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**FILED**

**JUN 23 2017**

**BUREAU OF REAL ESTATE**

By John C. Zent

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of ) No. H-40687 LA  
11 )  
12 ARMANDO D LA CUBA, ) ACCUSATION  
13 )  
14 Respondent. )

15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
16 State of California, for cause of Accusation against ARMANDO D LA CUBA, a.k.a. Armando  
17 De La Cuba ("Respondent") alleges as follows:

18 1.

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

21 RESPONDENT ARMANDO D LA CUBA

22 2.

23 Respondent is presently licensed and/or has license rights under the Real Estate  
24 Law, Part 1 of Division 4 of the California Business and Professions Code ("Code") as a real  
25 estate broker ("REB"), Bureau of Real Estate ("BRE") license number 00333745. Respondent

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1 was first licensed as a REB on August 12, 1976. Respondent's license will expire on  
2 September 5, 2020. From September 4, 2016 up to and including the present, Respondent's  
3 main office and mailing address of record are the same: 8102 4<sup>th</sup> Street, Downey, California  
4 90241 ("BRE address of record" or "4<sup>th</sup> Street address"). According to the BRE's records:

5 a. from August 6, 2014 to September 3, 2016, Respondent's mailing address of  
6 record was 4001 ½ City Terrace Dr. ("City Terrace address");

7 b. from February 5, 2014 to September 3, 2016, Respondent's main office  
8 address of record was the City Terrace address; and

9 c. from November 15, 2000 to August 5, 2014, Respondent's mailing address of  
10 record was the 4<sup>th</sup> Street address.

11 4.

12 Under his BRE license, Respondent has no branch offices and employs one real  
13 estate salesperson, Yamila Noemy Perez (BRE license number 02016298, expiration date:  
14 October 20, 2020.). The following DBA's are presently active under Respondent's BRE  
15 license: America Investment (active as of August 11, 2000); Elite Realty Division a non  
16 Independent Broker Escrow (active as of July 31, 2014); Pride Financial (active as of October  
17 30, 2001); and Pride Financial Realty (active as of October 30, 2001).

18 Fictitious Business Name Statements Filed by Respondent

19 5.

20 On or about July 25, 2014, Respondent filed with the Los Angeles County  
21 Clerk's Office two Fictitious Business Name ("FBN") Statements:

22 a. Respondent filed a FBN Statement, file number 2014201492, for "Elite Realty  
23 Division A Non Independent Broker Escrow" and listed the City Terrace address as its  
24 principal place of business and himself as the owner.

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1 b. Respondent also filed a FBN Statement, file number 2014201493, for "Elite  
2 Realty" and also listed the City Terrace address as its principal place of business and himself as  
3 the owner.

4 FACTS DISCOVERED BY THE BUREAU

5 Pascal D. and Regina D. for D. Trust Dated January 1, 1988

6 6.

7 In or about April 2015, Pascal D. and Regina D. attended an open house by  
8 Pride Financial at real property located at 801 South J Street, San Bernardino, California 92410  
9 ("J Street property"). The internet listing and flyer for the J Street property listed Pride  
10 Financial, Respondent's name and BRE license number, and the telephone number (714)818-  
11 4656.

12 7.

13 On or about April 29, 2015, Pascal D. and Regina D., trustees or successors for  
14 the D. Trust Dated January 1, 1988 ("Pascal and Regina D.") submitted to Respondent's Pride  
15 Financial their California Association of Realtors ("C.A.R.") Form RPA-CA, Revised 11/14  
16 ("RPA" or "offer") and C.A.R. Form SSA, Revised 4/12 ("SSA" or "Short Sale Addendum")  
17 for the short sale purchase of the J Street property.

18 8.

19 In or about May 2015, Pascal and Regina D. were notified that their offer for the  
20 J Street property had been accepted. On May 4, 2015, Elite Escrow "A Non Independent  
21 Broker Escrow" ("Elite Escrow" or "Elite") opened escrow with Escrow #2292-ds, and an Elite  
22 Escrow escrow officer who identified himself as David Sanchez ("Sanchez") sent an escrow  
23 package to Pascal and Regina D. that included documents such as the Sale Escrow Instructions,  
24 Statement of Identity, Privacy Policy and Disclosure Authorization, Preliminary Change of  
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1 Ownership Report (Assessor's Parcel Number (APN) 0141162180000), and Borrower(s)  
2 Information Sheet. Elite's escrow package also included instructions for wire transfers to its  
3 Bank of America account number #####0047. The Elite address that appeared throughout  
4 the escrow package was: 6 Center Pointe Drive, Ste. 700, La Palma, CA 90623 ("Center Pointe  
5 address"). Pascal and Regina D. also received Respondent's Pride Financial business card,  
6 which displayed the same Center Pointe (spelled as one word "Centerpointe") address as Elite.

7 9.

8 On April 30, 2015, to begin escrow, Pascal and Regina D. sent check number  
9 1112, payable to "Elite Escrow Division," in the amount of ten thousand dollars (\$10,000) as  
10 good faith deposit/earnest money deposit ("EMD") for the J Street property. Pascal and Regina  
11 D. received a Trust Accounting Receipt dated May 13, 2015 for their EMD for Escrow  
12 #2292-ds. According to Pascal and Regina D.'s bank records, check number 1112 was  
13 deposited/cashed on May 15, 2015.

14 10.

