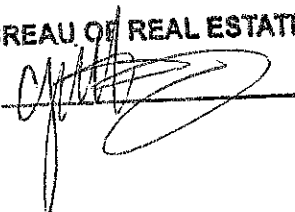


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BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

Flag
10 In the Matter of the Accusation against) CalBRE No. H-40303 LA
11) OAH No. 2016080164
12 DARLENE CRYSTAL MARTINEZ)
and REALTY PRO GROUP, INC.,) FIRST AMENDED ACCUSATION
13 Respondents.)
14)

15 This First Amended Accusation amends the Accusation filed on July 7, 2016. The
16 Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Bureau of Real
17 Estate ("Bureau") of the State of California, for cause of Accusation against DARLENE
18 CRYSTAL MARTINEZ aka Darlene Martinez and REALTY PRO GROUP, INC. (collectively
19 "Respondents"), is informed and alleges as follows:

20 1.

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator, makes this
22 Accusation in her official capacity.

23 ///

24 ///

1 2.

2 Unless otherwise noted, all references to the "Code" are to the California Business and
3 Professions Code and all references to "Regulations" are to the Regulations of the Real Estate
4 Commissioner, Title 10, Chapter 6, California Code of Regulations.

5 3.

6 From July 24, 2013, through the present, Respondent DARLENE CRYSTAL
7 MARTINEZ (Respondent "MARTINEZ") has been licensed and/or has license rights under the
8 Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker, License ID 01780481.
9 Respondent MARTINEZ was licensed as a salesperson from January 26, 2007 through July 23,
10 2013.

11 4.

12 From August 22, 2013 through March 6, 2016, Respondent MARTINEZ was licensed to
13 do business as "HomeWise Foundation." Respondent MARTINEZ has been licensed to do
14 business as "Realty Pro Group" as of August 22, 2013. Respondent MARTINEZ has never been
15 licensed to conduct activities requiring a real estate license at any branch office. At all times
16 relevant, Respondent MARTINEZ's main office address listed with the Bureau was 212 Yale
17 Avenue, Claremont, California 91711.

18 5.

19 From August 11, 2014, through the present, Respondent REALTY PRO GROUP, INC.
20 ("RPGI") has been licensed as a real estate corporation, License ID 01959980. Respondent
21 MARTINEZ is the owner and President of RPGI. At all times relevant herein, RPGI and Realty
22 Pro Group used the same office address of 212 Yale Avenue, Claremont, California 91711. At
23 all times relevant herein, RPGI was not licensed to conduct activities requiring a real estate
24 license at any branch office, nor was it licensed to do business under any fictitious business

1 names, including "Realty Pro Group."

2 6.

3 Maria P. Edmon aka Maria Vega ("Maria Edmon") and Francisco Cueto have never been
4 licensed by the Bureau in any capacity.

5 7.

6 Chris Gus Milonakis ("Milonakis") is licensed as a real estate broker, License ID
7 01843888. On January 27, 2009, Milonakis was issued a restricted real estate license by the
8 Bureau in Case No. H-35527 LA. On May 12, 2012, Milonakis's petition for removal of
9 restrictions from his broker license was granted and a plenary broker license was issued to
10 Milonakis.

11 8.

12 From November 17, 2010, Michael Ferris Turner ("Turner") has been licensed as a real
13 estate salesperson, License ID 01887060. Turner was licensed under the employment of
14 Respondent MARTINEZ from August 22, 2013 through November 16, 2014. Turner has been
15 licensed under the employment of Respondent RPGI since February 23, 2015.

16 9.

17 A real estate salesperson is defined under Code section 10132 as a natural person who,
18 for a compensation or in expectation of a compensation, is employed by a licensed real estate
19 broker to do one or more of the acts set forth in Sections 10131, 10131.1, 10131.2, 10131.3,
20 10131.4, and 10131.6.

21 10.

22 Code section 10131 defines a real estate broker, in pertinent part, as follows:

23 A real estate broker within the meaning of this part is a person who, for a
24 compensation or in expectation of a compensation, regardless of the form or time

1 of payment, does or negotiates to do one or more of the following acts for another
2 or others:

3 (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers
4 or purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or
5 exchange of real property or a business opportunity.

6 (d) Solicits borrowers or lenders for or negotiates loans or collects
7 payments or performs services for borrowers or lenders or note owners in
8 connection with loans secured directly or collaterally by liens on real property or
9 on a business opportunity.

10 11.

