

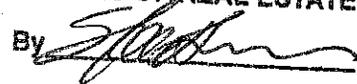
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**FILED**

NOV 01 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-40436 LA  
12 )  
13 NEWPORT HOME LOAN INC., and )  
14 BYRON THOMAS BARCLAY, ) ACCUSATION  
15 individually, and as designated )  
16 officer of Newport Home Loan Inc. )  
17 )  
18 Respondents. )  
19 )  
20 )  
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22 )  
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28 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
29 State of California, for cause of Accusation against NEWPORT HOME LOAN INC.  
30 (“NEWPORT”) and BYRON THOMAS BARCLAY (“BARCLAY”), individually, and as  
31 designated officer of NEWPORT (collectively “Respondents”), is informed and alleges as  
32 follows:

33 1.

34 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
35 State of California, makes this Accusation in her official capacity.

36 2.

37 NEWPORT is presently licensed and/or has license rights under the Real Estate

1 Law (Part 1 of Division 4 of the Business and Professions Code ("Code")) as a real estate  
2 corporation. The license of NEWPORT will expire on June 20, 2018, unless renewed. At all  
3 times relevant herein, NEWPORT was acting by and through BARCLAY as its designated  
4 broker-officer.

5 3.

6 BARCLAY 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 NEWPORT. The license of BARCLAY will expire on May 21, 2017, unless renewed.

9 4.

10 At all times relevant herein BARCLAY, as the officer designated by NEWPORT,  
11 pursuant to Section 10211 of the Code, was responsible for the supervision and control of the  
12 activities conducted on behalf of NEWPORT by its officers and employees as necessary to secure  
13 full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.  
14

15 5.

16 NEWPORT originates loans for borrowers as a principal, solicits borrowers and  
17 funds the loans through its line of credit. During the audit period NEWPORT funded loans  
18 through its line of credit, resold the existing notes to private investors (single lender/multi-  
19 lender purchasers), and repaid the line of credit. NEWPORT also negotiates loans funded by  
20 private investors and services private investor loans, and solicits both borrowers and lenders.

21 FIRST CAUSE OF ACCUSATION

22 (Audit Violations)

23 6.

24 On June 29, 2016, the Bureau completed an audit examination of the books and  
25 records of NEWPORT pertaining to its handling of trust funds and other real estate activities,  
26 including the activities described in Paragraph 5, above, which require a real estate license.  
27

1 The audit examination covered a period of time beginning on January 1, 2014, and ending on  
2 November 30, 2015.

3 7.

4 At all times mentioned herein, and in connection with the activities described in  
5 Paragraph 5, above, NEWPORT accepted or received funds to be held in trust ("trust funds")  
6 from or on behalf of actual or prospective parties to transactions handled by Respondents, and  
7 thereafter made deposits and/or disbursements of such funds. From time-to-time herein  
8 mentioned during the audit period, said trust funds were deposited into bank accounts maintained  
9 by Respondents as follows:

10 T/A #1

11 Account Name: Newport Home Loan Inc.  
12 DBA NHL Funding/Borrowers Trust Account 04  
13 Account No. xxxxxxxx1443  
14 Bank Name: Umpqua Bank, 4040 MacArthur Boulevard, Newport Beach, CA 92660  
15 Signatories: Jock Alexander Begg; Cort Wright Kloke; and BARCLAY  
16 Purpose: Maintained for the receipt and disbursement of trust funds received for  
17 multiple beneficiaries in connection with NEWPORT's mortgage loan  
18 servicing activity.  
19 Signatories: One (1) signature required

20  
21 T/A #2

22 Account Name: Newport Home Loan Inc.  
23 DBA NHL Funding/Borrowers Trust Account 04  
24 Account No. xxxxxxxx1666  
25 Bank Name: Umpqua Bank, 4040 MacArthur Boulevard, Newport Beach, CA 92660  
26 Signatories: Jock Alexander Begg; Cort Wright Kloke; and BARCLAY  
27

1 Purpose: Maintained for the receipt and disbursement of trust funds received for  
2 multiple beneficiaries in connection with NEWPORT's broker escrow  
3 activity.

4 Signatories: One (1) signature required

5 8.

