales, with Century Law Group, LLP.

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on October 19, 2016.

FACTUAL FINDINGS

1. On October 19, 2015, Complainant, Veronica Kilpatrick, filed the Accusation while acting in her official capacity as a Supervising Special Investigator of the State of California.

2(a). On August 28, 2004, Respondent Jonathan L. Viegas (Respondent Viegas) was licensed by the Bureau (formerly the Department of Real Estate) as a real estate salesperson. From February 14, 2007, through the present, Respondent Viegas has been licensed as a real estate broker, License Number B/01449931. His broker license is scheduled to expire on February 13, 2019.

2(b). Since 2007, the DBAs on Respondent Viegas's license have been: Alpha One Real Estate Services; Alpha One Funding Group; Alpha One Investments; Alpha One Financial; and Alpha One Group.

3(a). Alpha One Group, Inc. (Respondent AOGI) has been licensed as a real estate corporation, License Number C/01525023 since January 11, 2011, with Respondent Viegas as its designated officer. The corporate license is scheduled to expire on January 10, 2019.

3(b). From January 11, 2011 until the present, Respondent AOGI's main office and mailing address with the Bureau was 1760 Chicago Avenue, Suite J-15, Riverside.

3(c). As of July 14, 2011, five branch licenses were issued to Respondent AOGI at the following locations: 24 Gillman Street, Irvine; 1420 Gilbert J Adame Court, Colton; 19854 Calle Lago, Walnut; 7942 Claudette Drive, Riverside; and 7861 Rose Court, Highland.

4(a). At the administrative hearing, Respondent Viegas explained that the branch offices listed for Respondent AOGI were "just houses" of the agents working for Respondent AOGI. According to Respondent Viegas, the agents never used the "office space" nor did Respondent AOGI appoint any branch managers. Respondent Viegas denied supervising the agents at their homes. Respondent Viegas further explained that the houses had been listed as branch offices because "[he] had to show more offices than [he] had." Respondent Viegas failed to explain why he needed to "show more offices" than he actually had.

4(b). In addition to Respondent Viegas's explanation for the questionable listing of the agents' houses as "branch offices," Respondent also provided a vague explanation of the compensation structure for Respondent AOGI. According to Respondent Viegas, he did not personally earn commissions on his real estate transactions, nor did he earn a salary. Instead, Respondent AOGI deposited earnings into its bank account, and Respondent Viegas's compensation consisted of Respondent AOGI paying "some of his bills" directly, up to about \$40,000 annually, from the AOGI account. Respondent Viegas further stated that in 2013 none of Respondent AOGI's licensed agents received commissions. However, Respondent Rivera received a salary of approximately \$3,000 per month. (Respondents Viegas and Rivera pointed to this non-commissioned compensation structure to establish their lack of motivation to engage in the dishonest behavior detailed in Factual Findings 12 through 20, below.)

4(c). As addressed further below, given the vague and self-serving explanations which permeated his testimony, Respondent Viegas lacked credibility as a witness.

5. On January 9, 2013, Respondent Ygnacio Antonio Rivera (Respondent Rivera) was licensed by the Bureau as a real estate salesperson, License Number S/1877697. Since his licensure until the present, Respondent Viegas has been his employing broker. His salesperson license is scheduled to expire on January 8, 2017.

6(a). Respondent AOGI is a California corporation formed on October 9, 2007. Respondent Viegas is a director for Respondent AOGI. Alma Solis, an unlicensed person, is the owner and sole officer for Respondent AOGI. Alma Solis is the mother of Respondent Rivera's child.

6(b). As the designated officer of Respondent AOGI (pursuant to Business and Professions Code Section 10211), Respondent Viegas is responsible for the supervision and control of the activities conducted on behalf of Respondent AOGI by its officers and employees in order to secure full compliance with the Real Estate Law (as set forth in Business and Professions Code Section 10159.2.)

7. At the administrative hearing, Respondent Viegas testified that during the peak of his real estate business prior to 2014, he had five to six agents and up to six support staff members working under him. From 2008 through 2014, Respondent Viegas was not in the office daily. Instead he spent his time traveling and trying to secure new business for the office. However, Respondent Viegas insisted that when he was on the road, "everything was linked to [his] email so [he] would get reminders even when he was on the road" regarding tasks which needed completion. Additionally, he was able to view all emails in the main inbox (inbox@thealphaonegroup.com).

