

1 Kevin H. Sun, Counsel (SBN 276539)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105  
5 Telephone: (213) 576-6982  
6 Fax: (213) 576-6917  
7 Email: Kevin.Sun@dre.ca.gov  
8 *Attorney for Complainant*

**FILED**  
SEP 03 2019  
DEPT. OF REAL ESTATE  
By *Zm - Ja*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-41485 LA  
12 )  
13 NICOLE ANNA, ) ACCUSATION  
14 )  
15 Respondent. )

16 The Complainant, Maria Suarez, a Supervising Special Investigator of the State  
17 of California, for cause of Accusation against NICOLE ANNA (“Respondent”) alleges as  
18 follows:

19 1.

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

22 2.

23 All references to the “Code” are to the California Business and Professions Code  
24 and all references to “Regulations” are to Title 10, Chapter 6, California Code of Regulations.

25 ///

26 ///

27 ///

1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Real  
4 Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real  
5 estate salesperson ("RES"), Department of Real Estate<sup>1</sup> ("Department") license ID 01355844.

6 b. The Department originally issued Respondent's RES license on or about  
7 October 15, 2002.

8 c. Respondent's license is scheduled to expire on January 28, 2023, unless  
9 renewed.

10 d. Respondent's mailing address of record is P.O. Box 508, Pioneertown, CA  
11 92268 in San Bernardino County.

12 RELEVANT EMPLOYMENT HISTORY

13 4.

14 a. Respondent has been employed by real estate corporation ("REC") HSCA,  
15 Inc., Department license ID 01912687, from about March 17, 2019 through the date of this  
16 Accusation. Real estate broker ("REB") Richard Kent La Rue is the designated officer  
17 ("D.O.") of HSCA, Inc. HSCA, Inc.'s mailing address of record and main office address are:  
18 73301 Fred Waring Drive, Palm Desert, CA 92260. HSCA, Inc. holds five DBAs under its  
19 license.

20 b. From August 27, 2018 through October 14, 2018 and January 29, 2019  
21 through March 25, 2019, Respondent was employed by REB Madelaine Dawn Lavoie  
22 ("Lavoie"), Department license ID 01005011. REB Lavoie's mailing address of record and  
23 main office address are: 55857 Twentynine Palms Highway, Yucca Valley, CA 92284. During  
24 the periods of time that Respondent was employed, REB Lavoie had 15 active DBAs. The  
25 pertinent DBA being "Cherie Miller & Associates," active as of May 23, 2005.

26  
27 <sup>1</sup> Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

1 c. From October 14, 2018 through January 10, 2019, Respondent had no  
2 employing REB of record.

3 d. From July 24, 2017 through April 2, 2018 and April 30, 2018 through August  
4 1, 2018, Respondent was employed by REC Roadrunner Realty Incorporated ("RRI"),  
5 Department license ID 01517134. RRI's mailing address of record and main office address are:  
6 56809 29 Palms Hwy, Yucca Valley, CA 92284. During the periods of time that Respondent  
7 was employed by RRI, REB Jeffrey Eugene Poland was the D.O. of RRI. During the periods of  
8 time that Respondent was employed, RRI had three active DBAs. The pertinent DBA being  
9 "Coldwell Banker Roadrunner Realty," active as of January 28, 2008.

10 e. From August 1, 2018 through August 27, 2018, Respondent had no employing  
11 REB of record.

12 f. From January 9, 2017 through July 23, 2017, Respondent was employed by  
13 REC HLH Enterprises Inc ("HLH"), Department license ID 01170031. HLH's mailing address  
14 of record and main office address are: 2905 Tahquitz Canyon Way, Palm Springs, CA 92262.  
15 During the periods of time that Respondent was employed by HLH, REB W. H. Hampton III  
16 was the D.O. of HLH. During the periods of time that Respondent was employed, HLH had two  
17 active DBAs. The pertinent DBA being "Berkshire Hathaway Home Services California  
18 Properties," active as of August 8, 2014.

19 LICENSED ACTIVITIES

20 5.

21 At all times mentioned herein, Respondent engaged in the performance of  
22 activities requiring a real estate license pursuant to Code Section 10130. During the subject  
23 time period below, Respondent acted as a RES, and ordered, caused, authorized or participated  
24 in licensed activities within the meaning of Code Section 10131(a), by selling or offering to  
25 sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or  
26 obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business  
27 opportunity ("real estate sales").

