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FILED
JAN 17 2019
DEPT. OF REAL ESTATE
By *Cal Stov*

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8
9 **BEFORE THE DEPARTMENT OF REAL ESTATE**
10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation of) No. H-41272 LA
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14 PAUL A CUBILLOS,) ACCUSATION
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20 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
21 State of California, for cause of Accusation against PAUL A CUBILLOS, PREFERRED
22 GROUP PROPERTIES INC, doing business as Harcourts Prime Properties, Portico, Portico
23 Financial, and Portico Properties, and KEVIN JOHN SANCHEZ, individually and as
24 designated officer of Preferred Group Properties Inc., ("Respondents"), is informed and alleges
25 as follows:

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1 1.

2 The Complainant, Veronica Kilpatrick, acting in her official capacity as a
3 Supervising Special Investigator of the State of California, makes this Accusation against
4 Respondents PAUL A CUBILLOS, PREFERRED GROUP PROPERTIES INC, and KEVIN
5 JOHN SANCHEZ.

6 2.

7 All references to the "Code" are to the California Business and Professions Code
8 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

9 3.

10 Respondent PAUL A CUBILLOS ("CUBILLOS") presently has license rights
11 under the Real Estate Law, Part 1 of Division 4 of the Code as a restricted real estate
12 salesperson.

13 4.

14 Respondent PREFERRED GROUP PROPERTIES INC, doing business as
15 Harcourts Prime Properties, Portico, Portico Financial, and Portico Properties ("PREFERRED
16 GROUP PROPERTIES"), presently has license rights as a corporate real estate broker.

17 5.

18 Respondent KEVIN JOHN SANCHEZ ("SANCHEZ") presently has license
19 rights as a real estate broker.

20 6.

21 Respondent PREFERRED GROUP PROPERTIES is licensed by the
22 Department of Real Estate as a corporate real estate broker by and through Respondent
23 SANCHEZ, as the designated officer and broker responsible, pursuant to Code section 10159.2,
24 for supervising the activities requiring a real estate license conducted on behalf of
25 PREFERRED GROUP PROPERTIES, or by PREFERRED GROUP PROPERTIES'S officers,
26 agents and employees.

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1 SUSPENSION OF ALL LICENSES FOR FAILURE TO PAY COSTS

2 7.

3 On or about October 15, 2012, the Department of Real Estate filed an
4 Accusation against Respondents CUBILLOS and Alta Vista Investments Inc. in Case
5 No. H-38473 LA.

6 8.

7 On or about July 27, 2015, the Real Estate Commissioner in Case
8 No. H-38473 LA adopted as his Decision effective on or about August 20, 2015, a Stipulation
9 and Agreement entered on or about June 4, 2015, by Respondents CUBILLOS and Alta Vista
10 Investments Inc. and the Bureau of Real Estate where CUBILLOS stipulated to the acts and
11 omissions in the Accusation as grounds for disciplinary action in that: CUBILLOS violated
12 Code sections 10140.6, 10145, 10148, 10159.2, and 10176(a), and Regulations sections 2725,
13 2731, 2831, 2831.1, 2831.2, 2832, 2950(e), 2950(g), 2950(h), and 2951. The Decision
14 provided that CUBILLOS's real estate broker license was revoked and that CUBILLOS would
15 be issued a restricted real estate salesperson license if he complied with certain conditions such
16 as submitting an application within 90 days of the effective date. The Decision also provided
17 that, "All licenses and licensing rights of Respondent PAUL A. CUBILLOS are indefinitely
18 suspended unless or until Respondent pays the sum of \$12,000.00 for the Commissioner's
19 reasonable cost of the investigation and enforcement which led to this disciplinary action."

20 9.

21 On or about October 9, 2015, Respondent CUBILLOS made application to the
22 Department of Real Estate for a restricted real estate salesperson license.

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10.

On or about October 9, 2015, Respondent PREFERRED GROUP PROPERTIES through Respondent SANCHEZ signed the Broker Certification section of Respondent CUBILLOS's restricted real estate salesperson license, to wit, "I hereby certify under penalty of perjury that I am a licensed Real Estate Broker, and that I have read the applicant's answers to all questions in the application, and that there is a written agreement on file in my office covering the material aspects of employment relationship including supervision, duties, and compensation of the applicant named on this form under the employment provisions of Section 2726 of the Regulations of the Real Estate Commissioner."

11.

