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DEPT. OF REAL ESTATE

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H- 41544 LA
)	
BETTER LIVING SOCAL GROUP)	<u>ACCUSATION</u>
CORPORATION and KELLY NICOLE LAULE,)	
individually and as designated officer of Better)	
Living Socal Group Corporation,)	
)	
Respondents.)	
)	

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against BETTER LIVING SOCAL GROUP CORPORATION and KELLY NICOLE LAULE (collectively "Respondents") alleges as follows:

1.

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

2.

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.

ACCUSATION

1 LICENSE HISTORY

2 (BETTER LIVING SOCIAL GROUP CORPORATION)

3 3.

4 a. Respondent BETTER LIVING SOCIAL GROUP CORPORATION

5 ("BLSGC") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of
6 Division 4 of the California Business and Professions Code, as a real estate corporation,
7 Department of Real Estate¹ ("Department") license ID 01964718.

8 b. The Department originally issued BLSGC corporate license on November 20,
9 2014. BLSGC's license is scheduled to expire on February 24, 2023, unless renewed.

10 c. According to the Department's records to date, BLSGC's main office address
11 is 250 El Camino Real, Ste 104, Tustin, CA 92780.

12 d. According to the Department's records to date, BLSGC employs 5
13 salespersons under its real estate license.

14 e. According to the Department's records to date, BLSGC maintains no
15 authorized fictitious business names.

16 (KELLY NICOLE LAULE)

17 4.

18 a. Respondent KELLY NICOLE LAULE ("LAULE") is presently licensed under
19 the Code, as a real estate broker, Department license ID 01773280.

20 b. The Department originally issued LAULE's broker license on February 9,
21 2010. LAULE's license is scheduled to expire on March 21, 2022, unless renewed.

22 c. LAULE is the designated officer for BLSGC. Her designation is scheduled to
23 expire on February 24, 2023, unless renewed. As designated officer, LAULE is responsible for
24 the supervision of the activities conducted on behalf of BLSGC by its officers, agents, real
25 estate licensees, and employees pursuant to Section 10159.2 of the Code.

26
27 ¹ 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 d. According to the Department's records to date, LAULE does not employ any
2 salesperson under her real estate license.

3 e. According to the Department's records to date, LAULE maintains no
4 authorized fictitious business names.

5 5.

6 At all times relevant herein Respondents were engaged in the business of, acted
7 in the capacity of, advertised or assumed to act as a real estate corporation, within the meaning
8 of Section 10131(b) of the Code. Respondents' activities included the leasing or renting of real
9 property and the collection of rents and security deposits for real property on behalf of others
10 for compensation or in expectation of compensation.

11 (AUDIT LA180003)

12 6.

13 On or about September 25, 2018, the Department completed an audit
14 examination of the books and records of BLSGC pertaining to the real estate activities
15 described in Paragraph 5 above. The audit examination covered the period of time from January
16 1, 2017, through June 30, 2018 ("audit period"). The primary purpose of the examination was
17 to determine whether Respondents conducted real estate activities in accordance with the Real
18 Estate Law. The audit examination revealed violations of the Code and the Regulations as set
19 forth in the following paragraphs, and more fully discussed in Audit No. LA180003 and the
20 exhibits and work papers attached to said audit report.

21 7.

22 According to LAULE as well as the documents examined, BLSGC was
23 primarily engaged in property management and managed approximately 5 properties for 8
24 property owners. Respondents collected rent receipts in the amount of approximately
25 \$166,738.00 during the audit period. Respondents charged a flat fee of \$75 or 4% - 7% of the
26 monthly rents collected as management fees for the properties. Respondents collected rents,
27 paid expenses and screened tenants for compensation.

8.

At all times mentioned herein, and in connection with the property management activities described in Paragraph 5, above, BLSGC accepted or received funds, including funds in trust ("trust funds") from or on behalf of the owners of the properties managed by BLSGC and thereafter made deposits and/or disbursements of such funds. According to LAULE, BLSGC maintained 1 bank account (for multiple beneficiaries) for handling of the receipts and disbursements of rents during the audit period in connection with the property management activities. The bank account IS as follows:

Bank Account 1 ("BA 1")

Bank: Bank of America

Account Name: Better Living Social Group Client Account

Account Number: xxxxxxxx2184

Signatories: Kelly Laule

Signatures Required: One

Purpose: BA 1 was maintained to handle trust funds in the property management activity for multiple beneficiaries. According to BA 1's signature card and statements provided for the audit, BA 1 was not designated as a trust account. As of June 30, 2018, BA 1 had a bank balance of \$9,939.10.