FACTS DISCOVERED BY THE DEPARTMENT

6.

On or about August 18, 2018, REB Lawrence Albert Parent ("Parent") was contacted via text message by Respondent requesting to show Parent's listed property at 8449 Deer Tri, Yucca Valley, CA 92284 ("Property"). Respondent further stated that she was having issues with gaining access to the property. Parent agreed to open the Property for Respondent and her client to see the next day. On or about August 19, 2018, Parent opened the Property to allow Respondent to show her client the Property.

7.

On August 21, 2018, Respondent sent Parent an email with an offer from Respondent's client/buyer Samantha B. The offer was conveyed via the "California Residential Purchase Agreement and Joint Escrow Instructions" (C.A.R. Form RPA-CA, Revised 12/15) ("Offer"), dated August 20, 2018, which listed Samatha B. as the buyer. The Offer contained numerous redactions or "white outs" that Parent found to be suspicious. The redactions covered some of the original text of the Offer. Further, the Offer listed a DBA of RRI as Respondent's REB, it also stated that the form was from Berkshire Hathaway Home Services. Lastly, the Offer contained an electronic signature from Respondent that was dated June 24, 2018, which was dotloop verified.

8.

Included in the August 21, 2018 email was a "Disclosure Regarding Real Estate Agency Relation" (C.A.R. Form AD, Revised 12/14) ("AD"), dated August 20, 2018, which contained numerous suspicious redactions. The redactions covered some of the original text of the AD. Further, the AD listed a DBA of RRI as Respondent's REB, it also stated that the form was from Berkshire Hathaway Home Services. Lastly, the AD contained an electronic signature from Respondent that was dated June 24, 2018, which was dotloop verified.

///

///

ACCUSATION

1 9.

2 Included in the August 21, 2018 email was a "Possible Representation of More  
3 than One Buyer or Seller – Disclosure and Consent" (C.A.R. Form PRBS, Revised 11/14)  
4 ("PRBS"), dated August 20, 2018, which contained numerous suspicious redactions. Samantha  
5 B.'s name was also listed on the PRBS. Further, the PRBS listed a DBA of RRI as  
6 Respondent's REB, it also stated that the form was from Berkshire Hathaway Home Services.  
7 Lastly, the PRBS contained an electronic signature from Respondent that was dated June 24,  
8 2018, which was dotloop verified.

9 10.

10 Included in the August 21, 2018 email was a "Wire Fraud and Electronic Funds  
11 Transfer Advisory (C.A.R. Form WFA, Revised 12/17) ("WFA"), dated August 20, 2018,  
12 which contained numerous suspicious redactions. Samantha B.'s name was also listed on the  
13 WFA. Further, the WFA stated that the form was from Berkshire Hathaway Home Services.

14 11.

15 Included in the August 21, 2018 email was a "Buyer's Inspection Advisory"  
16 (C.A.R. Form BIA, Revised 11/14) ("BIA"), which contained suspicious redactions. The  
17 redactions covered portions of the original text of the BIA.

18 11.

19 Respondent claims that she made an offer on behalf of Samantha B. on August  
20 28, 2018 under the broker Cherie Miller and Associates, a DBA of REB Lavoie. However, the  
21 August 28, 2018 Offer, AD, PRBS, WFA and BIA were forms from Berkshire Hathaway Home  
22 Services and not from Cherie Miller and Associates.

23 12.

24 On or about November 16, 2018, Department's Special Investigator Jorge  
25 Garnica ("SI Garnica") sent a letter to Respondent regarding her representation of Samantha B.  
26 for the purchase of the Property. REB Lavoie was also sent a copy of the letter. On or about  
27 December 17, 2018, SI Garnica also spoke with Lavoie regarding the transaction with

ACCUSATION

1 Samantha B. for the purchase of the property. Lavoie stated that she did not have any  
2 knowledge regarding the transaction and was not involved. Also on or about December 17,  
3 2018, REB Lavoie sent a letter to SI Garnica stating that Cherie Miller and Associates did not  
4 represent the seller or the buyer in the purchase of the Property.