On or about October 9, 2015, Respondent PREFERRED GROUP PROPERTIES through Respondent SANCHEZ signed the Prospective Employing Broker Certification in a letter dated July 30, 2015, attached to Respondent CUBILLOS's restricted real estate salesperson license, to wit, "I hereby certify that I have read the Decision of the Real Estate Commissioner dated 07/27/2015 in Case Number H-38473 LA which provides for the issuance of a restricted real estate salesperson license to PAUL A CUBILLOS. I will carefully review all transaction documents which the restricted salesperson licensee prepares and will otherwise exercise close supervision over the licensed activity of the above named salesperson."

12.

On or about November 12, 2015, the Department of Real Estate issued Respondent CUBILLOS a restricted real estate salesperson license.

13.

On or about November 12, 2015, all licenses and licensing rights of Respondent CUBILLOS, including the restricted real estate salesperson license, remained indefinitely suspended for failure to pay the Commissioner's reasonable cost of the investigation and enforcement of Case No. H-38473 LA in the amount of \$12,000.00, as described in Paragraph 8 above.

1 14.

2 On or about November 13, 2015, the Department of Real Estate mailed an
3 invoice to Respondent CUBILLOS by certified mail for the Commissioner's reasonable cost of
4 the investigation and enforcement of Case No. H-38473 LA in the amount of \$12,000.00.
5 CUBILLOS's restricted real estate salesperson license remained indefinitely suspended.

6 15.

7 On or about January 12, 2016, the Department of Real Estate mailed an invoice
8 to Respondent CUBILLOS for the Commissioner's reasonable cost of the investigation and
9 enforcement of Case No. H-38473 LA in the amount of \$12,000.00. CUBILLOS's restricted
10 real estate salesperson license remained indefinitely suspended.

11 16.

12 On or about February 12, 2016, the Department of Real Estate mailed an invoice
13 to Respondent CUBILLOS for the Commissioner's reasonable cost of the investigation and
14 enforcement of Case No. H-38473 LA in the amount of \$12,000.00. CUBILLOS's restricted
15 real estate salesperson license remained indefinitely suspended.

16 17.

17 On or about March 22, 2016, Respondent CUBILLOS submitted payment in the
18 amount of \$8,500 to the Department of Real Estate for the Commissioner's reasonable cost of
19 the investigation and enforcement of Case No. H-38473 LA, which was less than the full
20 amount of \$12,000.00. CUBILLOS's restricted real estate salesperson license remained
21 indefinitely suspended.

22 18.

23 On or about March 14, 2017, Respondent CUBILLOS submitted payment to the
24 Department of Real Estate for the remaining unpaid balance in the amount of \$3,500 for the
25 Commissioner's reasonable cost of the investigation and enforcement of Case
26 No. H-38473 LA, and at that time CUBILLOS's restricted real estate salesperson license was
27 no longer indefinitely suspended.

1 UNSUCCESSFUL SHORT SALE OF 35584 RUTH AVENUE, WILDOMAR

2 19.

3 On or about December 22, 2014, sellers C. Rivera and K. Brito entered into a
4 Residential Listing Agreement (“2014 Residential Listing Agreement”) with broker Respondent
5 PREFERRED GROUP PROPERTIES through agent Respondent CUBILLOS to short sell real
6 property at 35584 Ruth Avenue, Wildomar, CA 92595 (“Wildomar house”). The contract time
7 period was from on or about December 22, 2014, to on or about December 22, 2015.

8 20.

9 In aggravation, Respondents PREFERRED GROUP PROPERTIES and
10 CUBILLOS failed to provide a copy of the 2014 Residential Listing Agreement to sellers
11 C. Rivera and K. Brito.

12 21.

13 On or about January 8, 2015, sellers C. Rivera and K. Brito signed an
14 authorization for the mortgage servicer of the Wildomar house, Chase Home Finance LLP /
15 JPMorgan Chase Bank, N.A., to provide information to Respondent CUBILLOS.

16 22.

17 On or about February 3, 2015, Respondent PREFERRED GROUP
18 PROPERTIES through Respondent CUBILLOS listed the Wildomar house in the California
19 Regional Multiple Listing Service. Respondent CUBILLOS listed the Wildomar house using
20 User ID PCUBIPAB. The California Regional Multiple Listing Service assigned the Listing ID
21 PW15023253 to the Wildomar house.

22 23.

23 In aggravation, on or about October 1, 2015, Respondent CUBILLOS edited the
24 Wildomar house listing using User ID PCUBIPAB. CUBILLOS changed the Wildomar house
25 price from \$290,000 to \$310,000.

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1 24.

