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FILED

JAN 14 2022

DEPT. OF REAL ESTATE

By Emmanuel Gamboa

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-42031 LA
)	
MAXRES INC, doing business as)	<u>A C C U S A T I O N</u>
Century 21 Allstars and)	
Century 21 Allstars Escrow Division,)	
A Non-Independent Broker Escrow,)	
JOSEPH GARCIA VILLAESCUSA,)	
individually and as designated officer)	
of MAXRES Inc,)	
EMMANUEL GAMBOA, and)	
RYAN MICHAEL SMAGACZ,)	
)	
Respondents.)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against MAXRES INC, doing business as Century 21 Allstars and Century 21 Allstars Escrow Division, A Non-Independent Broker Escrow, JOSEPH GARCIA VILLAESCUSA, individually and as designated officer of MAXRES Inc, EMMANUEL GAMBOA and RYAN MICHAEL SMAGACZ, a.k.a. Ryan Smogz, ("Respondents"), is informed and alleges as follows:

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Accusation of MAXRES Inc, Joseph Garcia Villaescusa, Emmanuel Gamboa, and Ryan Michael Smagacz

1.

The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising Special Investigator of the State of California, makes this Accusation against Respondents MAXRES INC, JOSEPH GARCIA VILLAESCUSA, EMMANUEL GAMBOA and RYAN MICHAEL SMAGACZ.

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.

LICENSE HISTORY

3.

Respondent MAXRES INC presently has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a corporate real estate broker. MAXRES INC has the licensed fictitious business names Century 21 Allstars and Century 21 Allstars Escrow Division, A Non-Independent Broker Escrow. MAXRES INC'S real estate license number is 01280965.

4.

Respondent JOSEPH GARCIA VILLAESCUSA ("VILLAESCUSA") presently has license rights as a restricted real estate broker. VILLAESCUSA'S real estate license number is 00948172.

5.

Respondent MAXRES INC is licensed by the Department of Real Estate ("Department") as a corporate real estate broker by and through Respondent VILLAESCUSA, as the restricted designated officer and restricted broker responsible, pursuant to Code section 10159.2, for supervising the activities requiring a real estate license conducted on behalf of MAXRES INC, or by MAXRES INC'S officers, agents and employees, from May 19, 2000, to the present.

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1 6.

2 Respondent EMMANUEL GAMBOA ("GAMBOA") presently has license
3 rights as a real estate salesperson. GAMBOA is not now, and has never been, licensed by the
4 Department as a real estate broker. From January 26, 2018, to December 10, 2020, GAMBOA
5 was affiliated with responsible broker Respondent MAXRES INC. From December 11, 2020,
6 to March 3, 2021, GAMBOA was affiliated with responsible broker Excellence RE Real
7 Estate Inc. From March 4, 2021, to the present, GAMBOA is affiliated with responsible broker
8 Lucero & Associates, Inc. GAMBOA'S real estate license number is 02041836.

9 7.

10 Respondent RYAN MICHAEL SMAGACZ ("SMAGACZ") presently has
11 license rights as a real estate salesperson. The Department first licensed SMAGACZ on
12 April 8, 2021. SMAGACZ is not now, and has never been, licensed by the Department as a
13 real estate broker. From April 10, 2021, to the present, SMAGACZ is affiliated with
14 responsible broker Lucero & Associates, Inc. SMAGACZ'S real estate license number
15 is 02126879.

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1 PRIOR LICENSE DISCIPLINE

2 8.

3 On or about February 26, 1998, the Real Estate Commissioner in Case
4 No. H-26746 LA adopted as his Decision effective March 24, 1998, a Decision After Rejection
5 revoking Respondent VILLAESCUSA'S real estate broker license but granting
6 VILLAESCUSA the right to a restricted real estate broker license with a 90 day stayed
7 suspension on terms and conditions. VILLAESCUSA was represented by attorney
8 Michael A. Lanphere. Within the Decision After Rejection and Proposed Decision,
9 VILLAESCUSA as designated officer failed to supervise Century 21 Allstars Inc, allowed his
10 brother James Timothy Villaescusa to perform licensed real estate activity for Century 21
11 Allstars Inc when James Timothy Villaescusa was unlicensed, and allowed Century 21
12 Allstars Inc to compensate James Timothy Villaescusa for performing licensed real estate
13 activity when James Timothy Villaescusa was unlicensed, in violation of Code sections 10130,
14 10137, 10177(g), and 10177(h).

