

FILED

MAY 14 2021

DEPT. OF REAL ESTATE

By

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9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of ) No. H-41933 LA  
13 AZTEC EMPIRE INCORPORATED, )  
14 and EFREN DE ANDA, individually ) ACCUSATION  
15 and as designated officer of Aztec )  
16 Empire Incorporated, )  
17 Respondents. )

18 The Complainant, Maria Suarez, a Supervising Special Investigator for the  
19 Department of Real Estate ("Department" or "DRE") of the State of California, for cause of  
20 Accusation against AZTEC EMPIRE INCORPORATED ("AEI") and EFREN DE ANDA ("DE  
21 ANDA") (collectively "Respondents"), alleges as follows:

22 1. The Complainant, Maria Suarez, acting in her official capacity as a Supervising  
23 Special Investigator, makes this Accusation against Respondents.

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

26 LICENSE HISTORY

27 3. Respondent AEI has been licensed by the Department as a real estate corporation,  
28 License ID 01230134, from on or about October 21, 2001, through the present, with AEI's license  
scheduled to expire on November 20, 2021 unless renewed. AEI is licensed through DE ANDA's  
real estate broker ("REB") license, ID 01216059, and DE ANDA is the designated officer ("D.O.").

1 According to Department records as of March 18, 2020, AEI employs nine (9) salespersons and  
2 one (1) broker associate, and AEI does not maintain any fictitious business name or branch offices.  
3 AEI has a mortgage loan originator ("MLO") license endorsement, National Mortgage Licensing  
4 System ("NMLS") ID 248150.

5 4. Respondent DE ANDA has been licensed by the Department as a REB from on or  
6 about December 27, 1996, through the present, with DE ANDA's license scheduled to expire on  
7 December 26, 2024, unless renewed. DE ANDA also has a MLO license endorsement, NMLS ID  
8 361387. According to Department records to date, the fictitious business names "Aztec Empire"  
9 and "Victorian Realty" are licensed to DE ANDA, and have been active as of December 27, 1996,  
10 and December 27, 2000, respectively.

11 **BROKERAGE: AEI**

12 5. At all times mentioned, in the Los Angeles County, AEI acted as a real estate  
13 broker, conducting licensed activities within the meaning of Code Section 10131(a): selling or  
14 offering to sell, buying or offering to buy, real property for others. In addition, AEI conducted  
15 broker-controlled escrows under the exemption set forth in California Financial Code section  
16 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where  
17 the broker is a party and where the broker is performing acts for which a real estate license is  
18 required. At all times mentioned, AEI was acting by and through DE ANDA as its D.O. pursuant  
19 to Code section 10159.2 who was responsible for ensuring compliance with the Real Estate Law.

20 **AUDIT OF AEI: AUDIT NO. LA190068**

21 6. On April 15, 2020, the Department completed an audit examination of the books and  
22 records of AEI's real estate activities that require a corporate real estate broker license under Code  
23 Section 10131. The audit examination, LA190068, covered the dates July 1, 2018, to October 31,  
24 2019 ("audit period") and was limited to AEI's broker escrow activities.

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7. Based on discussions between the Department's auditor and DE ANDA, AEI's corporate structure as of December 6, 2019 was as follows:

<u>Name</u>	<u>Title</u>	<u>License Status</u>	<u>Shareholder %</u>
DE ANDA	CEO	D.O./Broker	33.4%
Octavio de Anda	President	Broker	33.3%
Luis de Anda	VP	Salesperson	33.3%

8. According to DE ANDA and the records examined, AEI closed approximately seventy-three (73) escrow transactions from November 1, 2018 to October 31, 2019 and collected escrow funds amounting to approximately \$8,300,793.00 for the recent twelve-month period ended October 31, 2019.

**Audit Violations in Audit No. LA190068**

9. Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 8 above, with the same force and effect as though fully set forth herein.

10. The audit examination in Audit No. LA190068 revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit No. LA190068 and the exhibits and work papers attached to the audit report:

**Issue One (1). Code Section 10141.6: Notification of Escrow Activities**

11. Code section 10141.6 provides in pertinent part:

“(a) A real estate broker who engages in escrow activities for five or more transactions in a calendar year pursuant to the exemption from the Escrow Law contained in Section 17006 of the Financial Code, or whose escrow activities pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in a calendar year, shall file with the department a report, within 60 days following the completion of the calendar year, documenting the number of escrows conducted and the dollar volume escrowed during the calendar year in which the threshold was met. This report shall be made on a form acceptable to the commissioner.

“(c) A real estate broker who fails to submit the report required pursuant to subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each day the report has not been received by the department, up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day, the penalty shall be one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of days, until the department receives the report.”

