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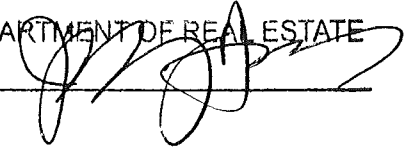
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FILED

MAY 23 2013

DEPARTMENT OF REAL ESTATE
BY: 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation

No. H-38887 LA

ALWAYZZ INC.; and ANTONIA)
HENRIETTA PAPADATOS,)
individually, and as)
designated officer for)
Always Inc.,)
)
)
Respondents.)
_____)

ACCUSATION

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against Respondent ALWAYZZ INC. ("ALWAYZZ"), and ANTONIA
HENRIETTA PAPADATOS ("PAPADATOS"), individually, and as
designated officer for ALWAYZZ, is informed and alleges as
follows:

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1.

1 The Complainant, Maria Suarez, a Deputy Real Estate
2 Commissioner of the State of California, makes this Accusation in
3 her official capacity.
4

2.

5
6 ALWAYSZZ is presently licensed and/or has license rights
7 under the Real Estate Law (Part 1 of Division 4 of the Business
8 and Professions Code, hereinafter "Code"), as a real estate
9 corporation acting by and through PAPADATOS as its designated
10 broker-officer.

3.

11
12 PAPADATOS is presently licensed and/or has license
13 rights under the Real Estate Law as a real estate broker. At all
14 times relevant herein PAPADATOS was the designated officer of
15 ALWAYSZZ.
16

4.

17
18 All further references to respondents herein includes
19 ALWAYSZZ and PAPADATOS, and also includes officers, directors,
20 employees, agents and real estate licensees employed by or
21 associated with ALWAYSZZ and PAPADATOS, and who at all times
22 herein mentioned were engaged in the furtherance of the business
23 or operations of ALWAYSZZ and PAPADATOS, and who were acting
24 within the course and scope of their authority and employment.
25

5.

26
27 At all times relevant herein PAPADATOS, as the officer
designated by ALWAYSZZ, pursuant to Section 10211 of the Code, was

1 responsible for the supervision and control of the activities
2 conducted on behalf of ALWAYZZ by its officers and employees as
3 necessary to secure full compliance with the Real Estate Law as
4 set forth in Section 10159.2 of the Code.

5 6.

6 PAPADATOS ordered, caused, authorized or participated
7 in the conduct of ALWAYZZ, as is alleged in this Accusation.

8 7.

9 At all times material herein, Respondents were engaged
10 in the business of, acted in the capacity of, advertised or
11 assumed to act as real estate brokers and/or real estate
12 corporations in the State of California, within the meaning of
13 Code Section 10131(a) and 10131(d). Said activities included
14 soliciting sellers and buyers for the listing, sale and purchase
15 of real property, negotiating the purchase and sale of real
16 property on behalf of buyers and sellers, and negotiating
17 mortgage loans on residential real property for or in expectation
18 of compensation.

19 8.

20 In addition respondents conducted broker-controlled
21 escrows through the escrow division of ALWAYZZ, doing business as
22 "UPF Escrow Services," under the exemption set forth in
23 California Financial Code Section 17006(a)(4) for real estate
24 brokers performing escrows incidental to a real estate
25 transaction where the broker is a party and where the broker is
26 performing acts for which a real estate license is required.
27

FIRST CAUSE OF ACCUSATION
(Violation of Code Section 10176(i))

9.

On or about May 28, 2010, a purchase and sale escrow closed at ALWAYZZ, doing business as Profusion Escrow. The escrow was opened in connection with the purchase and sale of the real property located at 3715 West 144th Street, Hawthorne, California 90250 ("Property"), in which ALWAYZZ acted as broker for the seller. At all times mentioned herein the seller ("Seller/Executor") was acting as the executor of the estate of a deceased individual and on behalf of the estate of the deceased. The buyer was represented by a broker other than Respondents.

10.

