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**FILED**

JUN 17 2019

DEPT. OF REAL ESTATE

By *[Signature]*

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \* \* \*

<p>12 In the Matter of the Accusation of )</p> <p>13 AW FINANCE INC.; )</p> <p>14 GOLDEN ATLAS REALTY; and )</p> <p>15 ROBERTO MARTIN MERCADO, )</p> <p>16 individually, as designated officer of )</p> <p>17 AW Finance Inc., and as designated )</p> <p>18 officer of Golden Atlas Realty, )</p> <p>19 Respondents. )</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>No. H-41385 LA</p> <p><u>ACCUSATION</u></p>
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20 The Complainant, Maria Suarez, is a Supervising Special Investigator of the State  
21 of California, for cause of Accusation against Respondents AW FINANCE INC., GOLDEN  
22 ATLAS REALTY, and ROBERTO MARTIN MERCADO (collectively, "Respondents"), is  
23 informed and alleges as follows:

24 ///

1. 1

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

2.

4  
5 All references to the "Code" are to the California Business and Professions Code  
6 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

7 **DRE LICENSE HISTORY**

8 **RESPONDENT AW FINANCE INC. ("AFI")**

3.

9  
10 AW FINANCE INC. ("AFI") is presently licensed and/or has license rights under  
11 the Real Estate Law, Part 1 of Division 4 of the Code as a real estate broker (corporation)  
12 ("REC"), Department<sup>1</sup> of Real Estate ("Department" or "DRE") license ID 01999633. AFI's  
13 current DRE main and mailing address of record have been the same since it was first licensed as  
14 a REB on or about March 15, 2016: 27213 Camp Plenty Rd., Santa Clarita, CA 913510 ("Camp  
15 Plenty address").

4.

16  
17 According to DRE records to date, AFI has: no current DBAs; no branch offices;  
18 and no real estate salespersons ("RES") employed under its DRE license.

19 ///

20 ///

21 ///

22  
23  
24 <sup>1</sup> Between July 1, 2013 and June 30, 2018, the California Department of Real Estate operated as the California  
25 Bureau of Real Estate.

1 5.

2 According to DRE records to date, real estate broker ("REB") ROBERTO  
3 MARTIN MERCADO is the designated officer ("D.O.") of record of AFI until his officer  
4 expiration date of March 14, 2020.

5 6.

6 According to DRE records to date, AFI's DRE license will expire on March 14,  
7 2020.

8 **RESPONDENT GOLDEN ATLAS REALTY ("GAR")**

9 7.

10 GOLDEN ATLAS REALTY ("GAR") is presently licensed and/or has license  
11 rights under the Real Estate Law, Part 1 of Division 4 of the Code as a REC, DRE license ID  
12 01986427. GAR's's current DRE main and mailing address of record have been the same since  
13 it was first licensed as a REB on or about August 19, 2015: 829 W. Palmdale Blvd., 131,  
14 Palmdale, CA 93551-4261 ("Palmdale address").

15 8.

16 According to DRE records to date, GAR has: no current DBAs; no branch offices;  
17 and three (3) RES employed under its DRE license: Deon Lofton (DRE license ID 01871592)  
18 ("Lofton"); Noelle Kristein Pecoraro (DRE license ID 02077357) ("Pecoraro"); and Jorge  
19 Villagran (DRE license ID 02008990) ("Villagran").

20 9.

21 According to DRE records to date, REB ROBERTO MARTIN MERCADO is the  
22 GAR's D.O. of record until his officer expiration date of August 18, 2019.

23 ///

24 ///

1 10.

2 According to DRE records to date, GAR's DRE license will expire on August 18,  
3 2019.

4 **RESPONDENT ROBERTO MARTIN MERCADO ("MERCADO")**

5 11.

6 ROBERTO MARTIN MERCADO ("MERCADO") is presently licensed and/or  
7 has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a REB, DRE  
8 license ID 01084916. MERCADO's current DRE mailing address of record since August 21,  
9 2008 is: 17258 Orozco Street, Granada Hills, CA 91344 ("Orozco address"). MERCADO's  
10 current DRE main address of record since December 12, 2017 is: 16742 Stagg St., Unit 109, Van  
11 Nuys, CA 91406 ("Stagg Street address"). Prior to December 12, 2017, MERCADO's main  
12 address of record was the Camp Plenty address.