15 UNLICENSED ENTITY

16 9.

17 ER Property Solutions LLC is not now, and has never been, licensed by the
18 Department in any capacity. A limited liability company cannot be issued a real estate license.

19 10.

20 Respondents GAMBOA and SMAGACZ are owners of ER Property Solutions
21 LLC.

22 11.

23 On or about April 27, 2018, Articles of Organization were filed with the
24 Secretary of State for ER Property Solutions LLC. ER Property Solutions LLC's address was
25 listed as 6624 S Atlantic Ave, Bell, CA 90201. ER Property Solutions LLC's agent for service
26 of process was listed as Respondent GAMBOA.

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12.

On or about May 11, 2018, a Statement of Information was filed with the Secretary of State for ER Property Solutions LLC. ER Property Solutions LLC's address was listed as 6624 S Atlantic Ave, Bell, CA 90201. ER Property Solutions LLC's manager or member was listed as Respondent GAMBOA, and GAMBOA'S address was listed as 124 W Oakmont Drive, Montebello, CA 90640. ER Property Solutions LLC's additional manager or member was listed as Respondent SMAGACZ, and SMAGACZ'S address was listed as 16871 Sheldon Road, Los Gatos, CA 95030. ER Property Solutions LLC's agent for service of process was listed as GAMBOA. ER Property Solutions LLC's type of business was listed as "Property Management". The Statement of Information was filed by SMAGACZ.

13.

On or about January 31, 2020, a Statement of Information was filed with the Secretary of State for ER Property Solutions LLC. ER Property Solutions LLC's address was listed as 6624 S Atlantic Ave, Bell, CA 90201. ER Property Solutions LLC's manager or member was listed as Respondent SMAGACZ, and SMAGACZ'S address was listed as 1200 South Figueroa Street, 1904, Los Angeles, CA 90015. ER Property Solutions LLC's additional manager or member was listed as Respondent GAMBOA, and GAMBOA'S address was listed as 6624 S Atlantic Ave, Bell, CA 90201. ER Property Solutions LLC's agent for service of process was listed as SMAGACZ. ER Property Solutions LLC's type of business was listed as "Property Management". The Statement of Information was filed by SMAGACZ.

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UNLICENSED REAL ESTATE ACTIVITY

14.

From December 21, 2020, through the present, ER Property Solutions LLC has operated a website at <https://www.erpropertiesolutions.com>, through which ER Property Solutions LLC solicits one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another. The website listed ER Property Solutions LLC's address as 6624 Atlantic Ave, Bell, CA 90201, and listed GAMBOA'S real estate license number 02041836.

15.

From May 19, 2021, through the present, ER Property Solutions LLC has operated a website at <https://www.instagram.com/erpropertiesolutions>, through which ER Property Solutions LLC solicits one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another.

16.

From May 19, 2021, through the present, Respondent GAMBOA has operated a website at <https://www.instagram.com/emmanuelitogamboa>, through which GAMBOA solicits for ER Property Solutions LLC one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another.

17.

From May 19, 2021, through the present, Respondent SMAGACZ has operated a website at <https://www.instagram.com/ryansmogz>, through which SMAGACZ solicits for ER Property Solutions LLC one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another. The website listed ER Property Solutions LLC's internet address [erpropertiesolutions.com](https://www.erpropertiesolutions.com).

18.

From April 30, 2021, through the present, ER Property Solutions LLC has operated a website at https://m.facebook.com/permalink.php?id=2302795643310654&story_fbid=284314246594263 3, through which ER Property Solutions LLC solicits one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another.

19.