15 Subsequent to opening escrow and depositing their EMD with Elite, Respondent  
16 and Sanchez assured Pascal and Regina D. via telephone and e-mail  
17 ([pridefinancial.teamdlacuba@gmail.com](mailto:pridefinancial.teamdlacuba@gmail.com), [pridefinancial.ashley@gmail.com](mailto:pridefinancial.ashley@gmail.com), and  
18 [eliteescrow.david@gmail.com](mailto:eliteescrow.david@gmail.com)) that escrow on the J. Street property was progressing without  
19 issue.

20 11.

21 In or about January 2016, when Respondent and Sanchez ceased to respond to  
22 Pascal D.'s telephone calls, Pascal D. called and e-mailed Pride Financial Realty's Transaction  
23 Coordinator Ashley Moore ("Moore"), and requested cancellation of escrow and a return of his  
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1 EMD. Pascal D. followed up with an e-mail to Respondent on April 11, 2016 to request  
2 escrow cancellation and the return of his \$10,000 EMD.

3 12.

4 On June 6, 2016, Pascal D. received from Respondent C.A.R. Form CC,  
5 Revised 11/14, "Cancellation of Contract, Release of Deposit and Cancellation of Escrow"  
6 ("Contract Cancellation"), which he and Regina D. signed and returned to Respondent on the  
7 same day. On June 24, 2016, Pascal D. received from Respondent "Cancellation Instructions"  
8 on the letterhead of Elite Escrow, 18000 Studebaker Rd., Suite 700, Cerritos, CA 90703,  
9 562-467-8973 ("Studebaker address"). Pascal and Regina D. signed and returned the  
10 Cancellation Instructions to Respondent on the same day.

11 13.

12 Respondent and Sanchez assured Pascal D. that his check would be delivered to  
13 him via Federal Express ("FedEx"). When Pascal D. called Respondent on July 18, 2016,  
14 Respondent promised to e-mail a FedEx tracking number for the delivery. To date, Pascal and  
15 Regina D. have not received a refund of their \$10,000 EMD for the J Street property.

16 Jesus G.

17 14.

18 On or about April 28, 2015, one day prior to Pascal and Regina D.'s RPA for the  
19 J Street property, Jesus G. submitted to Respondent's Pride Financial his C.A.R. Form RPA  
20 and SSA for the short sale purchase of the same J Street property located at 801 South J Street,  
21 San Bernardino, California, APN 0141162180000.

22 15.

23 On April 28, 2015, to begin escrow, Jesus G. delivered to Elite check number  
24 1078, payable to "Elite Escrow Co.," in the amount of ten thousand dollars (\$10,000) as EMD  
25  
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1 for the J Street property. Respondent accepted Jesus G.'s check and indicated that because this  
2 was a short sale, that securing bank approval would take some time. According to Jesus G.'s  
3 bank records, check number 1078 was deposited/cashed on May 15, 2015.

4 16.

5 Respondent e-mailed Jesus G. with updates regarding changes in the appraisal  
6 values for the J Street property. By March 8, 2016, Respondent informed Jesus G. that the  
7 bank had a new appraisal; Jesus G. responded that if the bank would not lower the price, then  
8 he would like a return of his \$10,000 EMD. On March 9, 2016, Respondent indicated to Jesus  
9 G. that he would look for comparables to dispute the bank's new value for the J Street property.  
10 On this same date, Respondent provided Jesus G. with his new address at 18000 Studebaker  
11 Road, Cerritos, California 90703.

12 17.

13 On January 8, 2016, Respondent informed Jesus G. that a new broker price  
14 opinion ("BPO") was scheduled for June 22, 2016. Six months later, on July 13, 2016,  
15 Respondent e-mailed Jesus G. that he did not have the new BPO yet due to the holiday and that  
16 he would follow-up.

17 18.

18 After receiving no e-mail replies from Respondent subsequent to July 13, 2016,  
19 Jesus G. went to Respondent's address at 8102 4<sup>th</sup> St., in Downey, California 90241. Both  
20 times that Jesus G. appeared, nobody opened the door. Jesus G. called all known telephone  
21 numbers that he had for Respondent, including: (562) 467-8914, (562) 467-8973,  
22 (562) 200-6071, (562) 422-2629, and (323) 345-4201 (for America Investments/ Eduardo  
23 Chang), and left messages inquiring as to Respondent's whereabouts. On November 19, 2016  
24 and November 22, 2016, Jesus G. spoke to an individual who identified herself as Monica  
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1 Mora ("Mora") and indicated she was Respondent's leasing manger. Mora informed Jesus G.  
2 that Respondent only came to the office when he has appointments.

3 19.

4 Jesus G. has since discovered through the multiple listing service that the  
5 J Street property was sold as of October 25, 2016 (recorded October 30, 2016). To date, Jesus  
6 G. has not received a refund of his \$10,000 EMD for the J Street property.

7 Herman L., DBA Sapphire Realty LLC

8 20.

9 On or about October 25, 2014, Herman L., DBA Sapphire Realty LLC  
10 ("Sapphire"), submitted to Respondent's Pride Financial an RPA/offer (California Association  
11 of Realtors Form RPA-CA, Revised 4/13) and SSA for the short sale purchase of real property  
12 located at 320 S. Sadler Ave., Los Angeles, California 90022 ("Sadler property"). On October  
13 27, 2014, Respondent, via his e-mail [pridefinancial.armando@gmail.com](mailto:pridefinancial.armando@gmail.com), confirmed receipt of  
14 Herman L.'s offer. On November 12, 2014, Herman L. received a counter-offer, via e-mail  
15 ([pridefinancial.carlos@gmail.com](mailto:pridefinancial.carlos@gmail.com)) from an individual who identified himself as Carlos  
16 Rodriguez ("Rodriguez"). Herman L. signed the counter-offer and returned it to Rodriguez on  
17 November 14, 2014.

