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FILED

OCT 26 2018

DEPT. OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

LIDIA E. FRANSIS,

Respondent.

No. H-41021 LA

FIRST AMENDED
ACCUSATION

This First Amended Accusation amends the Accusation filed on April 30, 2018. The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against Respondent LIDIA E. FRANSIS ("FRANSIS") dba "Alliance One Real Estate" and "Bridgeport Services," is informed and alleges as follows:

1.

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

2.

Unless otherwise specified, all references to the "Code" are to the California Business and Professions Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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3.

Whenever acts referred to below are attributed to Respondent FRANSIS, those acts are alleged to have been done by Respondent FRANSIS, acting by herself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators.

(REAL ESTATE LICENSE HISTORY)

4.

Respondent FRANSIS is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, with a real estate broker license (license no. 01489147). From on or about March 24, 2011 through the present, FRANSIS has had a real estate broker license. Previously, from on or about May 27, 2005 to May 26, 2009, FRANSIS had a real estate salesperson license. FRANSIS has had the DBA of "Alliance One Real Estate" from on or about July 1, 2011 through the present and the DBA of "Bridgeport Services" from on or about December 7, 2012 through the present.

FIRST CAUSE OF ACCUSATION

(TRUST FUND AUDIT)

5.

At all times mentioned below, in Orange County, FRANSIS engaged in the business of real estate brokers conducting licensed activities within the meaning of Code sections 10131(a). FRANSIS engaged in selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business opportunity.

6.

On or about June 29, 2018, the Department of Real Estate completed audit examinations of the books and records of FRANSIS to determine whether FRANSIS handled

1 and accounted for trust funds and conducted its real estate activities in accordance with the Real
2 Estate Law and Regulations. The audit examination covered a period of time beginning on
3 January 1, 2015 and ended on December 31, 2017. The audit examination revealed violations
4 of the Code and the Regulations set forth in the following paragraphs, and more fully discussed
5 in Audit Report LA170080 and the exhibits and work papers attached to said audit report.
6

7 Bank Accounts/Trust Accounts

8 7.

9 At all times mentioned, in connection with the activities described in Paragraph
10 5, above, FRANSIS accepted or received funds including funds in trust ("trust funds") from or
11 on behalf of actual or prospective parties, such as owners of real property seeking property
12 management services, and thereafter made deposits and/or disbursements of such funds. From
13 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
14 maintained by FRANSIS in the bank account as follows:

15 "Chase Bank"

16 *****6705

17 P.O. Box 659754

San Antonio, TX 78265

(BA 1)

18
19 8.

20 In the course of activities described in Paragraphs 5 and 7, above, and during the
21 audit examination period in Paragraph 6, above, Respondent FRANSIS acted in violation of the
22 Code and the Regulations as set forth below:

23 (a)(1) Permitted, allowed, or caused the disbursement of trust funds from the
24 bank account BA 1 where the disbursement of funds reduced the total of aggregate funds in BA
25 1, to an amount which, on December 31, 2017, was at least \$820,822.79 less than the existing
26 aggregate trust fund liability to every principal who was an owner of said funds, without first
27

1 obtaining the prior written consent of the owners of said funds, in violation of Code section
2 10145 and Regulations sections 2832.1, 2950(g), and 2951.

3 (a)(2) Permitted, allowed, or caused a minimum of \$376,762.44 in
4 unidentified/unaccounted for trust funds as of December 31, 2017, without first obtaining the
5 prior written consent of the owners of said funds, in violation of Code section 10145 and
6 Regulations sections 2832.1, 2950(g), and 2951.

7 (b) Failed to maintain a control record in the form of a columnar record in
8 chronological order of all trust funds received, deposited, and disbursed, in violation of Code
9 section 10145 and Regulations sections 2831, 2950(d), and 2951.

10 (c) Failed to maintain an accurate and complete separate record for each
11 beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and
12 disbursed from B/A 1, in violation of Code section 10145 and Regulations sections 2831.1,
13 2950(d), and 2951. FRANSIS failed to make all separate records available for the audit
14 examination.

15 (d) Failed to perform and maintain a monthly reconciliation comparing the
16 balance of all separate beneficiary or transaction records (separate records) to the balance of the
17 record of all trust fund received and disbursed (control record) for BA 1, in violation of Code
18 section 10145 and Regulations sections 2831.2, 2950(d), and 2951.

19 (e) Failed to designate BA 1, an account used to hold trust funds in
20 connection with FRANSIS' broker escrow activities, as a trust account in the name of
21 FRANSIS as trustee, in violation of Code section 10145 and Regulations sections 2832 and
22 2951.

23 (f)(1) Made an unauthorized disbursement from BA 1 to herself with check
24 number 3692 in the amount of \$275,897.76 on or about December 8, 2017, in violation of Code
25 sections 10145, 10176(i)/10177(j), and 10177(g).

26 (f)(2) Conducted unlicensed activities by engaging as and/or acting in the
27

1 capacity of an escrow agent, within the meaning of California Financial Code section 17004,¹
2 and was not exempt from California Financial Code, Division 6 pursuant to California
3 Financial Code section 17006(a)(4) (a real estate broker while performing acts in the course of
4 or incidental to a real estate transaction in which the broker is an agent or a party to the
5 transaction and in which the broker is performing an act for which a real estate license is
6 required) for the property located at 1828 W. Glen Ave., Anaheim, CA 92801 for which escrow
7 closed on or about October 16, 2017, in violation of Code sections 10145, 10176(i)/10177(j),
8 and 10177(g).

9 (g) Failed to retain and/or provide proof of retention of all records during the
10 audit period requiring a real estate broker license, including but not limited to, escrow log, trial
11 balance, separate records, cancelled checks, records of receipts and disbursements, and escrow
12 transaction files during the audit examination period of January 1, 2015 and December 31,
13 2017, in violation of Code section 10148 and Regulations section 2950(e). FRANSIS did not
14 provide all documents despite repeated requests as well as a subpoena duces tecum served on
15 FRANSIS or about February 1, 2018.

16 9.

17 The conduct of Respondents ELI and TIEU described in Paragraph 8, above,
18 violated the Code and the Regulations as set forth below:

19 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
20 8(a)	Code section 10145 and Regulations sections 2832.1, 2950(g), and 2951
21 8(b)	Code section 10145 and Regulations sections 2831, 2950(d), and 2951
22 8(c)	Code section 10145 and Regulations sections 2831.1, 2950(d), and 2951
23 8(d)	Code section 10145 and Regulations sections 2831.2, 2950(d), and 2951
24 8(e)	Code section 10145 and Regulations sections 2832 and 2951

25
26 ¹ California Financial Code section 17200 provides, "It shall be unlawful for any person to
27 engage in business as an escrow agent within this state except by means of a corporation duly
organized for that purpose licensed by the commissioner as an escrow agent.

1 8(f) Code sections 10145, 10176(i)/10177(j), and 10177(g)

2 8(g) Code section 10148 and Regulations section 2950(e)

3 The foregoing violations constitute cause for discipline of the real estate license and license
4 rights of FRANSIS under the provisions of Code sections 10148, 10177(d), 10177(g), and/or
5 10177(j)/10176(i).

6
7 SECOND CAUSE OF ACCUSATION

8 (SHORT SALE OF GLEN ARRAN LN. PROPERTY)

9
10 Wells Fargo Bank

11 10.

12 On or about June 19, 2014, Respondent FRANSIS and seller, Deborah A.,
13 entered into a Residential Listing Agreement granting FRANSIS DBA Alliance One Real
14 Estate the exclusive right to sell the property at 5121 E. Glen Arran Ln., Orange, CA 92869 (the
15 "Property") from June 19, 2014 to June 19, 2015, and listing the price as \$599,900.

16 11.

17 On or about August 15, 2014, Respondent FRANSIS, Deborah A., and others
18 signed a Wells Fargo Short Sale Affidavit declaring, "None of the signatories would receive
19 any proceeds or other remuneration from this transaction except as set forth on the Settlement
20 Statement," and, "None of the signatories have knowledge of any offer to purchase the
21 Mortgage Premises for a higher purchase price than the purchase price contained in the certain
22 real estate purchase contract referenced above that has not been presented to the lender(s)."
23 The signature of the alleged selling agent, Georgina Esquivel ("Esquivel") of Palmas Realty
24 Group Corporation, was forged on this Wells Fargo Short Sale Affidavit. On or about October
25 28, 2014, Respondent FRANSIS submitted this Wells Fargo Short Sale Affidavit to Wells
26 Fargo Bank.

12.

On or about October 28, 2014, Wells Fargo Bank also received a false California Residential Purchase Agreement and Joint Escrow Instructions dated July 2, 2014 alleging a \$550,000 offer was made by a "Moises O." with Respondent FRANSIS DBA Alliance One Real Estate as the listing agent and Esquivel as the selling agent. However, the agent and broker fields in the footer, which indicates who created the offer (normally the selling agent), were blank and/or redacted. Esquivel did not make an offer on behalf of a "Moises O." for the Property, did not claim or receive a commission for the sale of the Property, and was not even aware of this short sale transaction until after the close of escrow.

13.

On or about October 28, 2014, Respondent FRANSIS submitted an Estimated Settlement Statement (HUD-1) dated September 11, 2014 to Wells Fargo Bank. This Estimated Settlement Statement (HUD-1) states:

Buyer/Borrower	Moises O.
Purchase price	\$550,000
Payoff of first loan to American Servicing Co. ("ASC") ²	\$488,525.08
Commission to FRANSIS DBA Alliance One Real Estate	\$16,500
Commission to Palmas Realty	\$16,500
Seller to Credit Buyer for Closing Costs	\$16,500
HAFA Relocation/Incentive to Seller	N/A
Settlement Charges to Seller (includes commission)	\$44,974.92

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² ASC serviced this loan on behalf of Wells Fargo Bank.

14.

On or about April 29, 2015, ASC on behalf of Wells Fargo Bank approved the short sale of the Property under the following terms and conditions:

Buyer/Borrower	Moises O.
Approved purchase price	\$550,000
Acceptable Sales Proceeds	\$485,025.08
Real Estate Commission	\$33,000
Total fees paid for seller closing costs	\$21,974.92
HAFA Incentive to Seller	\$10,000
Unpaid Principal Balance on loan 1100231530	\$511,379.74
Excess funds to be paid to:	ASC

15.

On or about June 15, 2015, Respondent FRANSIS submitted a Final Settlement Statement (HUD-1) dated September 11, 2014 with a settlement/close-of-escrow date of June 12, 2015 to Wells Fargo. This Final Settlement Statement (HUD-1) states the following:

Buyer/Borrower	Moises O.
Purchase price	\$550,000
Payoff of first loan to ASC	\$485,025.08
Commission to FRANSIS DBA Alliance One Real Estate	\$16,500
Commission to Palmas Realty	\$16,500
Seller to Credit Buyer for Closing Costs	\$10,000
HAFA Relocation/Incentive to Seller	\$10,000
Settlement Charges to Seller (includes commission)	\$44,974.92

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1 Lawyers Title Company

2 16.

3 On or about April 29, 2015, the same day that Wells Fargo approved the short
4 sale, FRANSIS DBA Bridgeport Services requested Lawyers Title Company ("LTC") open a
5 new order for the Property for a purchase price of \$610,000 for buyer, David R.

6 17.

7 On or about June 12, 2015, Respondent FRANSIS drafted and submitted a
8 fraudulent Final Settlement Statement (HUD-1) with a settlement/close-of-escrow date of June
9 12, 2015 to LTC. This Final Settlement Statement (HUD-1) states the following:

10 Buyer/Borrower	David R.
11 Purchase price	\$690,000
12 Payoff of first loan to ASC	\$485,025.08
13 Commission to FRANSIS DBA Alliance One Real Estate	\$41,400
14 Commission to Palmas Realty	N/A
15 Seller to Credit Buyer for Closing Costs	N/A
16 HAFA Relocation/Incentive to Seller	\$10,000
17 Settlement Charges to Seller (includes commission)	\$194,974.92

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18.

Prior to close of escrow on June 12, 2015, Respondent FRANSIS drafted and submitted a fraudulent short sale approval letter allegedly from ASC dated May 27, 2015 for the Property with loan number 110231530 to LTC. This letter alleges the following terms and conditions:

Buyer/Borrower	David R.
Approved purchase price	\$690,000
Acceptable Sales Proceeds	\$485,025.08
Real Estate Commission	\$41,400
Total fees paid for seller closing costs	\$153,574.92
HAFA Relocation/Incentive to Seller	\$10,000
Unpaid Principal Balance on loan 110231530	\$811,379.74
Excess funds to be paid to:	ASC

Buyer David R.

19.

On or about May 13, 2015, Respondent FRANSIS drafted and signed a California Residential Purchase Agreement and Joint Escrow Instructions wherein David R. made an offer of \$690,000 for the Property. This California Residential Purchase Agreement and Joint Escrow Instructions also named FRANSIS as both the listing agent and selling agent.

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20.

Prior to close of escrow on June 12, 2015, Respondent FRANSIS drafted and provided a fraudulent short sale approval letter allegedly from ASC dated May 27, 2015 for the Property with loan number 1200231530 to David R. This letter alleges the following terms and conditions:

Buyer/Borrower	David R.
Approved purchase price	\$690,000
Acceptable Sales Proceeds	\$639,538.32
Real Estate Commission	\$34,500
Total fees paid for seller closing costs	\$5,961.68
HAFA Relocation/Incentive to Seller	\$10,000
Unpaid Principal Balance on loan 1200231530	\$811,379.74
Excess funds to be paid to:	ASC

21.

Prior to close of escrow on June 12, 2015, Respondent FRANSIS drafted and provided to David R. a fraudulent short sale approval letter dated May 27, 2015 allegedly from ASC for the Property with loan number 1200231530.

22.

On or about June 3, 2015, David R. requested Respondent FRANSIS provide a letter from Wells Fargo Bank indicating it granted an extension for the short sale of the Property to close on or before June 12, 2015. In response, on or about June 9, 2015, Respondent FRANSIS drafted and provided a fraudulent letter with Wells Fargo Home Mortgage letterhead to David R. stating such as extension was granted.

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23.

On or about June 15, 2015, Respondent FRANSIS provided a Final Settlement Statement (HUD-1) to David R. This Final Settlement Statement (HUD-1) states:

Buyer/Borrower	David R.
Approved purchase price	\$690,000

Sum-Up

24.

At no time prior to close of escrow did Respondent FRANSIS notify Wells Fargo Bank/ASC that the buyer was David R. rather than Moises O., the purchase price was \$690,000 rather than \$550,000, Respondent FRANSIS was a dual agent that received the entire commission, Respondent FRANSIS received a commission greater than the amount approved by Wells Fargo Bank/ASC, and Respondent charged and collected other various fees and monies that amounted to at least \$153,574.92.

25.

Respondent FRANSIS misrepresented to both LTC and David R. that Wells Fargo Bank had approved a purchase price of \$690,000 when in fact the approved purchase price was \$550,000.

26.

As a result of this short sale, Wells Fargo Bank had an estimated short sale loss of \$88,124.65.

27.

As a result of this short sale, Respondent FRANSIS profited more than \$150,000 when Wells Fargo Bank only approved her to receive a commission of \$16,500.

28.

Respondent FRANSIS' conduct, acts, and/or omissions as described above constitute making substantial misrepresentations, false promises, and fraud and/or dishonest

1 dealing, and are cause for the suspension or revocation of all real estate licenses and license
2 rights of Respondent under the provisions of Code sections 10176(a), 10176(b), 10176(d),
3 10176(g), 10176(i), 10177(d), 10177(g), and/or 10177(j).

4
5 THIRD CAUSE OF ACCUSATION

6 (FAILURE TO RETAIN AND PRODUCE DOCUMENTS)

7 29.

8 Respondent FRANSIS failed to retain and produce the documents to the
9 Department of Real Estate. These documents include, but not limited to:

- 10 • Sales and escrow file for the Property;
11 • Listing agreement for 10051 Hidden Village Rd., Garden Grove, CA 92840
12 with close of escrow on or about September 1, 2017;
13 • Sales transaction file for 3243 Silver Maple Dr., Yorba Linda, CA 92886
14 with close of escrow on or about January 17, 2017; and
15 • Employment agreement with John Abraham Perez III.

16 Respondent FRANSIS' failure to retain and produce documents to the Department of Real
17 Estate is a violation of Code section 10148.

18
19 FOURTH CAUSE OF ACCUSATION

20 (REAL ESTATE LICENSE NUMBER)

21 25.

22 From an unknown date to at least February 27, 2017 and April 10, 2018,
23 Respondent FRANSIS DBA Alliance One Real Estate advertised as a real estate agent on its
24 Facebook webpage, but failed to provide her real estate license number, in violation of Code
25 section 10140.6 and Regulations section 2773.

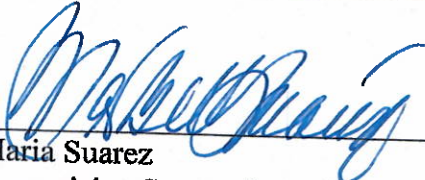
1 COSTS

2 26.

3 Code section 10106 provides, in pertinent part, that in any order issued in
4 resolution of a disciplinary proceeding before the department, the Commissioner may request
5 the administrative law judge to direct a licensee found to have committed a violation of this part
6 to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

7 WHEREFORE, Complainant prays that a hearing be conducted on the
8 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
9 disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of
10 Division 4 of the California Business and Professions Code) of Respondent LIDIA E.
11 FRANSIS, for penalties pursuant to Code section 10139, for the cost of investigation and
12 enforcement as permitted by law, and for such other and further relief as may be proper under
13 applicable provisions of law.

14 Dated at Los Angeles, California: 24 October, 2018.

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17 Maria Suarez
18 Supervising Special Investigator
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25 cc: Lidia E. Fransis
26 Maria Suarez
27 Sacto.