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**FILED**

SEP 14 2016

BUREAU OF REAL ESTATE

By 

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10  
11 In the Matter of the Accusation of ) No. H-40384 LA  
12 )  
12 VENECIA INVESTMENTS, )  
13 INCORPORATED; and ABAD ) ACCUSATION  
13 CABRERA, individually, and as designated )  
14 officer of Venecia Investments )  
14 Incorporated, )  
15 )  
15 Respondents. )  
16 \_\_\_\_\_ )  
17 )

18 The Complainant, Maria Suarez, a Supervising Special Investigator of the State  
19 of California, for cause of Accusation against VENECIA INVESTMENTS INCORPORATED  
20 (“VENECIA”) and ABAD CABRERA (“CABRERA”), individually, and as designated officer  
21 of VENECIA (collectively “Respondents”), is informed and alleges as follows:

22 1.

23 The Complainant, Maria Suarez, a Supervising Special Investigator of the State  
24 of California, makes this Accusation in her official capacity.

25 2.

26 VENECIA is presently licensed and/or has license rights under the Real Estate  
27

1 Law (Part 1 of Division 4 of the Business and Professions Code (“Code”)) as a real estate  
2 corporation. The license of VENECIA will expire on December 8, 2019, unless renewed. At  
3 all times relevant herein, VENECIA was acting by and through CABRERA as its designated  
4 broker-officer.

5 3.

6 CABRERA is presently licensed and/or has license rights under the Real Estate  
7 Law as a real estate broker, and at all times relevant herein was the designated officer of  
8 VENECIA. The license of CABRERA will expire on August 20, 2019, unless renewed.

9 4.

10 At all times relevant herein CABRERA, as the officer designated by VENECIA,  
11 pursuant to Section 10211 of the Code, was responsible for the supervision and control of the  
12 activities conducted on behalf of VENECIA by its officers and employees as necessary to  
13 secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.  
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15 5.

16 At all times mentioned Respondents acted as real estate brokers and conducted  
17 licensed activities within the meaning of Code Section 10131(d). Respondents engaged in a  
18 mortgage loan brokerage including conducting activities with the public wherein Respondents  
19 solicited borrowers or lenders for or negotiated loans secured directly or collaterally by liens  
20 on real property.

21 6.

22 On May 31, 2016, the Bureau completed an audit examination of the books and  
23 records of Respondent VENECIA pertaining to the mortgage loan brokerage activities  
24 described in Paragraph 5, above, which require a real estate license. The audit examination  
25 covered a period of time beginning on November 1, 2013, and ending on October 31, 2015.  
26 The audit examination revealed violations of the Code and of Title 10, Chapter 6, California  
27

1 Code of Regulations ("Regulations") set forth in the following paragraphs, and more fully set  
2 forth in Audit Report LA150043 and the exhibits and work papers attached thereto.

3 7.

4 During the period alleged CABRERA ordered, caused, authorized or participated  
5 in the conduct of VENECIA, as is alleged in this Accusation.

6 FIRST CAUSE OF ACCUSATION

7 (Audit Violations)

8 8.

9 On or about May 31, 2016, the Bureau completed an audit examination of the  
10 books and records of Respondent pertaining to the real estate activities described in Paragraph  
11 5, above.

12 9.

13 At all times mentioned herein, and in connection with the activities described in  
14 Paragraph 5, above, VENECIA accepted or received funds to be held in trust ("trust funds")  
15 from or on behalf of actual or prospective parties to transactions handled by Respondents, and  
16 thereafter made deposits and/or disbursements of such funds. From time-to-time herein  
17 mentioned during the audit period, said trust funds were deposited into VENECIA's general  
18 bank account (GA 1). VENECIA did not maintain a trust account for its mortgage loan  
19 activities during the audit period.

20 10.

21 The audit examination revealed violations of the Code and the Regulations by  
22 Respondents, as set forth in the following paragraphs, and more fully discussed in Audit Report  
23 No. LA 150043 and the exhibits and work papers attached to the audit report:

24 (a) Credit report fees along with commissions and other fees were deposited into  
25 VENECIA's general account (GA 1). The credit report fees were commingled with  
26 VENECIA's funds in VENECIA's general account until VENECIA disbursed the credit report  
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1 fees to the credit report company. The foregoing constitutes commingling and mishandling of  
2 funds in violation of Code Sections 10176(e) and 10145 and Section 2832 of the Regulations.

3 (b) Respondent received credit report fees at the close of escrow that were  
4 handled through VENECIA's general account. VENECIA failed to maintain a control record  
5 of trust funds received and disbursed in violation of Code Section 10145 and Section 2831 of  
6 the Regulations.

7 (c) Respondent received credit report fees at the close of escrow that were  
8 handled through VENECIA's general account. VENECIA failed to maintain separate records of  
9 trust funds received and disbursed in violation of Code Section 10145 and Section 2831.1 of the  
10 Regulations.