Under the terms of the purchase and sale agreement for the Property, the purchase price of the Property was \$174,000. The Seller/Executor was entitled to receive net sales proceeds to the benefit of the deceased's estate in the amount of \$172,215.06.

11.

On or about October 4, 2010, Respondents issued an escrow check in the amount of \$100,000 to the Seller/Executor. On or about October 5, 2010, Respondents issued an additional escrow check to the Seller/Executor for \$50,000. Despite the Seller/Executor's entitlement to receive the total sum of \$172,215.06 from the proceeds of sale, Respondents failed and refused to pay to the Seller/Executor the remaining \$22,215.06

1 due from the sale of the Property. By so doing Respondents
2 converted escrow trust funds in the amount of \$22,215.06 held for
3 the benefit of the Seller/Executor who was a beneficiary of those
4 funds.

5 12.

6 The conduct, acts and/or omissions of Respondents, as
7 described herein above, constitute conversion, fraud or dishonest
8 dealing, and are cause for the suspension or revocation of all
9 real estate licenses and license rights of Respondents under the
10 provisions of Code Sections 10176(i) and 10177(g).

11 SECOND CAUSE OF ACCUSATION

12 (Audit Violations)

13 13.

14 Complainant hereby incorporates by reference the
15 allegations set forth in Paragraphs 1 through 12, above.

16 14.

17 On or about June 27, 2012, the Department completed an
18 audit examination of the books and records of Respondent ALWAYSZZ
19 pertaining to the real estate activities described in Paragraphs
20 7 and 8, above, covering a period from January 1, 2010, to March
21 31, 2012.

22 15.

23 At all times mentioned herein, and in connection with
24 the activities described in Paragraphs 7 and 8, above, ALWAYSZZ
25 accepted or received funds to be held in trust ("trust funds")
26 from or on behalf of actual or prospective parties to
27

1 transactions handled by Respondents, and thereafter made deposits
2 and/or disbursements of such funds. From time-to-time herein
3 mentioned during the audit period, said trust funds were
4 deposited into a bank account maintained by Respondents as
5 follows:

6 Chase Bank Account

7 Account Name: "Alwayzz Inc. dba Profusion Escrow"
8 Account No. xxxxxx549
9 Bank Name: Chase Bank, 1801 E. Heim Avenue, Suite 200,
10 Orange, California 92865-3020
11 Signatories: PAPADATOS and Angelo Casino (unlicensed)
12 Opened: January 5, 2010

13 16.

14 The audit examination revealed violations of the Code
15 by Respondent ALWAYZZ, as set forth in the following paragraphs,
16 and more fully discussed in Audit Report No. SD 110049 and the
17 exhibits and work papers attached to the audit report:

18 (a) Permitted, allowed or caused the withdrawal or
19 disbursement of trust funds from the escrow trust account
20 maintained at Chase Bank so that the trust account had a shortage
21 of at least \$35,075. The shortage was attributable to an alleged
22 embezzlement committed by an employee of ALWAYZZ, Angelo Casino
23 ("Casino"), and the unpaid balance of funds owed to
24 Seller/Executor in the transaction described in First Cause of
25 Accusation, above. Respondents caused, permitted and/or allowed
26 said withdrawal or disbursement of trust funds from the trust
27 account maintained at Chase Bank so that the total of aggregate
funds remaining in the account was less than the existing

1 aggregate trust fund liability of ALWAYZZ to every principal who
2 was an owner of said funds without first obtaining the prior
3 written consent of the owners of said funds as is required by
4 Code Section 10145(a) and Section 2832.1, Title 10, Chapter 6,
5 Code of Regulations ("Regulations").

6 (b) Permitted unlicensed and unbonded person, Casino,
7 as an authorized signatory on the trust account maintained at
8 Chase Bank in violation of Code Section 10145 and Section 2834 of
9 the Regulations.

