

FILED

SEP 24 2021

DEPT. OF REAL ESTATE

By _____

1 LAURENCE D. HAVESON, Counsel (SBN 152631)
 2 Department of Real Estate
 3 320 West 4th Street, Suite 350
 4 Los Angeles, California 90013-1105
 Telephone: (213) 576-6982
 Direct: (213) 576-6854
 Fax: (213) 576-6917
 5 *Attorney for Complainant*

6
 7
 8 BEFORE THE DEPARTMENT OF REAL ESTATE
 9 STATE OF CALIFORNIA

10 * * *

<p>11 In the Matter of the Accusation of 12 ROBERT MILTON PRESTWOOD, 13 Respondent.</p>	<p>No. H-42109-LA <u>ACCUSATION</u></p>
---	--

14
 15 The Complainant, Ruth Corral, a Supervising Special Investigator for the Department of
 16 Real Estate ("Department" or "DRE") of the State of California, for cause of Accusation against
 17 ROBERT MILTON PRESTWOOD ("PRESTWOOD" or "Respondent"), is informed and alleges
 18 as follows:

- 19 1. The Complainant, Ruth Corral, acting in her official capacity as a Supervising
 20 Special Investigator, makes this Accusation against Respondents.
 21 2. All references to the "Code" are to the California Business and Professions Code
 22 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

23 **LICENSE HISTORY**

24 3. Respondent PRESTWOOD is currently licensed by the DRE as a restricted real
 25 estate broker ("RREB"), License ID 01027050, and PRESTWOOD has been licensed as a real
 26 estate broker ("REB") from on or about September 14, 1993, through the present, with
 27 PRESTWOOD's license scheduled to expire on November 16, 2023 unless renewed.
 28 PRESTWOOD was previously licensed by the DRE as a real estate salesperson ("RES") from on

1 or about May 5, 1989 to September 13, 1993. PRESTWOOD maintains no fictitious business
2 names that are licensed by the DRE. PRESTWOOD has a main office in Huntington Beach,
3 California, and a branch office in Newport Coast, California. PRESTWOOD is the designated
4 officer ("D.O.") for Makes Sense Funding ("MSF"), a real estate corporation ("REC"), License ID
5 02051753, and MSF is licensed through PRESTWOOD's RREB license.

6 4. Whenever reference is made in an allegation in this Accusation to an act or
7 omission of Respondent PRESTWOOD, such allegation shall be deemed to mean that the officers,
8 directors, employees, agents and/or real estate licensees employed by or associated with
9 PRESTWOOD committed such act or omission while engaged in the furtherance of the business
10 or operations of such PRESTWOOD and while acting within the course and scope of their
11 authority and employment.

12 5. At all times mentioned herein, in Orange County, California, PRESTWOOD
13 engaged in the performance of activities requiring a real estate license pursuant to Code section
14 10130, and acted and ordered, caused, authorized or participated in licensed activities within the
15 meaning of Code section 10131.

16 **PRIOR DISCIPLINE - DRE CASE NO. H-2011 SA**

17 6. By Decision effective on November 18, 1997, the Real Estate Commissioner
18 adopted the Proposed Decision of an Administrative Law Judge ("ALJ") of the Office of
19 Administrative Hearings ("OAH") in OAH Case No. L-9505272. The Proposed Decision found
20 that cause existed to suspend or revoke PRESTWOOD's REB license because of PRESTWOOD's
21 misrepresentation, fraud and deceit in forging the signature of his employing broker on
22 PRESTWOOD's then-RES license renewal application. The Proposed Decision, adopted by the
23 Real Estate Commissioner, ordered, in part, that all licenses and licensing rights of PRESTWOOD
24 were revoked, provided that a RREB would be issued subject to certain terms and conditions
25 including, but not limited to:

26 a. All restricted real estate licenses issued to PRESTWOOD would be
27 suspended for 180 days from the date of issuance of the RREB license.
28

1 b. The RREB license issued to PRESTWOOD may be suspended prior to
2 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
3 Commissioner that PRESTWOOD has violated the provisions of the California Real Estate
4 Law.