18 21.

19 On November 19, 2014, Sanchez sent to Herman L., via e-mail, the escrow  
20 package for the Sadler property. The Elite address that appeared throughout the escrow  
21 package was the Center Pointe address. On November 23, 2014, to begin escrow, Herman L.  
22 delivered to Elite cashier's check number 1145200407, dated November 25, 2014, payable to  
23 "Elite Escrow," in the amount of twenty thousand dollars (\$20,000) as EMD for the Sadler  
24 property.

22.

Between November 2014 and July 2016, Herman L. received updates regarding the Sadler property short sale from Pride Financial, from Respondent's Transaction Coordinators Ruby Garcia ([pridefinancial.tc@gmail.com](mailto:pridefinancial.tc@gmail.com)), Angela Rojas ([pridefinancial.angela@gmail.com](mailto:pridefinancial.angela@gmail.com)), and Yadi Legra ([pridefinancial.yadi@gmail.com](mailto:pridefinancial.yadi@gmail.com)), and from Rodriguez and Respondent. The last e-mail that Herman L. received from Respondent was on July 13, 2016.

23.

Herman L. emailed Respondent on September 26, 2016, October 24, 2016, October 28, 2016, and October 31, 2016 (along with Sanchez) and has received no response to any of these emails. Herman L. has also been unsuccessful in contacting Respondent via text messaging. In his October 28, 2016 e-mail, Herman L. submitted to Respondent a Contract Cancellation and requested escrow cancellation and a return of his \$20,000 EMD. Herman L. received no response to the October 28, 2016 e-mail, and has been unsuccessful in his attempts to contact Sanchez, Elite Escrow and Respondent. Herman L. has since discovered that Elite Escrow has shut down its office and disconnected its telephone number. To date, neither Herman L. nor Sapphire has received a refund of the \$20,000 EMD.

Shawn P. DBA P. Investments, LLC

24.

On or about February 24, 2015, Pride Financial listed real property located at 3594 Carlin Ave., Lynwood, California ("Carlin property") for sale; Respondent was named as the listing agent.

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1 25.

2 On or about February 25, 2015, Shawn P., DBA P. Investments LLC  
3 (“PILLC”), submitted to Respondent’s Pride Financial an RPA/offer and SSA for the short sale  
4 purchase of the Carlin property. On March 4, 2015, Shawn P. received a counteroffer, which  
5 he accepted on the same day.

6 26.

7 On March 11, 2015, Sanchez sent to Shawn P., via e-mail, the escrow package  
8 for the Carlin property, which included instructions for wire transfers to Elite’s Bank of  
9 America account number #####0047. The Elite address that appeared throughout the  
10 escrow package was the Center Pointe address.

11 27.

12 On or about March 12, 2015, Shawn P. requested, via e-mail, a copy of the  
13 executed contract RPA and SSA to which Sanchez replied that he would send them out. On or  
14 about March 17, 2015 and March 19, 2015, Shawn P. again requested a copy of the fully  
15 executed RP and SSA.

16 28.

17 On March 31, 2015, to begin escrow, Shawn P. wired ten thousand dollars  
18 (\$10,000) as EMD for the Carlin property. Shawn P. received a Trust Accounting Receipt  
19 dated March 31, 2015 for the EMD for the Carlin property.

20 29.

21 On or about June 23, 2015, Respondent informed Shawn P., via email  
22 ([pridefinancial.teamdlacuba@gmail.com](mailto:pridefinancial.teamdlacuba@gmail.com)) with an update on the Carlin property transaction. On  
23 or about October 20, 2015, Respondent informed Shawn P. that the Carlin property transaction  
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1 was going well, that the file was in process, and that it should be ready within seven (7) to ten  
2 (10) days.

3 30.

4 After hearing nothing from Respondent subsequent to October 20, 2015, Shawn  
5 P. sent an e-mail to Respondent on January 4, 2016 for a status update, to which Respondent  
6 eventually responded that he would check on the Carlin property transaction.

7 31.

8 Shawn P. unsuccessfully attempted to communicate with Respondent and Pride  
9 Financial in February 2016. Shawn P. attempted to communicate with Pride Financial again in  
10 March 2016, during which time he was in contact with an assistant to Respondent who  
11 identified as "Ashley" or "Yadi." Respondent and "Ashley" (or "Yadi") informed Shawn P.  
12 that someone was using Respondent's BRE license fraudulently.

13 32.

14 On February 9, 2016, Shawn P. discovered that the Carlin property had been  
15 listed by another firm and that Elite Escrow had shut down its office. Shawn P. also discovered  
16 that Respondent's telephone number had been disconnected with no forwarding information.  
17 To date, neither Shawn P. nor PILLC has received a refund of the \$10,000 EMD.

18 33.

19 Shawn P. has a pending Disciplinary Complaint against Respondent, filed before  
20 the Ranch Southeast Association of Realtors, alleging Respondent's violation of Article 8 of  
21 the Realtors Code of Ethics.

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1 38.