8. On January 2, 2014, the California Franchise Tax Board suspended the corporate powers, rights and privileges of Respondent AOGI, pursuant to the provisions of the California Revenue and Tax Code. Respondent AOGI's corporate status remains suspended.

9(a). In 2014 while its license was in suspended status, Respondent AOGI was identified (specifically, "Alpha One Group, Inc.") in a residential purchase agreement as the "Real Estate Broker (Listing Firm)." (Exhibit 11, p. 13.) Respondent Viegas signed the purchase agreement on behalf of Respondent AOGI, and his license number, "BRE Lic.#01449931," was listed next to his name.

9(b). At the administrative hearing, Respondent Viegas pointed out that Respondent AOGI's license number was listed in the purchase agreement as "BRE Lic. #01449931," which was his license number, not Respondent AOGI's. He also asserted that he had "registered the DBA under [his] personal broker's license." This vague assertion was incorrect. Although one of Respondent Viegas's registered DBAs is "Alpha One Group," he does not have a registered DBA of "Alpha One Group, Inc." Respondent Viegas pointed out the substitution of his license number for Respondent AOGI's in an attempt to establish that Respondent AOGI did not engage in the business of real estate while the corporation was in suspended status and to establish that Respondent Viegas, not Respondent AOGI, was the listing broker. This was not persuasive. Although its correct license number was not listed, the form clearly indicated that Respondent AOGI was the listing agent, and AOGI was not one of Respondent Viegas's DBAs. Additionally, the check for the commission on that transaction was made payable to Respondent AOGI, not Respondent Viegas or any of his

DBAs. Consequently, Respondent AOGI engaged in the business of a real estate while not in good legal standing with the Office of the Secretary of State.

10(a). On January 7, 2015, the Bureau received an Officer Renewal Application on behalf of Respondent AOGI which was certified by Respondent Viegas. Question 8 of the Officer Renewal Application asked: "IS THE CORPORATION IN GOOD STANDING WITH THE OFFICE OF THE SECRETARY OF STATE?" (Exhibit 7.) In response to Question 8, Respondent Viegas marked the box denoted for "Yes" and did not disclose that the corporate status of Respondent AOGI had been suspended as of January 2, 2014.

10(b). Respondent Viegas signed the Officer Certification on the last page of the Officer Renewal Application, which stated:

I certify under penalty of perjury that the answers and statements given in this application are true and correct and that if licensed I will not violate any provisions of the Real Estate Law nor abuse the privileges of a real estate licensee. . . .

(Exhibit 7.)

11(a). At the administrative hearing, Respondent Viegas admitted that the Officer Renewal Application was inaccurate. He testified that he did not disclose that Respondent AOGI was suspended in 2015 because he was unaware of the corporation's suspended status at the time he filed the application, and he did not attempt to check its status but "assumed it was okay." Respondent Viegas insisted that when he filed the Officer Renewal Application, he did not intend to defraud the Bureau.

11(b). Respondent also noted that he "was somewhere else for while at that time," explaining that his mother had passed away at the end of October 2014 and that she had been ill for seven months prior to that. According to Respondent Viegas, when his mother became sick, he "disconnected from everybody, and everything became a side issue compared to what she was going through." Although his mother's illness may have had an impact on his attention to work details, Respondent Viegas's claim of absolute lack of knowledge regarding the corporate suspension is not persuasive.

11(c). As the designated officer of Respondent AOGI, Respondent Viegas is expected to be notified and aware of the suspended status of the corporation. Respondent Viegas did not assert a lack of notification of the suspension, only that he was distracted during that time period. Additionally, the use of Respondent Viegas's personal broker's license number in the 2014 transaction (see Factual Finding 9(b)) was an apparent attempt to circumvent Respondent AOGI's suspended status, and this substitution points to his knowledge of Respondent AOGI's suspended status in 2014. Furthermore, Respondent's purported ignorance of a significant change in corporate status does not square with his assertion of maintaining constant oversight of office business, even while traveling. (See Factual Finding 7.)

11(d). Respondent Viegas' lack of credibility in this area of his testimony is compounded by his vague, self-serving statements in other areas of his testimony. (See Factual Finding 4.) His lack of credibility in these areas of his testimony creates doubt regarding his candor in the remainder of his testimony.