13 12.

14 MERCADO was first licensed as a REB on or about July 6, 2007. Prior to his  
15 licensure as a REB, MERCADO was licensed as a RES on or about August 8, 1990.

16 13.

17 According to DRE records to date, MERCADO has: one (1) current DBA, for  
18 Fifth Avenue Properties (active as of July 6, 2007); no RES employed under his DRE license,  
19 and one (1) branch office at 2741 Ladyfern Lane, Palmdale, CA 93551 (active as of December  
20 26, 2017) ("Ladyfern address").

21 14.

22 According to DRE records to date, MERCADO is the current D.O. of record of  
23 AFI and GAR.

24 ///

1 15.

2 According to DRE records to date, MERCADO's DRE license will expire on July  
3 5, 2019.

4 Deon Lofton

5 16.

6 Deon Lofton ("Lofton") is licensed by the DRE as a RES, DRE License ID  
7 01871592. Lofton was first licensed by the DRE on or about August 10, 2010. Lofton's DRE  
8 mailing address of record is the same Ladyfern address that is GAR's branch office. GAR is  
9 Lofton's current employing REB of record. According to DRE records to date, Lofton's RES  
10 license will expire on or about November 5, 2022.

11 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

12 **Disclosure of Licensed Status in Advertising - Code Section 10140.6 and Regulation 2773**

13 17.

14 Pursuant to Code Section 10140.6 *Disclosure of Licensed Status in Advertising*:

15 "(a) A real estate licensee shall not publish, circulate, distribute, or cause to be  
16 published, circulated, or distributed in any newspaper or periodical, or by mail, any matter  
17 pertaining to any activity for which a real estate license is required that does not contain a  
18 designation disclosing that he or she is performing acts for which a real estate license is required.

19 (b)(1) A real estate licensee shall disclose his or her name, license identification  
20 number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing  
21 System and Registry, if that licensee is a mortgage loan originator, and responsible broker's  
22 identity, as defined in Section 10159.7, on all solicitation materials intended to be the first point  
23 of contact with consumers and on real property purchase agreements when acting as an agent in  
24 those transactions. The commissioner may adopt regulations identifying the materials in which a

1 licensee must disclose a license identification number and unique identifier assigned to that  
2 licensee by the Nationwide Mortgage Licensing System and Registry, and responsible broker's  
3 identity.

4 (2) For purposes of this section, "solicitation materials" include business cards,  
5 stationery, advertising flyers, advertisements on television, in print, or electronic media, "for  
6 sale," rent, lease, "open house," and directional signs, and other materials designed to solicit the  
7 creation of a professional relationships between the licensee and a consumer.

8 (3) Nothing in this section shall be construed to limit or change the requirement  
9 described in Section 10236.4 as applicable to real estate brokers.

10 (c) This section shall not apply to "for sale," rent, lease, "open house," and  
11 directional signs that do either of the following:

12 (1) Display the responsible broker's identity, as defined in Section 10159.7,  
13 without reference to an associate broker or licensee.

14 (2) Display no licensee identification information.

15 (d) "Mortgage loan originator," "unique identifier," and "Nationwide Mortgage  
16 Licensing System and Registry" have the meanings set forth in Section 10166.01.

17 (e) This section shall become operative on January 1, 2018."

18 18.

19 Pursuant to Regulation 2773 *Disclosure of License Identification Number on*  
20 *Solicitation Materials – First Point of Contact with Consumers:*

21 "(a) A real state broker or salesperson, when engaging in acts for which a license  
22 is required, shall disclose its, his or her eight (8) digit real estate license identification number on  
23 all solicitation materials intended to be the first point of contact with consumers. If the name of  
24 more than one licensee appears in the solicitation, the license identification number of each  
25

1 licensee shall be disclosed. The licensee numbers of employing brokers or corporate brokers  
2 whose names or logos or trademarks appear on solicitation materials along with the names and  
3 license numbers of licensed employees or broke associates do not need to appear on these  
4 materials.