Violations of the Real Estate Law

9.

The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA180003 and the exhibits and work papers attached to the audit report:

a. Handling of Trust Funds/Account Designation (Code section 10145 and Regulations section 2832). BLSGC failed to designate BA 1 as a trust account, even though the account was being used to handle trust fund for BLSGC's property management activities during the audit period.

1 **b. Handling Of Trust Fund /Commingling/Broker Funds Held Longer Than**
2 **25 Days (Code sections 10145 and 10176(e) and Regulations section 2835).**

3 Based on an examination of BA 1's records, as of June 30, 2018, BLSGC kept
4 (1) its own funds, in excess of \$200.00 in BA1 and (2) \$1,751.50 of its fees/commissions for
5 over 25 days in BA1 after their deposit.

6 **c. Handling of Trust Funds (Code section 10145).** Respondents received trust
7 funds of \$9,633.00 from owners/tenants and deposited the trust funds into BLSGC's payroll
8 account, ending in 8371, instead of BA1. Respondents subsequently transferred the \$9,633.00
9 to BA1 on July 28, 2017. Respondents also failed to return to the owner the \$300 reserve after
10 the cancellation of the property management agreement.

11 **d. Place of Business: Contact Information (Code section 10162).** Respondents
12 failed to inform the Department of its change of its main office address from 112 E. Chapman
13 Avenue, Ste A4, Orange, CA 92866 in a timely manner. Respondents conducted real estate
14 activity at 250 El Camino Real, Ste 104, Tustin, CA 92780 without first registering it as
15 Respondents' main office address.

16 **e. Use of Unlicensed Fictitious Name (Code section 10159.5 and Regulations**
17 **section 2731).** During the audit period, BLSGC used the unlicensed fictitious business name of
18 "Better Living Socal" on property management agreements and lease agreements. This name
19 does not show up in the Department's records as a licensed fictitious business name.

20 **f. Responsibility of Corporate Office in Charge/Broker Supervision (Code**
21 **sections 10159.2 and 10177(h) and Regulations section 2725).** Based on the violations in
22 Paragraphs 9 a - e above, LAULE failed to exercise adequate supervision and control over
23 BLSGC's property management activities conducted by BLSGC's licensees and its employees
24 in violation of Code sections 10159.2 and 10177(h). LAULE failed to establish policies, rules,
25 procedures, and systems to review, oversee, inspect, and manage transactions requiring a real
26 estate license and the handling of trust funds in violation of Regulations section 2725.

27 ///

10.

Additional Violations of the Real Estate Law

The overall conduct of Respondents are violative of the Real Estate Law and constitutes cause for the suspension or revocation of its/his real estate license and license rights under the provisions of **Code Section 10177(g)** for negligence and **Code Section 10177(d)** for willful disregard of the Real Estate Law.

11.

Each of the foregoing violations in Paragraphs 9 a – f above constitute cause for the suspension or revocation of the real estate license and/or license rights of Respondents under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to LAULE).

COSTS

(AUDIT COSTS)

12.

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

(INVESTIGATION AND ENFORCEMENT COSTS)

13.

Section 10106 of the Code, provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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 investigation and enforcement of the case.

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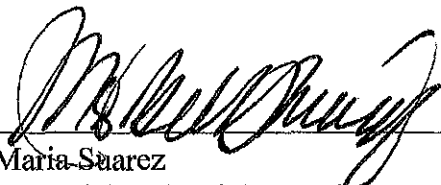
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ACCUSATION

PRAYER

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 the licenses and/or license rights of Respondents BETTER LIVING SOCAL GROUP CORPORATION and KELLY NICOLE LAULE under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California this 7th day of November, 2019.



Maria Suarez
Supervising Special Investigator

cc: BETTER LIVING SOCAL GROUP CORPORATION
KELLY NICOLE LAULE
Maria Suarez
Sacto.
Audits – David Quek