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DEPT. OF REAL ESTATE

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LISSETE GARCIA, Counsel (SBN 211552)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Direct: (213) 576-6914
Fax: (213) 576-6917
Staff Counsel for Complainant

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation against

DRE No. H-41696 LA

TAKEUCHI CORPORATION, doing business as
Global Asset Consultants, and
MAMORU TAKEUCHI,

ACCUSATION

Respondents.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate¹ ("Department") of the State of California, for cause of Accusation against TAKEUCHI CORPORATION, doing business as Global Asset Consultants, and MAMORU TAKEUCHI (collectively "Respondents"), is informed and alleges as follows:

1. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department, makes this Accusation in her official capacity.

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.

2. All references to the “Code” are to the California Business and Professions Code, all references to the “Real Estate Law” are to Part 1 of Division 4 of the Code, and all references to “Regulations” are to California Code of Regulations, Title 10, Chapter 6.

Statement of Facts

3. Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

4. From May 26, 2017 through the present, Respondent TAKEUCHI CORPORATION has been licensed by the Department as a real estate corporation, License ID 01527282. Respondent's license is scheduled to expire on May 25, 2021. Respondent has renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103. Respondent TAKEUCHI CORPORATION is licensed to do business as Global Asset Consultants.

5. From or about August 29, 1995, through the present, Respondent MAMORU TAKEUCHI has been licensed by the Department as a real estate salesperson, License ID 01200861. Respondent MAMORU TAKEUCHI owns and controls TAKEUCHI CORPORATION. Respondent TAKEUCHI CORPORATION is the responsible broker for salesperson MAMORU TAKEUCHI.

Prior Disciplinary Action by Financial Industry Regulatory Authority ("FINRA")

6. Respondent MAMORU TAKEUCHI first became associated with a FINRA regulated broker-dealer in 1987. Respondent MAMORU TAKEUCHI obtained his Series 6, 26, and 65 registrations in 1987, 1996, and 1999, respectively. From on or about January 21, 2003 until his termination on March 30, 2009, Respondent MAMORU TAKEUCHI was registered with SCF Securities, Inc. ("SCF" or "the Firm") where he worked as a mutual fund and variable contract salesman.

1 7. Between January and May 2003, while registered as a mutual fund and variable
2 contract salesman with the Firm, Respondent MAMORU TAKEUCHI participated in private
3 securities transactions by selling Mutual Benefits Corporation viaticals² to outside investors
4 without giving notice or receiving approval from the Firm before participating in those private
5 securities transactions outside the regular course or scope of his employment with the Firm.
6 Additionally, over an approximate six-year period, MAMORU TAKEUCHI repeatedly
7 misrepresented and omitted material information to the Firm concerning his sales of viaticals.
8 By virtue of his conduct, MAMORU TAKEUCHI violated National Association of Securities
9 Dealer ("NASD") Rules 3040, 2110, and FINRA Rule 2010.

10 8. FINRA filed a disciplinary proceeding against Respondent MAMORU
11 TAKEUCHI in FINRA matter number 2009017628301. On or about December 14, 2010,
12 FINRA and Respondent MAMORU TAKEUCHI executed a Letter of Acceptance, Waiver, and
13 Consent ("AWC") to settle the FINRA disciplinary charges filed against MAMORU
14 TAKEUCHI. Pursuant to the AWC, Respondent MAMORU TAKEUCHI consented to a one-
15 year suspension from association in any capacity with any FINRA member and a fine of
16 \$10,000. Respondent MAMORU TAKEUCHI also consented to certain findings by FINRA.
17 Respondent MAMORU TAKEUCHI accepted and consented to the AWC, without admitting or
18 denying the findings, and solely for the purpose of the FINRA proceeding and any other
19 proceeding brought by or on behalf of FINRA, or to which FINRA is a party.

20 9. In the AWC, Respondent MAMORU TAKEUCHI accepted that the AWC will
21 become part of his permanent disciplinary record and may be considered in any future actions
22 brought by FINRA or any other regulator against MAMORU TAKEUCHI. Additionally,
23 Respondent MAMORU TAKEUCHI accepted that he may not take any action or make or
24

² The sale of a policy owner's existing life insurance policy to a third party.

1 permit to be made any public statement, including in regulatory filings or otherwise, denying,
2 directly or indirectly, any finding in the AWC or create the impression that the AWC is without
3 factual basis.

4 Prior Disciplinary Actions by the Department of Insurance ("DOI")

5 10. On January 3, 1995, the DOI for the State of California issued a license to
6 Respondent MAMORU TAKEUCHI.

7 11. On or about March 11, 2016, the DOI received a business entity application
8 submitted on behalf of TAKEUCHI CORPORATION for a license to transact insurance as an
9 Accident and Health Agent and Life-Only Agent in California.

10 12. On or about August 25, 2016, the DOI brought an Accusation in DOI case
11 number PLBS 10339-AP, against Respondent MAMORU TAKEUCHI. The Accusation alleged
12 cause for discipline of MAMORU TAKEUCHI's insurance license for failure to notify the DOI
13 of the FINRA disciplinary action filed against Respondent MAMORU TAKEUCHI and the
14 underlying FINRA misconduct charges against Respondent MAMORU TAKEUCHI.

15 13. On or about August 25, 2016, the DOI also filed a Statement of Issues in DOI
16 case number PLBS 10340-AP, against TAKEUCHI CORPORATION to deny its application
17 based on the FINRA disciplinary action taken against MAMORU TAKEUCHI, a sole
18 stockholder and controlling person of TAKEUCHI CORPORATION.

19 14. Respondents filed a Notice of Defense to the DOI's disciplinary actions and
20 requested hearings under the Administrative Procedures Act.

21 15. The DOI disciplinary matters against Respondents were consolidated for an
22 administrative hearing, which was held on February 7, 2017 before the Office of Administrative
23 Hearings. Respondents were notified of the hearing date. Respondents failed to appear at the
24 hearing. The hearing for the matters proceeded by default.

16. On May 25, 2017, the Commissioner of the DOI issued a decision with an effective date of June 25, 2017, which adopted the proposed decision issued by the Administrative Law Judge.

17. On June 25, 2017, all DOI licensing and licensing rights of Respondent MAMORU TAKEUCHI were revoked.

18. On June 25, 2017, Respondent TAKEUCHI CORPORATION's DOI application for a business entity license to transact insurance as an accident and health and life-only agent was denied.

19. Respondents petition for reconsideration of the DOI's decision was denied on July 17, 2017.

20. On July 24, 2018, Respondent TAKEUCHI CORPORATION filed an application to act as a life-only agent and accident and health agent with the DOI. On May 8, 2019, the DOI issued an Order of Summary Denial and for Issuance of a Restricted License, whereby a restricted insurance license was issued to Respondent TAKEUCHI CORPORATION subject to certain conditions and restrictions.

CAUSES OF ACCUSATION

First Cause of Accusation – 10177(a)

21. There is hereby incorporated in this First, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 20, with the same force and effect as if herein fully set forth.

22. Code section 10177, subdivision (a) provides: “The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a

1 license of a corporation, or deny the issuance of a license to a corporation, if an officer,
2 director, or person owning or controlling 10 percent or more of the corporation's stock has
3 done any of the following:

4 (a) Procured, or attempted to procure, a real estate license or license renewal, for
5 himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by making a
6 material misstatement of fact in an application for a real estate license, license renewal, or
7 reinstatement."

8 23. On August 18, 2019, Respondent MAMORU TAKEUCHI submitted a real estate
9 salesperson license renewal application to the Department. In response to Question 15 of
10 Respondent's real estate salesperson renewal application, to wit, "WITHIN THE SIX-YEAR
11 PERIOD PRIOR TO FILING THIS APPLICATION, HAVE YOU EVER HAD A DENIED,
12 SUSPENDED, RESTRICTED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE
13 (INCLUDING REAL ESTATE) IN CALIFORNIA OR ANY OTHER STATE?," Respondent
14 answered "No" and failed to disclose the revocation of his DOI insurance license alleged above
15 in Paragraphs 10 through 20.

16 24. Respondent MAMORU TAKEUCHI's failure to disclose the revocation of a
17 professional license described above in Paragraph 17 above, in Respondent's real estate
18 salesperson renewal application constitutes the procurement of a real estate license by
19 misrepresentation, fraud or deceit, or by making a material misstatement of fact in said
20 application which is cause for the suspension or revocation of Respondent's real estate license
21 pursuant to Code section 10177, subdivision (a).

