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**FILED**

MAY 16 2019

DEPARTMENT OF REAL ESTATE  
By S. Kropp

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: ) NO. H-6690 SAC  
12 )  
13 PRUDLER FUNDING, and ) ACCUSATION  
14 GARY ROLAPP PRUDLER, )  
15 Respondents. )

16 The Complainant, CHIKA SUNQUIST, acting in her official capacity as a  
17 Supervising Special Investigator of the State of California, for cause of Accusation against  
18 PRUDLER FUNDING and GARY ROLAPP PRUDLER ("PRUDLER"), (collectively referred  
19 to herein as "Respondents"), is informed and alleges as follows:

20 1.

21 Respondents are presently licensed and/or have license rights under the Real  
22 Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

23 2.

24 At all times mentioned herein, PRUDLER FUNDING was and is licensed by the  
25 State of California, Department of Real Estate ("Department"), as a real estate broker  
26 corporation. At all times herein mentioned, PRUDLER FUNDING was and is licensed by the  
27 Department as a company mortgage loan originator, Nationwide Mortgage Licensing System

1 and Registry ("NMLS"), NMLS ID. No. 294561.

2 3.

3 At all times mentioned herein, PRUDLER was and is licensed by the Department  
4 as a real estate broker. At all relevant times, PRUDLER was the designated broker officer of  
5 PRUDLER FUNDING. As the designated officer-broker, PRUDLER was responsible, pursuant  
6 to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real  
7 estate licensees, and employees of PRUDLER FUNDING. At all times herein mentioned,  
8 Respondent was and is licensed by the Department as an individual mortgage loan originator,  
9 NMLS ID. No. 242482.

10 4.

11 At all times mentioned herein, Respondents engaged in the business of, acted in  
12 the capacity of, advertised, or assumed to act as real estate licensees, in the State of California, on  
13 behalf of others, for compensation or in expectation of compensation, within the meaning of:

14 Section 10131(e) of the Code, including the operation and conduct of real estate  
15 business with the public wherein Respondents sells or offers to sell, buys or offers to buy, or  
16 exchanges or offers to exchange a real property sales contract, or a promissory note secured  
17 directly or collaterally by a lien on real property or on a business opportunity, and performs  
18 services for the holders thereof; and/or

19 Section 10131.1 of the Code, including the operation and conduct of a real estate  
20 business with the public wherein Respondents engaged as a principal in the business of making  
21 loans or buying from, selling to, or exchanging with the public, real property sales contracts or  
22 promissory notes secured directly or collaterally by liens on real property, or who make  
23 agreements with the public for the collection of payments or for the performance of services in  
24 connection with real property sales contracts or promissory notes secured directly or collaterally  
25 by liens on real property.

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1 5.

2 In the course of the activities described above in Paragraph 4, Respondents were  
3 involved in originating, funding, negotiating and/or closing the following mortgage loan  
4 transactions:

5

	<b>Borrower</b>	<b>Property Address</b>	<b>Date Closed</b>	<b>Lender</b>
6	a. Guidi	1453 El Tajon Way, Sacramento	8/1/17	Unknown
7	b. Guidi	3832 Fenway Circle, Rocklin	8/1/17	Caliber Home Loans
8	c. Dudley	1875 Nevada Street, Gridley	8/15/17	Flagstar Bank, FSB
9	d. Rodine	8215 Peregrine Way, Citrus Heights	9/7/17	Home Point Financial
10	e. Bremer	8636 Winding Way, Fair Oaks	9/8/17	Home Point Financial
11	f. Soares/Floyd	1863 North Douglas Ave., Clovis	9/18/17	Flagstar Bank, FSB

12

13 **COUNT ONE**  
14 **FAILURE TO OBTAIN MORTGAGE LOAN DISCLOSURE STATEMENTS**  
15 (As to Respondents PRUDLER FUNDING and PRUDLER)

16 6.

17 Each and every allegation contained above in Paragraphs 1 through 5, inclusive, is  
18 incorporated by this reference as if fully set forth herein.

19 7.

20 Pursuant to 10240 of the Code, a real estate broker acting within Section 10131(d)  
21 of the Code shall deliver to the borrower a written mortgage loan disclosure statement  
22 (“MLDS”), and obtain the borrower’s signature on the MLDS within a specified time period.  
23 Additionally, a real estate broker is required to maintain a copy of the MLDS for three years.

24 8.

25 In the transactions noted above in Paragraphs 5(b) through 5(f), Respondents  
26 failed to deliver an MLDS to the borrower, failed to obtain the borrower’s signature on the  
27 MLDS, and/or failed to maintain an MLDS regarding the subject transactions.