5 Solicitation materials intended to be the first point of contact with consumers, and in which a  
6 licensee must disclose a license identification number, include the following:

- 7 (1) Business cards;
- 8 (2) Stationery;
- 9 (3) Websites owned, controlled, and/or maintained by the soliciting real estate  
10 licensee; and
- 11 (4) Promotional and advertising fliers, brochures, email and regular mail,  
12 leaflets, and any marketing or promotional materials designed to solicit the  
13 creation of a professional relationship between the licensee and a  
14 consumer, or which is intended to incentivize, induce or entice a consumer  
15 to contact the licensee about any service for which a license is required.

16 The type size of the license identification number shall be no smaller than the smallest size type  
17 used in the solicitation material.

18 (b) For the purposes of Business and Professions Code Section 10140.6,  
19 solicitation materials do not include the following:

- 20 (1) Advertisements in electronic media (including, without limitation,  
21 radio, cinema and televisions ads, and the opening section of streaming  
22 video and audio);
- 23 (2) Print advertising in any newspaper or periodical; and

1 (3) "For Sale" signs placed on or around a property intended to alert the  
2 public the property is available for lease, purchase or trade."

3 **Responsibility of Corporate Officer in Charge - Code Section 10159.2 and Regulation 2725**

4 19.

5 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

6 "(a) The officer designed by a corporate broker license pursuant to Section 10211  
7 shall be responsible for the supervision and control of the activities conducted on behalf of the  
8 corporation by its officers and employees as necessary to secure full compliance with the  
9 provisions of this division, including supervision of salespersons licensed to the corporation in  
10 the performance of acts for which a real estate license is required..."

11 20.

12 Pursuant to Regulation 2725 *Broker Supervision:*

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

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

25  
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1 The form and extent of such policies, rules, procedures and systems shall take into  
2 consideration the number of salespersons employed and the number and location of branch  
3 offices.

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

8 **Salesperson Employment and Termination - Code Section 10161.8 and Regulation 2752**

9 21.

10 Pursuant to ~~Code Section 10161.8~~ *Salesperson Employment and Termination*:

11 “(a) Whenever a real estate salesperson or broker acting as a salesperson enters  
12 the employ of a real estate broker, the responsible broker shall immediately notify the  
13 commissioner thereof in writing.

14 (b) Whenever employment of a real estate salesperson or broker acting as a  
15 salesperson is terminated, the responsible broker shall immediately notify the commissioner of  
16 that termination in writing.

17 (c) Whenever a licensee acquires a business address different from the address  
18 shown on his or her license the licensee shall mark out the former address on the face of the  
19 license and type or write the new main office address in ink on the reverse side, and date and  
20 initial the same.

21 (d) Whenever a real estate salesperson enters the employ of a new real estate  
22 broker the salesperson shall mark out the name of his or her former broker on the face of the  
23 license and type or write the name of the new employing broker in ink on the reverse side, and  
24 date and initial the same.

25

26

27

1 (e) This section shall become operative January 1, 2018.”

2 22.

3 Pursuant to Regulation 2752 *Notice of Change of Broker*:

4 “Whenever a real estate salesperson enters the employ of a real estate broker, the  
5 broker shall notify the commissioner of that fact within five days. This notification shall be  
6 given on a form prepared by the Bureau and shall be signed by the broker and the salesperson.

7 The form of notification shall provide for the furnishing of at least the following information:

8 (1) Name and business address of the broker.

9 (2) Mailing address of the salesperson, if different from the business address.

10 (3) ~~Date when the salesperson entered the employ of the broker.~~

11 (4) Certification by the salesperson that he has complied with the provisions of  
12 Section 10161.8(d) of the Business and Professions Code.

13 (5) Name and business address of the real estate broker to whom the salesperson  
14 was last licensed and the date of termination of that relationship.

15 (6) Certification by the salesperson that the predecessor broker has notice of the  
16 termination of the relationship.

17 As an acceptable alternative to (5) and (6) above, the form may be utilized by the predecessor  
18 broker to give notice of the termination of the broker/salesperson relationship as required by  
19 Section 10161.8(b) of the Business and Professions Code if this notice is mailed to the  
20 commissioner not more than ten days following such termination.”

21 ///

22 ///

23 ///

24 ///

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

2 23.