11 Code section 10130 provides:

12 It is unlawful for any person to engage in the business of, act in the
13 capacity of, advertise as, or assume to act as a real estate broker or a real estate
14 salesperson within this state without first obtaining a real estate license from the
15 department, or to engage in the business of, act in the capacity of, advertise as, or
16 assume to act as a mortgage loan originator within this state without having
17 obtained a license endorsement. The commissioner may prefer a complaint for
18 violation of this section before any court of competent jurisdiction, and the
19 commissioner and his or her counsel, deputies, or assistants may assist in
20 presenting the law or facts at the trial. It is the duty of the district attorney of each
21 county in this state to prosecute all violations of this section in their respective
22 counties in which the violations occur.

23 12.

24 Code section 10137 provides, in pertinent part, the following:

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, or to employ or
compensate, directly or indirectly, any licensee for engaging in any activity for
which a mortgage loan originator license endorsement is required, if that licensee
does not hold a mortgage loan originator license endorsement; provided, however,
that a licensed real estate broker may pay a commission to a broker of another
state.

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13.

Code Section 10085.5, subdivision (a) states:

"It shall be unlawful for any person to claim, demand, charge receive, collect, or contract for an advance fee (1) for soliciting lenders on behalf of borrowers or performing services for borrowers in connection with loans to be secured directly or collaterally by a lien on real property, before the borrower becomes obligated to complete the loan or, (2) for performing any other activities for which a license is required, unless the person is a licensed real estate broker and has complied with the provisions of this part."

14.

Code Section 10085.6, subdivision (a) states:

"Notwithstanding any other provision of law, it shall be unlawful for any licensee¹ who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other compensation paid by the borrower, to do any of the following:

(1) Claim, demand, charge, collect or receive any compensation until after the licensee has fully performed each and every service the licensee contracted to perform or represented that he, she, or it would perform.

(2) Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation."

(3) Take any power of attorney from the borrower for any purpose."

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¹ Civil Code section 2944.7(a) prohibits any *person*, including foreclosure consultants, from similar conduct.

1 FIRST CAUSE OF ACCUSATION

2 3761 3rd Ave.

3 15.

4 On or about April 13, 2014, an open house took place for the sale of a property located at
5 3761 3rd Avenue, Los Angeles, California ("3rd Ave. property"). Prospective purchaser J.C.²
6 was interested in purchasing the 3rd Ave. property. Maria Edmon contacted J.C. and offered to
7 assist J.C. with the purchase of the 3rd Ave. property.

8 16.

9 On or about April 16, 2014, Maria Edmon submitted a Residential Income Property
10 Purchase Agreement and Joint Escrow Instructions ("purchase agreement") on behalf of J.C. for
11 the purchase of the 3rd Ave. property. Respondent MARTINEZ was listed as the agent and
12 Realty Pro Group was listed as the selling broker for buyer J.C. on the purchase agreement. The
13 seller accepted J.C.'s offer. The seller was represented by agent C.W. and broker TDC/Pacific
14 Properties, Inc. Escrow for the 3rd Ave. property was handled by San Martin Escrow, Escrow
15 No. 4410-CB.

16 17.

17 According to the seller's agent - C.W., Maria Edmon negotiated J.C.'s purchase of the
18 3rd Ave. property. According to J.C., Maria Edmon found a lender and assisted J.C. with
19 securing a mortgage to purchase the 3rd Ave. property. J.C. believed that Maria Edmon was
20 acting on J.C.'s behalf as J.C.'s agent in the purchase of the 3rd Ave. property. J.C. dealt
21 primarily with Maria Edmon during the purchase of the 3rd Ave. property.

22
23
24 ² Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent and/or her attorney, after service of a timely and proper request for discovery on Complainant's counsel.

18.

The 3rd Ave. property was inspected while in escrow. The inspections revealed problems with the 3rd Ave. property including, among others, foundation problems and termite damage. The estimated cost of repairs to the foundation totaled \$5,000. The estimated cost of repairs for the termite damage was \$1,345. On May 22, 2014, a Standard Notice of Work Completed and Not Completed on the 3rd Ave. property was prepared by Estate Termite, Inc. The cost of work completed was \$1,150. Estate Termite, Inc. sent Invoice No. 17065 for \$1,150 to San Martin Escrow. Separate requests for repairs were submitted to the seller on behalf of J.C. The seller agreed to credit J.C. amounts totaling \$7,300 for repairs to the 3rd Ave. property.

19.