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1 9.

2 The acts and/or omissions of Respondents, as alleged above in Paragraphs 6  
3 through 8, constitute grounds for the suspension or revocation of all licenses and license rights of  
4 Respondents under Sections 10240, 10177(d), and/or 10177(g) of the Code.

5 **COUNT TWO**  
6 **FAILURE TO RECORD TRUST DEED WITH LENDER AS BENEFICIARY**  
7 (As to Respondents PRUDLER FUNDING and PRUDLER)

8 10.

9 Each and every allegation set forth above in Paragraphs 1 through 9, inclusive, is  
10 incorporated by this reference as if fully set forth herein.

11 11.

12 Pursuant to 10234 of the Code, and Section 2841.5 of Title 10, California Code of  
13 Regulations (“the Regulations”), a real estate broker who negotiates a loan secured by a trust  
14 deed shall cause the trust deed to be recorded naming the lender as the beneficiary.

15 12.

16 In the transactions noted above in paragraphs 5(a), and 5(c) through 5(f),  
17 Respondents failed to name the lender as the beneficiary on the deed of trust as required by  
18 Section 10234(a) of the Code, and 2841.5 of the Regulations.

19 13.

20 The acts and/or omissions of Respondents, as alleged above in Paragraphs 10  
21 through 12, constitute grounds for the suspension or revocation of all licenses and license rights  
22 of Respondents under Sections 10177(d), 10177(g) and/or 10234 of the Code, in conjunction  
23 with Section 2841.5 of the Regulations.

24 **COUNT THREE**  
25 **FAILURE TO NOTIFY DEPARTMENT OF LICENSEE STATUS**  
26 (As to Respondents PRUDLER FUNDING and PRUDLER)

27 14.

Each and every allegation in Paragraphs 1 through 13, inclusive, above, is  
incorporated by this reference as if fully set forth herein.

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15.

Pursuant to 10161.8 of the Code, a real estate broker must notify the Department when it retains a real estate broker or salesperson, as well as when an affiliation with that real estate broker or salesperson is terminated.

16.

As of May 7, 2018, Respondents failed to immediately notify the Department that real estate salespersons Minh Hai Ho and Paula Denise Settle were no longer under the employ of Respondents.

17.

As of May 7, 2018, Respondents failed to immediately notify the Department that real estate brokers Jason Leonard Wickham and Peter Edward Jensen were under the employ of Respondents.

18.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 14 through 17, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10177(d) and 10177(g) of the Code, in conjunction with Section 10161.8 of the Code and Section 2752 of the Regulations.

**COUNT FOUR**  
**FAILURE TO NOTIFY BORROWERS OF PROPER GOVERNING AUTHORITY**  
(As to Respondents PRUDLER FUNDING and PRUDLER)

19.

Each and every allegation in Paragraphs 1 through 18, inclusive, above, is incorporated by this reference as if fully set forth herein.

20.

Pursuant to Section 35830 of the Health and Safety Code, financial institutions shall notify all applicants at the time of written application for financial assistance of the prohibitions against discrimination. Such notice shall include the address of the department, where a complaint may be filed, and where questions may be asked.

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21.

In the transactions noted above in paragraphs 5(b) through 5(f), Respondents represented that the Department of Business Oversight, rather than the Department of Real Estate, was the appropriate authority to whom the borrowers could inquire and file complaints regarding discrimination, as outlined above in paragraph 20.

22.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 19 through 21, constitute grounds for the suspension or revocation of all licenses and license rights of Respondents under Sections 10176(a), 10177(d) and/or 10177(g) of the Code.

**COUNT FIVE**  
**FAILURE TO SUPERVISE**  
(As to Respondent PRUDLER Only)

23.

Each and every allegation in Paragraphs 1 through 22 inclusive, above, is incorporated by this reference as if fully set forth herein.

24.

PRUDLER, as the designated officer of PRUDLER FUNDING, was required to exercise reasonable supervision and control over the activities of PRUDLER FUNDING, its employees, and the real estate activities being conducted by PRUDLER FUNDING.

25.

PRUDLER failed to exercise reasonable supervision over the acts and/or omissions of PRUDLER FUNDING and its employees, in such a manner as to allow the acts and/or omissions as described above in the First through Fourth Causes of Action to occur, which constitutes cause for the suspension or revocation of the license(s) and license rights of PRUDLER under Sections 10177(d), 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of the Regulations.

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COST RECOVERY

26.

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license rights of Respondent 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.

  
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CHIKA SUNQUIST  
Supervising Special Investigator

Dated at Sacramento, California,  
this 15<sup>th</sup> day of May, 2019.

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.