3 Pursuant to Code Section 10162 *Place of Business : Contact Information:*

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  
6 transaction of business. This office shall be the place where his or her license is  
7 displayed and where personal 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  
10 pursuant to Section 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  
13 number, and a current electronic mail address that he or she maintains or uses to  
14 perform any activity that requires a real estate license, at which the bureau may  
15 contact the licensee.  
16

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

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

23 24.

24 Pursuant to Regulation 2715 *Business and Mailing Addresses of Licensee:*

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

15 **Branch Offices – Code Section 10163**

16 25.

17 Pursuant to Code Section 10163 *Branch Offices*:

18 "If the applicant for a real estate broker's license maintains more than one place of  
19 business within the State he shall apply for and procure an additional license for each branch  
20 office so maintained by him. Every such application shall state the name of the person and the  
21 location of the place or places of business for which such license is desired. The commissioner  
22 may determine whether or not a real estate broker is doing a real estate brokerage business at or  
23 from any particular location which requires him to have a branch office license."

24 ///

25

26

27

1 ///

2 **Penalties – Code Section 10165**

3 26.

4 Pursuant to Code Section 10165 *Penalties*:

5 “For a violation of an of the provisions of Section 10160, 10161.8, 10162, 10163,  
6 or subdivision (b) of Section 10164, the commissioner may temporarily suspend or permanently  
7 revoke the license of the real estate licensee in accordance with the provisions of this part  
8 relating to hearings.”

9 **Applications and Notices of Change of Status – Regulation 2710**

10 27.

11 Pursuant to Regulation 2710 *Applications and Notices of Change of Status*:

12 “(a) A person shall apply for an original license under the provisions of the Real  
13 Estate Law on the form of application prescribed by the Bureau. The applicant shall complete  
14 and sign the application form and submit it and the fee for the license in question to an office of  
15 the Bureau.

16 (b) A licensee applying for renewal of a real estate license shall comply with the  
17 provisions of subdivision (a) and with the following provision:

18 (1) The application shall be submitted to the Bureau not more than 90 days  
19 before the expiration of the license to be renewed.”

20 (2) The applicant shall submit on forms prescribed by the Bureau, information  
21 to establish that the applicant has satisfied the continuing education prerequisites for license  
22 renewal in Article 2.5 of Chapter 3 of the Real Estate Law.

23 (c) Notice of changes in license information or status required to be submitted to  
24 the Bureau under provisions of the Real Estate Law and regulations of the Commissioner shall be  
25

1 given on forms prescribed by the Bureau not later than five days after the effective date of the  
2 change unless otherwise provided in the applicable statute or regulation.”

3 **Certificate of Status, Qualification or Good Standing – Regulation 2742**

4 28.

5 Pursuant to Regulation 2742 *Certificate of Status, Qualification or Good*

6 *Standing:*

7 “(a) An applicant for an original broker license for a domestic corporation shall  
8 submit with the application, a Certificate of Status (Domestic Corporation)  
9 executed by the California Secretary of State not earlier than 30 days before the  
10 date of mailing or delivering the application to the headquarters office of the  
11 Bureau. However, if the applicant is a domestic corporation which filed its  
12 original Articles of Incorporation not earlier than six (6) months before the date  
13 of mailing or delivering the application to the headquarters office of the  
14 Bureau, Articles of Incorporation executed by the California Secretary of State  
15 may be submitted instead of a Certificate of Status.

16 (b) An applicant for an original broker license for a foreign corporation shall  
17 submit with the application, a Certificate of Qualification or a Certificate of  
18 Good Standing (Foreign Corporation) executed by the California Secretary of  
19 State not earlier than 30 days before the date of mailing or delivering the  
20 application to the headquarters office of the Bureau.

21 (c) A corporation licensed under Section 10211 of the Code shall not engage in  
22 the business of a real estate broker while not in good legal standing with the  
23 Office of the Secretary of State.”

24 ///

1 **Grounds for Revocation or Suspension – Code Section 10176**

2 29.

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

9 (a) Making any substantial misrepresentation.

10 ~~(b) Making any false promises of a character likely to influence, persuade, or~~  
11 ~~induce.~~

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

14 ...

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

17 **Further Grounds for Disciplinary Action – Code Section 10177**

18 30.