On May 28, 2014, Maria Edmon sent an email to J.C. stating: "You will have \$5,000 given to you after the close of escrow. Please do not inform people of this as this is illegal since we can't let the bank know that you are getting credit for repairs." On May 29, 2014, Maria Edmon sent another email to J.C. stating: "At close of escrow you will receive 5,000 plus 500 for the inspection." In reliance upon the representations, promises, and advice of Maria Edmon, J.C. agreed to proceed with the purchase of the 3rd Ave. property.

20.

On May 29, 2014, Respondent MARTINEZ sent the following email to C.W. - the seller's agent: "The buyer has decided to move forward with closing with the \$3,000 for repairs. After speaking to the lender, we can't give the buyers any credit through escrow. If it's not a problem, can you raise the commission through escrow? Another option is to submit an invoice in escrow to pay a handyman. What will work better?"

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///

1 21.

2 On May 29, 2014, C.W. replied to Respondent MARTINEZ's email and informed
3 Respondent MARTINEZ that the escrow company would draft an amendment for an increase in
4 Respondent MARTINEZ's commission. Buyer J.C. was not advised of this arrangement by
5 either Maria Edmon or Respondent MARTINEZ prior to the close of escrow.

6 22.

7 On May 29, 2014, the seller signed amended escrow instructions which instructed San
8 Martin Escrow to pay Realty Pro Group a commission of \$11,750 upon close of escrow.
9 TDC/Pacific Properties was to receive a commission of \$10,000 according to the final HUD-1
10 settlement statement.

11 23.

12 Escrow closed on June 2, 2014. According to San Martin Escrow's conciliation report,
13 \$2,300 was paid to Estate Termite, Inc., \$11,750 was paid to Realty Pro Group, and \$2,627.60
14 was paid to the seller's lender as a principal reduction.

15 24.

16 On June 4, 2014, Respondent MARTINEZ and Realty Pro Group executed a
17 Cooperating Broker Compensation Agreement and Escrow Instruction with C.W. and
18 TDC/Pacific Properties. TDC/Pacific Properties agreed to compensate Respondent MARTINEZ
19 and Realty Pro Group as a cooperating broker for an unspecified percentage of the selling price.

20 25.

21 On June 5, 2014, Respondent MARTINEZ instructed San Martin Escrow to split her
22 broker commission check of \$11,750 in the amounts of \$11,450 to Respondent MARTINEZ and
23 \$300 to Melissa Gutierrez for a transaction coordinator fee. San Martin Escrow issued check no.
24

1 020559 to Respondent MARTINEZ for \$11,450.00 and check no. 020558 in the amount of
2 \$300.00 to Melissa Gutierrez.

3 26.

4 After close of escrow, J.C. did not receive the \$5,500 that had been promised to J.C. by
5 Maria Edmon. On June 11, 2014, J.C. sent an email to Maria Edmon asking for the \$5,500.
6 Maria Edmon replied to J.C. on the same day and informed J.C. that J.C.'s lender was "eating
7 the \$3,000 credit and applied it to your [J.C.'s] principal loan." On or about June 19, 2014,
8 Maria Edmon gave J.C. check no. 111 for \$3,000 which was returned by the bank for
9 insufficient funds when J.C. attempted to cash it. On June 30, 2014, Maria Edmon sent an email
10 to J.C. stating that the funds would be wired to J.C. by one p.m. the following day. J.C. did not
11 receive any funds from Maria Edmon. Respondent MARTINEZ failed to explain the transaction
12 to J.C. and failed to deliver the funds that had been promised to J.C. by Maria Edmon.

13 27.

14 The conduct, acts and/or omissions of Maria Edmon as described above in Paragraphs
15 15 through 26 constitute activities requiring a real estate license in violation of Code section
16 10130.

17 28.

18 The conduct, acts and/or omissions of Respondent MARTINEZ and Pro Group Realty,
19 as described above in Paragraphs 15 through 26, are in violation of Code section 10137 and
20 constitute cause for the suspension or revocation of all real estate licenses and license rights of
21 Respondent MARTINEZ under the provisions of Code sections 10177(d) (violation of the Real
22 Estate Law), 10176(a) (substantial misrepresentation), 10177(j) (fraud or dishonest dealing),
23 and/or 10177(g) (negligence).

1 29.

2 As an officer and person owning or controlling RPI, the conduct, acts and/or omissions
3 of Respondent MARTINEZ as described above in Paragraphs 15 through 26, constitute cause
4 for the suspension or revocation of the real estate license and license rights of Respondent RPI
5 under the provisions of Code sections 10177(d) (violation of the Real Estate Law), 10177(j)
6 (fraud or dishonest dealing), and/or 10177(g) (negligence).