12. In May of 2013, Respondent AOGI and Respondent Viegas represented the seller of a property located at 887 Long Beach Drive, Colton, California (Long Beach Drive property). Respondents also represented the buyer in the transaction. According to Respondents, Respondent Rivera was one of two "transaction coordinators" on the Long Beach Drive property transaction.

13(a). On May 10, 2013, Griffin Pest Management (Griffin) conducted an inspection of the Long Beach Drive property and issued to Respondents a Wood Destroying Organism (WDO) inspection report of Griffin's findings and estimate of recommended repairs. The May 10, 2013 WDO inspection report contained a page entitled "Description of Findings" which noted problems which needed to be cleared, including subterranean and dry wood termites and fungus damage.

13(b). Respondent AOGI did not submit the May 10, 2013 WDO inspection report to the escrow company. Instead, Respondent AOGI forwarded to the escrow company an altered, falsified WDO inspection report for the Long Beach Drive property dated September 3, 2013, which AOGI represented had been prepared by Griffin. The falsified WDO inspection report omitted the Description of Findings which was included in Griffin's authentic report dated May 10, 2013.

13(c). The September 5, 2013 email transmitting the falsified report was sent from the Respondent Viegas's email address, jonathanviegas@thealphaonegroup.com.

14. Griffin did not author the September 3, 2013 falsified WDO inspection report and did not collude with any of the Respondents to create and submit the falsified report.

15. After being told that the WDO inspection report had been altered, Respondent Viegas held a staff meeting to ask the culprit to come forward. Nobody came forward to claim responsibility.

16(a). At the administrative hearing, Respondent Rivera recalled that after the Long Beach Drive property incident, "everybody was more worried about doing things" properly, that they "were policing [themselves] more," and that Respondent "policed them more."

16(b). Respondent Viegas testified that, after the Long Beach Drive property incident, he stopped traveling and "stayed closer to the office so [he] could try to catch things if anything goes wrong." He also contended that he "put some restrictions on some of the staff as far as what [they] could do and not do." However, Respondent Viegas did not specify what the restrictions were and which staff members were subject to them.

17. In May of 2014, Respondents AOGI, Viegas, and Rivera represented the seller of a property located at 24219 Millsap Drive, Moreno Valley, California (Millsap Drive property). The buyers were represented by another agent. A Termite Report and Clearance was required by the lender for funding.

18(a). On May 7, 2014, Griffin conducted an inspection of the Millsap Drive property and issued to Respondents a WDO inspection report of Griffin's findings and estimate of recommended repairs. The May 7, 2014 WDO inspection report contained a page entitled "Description of Findings" which noted problems including dry wood termites and fungus damage.

18(b). Respondents did not submit the May 7, 2014 WDO inspection report to the escrow company. Instead, Respondents forwarded to the escrow company an altered, falsified WDO inspection report for the Millsap Drive property dated May 7, 2014, and Respondents represented that it had been prepared by Griffin. The falsified WDO inspection report omitted the Description of Findings which was included in Griffin's authentic report dated May 7, 2014.

18(c). The May 7, 2014 email transmitting the falsified report to Harmony Escrow, Inc. was sent from Respondent AOGI's main inbox, inbox@thealphaonegroup.com. The email stated:

As the original report is older than 30 days the termite company could not provide just a clearance. The inspector went out today and completed a new inspection of the property and it is now clear. Attached is the new clear report. . . .

Regards,
Ygnacio [(Respondent Rivera)]
(Exhibit 11, p. 31-32.)

18(d). The email was false in that the property was not clear of the WDO problems.

19(a). When contacted by the buyer's agent informing him that the WDO inspection report was not clear, Respondent Rivera sent the following email:

My apologies[. O]ur office computer server was infected with a virus this week and it has caused a lot of problems in our emails and files saved in our scans. I have reached out to the termite company and am working on getting a bid for the work as the report was obviously not clear.

(Exhibit 12, p. 52.)

19(b). At the administrative hearing, Respondent Rivera insisted that, at the time he sent the email to the buyer's agent, the office was having computer issues and he thought this

was the reason for the false WDO inspection report. It is not credible that he believed in 2014 that the falsified Griffin WDO inspection report was caused by computer problems since Respondent Rivera knew there had been a prior falsification of a Griffin WDO inspection report in 2013. Respondent Rivera's email to the buyer's agent and his testimony regarding this issue were disingenuous.

