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FILED

MAY 18 2020

DEPT. OF REAL ESTATE

By 

8
9 **BEFORE THE DEPARTMENT OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 * * *

12
13 In the Matter of the Accusation against) No. H-41672 LA
14 MULHEARN REALTORS INC,) **ACCUSATION**
15)
16 Respondent.)
17)

18 The Complainant, Chika Sunquist, a Supervising Special Investigator of the
19 State of California, for cause of Accusation against MULHEARN REALTORS INC

20 ("Respondent") is informed and alleges as follows:

21 1.

22 The Complainant, Chika Sunquist, a Supervising Special Investigator of the
23 State of California, makes this Accusation against Respondent in her official capacity.
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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.

CALIFORNIA DEPARTMENT OF REAL ESTATE ("DRE") LICENSE HISTORY

3.

A. MULHEARN REALTORS INC ("MRI") is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code") as a REB (corporation), DRE license ID 00338699. MRI was originally licensed as a REB on or about September 26, 1968. MRI was f.k.a. Mulhearn Realtors and Mulhearn Realty Register.

B. According to the DRE's public records to date, MRI's main and mailing address of record are the same: 18000 Studebaker Rd., Ste. 600, Cerritos, CA ("Cerritos address").

C. According to the DRE's public records to date, MRI presently has six (6) DBAs under its REB license: Achiever's Real Estate School (active as of October 4, 2004); Berkshire Hathaway HomeServices California Properties (active as of February 24, 2014); Gallery Home Loans (active as of December 14, 2001); Mother & Son Real Estate (active as of November 18, 2016); Mulhearn Gallery Of Homes (active as of December 30, 1985); and Prudential California Realty (active as of June 4, 2002).

1 D. According to the DRE's public records to date, MRI presently has under its
2 REB license: nineteen (19) branch offices; sixty-three (63) REB Associates; and 1,236 real
3 estate salespersons ("RES").

4 E. According to the DRE's public records to date, MRI's designated officer of
5 record ("D.O.") is REB Dennis Allen Rosas, DRE license ID 00602101, until his D.O.
6 affiliation expiration date of September 25, 2020; the D.O. for MRI prior to Rosas was REB
7 Bruce Mulhearn ("Mulhearn"), DRE license ID 00270292, until Mulhearn's D.O. affiliation
8 was cancelled as of November 26, 2018. (According to the DRE's records, Mulhearn died on
9 December 26, 2018.)

10 F. According to the DRE's public records, MRI's DRE license will expire on
11 September 25, 2020.

12 4.

13 According to DRE records to date, MRI's license history includes the
14 following actions:

15 A. DRE Case H-24244 LA: On or about August 31, 1990, in DRE Case No.
16 H-24244 LA, a Desist and Refrain Order was issued against MRI.

17 B. DRE Case H-24243 LA: On or about August 6, 1991, in DRE Case No. H-
18 24243 LA, both MRI and Mulhearn's DRE licenses were suspended for thirty (30) days,
19 stayed.

20 C. DRE Case H-28384 LA: On or about October 4, 2000, in DRE Case No. H-
21 28384 LA, both MRI and Mulhearn's DRE licenses were suspended for forty-five (45) days,
22 stayed for one (1) year, provided both satisfied the conditions stated in the Commissioner's
23

1 Order. MRI and Mulhearn suffered stayed suspensions in DRE Case No. H-28384 LA for
2 their violations of: Code Sections 10145(a) and 10176(e) and Regulation 2835; Code Section
3 10145(a) and Regulation 2832.1; Regulation 2831; Regulation 2831.2; Regulation 2834; and
4 Code Sections 10177(d) and (g).

5 5.

6 Keswick Financial Group Inc

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8 A. Keswick Financial Group Inc (“KFGI”) is not, and has never been, licensed
9 by the DRE in any capacity.

10 B. According to the public records of the California Department of Business
11 Oversight (“DBO”), KFGI was issued a Finance Lender License by the DBO on or about
12 April 6, 2006, and its address of record is the same Cerritos address that is MRI’s DRE main
13 and mailing address of record.

14
15 C. According to the California Secretary of State (“SOS”), KFGI is an active
16 domestic stock corporation, SOS file ID C2614593, that was registered on or about June 2,
17 2004 with the same address of record that is MRI’s DRE main and mailing address of record
18 (the Cerritos address). According to KFGI’s Statement of Information filed by Mulhearn as
19 President on May 18, 2017, Mulhearn was KFGI’s Chief Executive Officer, Director and
20 Agent for Service of Process. According to the Statement of Information filed by Chief
21 Financial Officer Doris medina on May 11, 2018, there were no changes to the information
22 contained in the previously filed Statement of Information of May 18, 2017.