7 SECOND CAUSE OF ACCUSATION

8 (745 N. Driftwood)

9 30.

10 There is hereby incorporated in this Second, separate Cause of Accusation, all of the
11 allegations contained in Paragraphs 1 through 29, above, with the same force and effect as if
12 herein fully set forth.

13 31.

14 In 2014, J.P. and D.P. owned a property located at 745 N. Driftwood ("Driftwood
15 property"), in Rialto, California. J.P. and D.P. are senior citizens. On or about November 25,
16 2014, the Driftwood property was sold at a trustee's sale following foreclosure proceedings. On
17 or about December 6, 2014, a Notice to Quit was served on J.P. and D.P. In or around
18 December, 2014, J.P. and D.P. received a flyer left at the door of the Driftwood property from
19 HomeWise Foundation. The flyer offered assistance with foreclosure forbearance services. J.P.
20 and D.P. called the telephone number on the flyer and made an appointment to speak with
21 HomeWise's representatives concerning the foreclosure of the Driftwood property.

22 32.

23 Respondent MARTINEZ and Francisco Cueto, an unlicensed person, visited J.P. and
24 D.P. at the Driftwood property and solicited foreclosure forbearance, loan modification, and/or

1 short sale services to J.P. and D.P. Respondent charged J.P. and D.P. an advance fee of \$1,800
2 for said services. On or about December 11, 2014, J.P. and D.P. paid the \$1,800 fee in separate
3 cash installments. The money was delivered to Francisco Cueto. J.P. and D.P. asked for a
4 receipt of the \$1,800 advance payment. J.P. and D.P. received two separate invoices bearing the
5 same date, December 11, 2014. The invoices did not list any business name and the services
6 provided were noted as "reversal of property" for the Driftwood property. The invoices
7 reflected total payments received of \$1,050.

8 33.

9 On or about December 30, 2014, Respondent MARTINEZ induced J.P. and D.P. to sign
10 a "Loan Information and Release Authorization" form for the loan servicer of the Driftwood
11 property. According to the form, J.P. and D.P. appointed and authorized Respondent
12 MARTINEZ and Chis Milonakis as their agents to handle the loan obligations on any and all
13 real property in J.P. and D.P.'s name. J.P. and D.P. never met with or spoke to Chris Milonakis.
14 J.P. and D.P. authorized the loan servicer, Loan 1st Select Portfolio Servicing, to disclose
15 information concerning the Driftwood property mortgage with Respondent MARTINEZ. The
16 form also noted that Realty Pro Group has been retained to represent J.P. and D.P. in an arms
17 length negotiation of their mortgage debt.

18 34.

19 On February 18, 2015, a Chapter 7 bankruptcy petition was filed on behalf of J.P. and
20 D.P. by attorney Keith Q. Nguyen ("Nguyen"). According to J.P. and D.P. they never met
21 Nguyen, never signed any retainer agreement with Nguyen, and never paid Nguyen for any legal
22 services. The bankruptcy petition was dismissed by the Bankruptcy Court for failure to comply
23 with Bankruptcy Rule 1007.

24

1 35.

2 On or about March 11, 2015, Respondent MARTINEZ while doing business as RPGI,
3 induced J.P. and D.P. to sign a residential listing agreement for the short sale of the Driftwood
4 property. The office address listed for RPGI on page 6 of the residential listing agreement is:
5 8004 4th Street, Downey, California 90241. On March 11, 2015, Respondent MARTINEZ
6 placed a short sale listing for the Driftwood property on the Multiple Listing Service for a list
7 price of \$175,000.

8 36.

9 Respondent MARTINEZ failed to provide the foreclosure forbearance or loan
10 modification services that had been promised to J.P. and D.P. J.P. and D.P. attempted to contact
11 Respondent MARTINEZ numerous times, without success, to discuss the foreclosure and
12 pending eviction from the Driftwood property. J.P. and D.P. were ultimately evicted from the
13 Driftwood property.

14 37.

15 The conduct, acts and/or omissions of Respondents MARTINEZ and RPGI, as described
16 above in Paragraphs 31 through 36, are in violation of Code sections 10137, 10163, and
17 Regulation 2715 and constitute cause for the suspension or revocation of all real estate licenses
18 and license rights of Respondents MARTINEZ and RPGI under the provisions of Code sections
19 10177(d) (violation of the Real Estate Law), 10176(a) (substantial misrepresentation), 10177(j)
20 (fraud or dishonest dealing), and/or 10177(g) (negligence).