5 c. PRESTWOOD would not be eligible to apply for the issuance of an
6 unrestricted real estate license nor the removal of any of the conditions, limitations or
7 restrictions of a restricted license until four years have elapsed from the effective date of
8 the Decision.

9 7. By Decision effective on September 7, 2000, the Real Estate Commissioner denied
10 PRESTWOOD's petition for reinstatement of his REB license because PRESTWOOD had failed
11 to demonstrate to the Commissioner's satisfaction that PRESTWOOD had undergone sufficient
12 rehabilitation to warrant reinstatement of his REB license. PRESTWOOD petitioned for
13 reinstatement of his REB license on March 26, 1999, however, the four-year period of was not set
14 to expire until November 18, 2001.

15 **FACTS DISCOVERED BY DRE**

16 8. On or about September 16, 2020, the DRE received information from G.P.^{1/} that
17 PRESTWOOD was soliciting borrowers through an unlicensed company named "Ubiquity
18 Funding Corporation" ("UFC").

19 **Ubiquity Funding**

20 9. On or about October 22, 2019, PRESTWOOD filed a fictitious business name
21 statement for "Ubiquity Funding" with the Orange County Clerk-Recorder, listing PRESTWOOD
22 and Jerry Spetsieris ("Spetsieris") as the owners, the form of the business as a general partnership,
23 and the address as 7241 Havenrock Dr., Huntington Beach, CA 92648, the same address as
24 PRESTWOOD's main office address for his brokerage. The fictitious business name statement for
25 Ubiquity Funding, filed with the Orange County Clerk-Recorder, was signed by PRESTWOOD.

26 ///

27
28 ^{1/} Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent and/or her attorney(s), after service of a timely and proper request for discovery on Complainant's counsel.

1 10. According to documents received from the California Secretary of State's Office,
2 on or about February 18, 2020, articles of incorporation for "Ubiquity Funding Corporation" were
3 filed with the Secretary of State, and were signed by Spetsieris.

4 11. On or about October 8, 2020, a corporation statement of information was filed with
5 the Secretary of State for UFC, listing PRESTWOOD as the chief executive officer, secretary,
6 chief financial officer, and director of UFC.

7 12. On or about November 4, 2020, the DRE's special investigator reviewed UFC's
8 website at www.ubiquityfunding.com and found the following: PRESTWOOD's real estate
9 license identification number was listed on UFC's website with the text, "Licensed by the State of
10 CA Department of Real Estate DRE #01027050"; the fictitious business name "Ubiquity Funding"
11 is not licensed with the DRE under PRESTWOOD's RREB license; UFC's website contains the
12 text, "We have built a reputation as the preferred private lender for local, seasoned real estate
13 investors nationwide," but does not include additional information as necessary to make the
14 representation unambiguous in the context in which it is used. As of on or about September 14,
15 2021, PRESTWOOD's real estate license identification number was not listed on UFC's website,
16 and did not contain any statement regarding the California Department of Real Estate.

17 **Loans**

18 13. Pursuant to subpoena issued by the DRE for the three (3) most recent loan
19 transaction files originated by UFC during calendar year 2020, PRESTWOOD produced loan files
20 for the following properties:

21 a. 5315 West Campbell Avenue, Phoenix, AZ 85031 ("Campbell property").

22 b. 92-92A Coes Neck Road, North Baldwin, NY 11510 ("Coes Neck
23 property").

24 c. 2425 West Prospect Road, Tampa, FL 33629 ("Prospect property").

25 14. These loans were originated by PRESTWOOD and were all funded by Velocity
26 Commercial Capital LLC ("VCC") for non-primary residential properties. The loan transaction
27 files for the Coes Neck and Prospect properties each contained a settlement statement showing a

28 ///

1 broker origination fee paid to UFC of \$4,650 and \$8,250 respectively. Both settlement statements
2 also showed a processing fee of \$495 paid to UFC.