5 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

6 License Required - Code Sections 10130, 10131(a), and 10132

7 13.

8 Pursuant to Code Section 10130, "It is unlawful for any person to engage in the  
9 business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real  
10 estate salesperson within this state without first obtaining a real estate license from the  
11 department, or to engage in the business of, act in the capacity of, advertise as, or assume to act  
12 as a mortgage loan originator within this state without having obtained a license endorsement.  
13 The commissioner may prefer a complaint for violation of this section before any court of  
14 competent jurisdiction, and the commissioner and his or her counsel, deputies, or assistants,  
15 may assist in presenting the law or facts at the trial. Prosecution of Violations: It is the duty of  
16 the district attorney of each county in this state to prosecute all violations of this section in their  
17 respective counties in which the violations occur."

18 14.

19 Pursuant to Code Section 10131, "A real estate broker within this meaning of  
20 this part is a person who, for a compensation or in expectation of a compensation, regardless of  
21 the form or time of payment, does or negotiates to do one or more of the following acts for  
22 another or others: (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or  
23 purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or exchange of real  
24 property or a business opportunity."

25 ///

26 ///

27 ///

1 15.

2 Pursuant to Code Section 10132, "A real estate salesperson within the meaning  
3 of this part is a natural person who, for a compensation or in expectation of a compensation, is  
4 employed by a licensed real estate broker to do one or more of the acts set forth in Sections  
5 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6."

6 Grounds for Revocation or Suspension – Code Section 10176

7 16.

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

14 (a) Making any substantial misrepresentation.

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

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

19 ...

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

22 Further Grounds for Disciplinary Action – Code Section 10177

23 17.

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

27 ...

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

5 ...

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

8 ...

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

11 VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE

12 18.

13 In the course of the activities described above in Paragraph 5, and based on the  
14 facts discovered by the Bureau in Paragraphs 6 through 12, above, Respondent acted in  
15 violation of the Code and Regulations, as described below.

16 19.

17 From August 1, 2018 to August 27, 2018, RES OROZCO was not employed by  
18 a licensed REB to perform any real estate sales activities, as set forth in Code Section 10131.  
19 During this time, Respondent purported to be employed by RRI, her former REB, and engaged  
20 in the business of real estate sales as set forth in Code Section 10131(a) and acted as a real  
21 estate salesperson: Respondent purported to represent Samantha B. as a Buyer to a real  
22 property transaction and executed an Offer, AD, PRBS, WFA and BIA on Samantha B.’s  
23 behalf. Respondent represented to Parent that she was a salesperson under RRI (August 21,  
24 2018) and/or Lavoie (August 28, 2018) and assigned her Department license ID number to RRI  
25 and/or Lavoie. Respondent also made an offer on behalf of Samantha B. to Parent, despite  
26 knowing that she was not authorized to do so as Respondent was not under the supervision of a  
27 REB.



1 20.

2 Respondent engaged in the business of or acted in the capacity of a real estate  
3 salesperson when she was not employed by a licensed real estate broker, in violation of **Code**  
4 **Sections 10130 and 10132.**

5 21.

6 Respondent, while engaging in the business of or acting in the capacity of a real  
7 estate salesperson, willfully disregarded the Real Estate Law by making substantial  
8 misrepresentations and false promises to induce, by acting negligently, and by engaging in  
9 fraudulent or dishonest dealing, in violation of **Code Sections 10176 (a), (b), (c), (i) and Code**

10 22.

11 Respondent, while engaging in the business of or acting in the capacity of a real  
12 estate salesperson, willfully disregarded the Real Estate Law by engaging in a continued and  
13 flagrant course of making substantial misrepresentations and false promises to induce, by acting  
14 negligently, and by engaging in fraudulent or dishonest dealing throughout the course of his  
15 representation of Samantha B. in violation of **Code Sections 10176 (a), (b), (c), (i), and Code**  
16 **Sections 10177(d), (g), and (j).**

17 COSTS

18 23.

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

23 ///

24 ///

25 ///

26 ///


27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

P R A Y E R

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of Respondent NICOLE ANNA, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California this 30<sup>th</sup> day of August, 2019.

  
Maria Suarez  
Supervising Special Investigator

cc: NICOLE ANNA  
Maria Suarez  
Sacto.