

FILED
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DEPT. OF REAL ESTATE
By ad [signature]

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8 *Attorney for Complainant*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation Against) No. H-41999 LA
13)
14 TEN ADVISORS INC., doing)
15 business as 1st Class Realty; and)
16 AMBROSIO ACOSTA, JR, individually and)
17 as Designated Officer of Ten Advisors Inc.,) ACCUSATION
18 Respondents.)
19)
20)
21)
22)
23)
24)
25)
26)
27)

28 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
29 State of California, for cause of Accusation against TEN ADVISORS INC., doing business as
30 1st Class Realty, and AMBROSIO ACOSTA, JR, individually and as Designated Officer of
31 Ten Advisors Inc. (sometimes referred to as "Respondents") alleges as follows:

32 1.

33 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
34 State of California, makes this Accusation in her official capacity.

35 2.

36 All references to the "Code" are to the California Business and Professions Code
37 and all references to "Regulations" are to Title 10, Chapter 6, of the California Code of
38 Regulations.

1 LICENSE HISTORY

2 (TEN ADVISORS INC.)

3 3.

4 a. Respondent TEN ADVISORS INC. ("TAI") is presently licensed and/or has
5 license rights under the Code as a corporate real estate broker, Department of Real Estate
6 ("Department") license ID 01956168.

7 b. The Department originally issued TAI a broker license on or about July 15,
8 2014. TAI's broker license is scheduled to expire on July 14, 2022, unless renewed.

9 c. According to Department records to date, TAI's main office address is 1450
10 Tustin Avenue, Suite 115, Santa Ana, California.

11 d. According to the Department's records to date, TAI maintains the fictitious
12 business names "1st Class Financial," "1st Class Realty," and "Ten Advisors" with the
13 Department.

14 e. TAI currently holds a Mortgage Loan Originator ("MLO") license
15 endorsement with the Department, National Mortgage Licensing System and Registry
16 ("NMLS") No. 1227255.

17 (AMBROSIO ACOSTA, JR)

18 4.

19 a. Respondent AMBROSIO ACOSTA, JR ("ACOSTA") is presently licensed
20 and/or has license rights under the Code as a real estate broker, Department license ID
21 01724517.

22 b. ACOSTA's individual broker license was originally issued on September 10,
23 2013, and is scheduled to expire on September 9, 2021, unless renewed.

24 c. ACOSTA currently holds an MLO license endorsement with the Department,
25 NMLS No. 977186, which authorizes ACOSTA to represent TAI.

26 d. ACOSTA is the designated officer for TAI. ACOSTA's designation is
27 scheduled to expire on July 14, 2022, unless renewed. As designated officer, ACOSTA is

1 responsible for the supervision of the activities conducted on behalf of TAI by its officers,
2 agents, real estate licensees, and employees pursuant to Section 10159.2 of the Code.

3 CAUSE FOR ACCUSATION

4 (AUDIT EXAMINATION – AUDIT NO. LA200040)

5 5.

6 At all times relevant herein Respondent TAI was engaged in the business of a
7 real estate broker within the meaning of Section 10131(b) of the Code. TAI's activities
8 included the leasing or renting of real property and the collection of rents and security deposits
9 for real property on behalf of others for compensation or in expectation of compensation.

10 6.

11 On or about December 30, 2020, the Department completed an audit
12 examination of the limited records pertaining to Respondent TAI's real estate activities
13 described in Paragraph 5 above. The audit examination covered the period of time from
14 January 1, 2018, through August 31, 2020 ("audit period"). The primary purpose of the
15 examination was to determine TAI's compliance with the Real Estate Law. The audit
16 examination revealed violations of the Code and the Regulations as set forth in the following
17 paragraphs, and more fully discussed in Audit No. LA200040 and the exhibits and work papers
18 attached to said audit report.

19 7.

20 The Department auditor spoke to Respondent ACOSTA on several occasions
21 regarding the audit examination, including on October 6, 2020, wherein the auditor conducted
22 an entrance interview. According to ACOSTA, all real estate activities conducted during the
23 audit period were performed under Respondent TAI. In addition to performing property
24 management for others in expectation of compensation during the audit period, TAI performed
25 residential sales representing both sellers and buyers and negotiated mortgage loans. The audit
26 examination was limited to TAI's property management activities only. According to
27 ACOSTA, TAI managed approximately one (1) residential property with three (3) units for one

1 property owner located at 11861 Aztec Lane, Adelanto, California (“Aztec Lane property”)
2 during the audit period. TAI received a management fee of \$160.00 or 8% of monthly collected
3 rents at this property. TAI did not maintain any trust account or bank account for its property
4 management activities.