2 In aggravation, on or about October 3, 2015, Respondent CUBILLOS edited the
3 Wildomar house listing using User ID PCUBIPAB. CUBILLOS changed the Wildomar house
4 price from \$310,000 to \$305,000. CUBILLOS also changed the agent remarks from, "Please
5 do not Disturb tenants.Call or Tex listing Agent Paul Cubillos @ 714-623-2409 This is a Short
6 Pay all terms,Conditions and Commissions are Subject to Lenders Approval!!!!!!" to "Please do
7 not Disturb tenants.Call or Tex listing Agent Paul Cubillos @ 714-623-2409 This is a Short Pay
8 all terms,Conditions and Commissions are Subject to Lenders Approval!!!!!! SHORT SALE
9 APPROVE PLEASE SUMMIT ALL OFFERS!!!!!!"

10 25.

11 On or about January 20, 2016, sellers C. Rivera and K. Brito entered into a
12 Residential Purchase Agreement with buyers C. Felix and J. Felix for the purchase of the
13 Wildomar house.

14 26.

15 On or about February 2, 2016, sellers C. Rivera and K. Brito entered into a
16 Residential Listing Agreement ("2016 Residential Listing Agreement") with broker Respondent
17 PREFERRED GROUP PROPERTIES through salesperson Respondent CUBILLOS to short
18 sell the Wildomar house. The contract time period was from on or about February 2, 2016, to
19 or about July 2, 2016.

20 27.

21 Respondents PREFERRED GROUP PROPERTIES and CUBILLOS failed to
22 provide a copy of the 2016 Residential Listing Agreement to sellers C. Rivera and K. Brito.

23 28.

24 On or about May 2, 2016, seller K. Brito sent an email to Respondent
25 CUBILLOS asking CUBILLOS to call the mortgage servicer of the Wildomar house regarding
26 the short sale. CUBILLOS sent an email to seller K. Brito in response, writing, "I just left a
27 message I'll call her again around noon time."

Accusation of Paul A Cubillos, Preferred Group Properties Inc, and Kevin John Sanchez

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29.

On or about June 27, 2016, Respondent SANCHEZ sent an email to Pacific West Association regarding the Wildomar house listing on the California Regional Multiple Listing Service. The subject line of the email was "PW15023253" and the body of the email was, "Good afternoon, Please cancel this listing. Paul Cubillos does not have an active license and is no longer with our company. Thank you."

30.

On or about September 14, 2016, Respondent CUBILLOS sent an email to seller K. Brito regarding the short sale of the Wildomar house. The subject line of the email was "FW: Bayview Authorization", and the body of the email was, "Here you go please sign and return asap." The email had a signature banner that included, "Harcourts Prime Properties".

UNPAID LOAN FROM TENANTS OF 35584 RUTH AVENUE, WILDOMAR

31.

On or about December 12, 2014, sellers C. Rivera and K. Brito entered into a lease with tenant E. Felix for the rental of the Wildomar house.

32.

On or about March 2, 2016, Respondent CUBILLOS received a loan in the amount of \$7,000 from tenant E. Felix. CUBILLOS signed a promissory note to repay E. Felix in the amount of \$12,000, and a resident of the Wildomar house E. Becerra witnessed CUBILLOS signing the promissory note. CUBILLOS has never repaid E. Felix.

33.

On or about December 13, 2017, the Department of Real Estate mailed a letter to Respondent CUBILLOS regarding the Wildomar house.

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34.

On or about January 30, 2018, Respondent CUBILLOS drafted a letter and asked tenant E. Felix and resident E. Becerra to sign the letter ("2018 tenant letter"). CUBILLOS promised E. Felix and E. Becerra that CUBILLOS would repay the loan if they signed the 2018 tenant letter, which induced E. Becerra to sign the 2018 tenant letter. E. Felix refused to sign and did not sign the 2018 tenant letter. CUBILLOS has never repaid E. Felix.

35.

On or about January 30, 2018, Respondent CUBILLOS forged the signature of tenant E. Felix on the 2018 tenant letter in which E. Felix had refused to sign.

36.

On or about February 6, 2018, Respondent CUBILLOS submitted a letter to the Department of Real Estate regarding the Wildomar house in which CUBILLOS wrote, "With the exception of one escrow check, for \$5,000.00, made payable to Stellar Escrow Services, that the renters gave to me for paying escrow, which I did convey to Escrow, I never received any money or compensation from the sellers or the renters." CUBILLOS also submitted with his letter as Exhibit E a copy of the 2018 tenant letter with tenant E. Felix's signature forged by CUBILLOS.

37.