From January 28, 2021, through the present, ER Property Solutions LLC has operated a website at <https://www.linkedin.com/company/er-property-solutions/about>, through which ER Property Solutions LLC solicits one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another. The website listed ER Property Solutions LLC's internet address erpropertysolutions.com. The website listed ER Property Solutions LLC's address as 2250 W Beverly Blvd, Montebello, CA 90640 and 6624 S Atlantic Ave, Bell, CA 90201.

20.

From February 2, 2021, through the present, ER Property Solutions LLC has operated a website at <https://www.thumbtack.com/ca/los-angeles/property-management/er-property-solutions/service/358718476603006989>, through which ER Property Solutions LLC solicits one or more of the following acts for another or others, for or in expectation of compensation: leasing, renting or offering to lease or rent real property for another.

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1 21.

2 From November 20, 2020, through the present, ER Property Solutions LLC has
3 operated a website at
4 <https://www.loopnet.com/Listing/20900-20918-Pioneer-Blvd-Lakewood-CA/21053260>,
5 through which ER Property Solutions LLC solicits one or more of the following acts for
6 another or others, for or in expectation of compensation: leasing, renting or offering to lease or
7 rent real property for another. The website listed Respondent SMAGACZ as the contact person
8 for ER Property Solutions LLC. The website listed the Date Created as October 7, 2020, and
9 Last Updated as May 6, 2021.

10 22.

11 On or about June 3, 2019, Respondent GAMBOA entered into a Property
12 Management Agreement with R. Navarro for real property at 4252 Durfee Ave, Pico Rivera,
13 CA 90660-1709. The Property Management Agreement listed the real estate broker as
14 Century 21 Allstars with real estate license number 01280965. The Property Management
15 Agreement listed the agent as ER Property Solutions LLC with real estate license
16 number 02041836 and email info@erpropertiesolutions.com.

17 23.

18 On or about June 3, 2019, Respondent GAMBOA entered into a Disclosure
19 Regarding Real Estate Agency Relationship with R. Navarro. The Disclosure Regarding Real
20 Estate Agency Relationship listed the real estate broker as Century 21 Allstars with real estate
21 license number 01280965. The Disclosure Regarding Real Estate Agency Relationship listed
22 the salesperson agent as GAMBOA with real estate license number 02041836.

23 24.

24 From June 11, 2019, through April 1, 2020, Respondents GAMBOA and
25 SMAGACZ and ER Property Solutions LLC collected rent from tenants of 4252 Durfee Ave,
26 Pico Rivera, CA 90660-1709.

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1 25.

2 From July 2, 2019, through March 13, 2020, Respondents GAMBOA and
3 SMAGACZ and ER Property Solutions LLC compensated themselves with management fees
4 and commissions from the rent collected from tenants of 4252 Durfee Ave,
5 Pico Rivera, CA 90660-1709.

6 26.

7 On or about August 8, 2019, Respondent SMAGACZ signed a Notice to Quit
8 directed to tenants M. Chavana and J. Zumaya for real property at 4252 Durfee Ave, Pico
9 Rivera, CA 90660. SMAGACZ signed the Notice to Quit as Agent for Landlord/Owner.

10 27.

11 On or about October 31, 2019, ER Property Solutions LLC entered into a Rental
12 Agreement with tenant J. Twyman for real property at 4252 Durfee Ave,
13 Pico Rivera, CA 90660. The Rental Agreement listed the Owner as ER Property Solutions, the
14 Property Manager as ER Property Solutions, and the email info@erpropertiesolutions.com. The
15 Rental Agreement provided, "Rent is to be paid to ER Property Solutions LLC via the Tenant
16 Portal on <https://home.tenantcloud.com/login>".

17 28.

18 On or about April 20, 2020, at the suggestion of Respondent VILLAESCUSA,
19 R. Navarro met with MAXRES INC'S office manager Richard Estrada, GAMBOA, and
20 SMAGACZ regarding property management problems for real property at 4252 Durfee Ave,
21 Pico Rivera, CA 90660.

22 29.

23 On or about December 1, 2020, the Department sent letters to Respondents
24 MAXRES INC, VILLAESCUSA, GAMBOA, and SMAGACZ regarding the real estate
25 activities related to ER Property Solutions LLC.