2 By April 12, 2016, Respondent indicated, via e-mail, to Jeanne H. that due to the  
3 bank's reluctance to accept the offer, that switching underwriters could "save this deal," to  
4 which PRD agreed, via e-mail on April 13, 2016. Respondent's last response to Jeanne H. was  
5 an e-mail on April 13, 2016 in which he indicated he would get started on switching  
6 underwriters "right away."

7 39.

8 After hearing nothing from Respondent subsequent to April 13, 2016, Jeanne H.  
9 sent an e-mail to Respondent on July 27, 2016 to ask for contact information for Elite and to  
10 request a return of PRD's EMD.

11 40.

12 PRD and Jeanne H. have since discovered that the telephone numbers for both  
13 Elite and Respondent have been disconnected. PRD and Jeanne H.'s have sent e-mails to Elite  
14 and Respondent, none of which have received responses. To date, PRD has not received a  
15 refund of the \$10,000 EMD.

16 Lupoid LLC

17 41.

18 On or about June 8, 2015, Lupoid LLC ("Lupoid"), submitted to Respondent's  
19 Pride Financial an RPA/offer and SSA for the short sale purchase of real property located at  
20 1328 Calhoun Street, Redlands, California 92374 ("Calhoun property").

21 42.

22 On June 25, 2015, Respondent signed and accepted Lupoid's RPA and SSA.  
23 On June 29, 2015, Sanchez sent Lupoid the escrow package for the Calhoun property, which  
24 included instructions for wire transfers to Elite's Bank of America Account Number  
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1 #####0047. On June 29, 2015, to begin escrow, Lupoid sent cashier's check number  
2 0010548399, dated June 29, 2015, payable to Elite Escrow, in the amount ten thousand dollars  
3 (\$10,000) as EMD for the Calhoun property. Lupoid received from Elite a Trust Accounting  
4 Receipt dated July 2, 2015 from Elite for its EMD for Escrow #2332.

5 43.

6 Subsequent to its June 25, 2016 EMD submission, Lupoid and its real estate  
7 broker, Ryan M. have been unsuccessful in making contact with Respondent and Elite; calls, e-  
8 mails, and text messages have been made to both Respondent and Elite, all of which have  
9 received no response.

10 44.

11 On October 25, 2016, Lupoid submitted to Respondent and Elite its Contract  
12 Cancellation. To date, Lupoid has not received a refund of its \$10,000 EMD for the Calhoun  
13 property.

14 Promiseland Haven, LLC

15 45.

16 On or about June 3, 2015, five (5) days prior to Lupoid's RPA for the Calhoun  
17 property, Promiseland Haven, LLC<sup>1</sup> ("PLH"), submitted to Respondent's Pride Financial its  
18 C.A.R. Form RIPA, Revised 11/14 ("RIPA") RPA/offer and SSA for the short sale purchase of  
19 the same property located at 1328 Calhoun Street, Redlands, California 92374.

20 46.

21 On June 25, 2015, Respondent e-mailed PLH to confirm acceptance of its offer  
22 and Sanchez sent PLH, via e-mail to its real estate salesperson Gina G., the escrow package for  
23 the Calhoun property, which included instructions for wire transfers to Elite's Bank of America

24 \_\_\_\_\_  
25 <sup>1</sup> The name of the Buyer on the RIPA and SSA is listed as "Promisedland Haven, LLC." However, it appears that  
26 the correct name is Promiseland Haven, LLC.



1 Account Number #####0047. On July 2, 2015, to begin escrow, PLH wired ten thousand  
2 dollars (\$10,000) to Elite as EMD for the Calhoun property. PLH received from Elite a Trust  
3 Accounting Receipt dated July 13, 2015 for its EMD for Escrow #2333. PLH never received  
4 copies of the executed RIPA and SSA.

5 47.

6 On July 13, 2015, PLH e-mailed Respondent for a status update of the  
7 transaction, and received an e-mail reply from Respondent's Transaction Coordinator, an  
8 individual who identified herself as "Maria," who provided status updates to PLH between  
9 August 6, 2015 and March 12, 2016.

10 48.

11 On March 31, 2016, Gina G. e-mailed Respondent to inquire about the Calhoun  
12 property short sale approval status. Respondent replied that he would check on the file and  
13 informed Gina G. of his new office location on Studebaker Rd. Between April 2016 and June  
14 2016, Respondent and Gina G.'s correspondence consisted of e-mails wherein Respondent  
15 represented that the transaction was delayed due to wait times for BPOs to be performed.

16 49.

17 On July 12, 2016, Gina G. sent Respondent an e-mail requesting an update on  
18 the Calhoun property; Gina G. received no response. On July 18, 2016, Gina G. sent  
19 Respondent another e-mail requesting an update on the Calhoun property; Gina G. received no  
20 response. On July 27, 2016, Gina G. sent Respondent a third e-mail requesting an update on  
21 the Calhoun property; Gina G. received no response. Between July 12, 2016 and July 27, 2016,  
22 Gina G. also unsuccessfully attempted to telephone Respondent, and discovered that the  
23 telephone number for Elite had been disconnected.

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1 50.

2 On August 1, 2016, Gina G. sent Respondent a fourth e-mail requesting an  
3 update on the Calhoun property, and advised that a complaint would be filed against him and  
4 Pride Financial if he did not respond. On the same day, Respondent responded that he would  
5 follow up on the file.

6 51.