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22 ///

23 ///

24 ///

1 THIRD CAUSE OF ACCUSATION

2 (Audit LA 150122)

3 38.

4 There is hereby incorporated in this Third, separate Cause of Accusation, all of the
5 allegations contained in Paragraphs 1 through 37, above, with the same force and effect as if
6 herein fully set forth.

7 39.

8 On May 11, 2016, the Bureau completed an audit examination of the books and records
9 of Respondent RPGI's real estate sales activities which require a real estate license pursuant to
10 Code section 10131. The audit examination covered a period of time from October 1, 2014
11 through March 31, 2016. The audit examination revealed violations of the Code and the
12 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
13 LA 1500122 and the exhibits and work papers attached to said audit report.

14 40.

15 An entrance interview was held on April 20, 2016 with Respondent MARTINEZ.
16 According to Respondent MARTINEZ, Respondent RPGI closed approximately 83 sales
17 transactions and did not collect and hold earnest money deposits. RPGI did not maintain a trust
18 account in connection with any real estate activities during the audit period.

19 41.

20 Violations

21 In the course of its real estate sales activities during the audit examination period
22 described above in Paragraph 39, Respondent RPGI acted in violation of the Code and the
23 Regulations as follows:
24

1 41(a). Issue One. Code section 10159.2 and Regulation 2731. Use of unlicensed
2 fictitious business name.

3 During the audit period, RPGI used the unlicensed fictitious business name "Realty Pro
4 Group" to conduct real estate sales activities, in violation of Code section 10159.2 and
5 Regulation 2731. Examples of said sales transactions include, without limitation, the following
6 properties:

- 7 • 9814 Pomering Rd., Downey, California 90240;
- 8 • 2502 Santa Ana, Los Angeles, California 90059; and
- 9 • 13840 Ivywood Ct., Corona, California 92880.

10 41(b). Issue Two. Code section 10163 and Regulation 2715. Unlicensed branch office.

11 During the audit period, Respondent RPGI used unlicensed branch offices located at:
12 8060 Telegraph Rd., Downey, California 90240 and 8004 4th St., Downey California 90241 for
13 activities that require a real estate license, in violation of Code section 10163 and Regulation
14 2715. Examples of sales transactions where RPGI listed an unlicensed branch address as its
15 business address include, without limitation, the following properties:

- 16 • 9814 Pomering Rd., Downey, California 90240;
- 17 • 2502 Santa Ana, Los Angeles, California 90059;
- 18 • 13840 Ivywood Ct., Corona, California 92880; and
- 19 • 15448 Tobarra Rd., Fontana, California 92337.

20 41(c). Issue Three. Code section 10161.8 and Regulation 2752. Salesman Employment
21 and Termination/Notice of Change of Broker.

22 During the audit period, Respondent RPGI failed to notify the Bureau of Michael Ferris
23 Turner's ("Turner") employment within five days, in violation of Code section 10161.8 and
24

1 Regulation 2752. Examples of sales transactions where Turner negotiated real estate sales
2 transactions as an agent for RPGI include, without limitation, the following properties:

- 3 • 7517 Eastvale Parkway, Eastvale, California 92880 and
- 4 • 14139 Mandeville Ct., Eastvale, California 92880.

5 42.

6 The foregoing violations alleged above in Paragraphs 41(a) through 41(c) constitute
7 cause for the suspension or revocation of the real estate licenses and license rights of Respondent
8 RPGI under the provisions of Code Sections 10177(d) and/or 10177(g).

9 43.

10 Based on the violations alleged above in Paragraphs 41(a) through 41(c), Respondent
11 MARTINEZ failed to exercise reasonable supervision and control over RPGI's real estate
12 activities to secure full compliance with the Real Estate Law, in violation of Code Sections
13 10159.2 and Regulation 2725, which constitutes cause for the suspension or revocation of the
14 real estate licenses and license rights of Respondent MARTINEZ under the provisions of Code
15 Sections 10177(h), 10177(d) and/or 10177(g).

16 COST RECOVERY

17 Audit Costs

18 44.

19 Code Section 10148(b) provides, in pertinent part, that the Commissioner shall charge a
20 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

Investigation/Enforcement Costs

45.

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.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at San Diego, California this 31st day of August, 2016.


VERONICA KILPATRICK
Supervising Special Investigator

cc: Darlene Crystal Martinez
Realty Pro Group, Inc.
Veronica Kilpatrick
Audits-Zaky Wanis
Sacto.
OAH