10 (c) Failed to file the Department's Mortgage Loan
11 Activity form notifying the Department of its mortgage loan
12 activity by January 31, 2010, or within thirty (30) days of
13 commencing the mortgage loan activity, whichever is later, in
14 violation of Section 10166.02(a) of the Code.

15 (d) Engaged in mortgage loan originator ("MLO")
16 business activities without first obtaining a MLO endorsement to
17 his license in violation of Code Section 10166.02(b).

18 (e) Failed to maintain the Mortgage Loan Disclosure
19 Statements ("MLDS") signed by borrowers and the loan agent to
20 show that said statements were provided to the borrowers within
21 three (3) days after the borrowers signed their loan applications
22 as required by Code Section 10240 and Section 2840 of the
23 Regulations. This occurred in at least the two (2) loan files
24 examined by the auditor.

25 (f) Failed to disclose its real estate broker license
26 number on the MLDS in at least one of the examined loan
27

1 transaction files, and did not disclose a MLO license endorsement
2 number on the MLDS in at least two of the examined loan
3 transaction files in violation of Code Section 10236.4.

4 (g) PAPADATOS failed to disclose her broker's license
5 identification number and her MLO license endorsement
6 identification number on her business card at the first point on
7 contact with the consumer in violation of Code Section 10140.6
8 and Section 2773 of the Regulations.

9 (h) PAPADATOS used the fictitious business name "Always
10 Care Funding & Realty" on her business card in violation of Code
11 Section 10159.5 and Section 2731 of the Regulations.

12 (i) In the course of the transaction activities
13 undertaken by ALWAYZZ during the audit period, Respondent ALWAYZZ
14 failed to comply with the subpoena duces tecum issued and served
15 by the Department for the audit examination, or to provide the
16 auditor, with any records of its activities requiring a real
17 estate broker license during the past three years including but
18 not limited to trust account bank statements, trust account
19 records, and completed loan files and escrow files as is required
20 by Code Section 10148.
21

22 DISCIPLINE STATUTES AND REGULATIONS

23 17.

24 The conduct of Respondent ALWAYZZ described in
25 Paragraph 16, above, violated the Code and the Regulations as set
26 forth below:
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PARAGRAPH

PROVISIONS VIOLATED

- 16(a) Code Section 10145(a); Section 2832.1 of the Regulations
- 16(b) Code Section 10145; Section 2834 of the Regulations
- 16(c) Code Section 10166.02(a)
- 16(d) Code Section 10166.02(b)
- 16(e) Code Section 10240 and Section 2840 of the Regulations
- 16(f) Code Section 10236.4
- 16(g) Code Section 10140.6 and Section 2773 of the Regulations
- 16(h) Code Section 10159.5 and Section 2731 of the Regulations
- 16(i) Code Section 10148

18.

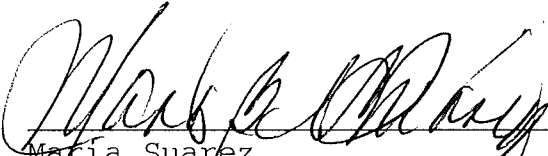
The foregoing violations, as set forth hereinabove, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent ALWAYSZ under the provisions of Code Sections 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence or incompetence.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of Respondents
5 ALWAYZZ INC. and ANTONIA HENRIETTA PAPADATOS under the Real
6 Estate Law (Part 1 of Division 4 of the Business and Professions
7 Code), for the cost of investigation and enforcement as permitted
8 by law, for the cost of the audit and follow-up audit as provided
9 in Code Section 10148, and for such other and further relief as
10 may be proper under other applicable provisions of law.

11 Dated at Los Angeles, California

12 this 22nd day of May, 2013.

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14
15 
16 Maria Suarez
17 Deputy Real Estate Commissioner
18
19

20 cc: ALWAYZZ INC.
21 ANTONIA HENRIETTA PAPADATOS
22 MAURICE IRVING PAPADATOS
23 Maria Suarez
24 Sacto
25
26
27