20. Griffin did not author the 2014 falsified WDO inspection report and did not collude with any of the Respondents to create and submit the falsified report.

21(a). Respondents Viegas and Rivera deny involvement in the falsification of the 2013 and 2014 WDO inspection reports.

21(b). Regarding the 2013 incident, although Respondent Viegas forwarded the 2013 WDO inspection report to the escrow company, he denied altering the 2013 WDO inspection report or having knowledge that the report was altered when he sent it. Although Respondent Rivera was one of two "transaction coordinators" on the Long Beach Drive property transaction, he denied any involvement in obtaining the 2013 WDO inspection report for that property.

21(c). Respondent Rivera also denied sending the May 7, 2014 email. He blamed a former Respondent AOGI employee for altering and emailing the 2014 WDO inspection report, purportedly without Respondents' knowledge, consent or direction. According to Respondents Viegas and Rivera, Jaime Garibay was employed by Respondent AOGI as an office assistant for about four years prior to the 2014 incident. Respondent Viegas testified that, in 2013, Mr. Garibay was paid on a weekly basis depending on the amount of work he performed. In 2013, he earned approximately \$30,000 to \$35,000. (This amount was roughly equivalent to salesperson Respondent Rivera's 2013 salary.) Respondent Rivera testified that on May 7, 2014, he told Mr. Garibay that the WDO inspection report had to be sent to the escrow officer, but that Respondent Rivera had to leave the office to conduct inspections. Respondent Rivera insisted that he did not instruct Mr. Garibay to alter and email the WDO inspection report, but that Mr. Garibay independently sent the email using Respondent Rivera's name and attaching the falsified report. According to Respondents Viegas and Rivera, Mr. Garibay was terminated and is no longer employed at Respondent AOGI. Respondent Rivera asserted that Mr. Garibay later admitted to altering the 2013 WDO inspection report. Mr. Garibay was not called to testify about his purported wrongdoing or his purported admission of guilt. Mr. Garibay's hearsay statements are not reliable, nor are any of Respondent Rivera's self-serving, unsubstantiated contentions impugning a purported former employee who would have no obvious motive to falsify and email the report. Consequently, none of Respondent Rivera's contentions set forth in this paragraph are trustworthy.

21(d). Respondents Viegas and Rivera both asserted that they had no incentive to falsify the WDO inspection reports. Both pointed to the non-commission pay structure of Respondent AOGI. However, escrow could not close for either the Long Beach Drive property or the Millsap Drive property if there was no termite clearance. While Respondents

Viegas and Rivera may not have earned direct commissions from either sale, both benefitted from Respondent AOGI's earned commissions which contributed to their continued compensation in the form of paid bills and salary.

21(e). Respondent Rivera also asserted that the Millsap Drive property transaction occurred during the same year he obtained his license and that Respondent Viegas "would list [Respondent Rivera] as the listing agent" so that he could build a history of sales. Respondent Rivera's recollection of the time frames involved was incorrect, since he was licensed in January 2013, and the Millsap Drive Property transaction occurred in 2014. Additionally, even if he earned no commission, he would benefit from the sale by adding it to his history of sales and as set forth in Factual Finding 21(d).

21(d). Although Respondents Viegas and Rivera deny any involvement in falsifying the 2013 and 2014 WDO inspection reports, their denials were not credible, and they provided implausible explanations for the falsification and emailing of the WDO inspection reports (the second occurring despite purported increased self-policing). Complainant established by clear and convincing evidence that Respondent Viegas and Respondent Rivera were involved in the falsification of the reports.

22(a). As part of the Bureau's investigation into this matter, on August 19, 2014, it sent a letter to Respondents AOGI and Viegas inquiring into the falsified WDO inspection reports at the Long Beach Drive and Millsap Drive properties. The letter requested copies of the complete transaction files for the subject listings and copies of any writings, emails, memos, or letters relating to the transactions. The letter also asked respondents to provide information regarding: how and when Respondents AOGI and Viegas learned of the falsification of each of the WDO reports; the name of the individual who modified the two reports; whether other WDO reports were modified; why the WDO reports were modified; and how Respondents AOGI and Viegas supervised the activities of their salespersons, including copies of written policies, rules and procedures, and systems in place to monitor, review, oversee, inspect and manage their salespersons to ensure compliance with applicable regulations. The letter also asked Respondent Viegas and Respondent Rivera to individually provide a complete written chronological version of the subject transactions so that the Bureau could consider all pertinent facts in its inquiry. A response was requested on or before September 3, 2014.