On or about October 12, 2018, Respondent CUBILLOS submitted a declaration under perjury to the Department of Real Estate regarding the Wildomar house in which CUBILLOS wrote, "With the exception of one escrow check, for 5,000 made payable to Stellar Escrow Services, that was give to me by renters for escrow deposit, which I did convey to Escrow. I never received any money or compensation sellers or the tenants."

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REQUEST FOR RECORDS OF WILDOMAR HOUSE TRANSACTION

38.

On or about July 23, 2018, the Department of Real Estate mailed a letter to Respondent PREFERRED GROUP PROPERTIES requesting records for the Wildomar house transaction.

39.

On or about August 3, 2018, Respondent SANCHEZ submitted a letter to the Department of Real Estate regarding the Wildomar house transaction in which SANCHEZ wrote, "Our office cancelled the listing PW15023253 / 35584 Ruth Avenue, Wildomar on June 27, 2016 therefore we are unable to provide any documentation pertaining to this property."

40.

On or about August 20, 2018, the Department of Real Estate served a subpoena on Respondent PREFERRED GROUP PROPERTIES for the production of records related to the Wildomar house transaction.

41.

On or about August 28, 2018, Respondent SANCHEZ submitted a signed declaration in which he marked the selection for, "No copies of records are transmitted because the above-named business has none of the records described in the subpoena duces tecum."

42.

On or about January 18, 2019, the Department of Real Estate served a subpoena on Respondent PREFERRED GROUP PROPERTIES for the production of records related to the Wildomar house transaction.

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1 FIRST CAUSE OF ACTION

2 ENGAGING IN LICENSED ACTIVITY WITHOUT A VALID LICENSE

3 43.

4 The conduct, acts, and omissions of Respondent CUBILLOS, as described in
5 Paragraphs 7 through 30 above, are in violation of section 10130 and constitute cause under
6 sections 10137, 10177(d), 10177(g), 10177(j) and/or 10177(k) of the Code for the suspension
7 or revocation of all the licenses and license rights of CUBILLOS.

8 SECOND CAUSE OF ACTION

9 SUBSTANTIAL MISREPRESENTATION, FALSE PROMISE, FRAUD

10 44.

11 The conduct, acts, and omissions of Respondent CUBILLOS, as described in
12 Paragraphs 7 through 37 above, constitute cause under sections 10176(a), 10176(b), 10176(c),
13 10176(i), 10177(d), 10177(g), 10177(j) and/or 10177(k) of the Code for the suspension or
14 revocation of all the licenses and license rights of CUBILLOS.

15 THIRD CAUSE OF ACTION

16 NEGLIGENCE OR INCOMPETENCE

17 45.

18 The conduct, acts, and omissions of Respondent CUBILLOS, as described in
19 Paragraphs 7 through 37 above, are in violation of section 10142 and constitute cause under
20 section 10177(g) of the Code for the suspension or revocation of all the licenses and license
21 rights of CUBILLOS.

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FOURTH CAUSE OF ACTION
FAILURE TO RETAIN RECORDS

46.

The conduct, acts, and omissions of Respondent PREFERRED GROUP PROPERTIES, as described in Paragraphs 38 through 42 above, in failing to retain and make available for examination, copying, and inspection the records related to the Wildomar house transaction, are in violation of section 10148 and constitute cause under sections 10177(d) and/or 10177(g) of the Code for the suspension or revocation of all the licenses and license rights of PREFERRED GROUP PROPERTIES.

FIFTH CAUSE OF ACTION
FAILURE TO SUPERVISE

47.

The conduct, acts, or omissions of Respondent SANCHEZ, as described in Paragraphs 7 through 42 above, in failing to ensure compliance of the Real Estate Law by Respondent PREFERRED GROUP PROPERTIES, are in violation of Code section 10159.2 and Regulations section 2725 and constitute cause under sections 10177(d), 10177(g), and/or 10177(h) of the Code for the suspension or revocation of all the licenses and license rights of SANCHEZ.


48.

Code section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the 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 the licenses and license rights of Respondents PAUL A
4 CUBILLOS, PREFERRED GROUP PROPERTIES INC, and KEVIN JOHN SANCHEZ under
5 the Real Estate Law, for the cost of investigation and enforcement as permitted by law, and for
6 such other and further relief as may be proper under other applicable provisions of law.

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8 Dated at San Diego, California
9 this 16 day of January, 2019

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11 _____
12 Veronica Kilpatrick
13 Supervising Special Investigator

14 cc: PAUL A CUBILLOS
15 PREFERRED GROUP PROPERTIES INC
16 KEVIN JOHN SANCHEZ
17 Herman Felix Cea DBA Entourage Realty and Harcourts Entourage Realty Group
18 Veronica Kilpatrick
19 Sacto.