Second Cause of Accusation - 10177(f)

25. There is hereby incorporated in this Second, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 24, with the same force and effect as if herein fully set forth.

26. Code section 10177, subdivision (f), provides that the Real Estate Commissioner may suspend or revoke the license of a real estate licensee if a licensee has acted or conducted himself in a manner that would have warranted the denial of his application for a license, or either had a license denied or had a license issued by another agency of this state revoked or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act, and only upon an express finding of a violation of law by the agency or entity.

27. The DOI disciplinary actions against Respondents, as described above in Paragraphs 10 through 20, if done by a real estate licensee, would be grounds for the suspension or revocation of a real estate license pursuant to Code sections 10177, subdivision (a) and/or 10177(j).

28. The revocation of Respondent MAMORU TAKEUCHI's DOI insurance license constitutes cause for the suspension or revocation of Respondent MAMORU TAKEUCHI's real estate license and license rights pursuant to Code section 10177, subdivision (f).

29. The denial of Respondent TAKEUCHI CORPORATION's application for a DOI license constitutes cause for the suspension or revocation of Respondent TAKEUCHI

1 CORPORATION's real estate license and license rights pursuant to Code section 10177,
2 subdivision (f).

3 Third Cause of Accusation - 10186.2

4 30. There is hereby incorporated in this Second, separate and distinct Cause of
5 Accusation, all of the allegations contained in Paragraphs 1 through 29, with the same force and
6 effect as if herein fully set forth.

7 31. Code section 10186.2, subdivision (a)(1)(C), requires that licensees report any
8 disciplinary action taken by another licensing entity or authority of this state or another state or
9 an agency of the federal government. Code section 10186.2, subdivision(a)(2), requires that
10 licensees make a report in writing to the Department within 30 days of the disciplinary action.
11 Failure to make a report constitutes cause for discipline under Code section 10186.2,
12 subdivision (b).

13 32. A diligent search was made of the Department's records for Respondent
14 MAMORU TAKEUCHI and no record or timely, written notice was found to have been
15 received from Respondent notifying the Department of the revocation of MAMORU
16 TAKEUCHI's DOI insurance license on June 25, 2017, as described above in Paragraph 17.
17 Respondent MAMORU TAKEUCHI submitted a real estate broker application to the
18 Department on February 19, 2019. Said application was Respondent MAMORU TAKEUCHI's
19 initial notice of the DOI disciplinary action to the Department. Respondent MAMORU
20 TAKEUCHI failed to provide to the Department, timely written notice within 30 days of the
21 revocation of MAMORU TAKEUCHI's DOI insurance license on June 25, 2017, in violation of
22 Code section 10186.2.

23 33. Respondent MAMORU TAKEUCHI's failure to provide timely written notice to
24 the Department, pursuant to Code section 10186.2, constitutes cause for the suspension or

1 revocation of Respondent's real estate salesperson license and license rights under Code section
2 10186.2, subdivision (b), and Code section 10177, subdivisions (d) and/or (g).

3 34. Respondent TAKEUCHI CORPORATION failed to provide to the Department,
4 written notice within 30 days of the denial of its application for a DOI insurance license on June
5 25, 2017, in violation of Code section 10186.2. On or about July 19, 2019, the Department
6 received a notice submitted on behalf of Respondent TAKEUCHI CORPORATION which
7 advised the Department that the corporation's insurance license had been changed to a restricted
8 license.

9 35. Respondent TAKEUCHI CORPORATION's failure to provide timely written
10 notice to the Department, pursuant to Code section 10186.2, constitutes cause for the suspension
11 or revocation of Respondent's real estate salesperson license and license rights under Code
12 section 10186.2, subdivision (b), and Code section 10177, subdivisions (d) and/or (g).

13 COST RECOVERY

14 36. Code Section 10106 provides, in pertinent part, that in any order issued in resolution
15 of a disciplinary proceeding before the Department, the Commissioner may request the
16 Administrative Law Judge to direct a licensee found to have committed a violation of this part
17 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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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 license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at San Diego, California this 9 day of June, 2020.

V. Kilpatrick
VERONICA KILPATRICK
Supervising Special Investigator

cc: Takeuchi Corporation
Hisao Nakajima
Mamoru Takeuchi
Veronica Kilpatrick
Sacto.