5 8.

6 At all times mentioned herein, and in connection with the property management
7 activities described in Paragraph 5, above, Respondent accepted or received funds during the
8 audit period, including funds in trust (“trust funds”) from or on behalf of the owner of the
9 property managed by Respondent, and thereafter made deposits and/or disbursements of such
10 funds. Respondent did not maintain a bank account for handling receipts and disbursements of
11 the trust funds in connection with the property management activity during the audit period.

12 Violations

13 9.

14 The audit examination revealed violations of the Code and the Regulations, as
15 set forth in the following paragraphs, and more fully discussed in Audit No. LA200040 and the
16 exhibits and work papers attached to the audit report:

17 (a) **Retention of Records (Code section 10148)**. After several attempts by the
18 auditor to obtain TAI’s property management records, TAI provided limited records for
19 examination. As a result, on or about November 6, 2020, a Department Special Investigator
20 served a subpoena duces tecum on TAI to produce certain records by November 20, 2020. TAI
21 failed to timely make all the books, accounts, and records available for examination such as
22 deposit records, receipts, invoices, copies of checks or disbursements, related to TAI’s property
23 management activities during the audit period in violation of Code section 10148. TAI failed to
24 produce bank records, rental receipts, complete invoices, and records of all trust fund receipts
25 and disbursements.

26 (b) **Handling of Trust Funds (Code section 10145 and Regulation 2832)**.

27 Based on the Department auditor’s discussions with ACOSTA and ACOSTA’s written

1 statements dated October 19, 2020, TAI collected rents from tenants in "cash" or "money
2 order" on behalf of the property owner and the trust funds collected were not deposited or
3 handled through a trust account in the name of "Ten Advisors Inc.," or its fictitious names, as
4 trustee, in violation of Code section 10145 and Regulation section 2832. According to
5 ACOSTA, TAI did not maintain any trust account or bank account for its property management
6 activities during the audit period.

7
8 **(c) Handling of Trust Funds/Trust Fund Records to be Maintained (Code**
9 **section 10145 and Regulation 2831.** Based on an examination of "Rent Roll Report 2018" and
10 "Rent Roll Report 2019" (control records) provided for examination, the control records were
11 inaccurate and incomplete. The control records failed to reflect the date trust funds were
12 received and did not reflect the form of receipts, the disposition of funds and the date of
13 disposition of trust funds.

14 **(d) Responsibility of Corporate Office in Charge/Broker Supervision (Code**
15 **sections 10159.2, 10177(h).** Based on the violations in Paragraphs 9(a)-(c) above, Respondent
16 ACOSTA failed to exercise adequate supervision and control over Respondent TAI's property
17 management activities in violation of Code sections 10159.2 and 10177(h).

18 10.

19 Each of the foregoing violations in Paragraphs 9(a)-(d) above constitute cause
20 for the suspension or revocation of the real estate license and/or license rights of Respondents
21 under the provisions of Code sections 10177(d) and/or 10177(g).

22 **COSTS**

23 (AUDIT COSTS)

24 11.

25 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
26 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
27 has found in a final decision, following a disciplinary hearing, that the broker has violated

1 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
2 section.


3 (INVESTIGATION AND ENFORCEMENT COSTS)

4 12.

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

10 WHEREFORE, Complainant prays that a hearing be conducted on the
11 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
12 disciplinary action against all the licenses, license rights, and/or MLO license endorsements of
13 Respondents TEN ADVISORS INC., doing business as 1st Class Realty, and AMBROSIO
14 ACOSTA, JR, individually and as Designated Officer of Ten Advisors Inc., under the Real
15 Estate Law, for the costs of investigation, audit, and enforcement as permitted by law, and for
16 such other and further relief as may be proper under other applicable provisions of law.

17
18 Dated at San Diego, California this 22 day of June, 2021.

19
20
21 
22 Veronica Kilpatrick
23 Supervising Special Investigator

24 cc: TEN ADVISORS INC.
25 AMBROSIO ACOSTA, JR
26 Veronica Kilpatrick
27 Sacto.
Audits – Kelly Kuboniwa