22(b). Respondent Viegas called the Bureau and obtained an extension of time to respond to the letter until the end of September 2014. However, despite the extension of time, Respondents never responded to the Bureau's August 19, 2014 letter.

23. Respondent Viegas explained that during the time he was supposed to have responded to the Bureau inquiry letter, his mother's illness was getting worse, and she became "[his] focus." Consequently, he put the letter aside, which he admitted was "a mistake" on his part. Respondent Viegas assured the Bureau that he is "better" now. He believes he is now appropriately attentive to his business compared to his prior lack of oversight. Respondent Viegas stated that instead of being absent from the office like he had

been previously, he is now in the office every day. He maintained that he personally handles all the files himself and "everything goes through [his] inbox." He pointed out that Respondent Rivera is his only agent, but also noted that Respondent Rivera is "independent" and "has his own clients."

24. Respondent Viegas understands that the Bureau's allegations are serious. He stated that he takes responsibility for the altered reports because "ultimately [he is] responsible to oversee what is going on." Respondent Viegas did not know whether, as designated officer for Respondent AOGI, he is required to be in the office every day. However, he understands that he is required to ensure the corporation and its employees are abiding by the real estate laws and regulations. However, Respondent Viegas has never instituted any protocols to ensure that Respondent AOGI is operating within the bounds of the real estate laws and regulations.

25. Although Respondent AOGI is still in suspended status due to tax issues, Respondent Viegas anticipates resolving those issues and developing a payment plan within the next 60 days.

26. Respondent Viegas insisted that since he learned that Respondent AOGI is in suspended status, he has completed no transactions under the corporate license number. Instead, he used his personal broker's license number (01449931).

27. Respondent Viegas's real estate licenses have never been subject to discipline.

28. Respondent Viegas has two children, ages six and nine, and he is one of their sources of financial support. He has volunteered time with the Heartland Coalition, a housing nonprofit organization working with cities and banks on low income housing for the Inland Empire. Respondent Viegas has the support of several business associates who submitted letters on his behalf.

29. Respondent Rivera has one child, age 18, for whom he provides financial support. He has the support of several business associates who submitted letters on his behalf.

30(a). Complainant submitted evidence of the costs of investigation and enforcement of this matter totaling \$10,593.10. This included the following: 112.80 Special Investigator hours at \$62 per hour; 1.05 hours of Supervising Special Investigator hours at \$80 per hour; and 39.50 attorney hours at \$89 per hour.

30(b). These costs are reasonable.

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LEGAL CONCLUSIONS

1(a). Cause exists to discipline Respondent AOGI's licenses and licensing rights, pursuant to Business and Professions Code section 10177, subdivisions (d) and (f), for violation of California Code of Regulations, title 10, section 2742, because Respondent AOGI engaged in the business of a real estate broker "while not in good legal standing with the Office of the Secretary of State," as set forth in Factual Findings 1 through 21.

1(b). California Code of Regulations, title 10, section 2742, subdivision (c) provides, "A corporation licensed under Section 10211 of the Code shall not engage in the business of a real estate broker while not in good legal standing with the Office of the Secretary of State."

2. Cause exists to discipline Respondent AOGI's and Respondent Viegas' licenses and licensing rights, pursuant to Business and Professions Code section 10177⁴, subdivisions (a) and (j), because their misrepresentation in the Officer Renewal Application constituted procurement of a real estate license renewal "by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license . . . renewal," and constituted "fraud or dishonest dealing," as set forth in Factual Findings 1 through 21.

3. Cause exists to discipline Respondent AOGI's, Respondent Viegas' and Respondent Rivera's licenses and licensing rights, pursuant to Business and Professions Code section 10177⁶, subdivisions (a) and (j), because their involvement in the falsification of the 2013 WDO inspection report for the Long Beach Drive property constituted a substantial misrepresentation and "fraud and dishonest dealing," as set forth in Factual Findings 1 through 21.

4. Cause exists to discipline Respondent AOGI's, Respondent Viegas' and Respondent Rivera's licenses and licensing rights, pursuant to Business and Professions Code section 10177⁶, subdivisions (a) and (j), because their involvement in the falsification of the 2014 WDO inspection report for the Millsap Drive property constituted a substantial misrepresentation and "fraud and dishonest dealing," as set forth in Factual Findings 1 through 21.