19 Pursuant to Code Section 10177, "The commissioner may suspend or revoke the  
20 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the  
21 issuance of a license to an applicant, who has done any of the following:

22 ...

23 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
24 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and  
25

1 regulations of the commissioner for the administration and enforcement of the Real Estate Law  
2 and Chapter 1 (commencing with Section 11000) of Part 2.”

3 ...  
4 (g) Demonstrated negligence or incompetence in performing an act for which he  
5 or she is required to hold a license.

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

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

12 **FACTS DISCOVERED BY THE DEPARTMENT**

13 **& CORRESPONDING CAUSES OF ACTION**

14 **First Cause of Action: Place of Business**

15 **(AFI)**

16 **(Code Section 10162 and Regulations 2710 and 2715)**

17 31.

18 **AFIE-Mail and Address Of Record**

19 On October 5, 2017, DRE Special Investigator William Pak (“SI Pak”) sent an  
20 investigation letter to AF, via U.S. Mail to the attention of D.O. MERCADO, to AF’s Camp  
21 Plenty address and via e-mail to AFI’s email ([Roberto@nexthomesells.com](mailto:Roberto@nexthomesells.com)). On the same day,  
22 SI Pak received a delivery failure notification from [Roberto@nexthomesells.com](mailto:Roberto@nexthomesells.com) indicating that  
23 “The Doman Name System (DNS) reported that the recipient’s domain does not exist.” On or  
24 about October 14, 2017, SI Pak’s U.S. Mail envelope was returned to the DRE’s Los Angeles  
25

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1 District Office marked, "Return to Sender, Not Deliverable as Addressed." The conduct of  
2 Respondent AFI is in violation of **Code Section 10162(c) and Regulation 2715**, and is cause for  
3 the suspension or revocation of the license and license rights of **Respondent AFI**, pursuant to  
4 **Code Sections 10165, 10177(d) and (g)**.

5 **Second Cause of Action: Place of Business**

6 **(AFI)**

7 **(Code Section 10162 and Regulations 2710 and 2715)**

8 32.

9 **AFI Address Of Record**

10 ~~A. On November 2, 2017, SI Pak arrived at AFI's Camp Plenty address and~~  
11 ~~observed that the location was under renovation for and occupied by a business called Beaute~~  
12 ~~Lab Salon, a beauty salon. On the same day, SI Pak visited a neighboring unit to the Camp~~  
13 ~~Plenty address, which housed New Smile Dental Group. The receptionist at the New Smile~~  
14 ~~Dental Group provided SI Pak with the property manager's contact information.~~

15 B. On December 6, 2017, SI Pak sent an e-mail to Calvin Lee of Golden Tree  
16 Realty, the property manager for the Camp Plenty address. On the same day, Lee provided SI  
17 Pak with copies of:

18 (1) Standard Industrial/Commercial Multi-Tenant Lease – Gross (and  
19 attachments) dated December 7, 2015 between Mission Towers LLC (Lessor) and AW  
20 FINANCE INC., dba "Next Home" for 27213 Camp Plenty Road, Santa Clarita, CA 91351, and

21 (2) Lease Termination Agreement effective May 15, 2017 signed by  
22 Ramon Mercado and ROBERTO MERCADO (Lessee) and Richard Song/Reflex Canyon, LLC  
23 (Lessor) terminating AFI's lease of the Camp Plenty address.

24 C. The conduct of Respondent AFI is in violation of **Code Section 10162 and**  
25

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1 **Regulation 2715**, and is cause for the suspension or revocation of the license and license rights  
2 of **Respondent AFI**, pursuant to **Code Sections 10165, 10177(d) and (g)**.

3 **Third Cause of Action: Corporate Standing**

4 **(AFI and MERCADO)**

5 **(Code Sections 10177(d), (f) and (g) and Regulations 2742 and 2725)**

6 33.

7 On June 1, 2017, the California Franchise Tax Board ("FTB") suspended the  
8 powers, rights, and privileges of AFI, California Corporate Number C3777959, pursuant to the  
9 California Revenue and Taxation Code. To date, the corporate powers, rights, and privileges of  
10 RI remain suspended to date. ~~The conduct of Respondent AFI and MERCADO as D.O. of AFI is~~  
11 in violation of **Regulation 2742(c)** and is cause for the suspension or revocation of the license  
12 and license rights of **Respondent AFI**, pursuant to **Code Sections 10177(d), (f) and (g), and**  
13 **Respondent MERCADO**, pursuant to **Regulation 2725**.

14 **Fourth Cause of Action: Failure to Supervise**

15 **(MERCADO as D.O. of AFI)**

16 **(Code Section 10159.2 and Regulation 2725)**

17 34.

18 On December 6, 2017, SI Pak sent a letter via U.S. Mail to MERCADO's DRE  
19 mailing address of record (Orozco address) and to MERCADO's e-mail address  
20 [robertomercado@awfinance.com](mailto:robertomercado@awfinance.com) inquiring about, among other issues, AFI's Camp Plenty  
21 address, AFI's suspension by the FTB, and any steps taken or to be taken by AFI to correct these  
22 items. On December 27, 2017, the DRE received responses from MERCADO, including a copy  
23 of the Corporation Change Application (RE 204A (Rev. 1/15) for Fifth Avenue Properties to  
24 cancel the FBN of AW FINANCE INC. and a copy of a Branch Office Application for Golden  
25

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1 Atlas Corporation to add a branch office. MERCADO did not address the suspended status of  
2 AFI in his December 27, 2017 response.

3 35.

4 On January 31, 2018, SI Pak met with MERCADO at the Ladyfern address.  
5 When SI Pak informed MERCADO that AFI was suspended by the Secretary of State,  
6 MERCADO responded that he wanted to "cancel" AFI. SI Pak provided instructions to complete  
7 the appropriate DRE applications to place AFI in "NBA" (not broker affiliated) status. When  
8 asked about when AFI closed down, MERCADO stated that he did not know when the office  
9 closed down and assumed the franchisor for Nexthome would submit the closure notification to  
10 the DRE for him. On the same day, SI Pak also met with MERCADO's son, Anthony Mercado  
11 (RES; DRE license ID 01998882), who stated that he was one of the officers and owners of AFI  
12 and that it was his fault that AFI's business closure was not reported to the DRE. Anthony  
13 Mercado indicated that he did not inform MERCADO of the closure until approximately three to  
14 four months after the closure.

15 36.

16 To date, the powers, rights and privileges of AFI remain suspended, and the main  
17 office address of record with the DRE for AFI remains unchanged as the Camp Plenty address.

18 37.

19 The conduct of Respondent MERCADO as D.O. of AFI is in violation of **Code**  
20 **Section 10159.2 and Regulation 2725**, and is cause for the suspension or revocation of the  
21 license and license rights of **Respondent MERCADO** pursuant to **Code Section 10177(h)**.

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25  
26 DRE Accusation of AW Finance Inc.; Golden Atlas Realty; and Roberto Martin Mercado

1 **Fifth Cause of Action: Disclosure of Licensed Status in Advertising**

2 **(GAR and MERCADO)**

3 **(Code Section 10140.6 and Regulation 2773)**

4 38.

5 On or about February 9, 2017, Lofton listed for sale on the internet the property  
6 located at 11742 Baird Avenue, Porter Ranch, CA 91326 (“Baird property”) at  
7 <https://www.hshwebpages.com/11742bairdave> with his name, telephone number and email  
8 address and “Golden Atlas Realty” in the “Contact” section of the webpage. The webpage did  
9 not disclose the DRE license ID for Lofton or GAR.

10 39.

11 On or about January 24, 2018, SI Pak accessed GAR’s Facebook page, which  
12 stated that it provided real estate services “specializing in first time homebuyers, equity home  
13 sales, short sales, residential and commercial” but did not list GAR’s DRE license ID. A post  
14 dated January 7, 2018 showed a flyer for an open house at the property located at 222 W.  
15 Commercial Street in San Dimas, CA 91773; said flyer did not list GAR’s DRE license ID  
16 number.

17 40.

18 At SI Pak’s January 31, 2018 visit with MERCADO, MERCADO stated that he  
19 did not prepare advertisements for GAR. However, MERCADO did acknowledge that he  
20 reviews advertisements prepared by Lofton, but had not done so for more than one year.

21 41.

22 The conduct of Respondent GAR is in violation of **Code Section 10140.6 and**  
23 **Regulation 2773**, and is cause for the suspension or revocation of the license and license rights  
24 of **Respondent GAR**, pursuant to **Code Sections 10177(d) and (g)**. The conduct of Respondent  
25

1 MERCADO as D.O. of GAR is in violation of **Code Section 10159.2 and Regulation 2725**, and  
2 is cause for the suspension or revocation of the license and license rights of **Respondent**  
3 **MERCADO** pursuant to **Code Section 10177(h)**.

4 **Sixth Cause of Action: Corporate Standing**

5 **(GAR and MERCADO)**

6 **(Code Sections 10177(d), (f) and (g) and Regulations 2742 and 2725)**

7 42.

8 A. On December 29, 2017, the Secretary of State (“SOS”) suspended the powers,  
9 rights, and privileges of GAR, California Corporate Number C3788881. The conduct of  
10 Respondent GAR and MERCADO as D.O. of GAR is in violation of **Regulation 2742(c)** and is  
11 cause for the suspension or revocation of the license and license rights of **RESPONDENT GAR**  
12 pursuant to **Code Sections 10177(d), (f) and (g)**, and **Respondent MERCADO**, pursuant to  
13 **Regulation 2725**.

14 B. On or about January 31, 2018, GAR filed a new Statement of Information with  
15 the SOS; the Statement of Information was submitted by Lofton as President, and was not signed.  
16 The SOS website presently shows GAR in active status.

17 **Seventh Cause of Action: Corporate Standing**

18 **(MERCADO)**

19 **(Code Section 10159.2 and Regulations 2742 and 2725)**

20 43.

21 A. At SI Pak’s January 31, 2018 visit to the Ladyfern address, he conducted a  
22 Broker Office Survey (“BOS”) of GAR’s real estate activities at the unlicensed location at the  
23 Ladyfern address. SI Pak observed that the Ladyfern address location is the personal residence of  
24 Lofton in which one open room was used as an office and contained a locked cabinet of GAR

1 files and Lofton's [expired] DRE license hanging on the wall that showed MERCADO as his  
2 employing REB.

3 B. During the January 31, 2018 BOS, SI Pak obtained documents relating to the  
4 purchase of property located at 642 Kettering Street, Lancaster, CA 93535 ("Kettering  
5 property"). On or about November 1, 2017, Villagran, on behalf of GAR, prepared and  
6 submitted an offer on a Residential Purchase Agreement (C.A.R. Form RPA-CA, Revised 12/15)  
7 ("RPA") to purchase the Kettering property for \$210,000. The RPA included a footer that listed  
8 as GAR's address the Palmdale address. On January 16, 2018, a Commission Disbursement  
9 Authorization Form was signed by Lofton as office manager that authorized escrow to pay  
10 ~~commission in the amount of \$5,250 to be paid as follows: \$1,050 to GAR; \$500 to Fifth Avenue~~  
11 ~~Properties (MERCADO's DBA); and \$3,700 to Villagran, all checks to be mailed to GAR's~~  
12 ~~Palmdale address. There was no documentation in the transaction file to indicate that the~~  
13 ~~Commission Disbursement Authorization Form was reviewed or authorized by MERCADO, in~~  
14 ~~violation of **Code Section 10159.2 and Regulation 2725**, and is cause for the suspension or~~  
15 ~~revocation of the license and license rights of **Respondent MERCADO**, pursuant to **Code**~~  
16 ~~**Section 10177(h)**.~~

17 C. On or about January 17, 2018, escrow closed on the Kettering property.  
18 According to the Buyer's Final Settlement Statement, under the section for "Other  
19 Debits/Credits," an additional \$375 was disbursed to GAR by escrow for "Trasnaction Fee" [sic]  
20 during the period of time that GAR's corporate status was suspended by the SOS (December 29,  
21 2017 to January 31, 2018), in violation of **Code Section 10159.2 and Regulation 2742(c)**, and is  
22 cause for the suspension or revocation of the license and license rights of **Respondent**  
23 **MERCADO**, pursuant to **Code Section 10177(h)**.