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1 NATIONWIDE MULTISTATE LICENSING SYSTEM (“NMLS”) HISTORY

2 6.

3 A. MRI: MRI does not hold a Nationwide Multistate Licensing System
4 (“NMLS”) Mortgage Loan Originator (“MLO”) license endorsement.

5 B. Mulhearn: Mulhearn did not hold a NMLS MLO license endorsement.

6 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

7 7.

8 Notice of Loan Activity - Code Section 10166.02

9 Pursuant to Code Section 1016.02 *Notice of Loan Activity*:

10 “(a) A real estate broker who acts pursuant to Section 10131.1 or subdivision
11 (d) or (e) of Section 10131 , and who makes, arranges, or services loans secured by real
12 property containing one to four residential units, and any salesperson who acts in a similar
13 capacity under the supervision of that broker, shall notify the department by January 31,
14 2010, or within 30 days of commencing that activity, whichever is later. The notification
15 shall be made in writing, as directed, on a form that is acceptable to the commissioner.

16 (b) No individual may engage in business as a mortgage loan originator
17 under this article without first doing both of the following:

18 (1) Obtaining and maintaining a real estate license pursuant to
19 Article 2 (commencing with Section 10150).

20 (2) Obtaining and maintaining a real estate license
21 endorsement pursuant to this article identifying that individual
22 as a licensed mortgage loan originator.

23 (c) License endorsements shall be valid for a period of one year and shall
24 expire on the 31st of December each year.
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1 (d) Applicants for a mortgage loan originator license endorsement shall
2 apply in a form prescribed by the commissioner. Each form shall contain content as set
3 forth by rule, regulation, instruction, or procedure of the commissioner.

4 (e) In order to fulfill the purposes of this article, the commissioner may
5 establish relationships or contracts with the Nationwide Mortgage Licensing System and
6 Registry or other entities designated by the Nationwide Mortgage Licensing System and
7 Registry to collect and maintain records and process transaction fees or other fees related
8 to licensees or other persons subject to this article.

9 (f) A real estate broker or salesperson who fails to notify the department
10 pursuant to subdivision (a), or who fails to obtain a license endorsement required pursuant
11 to paragraph (2) of subdivision (b), shall be assessed a penalty of fifty dollars (\$50) per
12 day for each day written notification has not been received or a license endorsement has
13 not been obtained, up to and including the 30th day after the first day of the assessment
14 penalty. On and after the 31st day, the penalty is one hundred dollars (\$100) per day, not
15 to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of
16 days, until the department receives the written notification or the licensee obtains the
17 license endorsement. Penalties for violations of subdivisions (a) and (b) shall be
18 additive.

19 (g) The commissioner may suspend or revoke the license of a real estate
20 broker or salesperson who fails to pay a penalty imposed pursuant to this section. In
21 addition, the commissioner may bring an action in an appropriate court of this state to
22 collect payment of that penalty.

23 (h) All penalties paid or collected under this section shall be deposited into
24 the Consumer Recovery Account of the Real Estate Fund and shall, upon appropriation by
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1 the Legislature, be available for expenditure for the purposes specified in Chapter 6.5
2 (commencing with Section 10470).”

3 8.

4 **Grounds for Revocation or Suspension – Code Section 10176 (selected portions)**

5 Pursuant to Code Section 10176 *Grounds for Revocation or Suspension:*

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

12 (a) Making any substantial misrepresentation...”

13 9.

14 **Further Grounds for Disciplinary Action – Code Section 10177 (selected portions)**

15 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action:*

16 “The commissioner may suspend or revoke the license of a real estate licensee, delay the
17 renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant,
18 who has done any of the following, or may suspend or revoke the license of a corporation,
19 delay the renewal of a license of a corporation, or deny the issuance of a license to a
20 corporation, if an officer, director, or person owning or controlling 10 percent or more of the
21 corporation’s stock has done any of the following:

22 ...

23 (g) Demonstrated negligence or incompetence in performing an act for which
24 the officer, director, or person is required to hold a license....”

FACTS DISCOVERED BY THE DEPARTMENT

10.

