

1 MARY F. CLARKE, Counsel (SBN 186744)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0780 (Direct)  
6 -or- (916) 227-0789 (Main Office)  
7 -or- (916) 227-9458 (Fax)

FILED

NOV 21 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 )  
14 DAVID KUMAR LAL, and )  
15 DAVID EDGARDO REYES MELENDEZ, )  
16 )  
17 Respondent. )

NO. H-11350 SF

FIRST AMENDED  
ACCUSATION

18 The Complainant, ROBIN S, TANNER, a Deputy Real Estate Commissioner of  
19 the State of California, for this First Amended Accusation against DAVID KUMAR LAL  
20 (herein "LAL") dba Fantastic Real Estate, and DAVID EDGARDO REYES MELENDEZ  
21 (herein "REYES") dba Mortgage Relief Assistance Group, Inc., (herein collectively  
22 "Respondents") is informed and alleges as follows:

23 1

The Complainant makes this First Amended Accusation in her official capacity.

24 2

25 At all times herein mentioned, Respondents were and now are, licensed and/or  
26 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and  
27 Professions Code) (herein "the Code").

At all times herein mentioned, LAL was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a real estate broker doing business as Fantastic Real Estate.

At all times herein mentioned, REYES was and now is licensed by the Department as a real estate salesperson. Between about October 31, 2008 and about April 12, 2010, REYES was not in the employ of a supervising real estate broker.

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

- (a) Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage wherein Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity; and
- (b) Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, Respondents solicited lenders or borrowers for or negotiated loans or loan modifications or collected payments or performed services for borrowers or lenders or note owners in connection with loans or loan modifications secured directly or collaterally by liens on real property or on a business opportunity.

Between about July 30, 2009 and about December 18, 2009, REYES, while not in the employ of a supervising broker, claimed, demanded, charged, received, collected or

1 contracted for advance fees from the borrowers shown below prior to submission to the  
 2 Department of any or all materials used in advanced fee agreements or performed services for the  
 3 following borrowers in connection with loans secured with real property before the borrowers  
 4 became obligated to complete said loans, and failed to deposit said advance fees into a trust  
 5 account with a bank or other recognized depository, in violation of Sections 10130 (licensed  
 6 activities), 10131.2 (brokers collecting advance fees), 10139 (penalties for unlicensed activities),  
 7 10085 (advance fee materials), 10085.5 (advance fees), 10085.6 (advance fees), 10146  
 8 (depositing advanced fees into a trust account) of the Code, and Sections 2970 (advance fee  
 9 materials) and 2972 (advance fee accounting content) of Title 10, Chapter 6, of the California  
 10 Code of Regulations (herein "the Regulations"):

<u>Borrower</u>	<u>Property Address</u>	<u>Advance Fee</u>	<u>Date</u>
Alicia G.	Newbridge St. East Palo Alto, CA	\$1,300	7/30/09
Martin G.	Sunatra Ave San Jose, CA	\$1,300 \$1,300	7/29/09 9/15/09
Abron N.	Fallbrook Ave. San Jose, CA	\$1,300 \$1,300 \$ 900	12/18/09 12/20/09 11/xx/10

18 7

19 On about December 18, 2009, REYES represented himself as an attorney to  
 20 Abron M., when in fact; REYES is not now, and has never been, licensed as an attorney, in  
 21 violation of Sections 10176(a) (substantial misrepresentation) and 10176(i) (dishonest dealing)  
 22 of the Code.

23 8

24 Between about July 30, 2009 and about December 18, 2009, REYES failed to  
 25 obtain a real estate license bearing the fictitious business name "Mortgage Relief Assistance  
 26 Group, Inc." while conducting activities for which a license was required, in violation of  
 27 Section 10159.5 of the Code and Section 2731 of the Regulations.

Between about July 23 and July 29, 2009, LAL dba Fantastic Real Estate, claimed, demanded, charged, received, collected or contracted for advance fees from the borrowers shown below prior to submission to the Department of any or all materials used in advanced fee agreements or performed services for the following borrowers in connection with loans secured with real property and failed to deposit said advance fees into a trust account with a bank or other recognized depository; rather LAL represented that such fees would be used to list and attempt to short-sale the borrowers' homes and/or would use said advance fees as the down payment on a home, when in fact LAL and Fantastic Real Estate, used said advance fees for their own private use, in violation of Sections 10176(a), (b) (making a false promise), (e) (commingling), (i) and/or (g) (negligence), 10085, 10085.5, 10146 of the Code, and Sections 2970 and 2972 of the Regulations:

<u>Borrower</u>	<u>Property Address</u>	<u>Advance Fee</u>	<u>Date</u>
Martin G.	Sunatra Ave San Jose, CA	\$5,000	7/29/10
Isalia G.	Downer Ave. Richmond, CA	\$5,000 \$1,500 \$1,500 \$1,500	7/23/10 8/28/10 9/22/10 10/22/10

The facts alleged above are grounds for the suspension or revocation of the license and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- (a) as to Paragraph 6, and REYES, under Sections 10130, 10131.2, 10139, 10085, 10085.5, 10085.6, and 10146 of the Code, and Sections 2970, and 2972 of the Regulations, in conjunction with Section 10177(d) of the Code;

- 1 (b) as to Paragraph 7, and REYES, under Sections 10176(a) and  
2 10176(i) of the Code;
- 3 (c) as to Paragraph 8, and REYES, under Section 10159.5 of the Code  
4 and Section 2731 of the Regulations, in conjunction with Section  
5 10177(d) of the Code; and
- 6 (d) as to Paragraph 9, and LAL, under Sections 10176(a), (b), (e), (i), (g),  
7 10085, 10085.5, 10146 of the Code, and Sections 2970 and 2972 of the  
8 Regulations, in conjunction with Section 10177(d) of the Code.

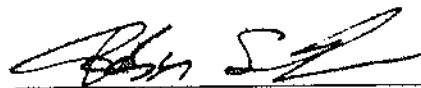
9 COST RECOVERY

10 11

11 Investigation and Enforcement Costs

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

16 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
17 of this First Amended Accusation and that upon proof thereof, a decision be rendered imposing  
18 disciplinary action against all licenses and license rights of Respondents under the Real Estate  
19 Law (Part I of Division 4 of the Business and Professions Code), for the cost of the investigation  
20 and enforcement as permitted by law, and for such other and further relief as may be proper  
21 under other applicable provisions of law.

22 

23 ROBIN S. TANNER  
24 Deputy Real Estate Commissioner

25  
26 Dated at Oakland, California,  
27 this 20<sup>th</sup> day of November, 2012.