1 **Eighth Cause of Action: Places of Business**

2 **(GAR)**

3 **(Code Sections 10162 and 10163)**

4 44.

5 On or about January 30, 2018, SI Pak visited GAR's main and mailing office  
6 address of record, the Palmdale address. SI Pak observed that the Palmdale address is a mailbox  
7 owned by MailBox Plus Business Services and served a *subpoena duces tecum* ("SDT") on the  
8 owner, Fred Wallis, who responded and produced a mailbox rental agreement and an Application  
9 for Delivery of Mail Through Agent, both signed by Lofton. GAR's main and mailing office  
10 address of record (Palmdale address) fails to meet the requirements of as set forth in the Real  
11 Estate Law, in violation of **Code Section 10162(a)**, and is cause for the suspension or revocation  
12 of the license and license rights of **Respondent GAR**, pursuant to **Code Sections 10165,**  
13 **10177(d) and (g).**

14 45.

15 On or about January 31, 2018, SI Pak conducted a BOS of GAR at the Ladyfern  
16 address, which was found to be the personal residence of Lofton, who is the CEO, Secretary,  
17 CFO, Director and President of GAR. The Ladyfern location is not licensed to GAR to conduct  
18 business, in violation of **Code Section 10162(b)**, and is cause for the suspension or revocation of  
19 the license and license rights of **Respondent GAR**, pursuant to **Code Sections 10165, 10177(d)**  
20 **and (g).**

21 46.

22 At the January 31, 2018 BOS, MERCADO stated that he meets with Lofton at  
23 MERCADO's home at the Orozco address when a deal is closed and he must sign his name.  
24 Although MERCADO's Orozco address is his own mailing address of record with the DRE, it is  
25

1 not a licensed branch office of GAR, in violation of **Code Section 10163**, and is cause for the  
2 suspension or revocation of the license and license rights of **Respondent GAR**, pursuant to  
3 **Code Sections 10165, 10177(d) and (g)**.

4 **Ninth Cause of Action: Place of Business**

5 **(MERCADO)**

6 **(Code Sections 10162 and 10163)**

7 47.

8 A. On November 2, 2017, SI Pak visited the Camp Plenty address and observed  
9 that the location was no longer occupied by MERCADO and was in the process of being  
10 renovated to house a beauty salon. Documentation obtained by the DRE indicated the location  
11 was vacated on or about May 15, 2017, in violation of **Code Section 10162 and Regulation**  
12 **2715**, and is cause for the suspension or revocation of the license and license rights of  
13 **Respondent MERCADO**, pursuant to **Code Sections 10165, 10177(d) and (g)**.

14 B. On or about December 6, 2017, SI Pak sent a letter to MERCADO's mailing  
15 address of record (Orozco address) to inform that his main office address of record was still  
16 listed as the Camp Plenty address. On December 11, 2017, MERCADO updated his main office  
17 address of record to the Stagg Street address.

18 C. On January 30, 2018, SI Pak arrived at MERCADO's updated main office  
19 address of record ( Stagg Street address). SI Pak observed that the Stagg Street address was an  
20 appliance business, Aaction Appliance operated by Anthony Mercado. According to Anthony  
21 Mercado, MERCADO has been using the Stagg Street address as his main office address four to  
22 five months, in violation of Code Sections **10162(a) and 10162(b)**, and is cause for the  
23 suspension or revocation of the license and license rights of **Respondent MERCADO**, pursuant  
24 to **Code Sections 10165, 10177(d) and (g)**.



1 COSTS

2 48.

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 the  
5 administrative law judge to direct a licensee found to have committed a violation of this part to  
6 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 allegations  
8 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
9 action against all the licenses and license rights of Respondents **AW FINANCE INC.,**  
10 **GOLDEN ATLAS REALTY, and ROBERTO MARTIN MERCADO** under the Real Estate  
11 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further  
12 relief as may be proper under other applicable provisions of law.

13 Dated at Los Angeles, California

14 this 31 day of May 2019.

15  
16  
17   
18 Maria Suarez  
19 Supervising Special Investigator  
20  
21

22 cc: AW FINANCE INC.  
23 GOLDEN ATLAS REALTY  
24 ROBERTO MARTIN MERCADO  
25 M. Suarez

Sacto.

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