According to correspondence received by the DRE from Mulhearn dated May 29, 2018, KFGI was jointly owned by Mulhearn and Tomazina Mulhearn.

11.

According to the loan transaction file provided to the DRE by MRI for Borrower Richardo G. ("Borrower G.") on or about July 12, 2017, MRI presented to Borrower G. a Mortgage Loan Disclosure Statement/Good Faith Estimate ("GFE") bearing the same date that listed, "The name of the intended lender to whom your loan application will be delivered is: Keswick Financial Group, Inc. (Name of lender, if known)." Also on or about July 12, 2017, MRI also provided to Borrower G. a Servicing Disclosure Statement bearing the same date that listed MRI as the Originator.

12.

On July 17, 2017, MRI presented to Borrower G. a Uniform Residential Loan Application (Fannie Mae Form 1003 7/05 (rev. 6/09)) ("Loan Application") for his signature. The Loan Application was for a conventional loan in the amount \$248,000 at a fixed interest rate of 10.00%. The Loan Application indicated that the subject property would be Borrower G.'s primary residence and that MRI, located at the Cerritos address, was the loan origination company.

13.

In a package received by the DRE on or about June 8, 2018 from Mulhearn and MRI that included a cover letter and five (5) of MRI's most recent loan transactions,

1 Mulhearn indicated, "I was surprised to learn that the Mulhearn Realtors, Inc. entity was
2 inadvertently indicated as originator of this and possibly a few other files, instead of my
3 affiliate firm, Keswick Financial Group, Inc.; I am sole owner of both firms. Keswick
4 Financial Group, Inc. has been originating loans and funding construction loans for several
5 years, and has a California Financial Lenders License (CFLL) in good standing..."

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7 14.

8 Included amongst the five (5) loan transaction files submitted to the DRE by
9 MRI and Mulhearn was a GFE dated May 3, 2018 that MRI presented to Borrower Reda B.
10 ("Borrower B.") that listed, "The name of the intended lender to whom your loan application
11 will be delivered is: Keswick Financial Group, Inc. (Name of lender, if known)."

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13 15.

14 Also on or about May 3, 2018, presented to Borrower B. a Uniform
15 Residential Loan Application (Fannie Mae Form 1003 7/05 (rev. 6/09)) ("Loan Application")
16 for her signature. The Loan Application was for a conventional loan in the amount of
17 \$32,119 at a fixed interest rate of 10.00%. The Loan Application indicated that the subject
18 property would be Borrower B.'s primary residence and that MRI, located at the Cerritos
19 address, was the loan origination company.

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1 **VIOLATIONS OF THE REAL ESTATE LAW - CAUSES FOR DISCIPLINE**

2 16.

3 **First Cause of Action:**

4 **Unlicensed Activity (Code Section 10166.02)**

5 The facts alleged in Paragraphs 10 through 15, above, constitute cause for
6 discipline of the licenses and license rights of Respondent **MULHEARN REALTORS INC.**
7 pursuant to **Code Section 10166.02 (unlicensed MLO activity)**.
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9 17.

10 **Second Cause of Action:**

11 **Substantial Misrepresentation (Code Section 10176(a))**

12 The facts alleged in Paragraphs 10 through 15, above, constitute cause for
13 discipline of the licenses and license rights of Respondent **MULHEARN REALTORS INC.**
14 pursuant to **Code Section 10176(a) (substantial misrepresentation)**.
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16 18.

17 **Third Cause of Action: Negligence (Code Section 10177(g))**

18 The facts alleged in Paragraphs 10 through 15, above, constitute cause for
19 discipline of the licenses and license rights of Respondent **MULHEARN REALTORS INC.**
20 pursuant to **Code Section 10177(g) (negligence)**.
21

22 **COSTS**

23 19.

24 **Code Section 10106** provides, in pertinent part, that in any order issued in
25 resolution of a disciplinary proceeding before the Department, the Commissioner may request
26

1 the administrative law judge to direct a licensee found to have committed a violation of this
2 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
3 case.

4 WHEREFORE, Complainant prays that a hearing be conducted on the
5 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
6 disciplinary action against all the licenses and license rights of Respondent MULHEARN
7 REALTORS INC under the Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code), and for such other and further relief as may be proper under other
9 applicable provisions of law.
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11 Dated at Sacramento, California

12 this 4^m day of May, 2020.
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16 Chika Sunquist
17 Supervising Special Investigator
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23 cc: MULHEARN REALTORS INC
24 Chika Sunquist
25 Sacto.
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