7 On August 11, 2016, PLH submitted to Respondent and Elite/Sanchez, via  
8 e-mail, its Contract Cancellation. On August 16, 2016, Gina G. e-mailed Respondent and  
9 Sanchez regarding the Contract Cancellation of August 11, 2016. Sanchez responded that  
10 Respondent was working on getting an executed copy of the Cancellation to Elite. On August  
11 18, 2016, Sanchez e-mailed Gina G. and informed that Respondent was trying to set up an  
12 appointment to get seller's signature.

13 52.

14 On August 24, 2016, Gina G. telephoned Respondent at the telephone number  
15 for Pride Financial, and discovered that the phone number had been disconnected. On the same  
16 day, Gina G. telephoned Elite Escrow, and her call went to the voicemail box. To date, PLH  
17 has not received a refund of its \$10,000 EMD for the Calhoun property.

18 BRE Audit of Respondent

19 53.

20 The BRE attempted, but was unable, to perform an audit examination of the  
21 books and records of Respondent to determine his compliance with the Real Estate Law in his  
22 handling of trust funds relating to his real estate activities. On or about August 11, 2016, BRE  
23 Auditor Anitha Wijaya ("Auditor Wijaya") called Respondent's telephone numbers of record  
24 with the BRE, including his work ((714) 367-8487), business ((323) 869-0505), and home  
25

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1 ((562) 450-9230) numbers; while the work and business numbers were no longer in service,  
2 Auditor Wijaya was able to leave a voicemail at the home number at approximately 11:32 AM.  
3 On August 12, 2016, at approximately 2:07 PM Auditor Wijaya called and left a voicemail  
4 again at Respondent's home number, in which she indicated that if Respondent did not respond  
5 by August 15, 2016 at 5:00 PM, that she would schedule the audit appointment for Respondent  
6 to come to the BRE's Los Angeles District Office ("LADO") on Tuesday, August 30, 2016.

7 54.

8 On August 16, 2016, Auditor Wijaya called telephone number (562) 467-8914,  
9 which was provided on a public complaint received by the CalBRE relating to Respondent.  
10 Auditor Wijaya spoke to a receptionist who identified herself as "Ashley" and left a message  
11 for Respondent to call back no later than August 17, 2016 at 5:00 PM. Auditor Wijaya  
12 informed that if Respondent did not call back by the stated cut-off date and time, that an  
13 appointment letter would be sent to him to come to BRE's LADO for the audit. Ashley  
14 provided Auditor Wijaya with Respondent's e-mail address:

15 [pridefinacial.armondo@gmail.com](mailto:pridefinacial.armondo@gmail.com).

16 55.

17 On August 17, 2016, Respondent called Auditor Wijaya at approximately 3:00  
18 PM from a blocked telephone number and set up an audit appointment for August 30, 2016 at  
19 9:00 AM at Respondent's main office (City Terrace address); Respondent also informed that he  
20 had a branch office, the address of which he could not remember.

21 56.

22 On or about August 17, 2016, BRE Supervising Auditor Dorcas Cheng sent a  
23 letter ("BRE August 17, 2016 letter") via certified and regular mail to Respondent at his main  
24 office address of record (City Terrace address) and to the [unlicensed] Center Pointe address to  
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1 confirm the audit appointment. The BRE August 17, 2016 letter confirmed that an audit  
2 examination had been arranged between Respondent and the BRE on August 17, 2016 for an  
3 appointment date of August 30, 2016 at 9:00 AM with Auditor Wijaya. The BRE August 17,  
4 2016 letter explained that the purpose of the audit examination was to determine Respondent's  
5 compliance with the Real Estate Law with respect to his real estate activities. Additionally, the  
6 BRE August 17, 2017 letter requested that Respondent make available for examination the  
7 books and records for the period January 1, 2015 to July 31, 2016, including but not limited to  
8 his corporate, broker and salespersons' licenses, broker/salesperson relationship agreements,  
9 and bank statements and records.

10 57.

11 The BRE's August 17, 2016 letter was sent to Respondent's then-main address  
12 of record (City Terrace address) pursuant to the notice requirement of Business and Professions  
13 Code Section 10148 and stated BRE's intention to examine, inspect and copy Respondent's  
14 books, accounts and records retained in connection for transactions for which a real estate  
15 license is required.

16 58.

17 On the date agreed upon and scheduled for Respondent's BRE Audit, August  
18 30, 2016, Auditor Wijaya went to Respondent's main office (City Terrace address); upon  
19 arrival, Auditor Wijaya discovered the office was padlocked and appeared abandoned. A  
20 neighbor [who wished to remain anonymous] who resided near the City Terrace address  
21 informed Auditor Wijaya that Respondent had not been there for approximately two (2) years.  
22 The BRE August 17, 2016 letter was still in the mailbox at the City Terrace address. Auditor  
23 Wijaya called Respondent at (562) 467-8914 three (3) times and left two (2) voicemail  
24 messages, and then drove to Respondent's licensed branch office at Centerpointe Drive, where  
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26

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1 she spoke to receptionist Jessica Pineda ("Pineda"). According to Pineda, "Elite Escrow," a  
2 DBA used to Respondent was a tenant who defaulted on rent and had not been in the building  
3 for many months; Pineda began working for the building in March 2016 and Elite Escrow was  
4 no longer in the building when she started. Pineda also mentioned that many people were  
5 looking for Respondent, but that she did not know his new address.

6 59.