5(a). Cause does not exist to discipline Respondent AOGI's licenses and licensing rights, pursuant to Business and Professions Code section 10177, subdivision (d) (willful violation of real estate laws/regulations) for violation of Business and Professions Code sections 10130 and 10137, because Complainant did not establish that Respondent AOGI violated those Code sections, as set forth in Factual Findings 1 through 21, and Legal Conclusions 5(b) and 5(c).

5(b). Business and Professions Code section 10130 provides in pertinent part, "It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker . . . within this state without first obtaining a real estate

license from the [Bureau]. . . .” Respondent AOGI has obtained a real estate license from the Bureau. Although Respondent AOGI engaged in the business of a real estate broker “while not in good legal standing with the Office of the Secretary of State” (in violation of California Code of Regulations, title 10, section 2742), Complainant failed to establish that this equates to a violation of Business and Professions Code section 10130.

5(c). Business and Professions Code section 10137 provides in pertinent part, “It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesperson licensed under the broker employing or compensating him or her. . . .” Complainant did not establish that Respondent AOGI employed any unlicensed person to engage in acts of a real estate broker or real estate salesperson.

6. Cause exists to discipline Respondent Viegas’ licenses and licensing rights, pursuant to Business and Professions Code sections 10177, subdivision (h), and 10159.2 and California Code of Regulations, title 10, section 2725, for failure to exercise reasonable control and supervision over the activities conducted by Respondents AOGI and Rivera as necessary to secure full compliance with the real estate laws and regulations, as set forth in Factual Findings 1 through 21.

7. Pursuant to Business and Professions Code section 10106, the Bureau may recover its reasonable costs of investigation and enforcement of this matter in the amount of \$10,593.10, as set forth in Factual Finding 30.

8(a). Respondents have a discipline-free history. However, the violations in which they engaged are egregious.

8(b). Respondent Viegas was responsible for monitoring Respondents AOGI’s and Rivera’s activities to ensure compliance with the Real Estate Law and regulations. He failed in this regard. At the administrative hearing, Respondent Viegas acknowledged his responsibility and his failed oversight, and he asserted that he had modified his business practices to address his prior disregard. However, Respondent Viegas’ ostensibly insightful testimony lacked sincerity and was apparently a self-serving attempt to maintain his licensure. His words were contradicted by the totality of the evidence which demonstrated a history of continuing indifference toward his obligations. Despite similar assertions about increased “policing” and amorphous staff restrictions after the 2013 fraudulent WDO inspection report, the fraudulent behavior continued in 2014. Additionally, Respondent has admittedly failed to institute protocols to ensure compliance with the law. Furthermore, in addition to Respondent Viegas’ continuing lack of diligence, the totality of the evidence pointed to his willingness to engage in and employ persons who engage in deceitfulness. Respondent Viegas failed to take full responsibility for his dishonesty in the Officer Renewal Application and for his involvement in the fraudulent WDO inspection reports (blaming a purported former employee).

8(c). Respondent Rivera also took no responsibility for his dishonest behavior, blaming the purported former employee.

8(d). Honesty and integrity are integral characteristics of a real estate licensee, and Respondents Viegas and Rivera have failed to demonstrate that they possess these traits.

8(e). Despite Respondent Viegas' lengthy discipline-free history as a real estate licensee, given the potential for further violations and opportunities for further theft, permitting Respondent Viegas' continued licensure, even on a restricted basis, would present a risk to the public.

8(f). Respondent Rivera has been licensed for only a short time, and his dishonest behavior began around the time of his licensure. Consequently, he has no history of discipline-free licensure. Given this history of dishonesty, permitting Respondent Rivera's continued licensure, even on a restricted basis, would present a risk to the public.

8(g). The order below is necessary in order to ensure adequate public protection.

ORDERS

1. All licenses and licensing rights of Respondent Alpha One Group, Inc. under the Real Estate Law are revoked.

2. All licenses and licensing rights of Respondent Jonathan Viegas under the Real Estate Law are revoked.

3. All licenses and licensing rights of Respondent Ygnacio Rivera under the Real Estate Law are revoked.

DATED: November 1, 2016

DocuSigned by:
Julie Cabos-Owen
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JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings