

1 JUDITH B. VASAN, Counsel (SBN 278115)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 Direct: (213) 576-6904
7 Fax: (213) 576-6917
8 Attorney for Complainant

FILED

APR 12 2019

DEPT. OF REAL ESTATE

By Zni - JR

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 LIDIA E. FRANSIS,)
15 Respondent.)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)

No. H-41021 LA
SECOND AMENDED
ACCUSATION

16 This Second Amended Accusation amends the First Amended Accusation filed
17 on October 26, 2018. The Complainant, Maria Suarez, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against Respondent LIDIA E. FRANSIS
19 ("FRANSIS") doing business as "Alliance One Real Estate" and "Bridgeport Services," is
20 informed and alleges as follows:

21 1.

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

24 ///

25 ///

26 ///

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.

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.

a. 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, Department of Real Estate ("Department") license ID 01489147.

b. From on or about March 24, 2011, through the present, FRANSIS has had a real estate broker license.

c. Previously, from on or about May 27, 2005 to May 26, 2009, FRANSIS had a real estate salesperson license.

d. From on or about February 22, 2016, through April 9, 2017, FRANSIS was the employing broker of real estate salesperson Eduardo Chavez Aguilar ("Aguilar"), Department license ID 01991710. Prior to licensure by the Department, Aguilar was an assistant to FRANSIS from on or about March 2015 until he became licensed in February 2016.

e. From on or about July 1, 2011, through the present FRANSIS has maintained the fictitious business name of "Alliance One Real Estate." From on or about December 7, 2012, through the present FRANSIS has maintained the fictitious business name of "Bridgeport Services."

///

1 f. FRANSIS, doing business as Bridgeport Services, engages in broker escrow
2 activity in the course of or incidental to real estate transactions in which FRANSIS was
3 performing an act for which a real estate license is required.

4 FIRST CAUSE OF ACCUSATION

5 (TRUST FUND AUDIT)

6 5.

7 At all times mentioned below, in Orange County, FRANSIS engaged in the
8 business of a real estate broker conducting licensed activities within the meaning of Code
9 sections 10131(a). FRANSIS engaged in selling or offering to sell, buying or offering to buy,
10 soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating
11 the purchase, sale or exchange of real property or a business opportunity. FRANSIS engaged in
12 broker escrow services in the course of or incidental to real estate transactions in which
13 FRANSIS was performing an act for which a real estate license is required.

14 6.

15 On or about June 29, 2018, the Department of Real Estate completed an audit
16 examinations of the books and records of FRANSIS pertaining to her broker escrow real estate
17 activities to determine whether FRANSIS handled and accounted for trust funds and conducted
18 her real estate activities in accordance with the Real Estate Law and Regulations. The audit
19 examination covered a period of time beginning on January 1, 2015, and ended on December
20 31, 2017. The audit examination revealed violations of the Code and the Regulations as set
21 forth in the following paragraphs, and more fully discussed in Audit Report LA170080 and the
22 exhibits and work papers attached to said audit report.

23 Bank Accounts/Trust Accounts

24 7.

25 At all times mentioned, in connection with the activities described in Paragraph
26 5, above, FRANSIS accepted or received funds including funds in trust ("trust funds") from or
27

1 on behalf of actual or prospective parties, such as owners of real property seeking property
2 management services, and thereafter made deposits and/or disbursements of such funds. From
3 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
4 maintained by FRANSIS in the bank account as follows:

5 "Chase Bank" ("BA 1")

6 *****6705

7 P.O. Box 659754

8 San Antonio, TX 78265

(BA 1)

8.

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

12 (a)(1) Permitted, allowed, or caused the disbursement of trust funds from the
13 bank account BA 1 where the disbursement of funds reduced the total of aggregate funds in BA
14 1, to an amount which, on December 31, 2017, was at least \$820,822.79 less than the existing
15 aggregate trust fund liability to every principal who was an owner of said funds, without first
16 obtaining the prior written consent of the owners of said funds, in violation of Code section
17 10145 and Regulations sections 2832.1, 2950(g), and 2951.

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

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

25 (c) Failed to maintain an accurate and complete separate record for each
26 beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and
27

1 disbursed from B/A 1, in violation of Code section 10145 and Regulations sections 2831.1,
2 2950(d), and 2951. FRANSIS failed to make all separate records available for the audit
3 examination.