7 On August 29, 2016, the certified mail copy of the BRE August 17, 2016 letter  
8 that was sent to the Centerpointe Drive branch office was returned to the BRE with the  
9 notation, "Return to Sender, Attempted – Not Known, Unable to Forward."

10 60.

11 On September 13, 2016, the certified mail copy of the BRE August 17, 2016  
12 letter that was sent to the main office (City Terrace address) was returned to the BRE with the  
13 notation, "Return to Sender, Unclaimed, Unable to Forward."

14 BRE Attempt to Serve Subpoena Duces Tecum on Respondent

15 61.

16 On October 14, 2016, Auditor Wijaya and BRE Special Investigator Gincheng  
17 Yee ("SI Yee") went to Respondent's main office address of record at the 4<sup>th</sup> Street address to  
18 serve on him with a *subpoena duces tecum* ("SDT"). When Auditor Wijaya and SI Yee arrived  
19 at the 4<sup>th</sup> Street address, located in a residential neighborhood, no one answered the door. On  
20 the same day, based on information provided to the BRE, Auditor Wijaya and SI Yee also went  
21 to Respondent's other office location at 18000 Studebaker Road, 7<sup>th</sup> Floor, Cerritos, CA 90703  
22 ("Studebaker address"). Upon arrival, Auditor Wijaya and SI Yee discovered two individuals  
23 working at the front desk for "Premier Business Center," ("Premier") which rented out business  
24 suites. The Premier employees indicated that Respondent met clients by appointment only at  
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1 his Studebaker address, and that he rented the office for client meetings, but was not always  
2 physically in the location.

3 62.

4 One of the Premier employees provided Auditor Wijaya with Respondent's  
5 telephone number at (562) 461-6922. When Auditor Wijaya called this number, there was no  
6 answer and the voicemail box was full. Auditor Wijaya left another voicemail to Respondent at  
7 his (562) 467-8914 to give him until Monday, October 17, 2016 at 5:00PM to respond and to  
8 reschedule the audit appointment. To date, Auditor Wijaya has received no communications  
9 from Respondent.

10 BRE Subpoena Duces Tecum of Respondent's Bank of America

11 Account Number #####0047

12 63.

13 On or about January 18, 2017, pursuant to Government Code Section 11181 and  
14 Business and Professions Code Sections 10148 and 10071, the BRE served a SDT on Bank of  
15 America N.A. to produce records, for the period April 1, 2015 to the date of the SDT, for  
16 examination that relate to Respondent's Bank of America Account Number #####0047.  
17 Also on or about January 18, 2017, the BRE served Respondent with a Notice to Consumer of  
18 Subpoena of Records Relating to Consumer.

19 64.

20 On or about February 3, 2017, Bank of America N.A. responded to the BRE's  
21 SDT and produced the following documents relating to Bank of America Account Number  
22 #####0047, including, but not limited to, copies of the following checks that were  
23 deposited to Account Number #####0047:

1 a. personal check number 1293, in the amount ten thousand dollars (\$10,000)  
2 from Pascal and Regina D.;

3 b. cashier's check number 0010548399, in the amount ten thousand dollars  
4 (\$10,000) from Lupoid; and

5 c. personal check number 1078, in the amount ten thousand dollars (\$10,000)  
6 from Jesus G.

7 BRE Visit to Respondent's Main Office Address of Record (4<sup>th</sup> Street)

8 65.

9 On February 16, 2017, at approximately 10:30 AM, SI Yee arrived at  
10 Respondent's BRE main office address of record on 4<sup>th</sup> Street, located in a residential  
11 neighborhood. SI Yee knocked multiple times on the door to what appeared to be a residential  
12 dwelling, but no one answered.

13 66.

14 On the same date, at approximately 11:00 AM, SI Yee knocked on the door of  
15 one of Respondent's neighbors, one whose driveway faces the garage entrance of Respondent's  
16 residence. An individual who later identified herself as Marcy W. answered the door and SI  
17 Yee showed his BRE badge and identified himself as an investigator of the BRE. When SI Yee  
18 informed Marcy W. that he was trying to make contact with Respondent, Marcy W. made a  
19 phone call to Respondent's cell phone number (562) 200-6071; Marcy W. informed SI Yee that  
20 when she asked to speak with Respondent, a young man who answered the phone responded to  
21 her with the "F" word. Marcy W. then made another call to the same number, but this time put  
22 the phone on speakerphone; when Marcy W. asked to speak with Respondent, the male on the  
23 other end said something that was unintelligible and then said "bye" before hanging up the  
24 phone. Marcy W. indicated that Respondent does not have a home telephone number.

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1 67.

2 Marcy W. showed SI Yee a window on the 4<sup>th</sup> Street residence, and stated that  
3 when people arrived to pick Respondent up, they knocked on that particular kitchen window.  
4 Marcy W. provided SI Yee with a long stick to use to knock on Respondent's kitchen window.  
5 After a few knocks with the stick, an older male opened the door next to the garage; when SI  
6 Yee asked if he was ARMANDO D LA CUBA, the man answered in the affirmative. When SI  
7 Yee identified himself as a BRE investigator and asked Respondent if he was still in the real  
8 estate business, Respondent accepted SI Yee's business card, indicated he needed to call  
9 somebody and then closed the door.

10 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

11 Handling of Trust Funds – Code Section 10145(a)(1)

12 68.