11 (d) VENECIA's fiscal year ends on December 31. VENECIA acted as a  
12 mortgage loan originator and arranged loans secured by real property containing one to four  
13 residential units. VENECIA failed to file a Mortgage Loan Business Activity Report with the  
14 Bureau within ninety 90 days from the end of its fiscal year or on or before May 31, 2015, in  
15 violation of Code Section 10166.07.

16 (e) Based on two of the private lender funded loans examined, VENECIA failed  
17 to provide the Lender Purchaser Disclosure Statement to the lenders during the audit period in  
18 violation of Code Sections 10232.4 and 10232.5 and Section 2846 of the Regulations.

19 (f) VENECIA failed to provide a Mortgage Loan Disclosure Statement  
20 ("MLDS") to the borrowers in five (5) of the loans files examined. VENECIA provided an  
21 incomplete MLDS in three (3) of the loan files examined. The foregoing is in violation of Code  
22 Section 10240, subdivision (a) and (c), and Section 2840 of the Regulations. VENECIA did  
23 provide Good Faith Estimates ("GFE"), but did not satisfy the requirement of Code Section  
24 10240(c) in that the GFEs did not state that the GFEs do not constitute a loan commitment and  
25 failed to include the broker's real estate license number.

26 (g) In two (2) of the loan files examined, VENECIA negotiated higher-priced  
27

1 mortgage loans for consumers' principal dwelling in which the annual percentage rate exceeded  
2 the average prime offer rate for a comparable transaction. In both loan files the Annual  
3 Percentage Rate of the loans exceeded by 1.5 or more percentage points for loans secured by a  
4 first lien. This is in violation of Financial Code Section 4995.2(h)(2).

5 (h) Based on a review of five (5) of the loan files examined, VENECIA did not  
6 provide a Fair Lending Notice to the borrowers in violation of Health and Safety Code Section  
7 35800 et seq.

8 (i) Based on the above findings, CABRERA did not exercise reasonable control  
9 and supervision over the activities conducted on behalf of VENECIA by its employees as  
10 necessary to secure full compliance with the real estate laws. CABRERA failed to establish  
11 policies, rules, procedures and systems to review, oversee, and inspect the handling of trust  
12 funds by VENECIA's licensees and employees. The foregoing is in violation of Code Sections  
13 10159.2 and 10177(h) and Section 2725 of the Regulations.

14 DISCIPLINARY STATUTES AND REGULATIONS

15 11.

16 The conduct of Respondents described in Paragraph 10, above, violated the Code  
17 and the Regulations as set forth below:

18 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
19 10(a)	Code Sections 10145(a) 10176(e); Section 2832of the 20 Regulations
21 10(b)	Code Section 10145; Section 2831 of the Regulations
22 10(c)	Code Section 10145; Section 2831.1 of the Regulations
23 10(d)	Code Section 10166.07
24	
25 10(e)	Code Section 10232.4 and 10232.5; Section 2846 of the 26 Regulations
27	

- 1           10(f)                   Code Section 10240, subdivisions (a) and (c); Section 2840 of the
- 2                                   Regulations
- 3           10(g)                   Financial Code Section 4995.2(h)(2)
- 4           10(h)                   Health & Safety Code Section 35800 et seq.
- 5           10(i)                   Code Sections 10159.2 and 10177(h); Section 2725 of the
- 6                                   Regulations
- 7   12.

8                                   The foregoing violations, as set forth hereinabove, constitute cause for the  
9 suspension or revocation of the real estate licenses and license rights of Respondents VENECIA  
10 and CABRERA under the provisions of Code Sections 10177(d) for violation of the Real Estate  
11 Law and/or 10177(g) for negligence or incompetence.

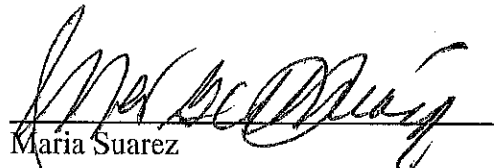
12  
13                                   Code Section 10106 provides, in pertinent part, that in any order issued in  
14 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the  
15 administrative law judge to direct a licensee found to have committed a violation of this part to  
16 pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

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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 all the licenses and license rights of Respondents VENECIA INVESTEMTNS,  
4 INCORPORATED and ABAD CABRERA under the Real Estate Law (Part I of Division 4 of  
5 the Business and Professions Code), for the cost of investigation and enforcement as permitted  
6 by law, for the cost of the audit and follow-up audit as provided in Code Section 10148, and for  
7 such other and further relief as may be proper under other applicable provisions of law.

8 Dated at Los Angeles, California

9 this 9<sup>th</sup> day of September, 2016.

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11   
12 Maria Suarez  
13 Supervising Special Investigator  
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20 cc: VENECIA INVESTEMENTS, INCORPORATED  
21 ABAD CABRERA  
22 Maria Suarez  
23 Sacto.  
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25  
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