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1 30.

2 On or about December 23, 2020, the Department received a letter from
3 Respondents GAMBOA and SMAGACZ, represented by attorney Michael A. Lanphere.
4 Statements in the letter included: "Rather, both Emmanuel Gamboa and Ryan Smagacz are
5 owners of ERPS and both are paid as independent contractors (1099)."; "ERPS earns
6 compensation by charging clients a set percentage of gross rents collected, generally eight
7 percent (8.0%), for each property managed."; "Only Emmanuel Gamboa and Ryan Smagacz
8 render property management services on behalf of ERPS."; "Yes, ERPS managed the property
9 located at 4252 Durfee Avenue, Pico Rivera, California 90660."; and "ERPS is still managing
10 the properties located at: 3636 Jasmine Avenue, Unit 103, Los Angeles, California, 90034;
11 20912 Pioneer Boulevard, Lakewood, California, 90715; and 9045 Via Amorita, Downey,
12 California, 90241."

13 31.

14 On or about December 9, 2020, the Department received a letter from
15 Respondents MAXRES INC and VILLAESCUSA. Statements in the letter included: "This
16 organization was not aware of this specific transaction prior to the consumer complaint."; "We
17 did not authorize Mr. Gamboa and/or his company, ER Property Solutions to execute any
18 property management contract using the unlicensed DBA of ER Property Solutions or Maxres,
19 Inc. dba Century 21 Allstars."; "We advised Mr. Gamboa that he is not licensed to conduct any
20 property management services on behalf of Maxres, Inc. dba Century 21 Allstars."; and "I have
21 provided a copy of 21 Century Allstars' Office Policy Manual that provides guidance,
22 information and acknowledgement of receipt by Mr. Gamboa for what services are both
23 permitted and non-permitted." The last day GAMBOA was affiliated with responsible broker
24 Respondent MAXRES INC was December 9, 2020.

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1 FIRST CAUSE OF ACTION

2 PROHIBITED EMPLOYMENT OR COMPENSATION OF UNLICENSED PERSON

3 32.

4 The conduct, acts, or omissions of Respondents MAXRES INC, GAMBOA, and
5 SMAGACZ, as described in Paragraphs 9 through 31 above, are in violation of Code
6 section 10137, and constitute cause under Code sections 10137, 10176(a), 10176(c), 10176(i),
7 10177(d), 10177(g), and/or 10177(j) for the suspension or revocation of all the licenses, license
8 endorsements, and license rights of MAXRES INC, GAMBOA, and SMAGACZ.

9 SECOND CAUSE OF ACTION

10 FAILURE TO SUPERVISE

11 33.

12 The conduct, acts, or omissions of Respondent VILLAESCUSA, as described in
13 Paragraphs 9 through 31 above, in failing to ensure compliance of the Real Estate Law by
14 Respondents MAXRES INC and GAMBOA, are in violation of Code section 10159.2 and
15 Regulations section 2725 and constitute cause under Code sections 10177(d), 10177(g),
16 10177(h), and/or 10177(k) for the suspension or revocation of all the licenses, license
17 endorsements, and license rights of VILLAESCUSA.

18 34.

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

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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all the licenses, license endorsements, and license rights of
4 Respondents MAXRES INC, JOSEPH GARCIA VILLAESCUSA, EMMANUEL GAMBOA
5 and RYAN MICHAEL SMAGACZ under the Real Estate Law, for the cost of investigation and
6 enforcement as permitted by law, and for such other and further relief as may be proper under
7 other applicable provisions of law.

8
9 Dated at San Diego, California

10 this 9 day of December, 2021

11
12 *Veronica Kilpatrick*

13 Veronica Kilpatrick
14 Supervising Special Investigator

15 cc: MAXRES INC
16 JOSEPH GARCIA VILLAESCUSA
17 EMMANUEL GAMBOA
18 RYAN MICHAEL SMAGACZ
19 Lucero & Associates, Inc. DBA Excellence Exclusive Real Estate
20 Veronica Kilpatrick
21 Sacto.
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