6 The audit examination revealed violations of the Code and of Title 10, Chapter 6,  
7 Code of Regulations ("Regulations") by Respondents, as set forth in the following paragraphs,  
8 and more fully discussed in Audit Report No. LA 150049, and the exhibits and work papers  
9 attached to the audit report:

10 (a) The quarterly Trust Fund Status Report (RE 855) and the Trust Fund Bank  
11 Account Reconciliation (RE 856) filed with CalBRE by NEWPORT for T/A#1 and T/A#2 for  
12 the quarter ending July 31, 2014, were inaccurate. Specifically, the account balances on the RE  
13 856 as of July 31, 2014, did not match the ending bank balance for T/A#1 and T/A#2. In  
14 addition, the RE 855 for T/A#1 and T/A#2 indicated an inaccurate broker's aggregate trust fund  
15 accountability for the quarter ending July 31, 2014. On December 15, 2015, BARCLAY signed  
16 the corrected RE 855 and the RE 856 for T/A#1 and T/A#2 for the quarter ending July 31, 2014,  
17 which was due on August 31, 2014. BARCLAY provided the auditor with a copy of the forms.  
18 Respondents' conduct violated Code Section 10232.25 and Section 2846.8 of the Regulations.

19 (b) An examination of at least five (5) private lender loan files, including single  
20 lender and multi-lender notes, indicated that NEWPORT failed to record the assignment deeds of  
21 trust in the name of the lenders as beneficiaries for the loans funded by NEWPORT's warehouse  
22 line of credit and resold to the private investors/purchasers within 10 working days after  
23 NEWPORT received funds from the investors/purchasers or after close of escrow. This is in  
24 violation of Code Sections 10234 and 10238(g).

25 (c) In four (4) of eight (8) loan files examined, NEWPORT negotiated  
26 nontraditional mortgage loan products. Mortgage Loan Disclosure Statements were found in the  
27

1 loan files, however, the statements provided to the borrowers were not the written disclosure for  
2 nontraditional loans as required. The loans examined were nontraditional in that they were  
3 arranged as "interest only loans" and required the borrowers to pay an installment (balloon)  
4 payment at maturity of the note. This is in violation of Code Sections 10240 and 10240.3 and  
5 Section 2842 of the Regulations.

6 (d) An examination of five (5) private lender loan files, including single lender  
7 and multi-lender notes, indicated that NEWPORT funded the loans through its warehouse line of  
8 credit as a principal and resold the existing notes to private investors/purchasers and repaid  
9 NEWPORT's line of credit. Based on the loan files examined, NEWPORT did not provide a  
10 Lender/Purchaser Disclosure Statement (RE 851B) for Sales of Existing Notes to the  
11 investors/purchasers before they purchased the existing notes. Instead, NEWPORT provided the  
12 investors/purchasers with a Lender/Purchase Disclosure Statement (RE 851A) for loan  
13 origination. This is in violation of Code Sections 10232.4, 10232.5 and 10238(l) and Section  
14 2846 of the Regulations.

15 (e) Based on the above findings, BARCLAY did not exercise reasonable control  
16 and supervision over the activities conducted on behalf of NEWPORT by its employees as  
17 necessary to secure full compliance with the real estate laws. BARCLAY failed to establish  
18 policies, rules, procedures and systems to review, oversee, and inspect the handling of mortgage  
19 loan reports by NEWPORT's licensees and employees. The foregoing is in violation of Code  
20 Sections 10159.2 and 10177(h) and Section 2725 of the Regulations.

21 DISCIPLINARY STATUTES AND REGULATIONS

22 9.

23 The conduct of Respondents described in Paragraph 8, above, violated the Code  
24 and the Regulations as set forth below:

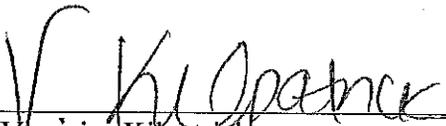
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1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all the licenses and license rights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

8 Dated at San Diego, California  
9 this 26 day of October, 2016.

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11   
12 Veronica Kilpatrick  
13 Supervising Special Investigator  
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19 cc: NEWPORT HOME LOAN INC.  
20 BYRON THOMAS BARCLAY  
21 Veronica Kilpatrick  
22 Sacto.  
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