13 Pursuant to Code Section 10145(a)(1), "A real estate broker who accepts funds  
14 belonging to others in connection with a transaction subject to this part shall deposit all those  
15 funds that are not immediately placed into a neutral escrow depository or into the hands of the  
16 broker's principal, into a trust fund account maintained by the broker in a bank or recognized  
17 depository in this state. All funds deposited by the broker in a trust fund account shall be  
18 maintained there until disbursed by the broker in accordance with instructions from the person  
19 entitled to the funds."

20 Retention of Records – Code Section 10148(a)

21 69.

22 Pursuant to Code Section 10148(a), "A licensed real estate broker shall retain  
23 for three years copies of all listings, deposit receipts, cancelled checks, trust records, and other  
24 documents executed by him or her or obtained by him or her in connection with any  
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1 transactions for which a real estate broker license is required. The retention period shall run  
2 from the date of the closing of the transaction or from the date of the listing if the transaction is  
3 not consummated. After notice, the books, accounts, and records shall be made available for  
4 examination, inspection, and copying by the commissioner or his or her designated  
5 representative during regular business hours; and shall, upon the appearance of sufficient cause,  
6 be subject to audit without further notice, except that the audit shall not be harassing in nature.  
7 This subdivision shall not be construed to require a licensed real estate broker to retain  
8 electronic messages of an ephemeral nature, as described in subdivision (d) of Section 1624 of  
9 the Civil Code.”

10 Responsibility of Corporate Officer in Charge – Code Section 10159.2 and Section 2725 of  
11 Title 10, Chapter 6, California Code of Regulations (“Regulations”)

12 70.

13 Pursuant to Code Section 10159.2(a), “The officer designed by a corporate  
14 broker license pursuant to Section 10211 shall be responsible for the supervision and control of  
15 the activities conducted on behalf of the corporation by its officers and employees as necessary  
16 to secure full compliance with the provisions of this division, including supervision of  
17 salespersons licensed to the corporation in the performance of acts for which a real estate  
18 license is required.”

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Pursuant to Regulation 2725, "A broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:

- a) Transactions requiring a real estate license.
- b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.
- c) Filing, storage and maintenance of such documents.
- d) The handling of trust funds.
- e) Advertising of any service for which a license is required.
- f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.
- g) Regular and consistent reports of licensed activities of salespersons.

The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices.

A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker."

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1 Place of Business: Contact Information – Code Section 10162 and Regulation 2715

2 72.

3 Pursuant to Code Section 10162:

4 “(a) Every licensed real estate broker shall have and maintain a definite place of  
5 business in the State of California that serves as his or her office for the transaction of business.  
6 This office shall be the place where his or her license is displayed and where personal  
7 consultations with clients are held.

8 (b) A real estate license does not authorize the licensee to do business except  
9 from the location stipulated in the real estate license as issued or as altered pursuant to Section  
10 10161.8.

11 (c)(1) Every real estate broker and salesperson licensee shall provide to the  
12 commissioner his or her current office or mailing address, a current telephone number, and a  
13 current electronic mail address that he or she maintains or uses to perform any activity that  
14 requires a real estate license, at which the bureau may contact the licensee.

15 (2) Every real estate broker and salesperson licensee shall inform the  
16 commissioner of any change to his or her office or mailing address, telephone number, or  
17 electronic mail address no later than 30 days after making the change.

18 (d) Notwithstanding Section 10185, a violation of this section is not a  
19 misdemeanor.”

20 73.

21 Pursuant to Regulation 2715, “Every broker, except a broker acting in the  
22 capacity of a salesperson to another broker under written agreement, shall maintain on file with  
23 the commissioner the address of his principal place of business for brokerage activities, the  
24 address of each branch business office and his current mailing address, if different from the  
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1 business address. Every broker who is acting in the capacity of a salesperson to another broker  
2 under written agreement shall maintain on file with the commissioner the address of the  
3 business location where he expects to conduct most of the activities for which a license is  
4 required and his current mailing address...Whenever there is a change in the location or  
5 address of the principal place of business or of a branch office of a broker, he shall notify the  
6 commissioner thereof not later than the next business day following the change. This section  
7 shall apply to the holder of a real estate license who fails to renew it prior to the period for  
8 which it was issued and who is otherwise qualified for such license as set forth in Section  
9 10201 of the Code.”

10 Branch Offices – Code Section 10163

11 74.

12 Pursuant to Code Section 10163, “If the applicant for a real estate broker’s  
13 license maintains more than one place of business within the State he shall apply for and  
14 procure an additional license for each branch office so maintained by him. Every such  
15 application shall state the name of the person and the location of the place or places of business  
16 for which such license is desired. The commissioner may determine whether or not a real  
17 estate broker is doing a real estate brokerage business at or from any particular location which  
18 requires him to have a branch office license.”

19 Grounds for Revocation or Suspension – Code Section 10176

20 75.

21 Pursuant to Code Section 10176, “The commissioner may, upon his or her own  
22 motion, and shall, upon the verified complaint in writing of any person, investigate the actions  
23 of any person engaged in the business or acting in the capacity of a real estate licensee within  
24 this state, and he or she may temporarily suspend or permanently revoke a real estate license at  
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1 any time where the licensee, while a real estate licensee, in performing or attempting to  
2 perform any of the acts within the scope of this chapter has been guilty of any of the following:

3 (a) Making any substantial misrepresentation.

4 (b) Making any false promises of a character likely to influence, persuade, or  
5 induce.

6 (c) A continued and flagrant course of misrepresentation or making of false  
7 promises through real estate agents or salespersons.

8 ...