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

8 (e) Failed to designate BA 1, an account used to hold trust funds in
9 connection with FRANSIS' broker escrow activities, as a trust account in the name of
10 FRANSIS as trustee, in violation of Code section 10145 and Regulations sections 2832 and
11 2951.

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

15 (f)(2) Conducted unlicensed activities by engaging as and/or acting in the
16 capacity of an escrow agent, within the meaning of California Financial Code section 17004,¹
17 and was not exempt from California Financial Code, Division 6 pursuant to California
18 Financial Code section 17006(a)(4) (a real estate broker while performing acts in the course of
19 or incidental to a real estate transaction in which the broker is an agent or a party to the
20 transaction and in which the broker is performing an act for which a real estate license is
21 required) for the property located at 1828 W. Glen Ave., Anaheim, CA 92801 for which escrow
22 closed on or about October 16, 2017, in violation of Code sections 10145, 10176(i)/10177(j),
23 and 10177(g).

24
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 (g) Failed to retain and/or provide proof of retention of all records during the
2 audit period requiring a real estate broker license, including but not limited to, escrow log, trial
3 balance, separate records, cancelled checks, records of receipts and disbursements, and escrow
4 transaction files during the audit examination period of January 1, 2015 and December 31,
5 2017, in violation of Code section 10148 and Regulations section 2950(e). FRANSIS did not
6 provide all documents despite repeated requests as well as a subpoena duces tecum served on
7 FRANSIS or about February 1, 2018.

8 9.

9 The conduct of Respondent FRANSIS described in Paragraph 8, above, violated
10 the Code and the Regulations as set forth below:

11 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12 8(a)	Code section 10145 and Regulations sections 2832.1, 2950(g), and 2951
13 8(b)	Code section 10145 and Regulations sections 2831, 2950(d), and 2951
14 8(c)	Code section 10145 and Regulations sections 2831.1, 2950(d), and 2951
15 8(d)	Code section 10145 and Regulations sections 2831.2, 2950(d), and 2951
16 8(e)	Code section 10145 and Regulations sections 2832 and 2951
17 8(f)	Code sections 10145, 10176(i)/10177(j), and 10177(g)
18 8(g)	Code section 10148 and Regulations section 2950(e)

19 The foregoing violations constitute cause for discipline of the real estate license and license
20 rights of FRANSIS under the provisions of Code sections 10148, 10177(d), 10177(g), and/or
21 10177(j)/10176(i).

22 ///

23 ///

24 ///

25 ///

26 ///

(SHORT SALE OF GLEN ARRAN LN. PROPERTY)

On or about June 19, 2014, Respondent FRANSIS and seller, Deborah A.², entered into a Residential Listing Agreement granting FRANSIS DBA Alliance One Real Estate the exclusive right to sell the property at 5121 E. Glen Arran Ln., Orange, CA 92869 (the "Property") from June 19, 2014 to June 19, 2015, and listing the price as \$599,900.

On or about July 25, 2014, Wells Fargo Bank received a signed Wells Fargo Short Sale Affidavit ("Affidavit") dated July 15, 2014. Respondent FRANSIS, Deborah A., and others, including John Olivarez ("Olivarez") as the Settlement Agent, signed the Affidavit declaring, "None of the signatories would receive any proceeds or other remuneration from this transaction except as set forth on the Settlement Statement," and, "None of the signatories have knowledge of any offer to purchase the Mortgage Premises for a higher purchase price than the purchase price contained in the certain real estate purchase contract referenced above that has not been presented to the lender(s)." Olivarez is the Escrow Office of Respondent's broker escrow company Bridgeport Services. The signature of the alleged selling agent, Georgina Esquivel ("Esquivel") of Palmas Realty Group Corporation, was forged on this Wells Fargo Short Sale Affidavit.

On or about July 25, 2014, Wells Fargo Bank received a false California Residential Purchase Agreement and Joint Escrow Instructions dated July 2, 2014, alleging a \$550,000 offer was made by "Moises O." with Respondent FRANSIS DBA Alliance One Real

² First names and the first initial of the last names are used in place of individual's full name to protect their privacy. Documents containing individual's full name will be provided during the discovery phase of this case to Respondent and/or her attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

1 Estate as the listing agent and Esquivel as the selling agent. Esquivel did not make an offer on
2 behalf of a "Moises O." for the Property, did not claim or receive a commission for the sale of
3 the Property, and was not even aware of this short sale transaction until after the close of
4 escrow.

5 13.

6 On or about April 6, 2015, Wells Fargo Bank received an Estimated Settlement
7 Statement (HUD-1) dated April 6, 2015. This Estimated Settlement Statement (HUD-1) stated:

8 File Number	N-GLENARRAN
9 Settlement Agent	Bridgeport Services
10 Buyer/Borrower	Moises O.
11 Contract Sales Price	\$550,000
12 Payoff of first loan to American Servicing Co. ("ASC") ³	\$485,025.08
13 Commission to FRANSIS DBA Alliance One Real Estate	\$16,500
14 Commission to Palmas Realty	\$16,500
15 Seller to Credit Buyer for Closing Costs	\$10,000
16 HAFA Incentive to Seller	\$10,000
17 Settlement Charges to Seller (includes commission)	\$44,974.92

18
19 14.

20 In a short sale approval letter dated April 29, 2015, ASC on behalf of Wells
21 Fargo Bank approved the short sale of the Property under the following terms and conditions:

22 ///

23 ///

24 ///

25
26
27 ³ ASC serviced this loan on behalf of Wells Fargo Bank.

Loan Number	1100231530
Projected settlement date	5/29/2015
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

15.

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.

16.

Respondent FRANSIS 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 alleged the following terms and conditions:

Loan Number	1200231530
Projected settlement date	6/3/2015
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
---	--------------

17.

Respondent FRANSIS drafted and submitted a fraudulent short sale approval letter allegedly from ASC dated May 27, 2015, for the Property with loan number 1100231530 to Lawyers Title Company ("LTC"). This letter alleged the following terms and conditions:

Loan Number	1100231530
Projected settlement date	6/29/2015
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
HABA Relocation/Incentive to Seller	\$10,000
Unpaid Principal Balance on loan 1100231530	\$811,379.74

18.

The Preliminary Title Report for the Property listed "Jaimee Russo" ("Russo") as a beneficiary on a "deed of trust to secure an indebtedness" dated September 27, 2004, in the amount of \$48,500.00 on the Property. The Preliminary Title Report further stated that the "beneficial interest under said deed of trust was assigned to" Sunset Financial Corp, a Nevada Corporation, as the assignee, and was recorded on August 8, 2005.

19.

Respondent FRANSIS submitted a letter dated May 19, 2015, to LTC. This letter was addressed to Deborah A., the seller of the Property, and purportedly from Russo. This letter states that Russo agrees to release the lien balance on the Property for a one-time, lump

1 sum payment of \$4,800.00, to be made on or before June 3, 2015. Russo requested the payment
2 be sent to the address 2913 El Camino Real #515, Tustin, California 92782.

3 20.

4 The address 2913 El Camino Real #515 in Tustin, California provided in the
5 letter purportedly from Russo is a private rental lockbox with the PostalAnnex. Aguilar,
6 FRANSIS' assistant, opened and paid for this rented mailbox on May 20, 2015, and closed it on
7 September 28, 2015. During the period of time Aguilar rented this mailbox, Russo's name was
8 added to the mailbox.

9 21.

10 On or about June 15, 2015, Respondent FRANSIS DBA Bridgeport Services
11 provided a Final Settlement Statement (HUD-1) to David R. This Final Settlement Statement
12 (HUD-1) stated the following:

13 File Number	1590-JO
14 Buyer/Borrower	David R.
15 Contract Sales Price	\$690,000
16 Payoff of first loan to ASC	(blank)
17 Commission to FRANSIS DBA Alliance One Real Estate	(blank)
18 Settlement Charges to Seller (includes commission)	(blank)

19 22.

20 On or about June 12, 2015, Respondent FRANSIS DBA Bridgeport Services
21 provided a Final Settlement Statement (HUD-1) to LTC. This Final Settlement Statement
22 (HUD-1) stated the following:

23 ///

24 ///

25 ///

File Number	T-1590-JO
Buyer/Borrower	David R.
Contract Sales Price	\$690,000
Payoff of first loan to ASC	\$485,025.08
Commission to FRANSIS DBA Alliance One Real Estate	\$41,400
HAFA Relocation/Incentive to Seller	\$10,000
Jaimee Russo	\$4,800.00
Settlement Charges to Seller	\$194,974.92

23.

On or about June 15, 2015, Respondent FRANSIS DBA Bridgeport Services submitted a Final Settlement Statement (HUD-1) dated June 15, 2015, to Wells Fargo. This Final Settlement Statement (HUD-1) stated the following:

File Number	N-GLENARRAN
Settlement date	6/12/2015
Settlement Agent	Bridgeport Services
Buyer/Borrower	Moises O.
Contract Sales 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 Incentive to Seller	\$10,000
Settlement Charges to Seller (includes commission)	\$44,974.92

///

1 The bottom of Pages 2 and 3 of the Final Settlement Statement (HUD-1) submitted to Wells
2 Fargo Bank, stated, "THIS IS TO CERTIFY THIS IS A TRUE AND CORRECT COPY OF
3 THE ORIGINAL DOCUMENT BY: Bridgeport Services." There is also a stamp that stated,
4 "Certified to be true and exact copy of the original" with a signature.

5
6 24.

7 On or about June 15, 2015, LTC issued a check to Russo in the amount of
8 \$4,800.00. The check listed the address of 2913 El Camino Real #515, Tustin, California
9 92782. The "memo" line stated "Ref: Payoff 5121 E. Glen Arran." The Russo check posted on
10 June 15, 2015. The back of the check was endorsed with a signature and "c/o AP Investments
11 LLC."

12 25.

13 At no time prior to close of escrow did Respondent FRANSIS notify Wells
14 Fargo Bank/ASC that the buyer was David R. rather than Moises O., the purchase price was
15 \$690,000 rather than \$550,000, Respondent FRANSIS was a dual agent that received the entire
16 commission, Respondent FRANSIS received a commission greater than the amount approved
17 by Wells Fargo Bank/ASC, and Respondent charged and collected other various fees and
18 monies that amounted to at least \$153,574.92.

19 (MISREPRESENTATION)

20 26.

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

24 27.

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

27 ///

1 28.

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

4 29.

5 Respondent FRANSIS' conduct, acts, and/or omissions as described above
6 constitute making substantial misrepresentations, false promises, and fraud and/or dishonest
7 dealing, and are cause for the suspension or revocation of all real estate licenses and license
8 rights of Respondent under the provisions of Code sections 10176(a), 10176(b), 10176(d),
9 10176(g), 10176(i), 10177(d), 10177(g), and/or 10177(j).

10 THIRD CAUSE OF ACCUSATION

11 (FAILURE TO RETAIN AND PRODUCE DOCUMENTS)

12 30.

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

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

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

23 ///

24 ///

25 ///

26 ///

1 FOURTH CAUSE OF ACCUSATION

2 (REAL ESTATE LICENSE NUMBER)

3 31.

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

8 COSTS

9 32.

10 Code section 10148(b) provides, in pertinent part, that the Real Estate
11 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
12 has found in a final decision, following a disciplinary hearing, that the broker has violated
13 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
14 section.

15 33.

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

20 ///

21 ///

22 ///

23 ///

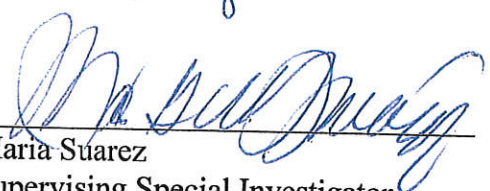
24 ///

25 ///

26 ///

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 LIDIA E.
5 FRANSIS, for penalties pursuant to Code section 10139, for the cost of investigation and
6 enforcement as permitted by law, and for such other and further relief as may be proper under
7 applicable provisions of law.

8 Dated at Los Angeles, California: 12, April, 2019.

9
10 
11 Maria Suarez
12 Supervising Special Investigator
13
14
15
16
17
18
19
20
21
22
23
24

25 cc: Lidia E. Fransis
26 Maria Suarez
27 Sacto.