12. Based on examination of escrow transaction files and escrow log provided, AEI closed at least thirty two (32) escrows with an aggregate total of approximately \$12,370,020.00

1 from January 1, 2018 to December 31, 2018. The Department's auditor has identified at least five  
2 (5) escrow transactions escrows, with an aggregate total of approximately \$2,411,000.00 that AEI  
3 closed between September 25, 2018 and December 5, 2018. Because AEI's escrow activities  
4 exceeded \$1 million in calendar 2018, thus triggering the requirement under Code section 10141.6  
5 that DPI file a report with the Department within 60 days following the completion of calendar year  
6 2018, documenting the number of escrows conducted and the dollar volume escrowed during the  
7 calendar year. However, AEI did not submit an escrow activity report on DRE form RE 890 within  
8 60 days after the end of the calendar year 2018, in violation of **Code section 10141.6**.

9 13. AEI's acts and/or omissions in violation of **Code section 10141.6** constitute cause  
10 for the suspension or revocation of AEI's real estate license and license rights under the provisions  
11 of **Code sections 10177(d) and/or 10177(g)**.

12 14. In addition, AEI's acts and/or omissions in violation of **Code section 10141.6** in  
13 failing to file a report for calendar year 2018, as alleged in paragraph 12 above, constitute cause for  
14 assessment of penalties against AEI as provided under **Code section 10141.6(c)**.

15 **Issue Two (2). Code Sections 10130 and 10159.5 and Regulation 2731: Fictitious Name/Use of**  
16 **False or Fictitious Business Name/License Required**

17 21. AEI used the unlicensed fictitious business name, "Executive Escrow Group Inc" to  
18 conduct its broker escrow activity during the audit period—and continuing as of April 15, 2020—  
19 without first obtaining a license from the DRE in violation of **Code sections 10130 and 10159.5**  
20 **and Regulation 2731**.

21 22. AEI's acts and/or omissions in violation of **Code sections 10130 and 10159.5 and**  
22 **Regulation 2731** constitute cause for the suspension or revocation of AEI's real estate license and  
23 license rights under the provisions of **Code sections 10177(d) and/or 10177(g)**.

24 **Issue Three (3). Code Section 10086(a) and Financial Code Section 17006(a)(4): Engaging in**  
25 **Prohibited Activity / Third Party Escrow**

26 21. Based on the DRE's auditor's examination of closed escrow transaction files, AEI  
27 performed broker escrows for at least four (4) real estate sales transactions, between October 22,  
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1 2018 and December 5, 2018, without being a party to the transaction, in violation of **Code Section**  
2 **10086(a) and Financial Code Section 17006(a)(4).**

3 22. AEI's acts and/or omissions in violation of AEI's acts and/or omissions in violation  
4 of **Code sections 10130 and 10159.5 and Regulation 2731** constitute cause for the suspension or  
5 revocation of AEI's real estate license and license rights under the provisions of **Code sections**  
6 **10177(d) and/or 10177(g).**

7 **Issue Four (4). Code Section 10159.2 and Regulation 2725: Responsibility of Corporate**  
8 **Officer in Charge / Broker Supervision**

9 23. Complainant realleges and incorporates by reference all of the allegations contained  
10 in paragraphs 1 through 22 above, with the same force and effect as though fully set forth herein.

11 24. Based on the above findings in Issues One (1) through Three (3) above, as the  
12 broker and designated officer of AEI, DE ANDA did not exercise adequate supervision and control  
13 over the real estate activities conducted on behalf of AEI and by its employees and licensees to  
14 ensure compliance with the Real Estate Laws and Regulations. DE ANDA failed to establish  
15 policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions  
16 requiring a real estate license and the handling of trust funds by AEI's licensees and employees.

17 25. DE ANDA's acts and/or omissions were in violation of **Code Section 10159.2 and**  
18 **Regulation 2725** and constitute cause for the suspension or revocation of DE ANDA's real estate  
19 license and license rights under the provisions of **Code sections 10177(h) and 10177(d) and/or**  
20 **10177(g).**

21 **INVESTIGATION AND ENFORCEMENT COSTS**

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

26 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
27 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
28 against all the licenses and license rights of AZTEC EMPIRE INCORPORATED and EFREN DE

1 ANDA under the Real Estate Law, for the costs of investigation and enforcement, and audit as  
2 permitted by law, and for such other and further relief as may be proper under other applicable  
3 provisions of law, and for costs of audit.  
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5 Dated at Los Angeles, California this 12th day of May, 2021.  
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8 Maria Suarez  
9 Maria Suarez  
10 Supervising Special Investigator

11 cc: AZTEC EMPIRE INCORPORATED  
12 EFREN DE ANDA  
13 Maria Suarez  
14 Sacto.  
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