9 (i) Any other conduct, whether of the same or a different character than  
10 specified in this section, which constitutes fraud or dishonest dealing ...”

11 Further Grounds for Disciplinary Action – Code Section 10177

12 76.

13 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the  
14 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny  
15 the issuance of a license to an applicant, who has done any of the following:

16 ...

17 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
18 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and  
19 regulations of the commissioner for the administration and enforcement of the Real Estate Law  
20 and Chapter 1 (commencing with Section 11000) of Part 2.”

21 ...

22 (g) Demonstrated negligence or incompetence in performing an act for which he  
23 or she is required to hold a license.

1 (h) As a broker licensee, failed to exercise reasonable supervision over the  
2 activities of his or her salespersons, or, as the officer designated by a corporate broker licensee,  
3 failed to exercise reasonable supervision and control of the activities of the corporation for  
4 which a real estate license is required...

5 (j) Engaged in any other conduct, whether of the same or a different character  
6 than specified in this section, that constitutes fraud or dishonest dealing..."

7 VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

8 77.

9 In the course of the activities described above, and based on the facts discovered  
10 by the Bureau in Paragraphs 4 through 65, above, Respondent D LA CUBA acted in violation  
11 of the Code and Regulations, as described below:

12 a. Respondent D LA CUBA received EMD funds belonging to others in  
13 connection with transactions for which a real estate broker license is required and held the  
14 funds, even after instructions from the person(s) entitled to the funds requested cancellation of  
15 escrow and a return of the EMD funds, a violation of **Code Section 10145(a)(1)**.

16 b. Respondent D LA CUBA failed to make available the records and documents  
17 requested by the BRE, a violation of **Code Section 10148(a)**.

18 c. The acts and/or omissions of Respondent D LA CUBA demonstrate a failure  
19 to adequately supervise the real estate activities of Elite Realty Divison a non Independent  
20 Broker Escrow, Pride Financial, Pride Financial Realty, and their respective salespersons and  
21 employees, and are indicative of Respondent D LA CUBA's failure to establish policies, rules,  
22 procedures and systems to review, oversee, inspect and manage transactions requiring a real  
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1 estate license and the handling of trust funds in real estate activities conducted under his BRE  
2 license, a violation of **Code Sections 10159.2(a) and 10177(h) and Regulation 2725.**

3 d. Respondent D LA CUBA does not maintain an office at the current address of  
4 record maintained with the BRE, and/or Respondent has failed to inform the BRE  
5 Commissioner of any new definite place of business, a violation of **Code Section 10162 and**  
6 **Regulation 2715.**

7 e. Respondent D LA CUBA performed activities for which a real estate license  
8 is required, at 18000 Studebaker Road, 7<sup>th</sup> Floor, Cerritos, CA 90703, but failed to apply for  
9 and procure a license from the BRE for this branch office, a violation of **Code Section 10163.**

10 f. Respondent D LA CUBA has, while engaging in the business of or acting in  
11 the capacity of a real estate broker, made substantial misrepresentations, a violation of **Code**  
12 **Section 10176(a).**

13 g. Respondent D LA CUBA has, while engaging in the business of or acting in  
14 the capacity of a real estate broker, made false promises to influence, persuade, or induce, a  
15 violation of **Code Section 10176(b).**

16 h. Respondent D LA CUBA has, while engaging in the business of or acting in  
17 the capacity of a real estate broker, engaged in a continued course of misrepresentation, a  
18 violation of **Code Section 10176(c).**

19 i. Respondent D LA CUBA has, while engaging in the business of or acting in  
20 the capacity of a real estate broker, engaged in conduct which constitutes fraud or dishonest  
21 dealing, a violation of **Code Section 10176(i).**

1 j. Respondent D LA CUBA has willfully disregarded or violated the Real Estate  
2 Law, a violation of **Code Section 10177(d)**.

3 k. Respondent D LA CUBA has demonstrated negligence or incompetence in  
4 performing an act for which he is required to hold a license, a violation of **Code Section**  
5 **10177(g)**.

6 l. Respondent D LA CUBA has engaged in conduct that constitutes fraud or  
7 dishonest dealing, a violation of **Code Section 10177(j)**.

8  
9 78.

10 The conduct, acts and/or omissions of Respondent ARMANDO D LA CUBA,  
11 as set forth above, are cause for the suspension or revocation of the license and license rights of  
12 Respondent ARMANDO D LA CUBA pursuant to **Code Sections 10145(a); 10148(a);**  
13 **10159.2(a) and 10177(h) and Regulation 2725; 10162 and Regulation 2715; 10163;**  
14 **10176(a), 10176(b), 10176(c), 10176(i), 10177(d), 10177(g), and 10177(j)**.

15  
16 COSTS

17 79.

18 **Code Section 10106** provides, in pertinent part, that in any order issued in  
19 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the  
20 administrative law judge to direct a licensee found to have committed a violation of this part to  
21 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  
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
3 disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of  
4 Division 4 of the California Business and Professions Code) of Respondent ARMANDO D LA  
5 CUBA, for the cost of investigation and enforcement as permitted by law, and for such other  
6 and further relief as may be proper under applicable provisions of law.

7 Dated at Los Angeles, California

8 this 12<sup>th</sup> day of June, 2017.

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14 Veronica Kilpatrick  
Supervising Special Investigator  
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22 cc: ARMANDO D LA CUBA  
23 Veronica Kilpatrick  
24 Sacto.  
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