3 15. VCC also provided loan transaction files for the three properties listed above. The
4 documents provided by VCC show that UFC was listed as the broker for the loans on Coes Neck
5 and Prospect properties.

6 16. On or about July 6, 2021, PRESTWOOD provided disclosures to the DRE that he
7 previously sent to the borrowers for the three properties listed above. The documents provided by
8 PRESTWOOD did not contain a Mortgage Loan Disclosure Statement (MLDS). PRESTWOOD
9 provided the borrowers with a document titled, "Disclosure Statement and Acknowledgement for
10 Business Purpose Loans," which stated that the borrower is foregoing the right to receive certain
11 federally mandated disclosures describing the fees and costs of obtaining a mortgage loan.

12 17. PRESTWOOD confirmed that he does not provide borrowers with an MLDS, but
13 that all loans are "brokered to" VCC, and he relies on VCC as the lender to send all documents
14 and disclosures to the borrower. PRESTWOOD also stated that he receives a one percent (1%)
15 loan origination fee and a \$495 processing fee for all loans he brokers to VCC, which are paid
16 through escrow.

17 **VIOLATIONS OF THE REAL ESTATE LAW – CAUSES FOR DISCIPLINE**

18 18. In the course of the activities described above in Paragraph 5, and based on the
19 facts discovered by the DRE, as described in Paragraphs 6 through 17 above, PRESTWOOD acted
20 in violation of the Code and Regulations as follows.

21 **FIRST CAUSE OF ACCUSATION**

22 19. The Complainant realleges and incorporates by reference all of the allegations in
23 paragraphs 1 through 18 above, with the same force and effect as though fully set forth herein.

24 20. PRESTWOOD's acts and/or omissions in failing to provide an MLDS personally
25 signed by the borrower and broker, or in lieu of an MLDS, an appropriate good faith estimate,
26 related to the loan transactions for the Campbell, Coes Neck, and Prospect properties, as described
27 above in paragraphs 16 and 17, are in violation of Code section 10240, and constitute cause to

28 ///

1 suspend or revoke the real estate license and license rights of PRESTWOOD pursuant to Code
2 sections 10177(d) and/or 10177(g).

3 **SECOND CAUSE OF ACCUSATION**

4 21. The Complainant realleges and incorporates by reference all of the allegations in
5 paragraphs 1 through 20 above, with the same force and effect as though fully set forth herein.

6 22. PRESTWOOD used and continues to use the unlicensed fictitious business name,
7 "Ubiquity Funding" to solicit borrowers and lenders, to negotiate loans, or perform services for
8 borrowers or lenders or note owners in connection with loans secured directly or collaterally by
9 liens on real property or on a business opportunity, for compensation or in expectation of
10 compensation, and to advertise, as alleged above in paragraphs 12 through 15. The fictitious
11 business name "Ubiquity Funding" is not licensed with the DRE under PRESTWOOD's RREB
12 license.

13 23. PRESTWOOD's acts and/or omissions related to the use of the fictitious business
14 name, "Ubiquity Funding" and use of the website located at www.ubiquityfunding.com are in
15 violation of Code sections 10159.5, 10235, 10235.5, and 10236.4, and Regulations 2731,
16 2773(a), 2847.3, and 2848, and constitute cause to suspend or revoke the real estate license and
17 license rights of PRESTWOOD pursuant to Code sections 10177(d) and/or 10177(g).

18 **COSTS**

19 **(COSTS OF INVESTIGATION AND ENFORCEMENT)**

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

25 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
26 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
27 against all the licenses, license rights, and mortgage loan originator endorsements of Respondent
28 ROBERT MILTON PRESTWOOD under the Real Estate Law, for the costs of investigation and

1 enforcement as permitted by law, and for such other and further relief as may be proper under
2 other applicable provisions of law.

3
4 Dated at Sacramento, California this 22nd day of September, 2021.

5
6
7 
8 **Ruth Corral**
9 **Supervising Special Investigator**

10 cc: **ROBERT MILTON PRESTWOOD**
11 **Makes Sense Funding**
12 **Ruth Corral**
13 **Sacto.**