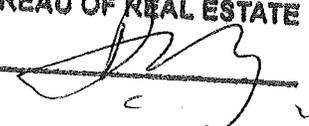


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FILED

JUL 25 2014
BUREAU OF REAL ESTATE
By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
BALBOA CREDIT GROUP INC.,)
ADELA C. OLIVARES, individually and)
as Designated Officer of Balboa Credit)
Group Inc.; JOHN STEVEN GOLIATH,)
individually and as Designated Officer)
of Balboa Credit Group Inc.,)
)
Respondents.)

No. H- 39552 LA

ACCUSATION

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against BALBOA CREDIT GROUP INC., ADELA C. OLIVARES individually and as Designated Officer of Balboa Credit Group Inc., and JOHN STEVEN GOLIATH individually and as Designated Officer of Balboa Credit Group Inc., alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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1 2.

2 All references to the "Code" are to the California Business and Professions Code
3 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

4 3.

5 Respondent BALBOA CREDIT GROUP INC. ("BCGI") is licensed by the
6 Bureau of Real Estate ("Bureau") as a corporate real estate broker. Respondent BCGI was
7 originally licensed as a corporate real estate broker on or about November 29, 2012, with
8 Respondent JOHN STEVEN GOLIATH ("GOLIATH"), as its Designated Officer. Effective
9 March 15, 2013, GOLIATH was replaced as Designated Officer by Respondent ADELA C.
10 OLIVARES ("OLIVARES"), who acted as Designated Officer of BCGI until February 14, 2014.
11 Since then, BCGI has had no licensed Designated Officer.

12 4.

13 Respondent GOLIATH is licensed by the Bureau as a real estate broker.
14 Respondent GOLIATH was originally licensed as a real estate salesperson on April 20, 1981, and
15 as a real estate broker on July 20, 1992.

16 5.

17 Respondent OLIVARES is licensed by the Bureau as a real estate broker.
18 Respondent OLIVARES was originally licensed as a real estate salesperson on October 14, 1998,
19 and as a real estate broker on November 1, 2001.

20 6.

21 At no time has Larry Jaimez been licensed by the Bureau in any capacity.

22 7.

23 At all times herein relevant, Respondents engaged in the business of, acted in the
24 capacity of, advertised or assumed to act as real estate brokers in the State of California within
25 the meaning of Code Sections 10131(b), 10131.2 and 10167. Their activities included soliciting
26 listings of places for rent, soliciting for prospective tenants, and/or supplying prospective tenants
27 with listings of residential real properties for tenancy in exchange for a fee. Their activities also

1 included claiming, demanding, charging, receiving, collecting or contracting for the collection of
2 advance fees within the meaning of Code Sections 10026 and 10167. Respondents operated a
3 Prepaid Rental Listing Service (“PRLS”).

4 FIRST CAUSE OF ACCUSATION

5 (Audit of BCGI)

6 8.

7 On March 12, 2014, the Bureau completed an audit examination of the books and
8 records of BCGI pertaining to the PRLS activities described in paragraph 7, above. The audit
9 examination covered the period of time from November 29, 2012, to December 31, 2013. The
10 primary purpose of the examination was to determine whether Respondents BCGI, Respondent
11 GOLIATH, and Respondent OLIVARES conducted their real estate activities in compliance with
12 the Real Estate Law. The audit examination revealed numerous violations of the Code and the
13 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
14 LA 130105 and the exhibits and work papers attached to said audit report.

15 Bank and Trust Accounts

16 9.

17 At all times herein relevant, in connection with the activities described in
18 Paragraph 7, above, BCGI accepted or received funds including funds in trust (hereinafter “trust
19 funds”) from or on behalf of actual or prospective parties, including prospective tenants.
20 Thereafter BCGI made deposits and or disbursements of such trust funds. From time to time
21 herein mentioned during the audit period, said trust funds were deposited and/or maintained by
22 BCGI in the following bank accounts as BCGI did not maintain a trust account during the audit
23 period:

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27 ///

1 Larry Jaimez
2 Account No. XXXXXX6308 (Redacted for security)
3 Union Bank
4 Los Angeles, California

5 (B/A #1 - Jaimez's personal bank account used for deposit of advance fees collected from
6 prospective tenants until 12/14/13)

7 Balboa Credit Group Inc.
8 Account No. XXXXXX5865 (Redacted for security)
9 Wells Fargo Bank
10 Portland, Oregon

11 (B/A #2 - BCGI's general business checking account)

12 Balboa Credit Group Inc.
13 Account No. XXXXXX5873 (Redacted for security)
14 Wells Fargo Bank
15 Portland, Oregon

16 (B/A #3 - BCGI's general business savings account)

17 Violations and Statutes

18 10.

19 In the course of activities described in Paragraph 7, above, and during the
20 examination period described in Paragraph 8, above, Respondents BCGI, GOLIATH, and
21 OLIVARES, acted in violation of the Code and the Regulations in that Respondents:

22 (a) Collected advance fees in connection with prepaid rental service activities
23 and deposited those fees into Larry Jaimez's personal account B/A #1, which was not in the
24 name of the broker, or BCGI's general accounts B/A #2 and B/A #3, none of which were
25 designated as a trust account, in violation of Code Sections 10145, 10146, and Regulation 2832;

26 (b) Mixed and commingled trust funds by depositing trust funds in the form of
27 collected advance fees solicited from prospective tenants into B/A #1, B/A #2, and B/A #3 in
violation of Code Sections 10145, 10176(e) and Regulation 2832;

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1
2 (c) Failed to maintain a columnar record of the receipt and disbursement of
3 trust funds handled through B/A #1, B/A #2, and B/A #3 for each prospective tenant, in violation
4 of Code Section 10145 and Regulation 2831.

5 (d) Failed to maintain a separate record for each beneficiary of trust funds
6 collected from each prospective tenant, thereby failing to account for all advance fees collected
7 for PRLS activities, in violation of Code Section 10145 and Regulation 2831.1.

8 (e) Collected advance fees within the meaning of Code Sections 10026 and
9 10167 from prospective tenants without having first submitted Respondents' PRLS agreement to
10 the Bureau for review and authorization, in violation of Code Section 10167.9(c).

11 (f) Collected advance fees in connection with PRLS activities and failed to
12 refund such fees when refunds had been timely requested, in violation of Code Section 10167.10.

13 (g) Deposited trust funds in the form of collected advance fees into general
14 accounts B/A #1, B/A #2 and B/A #3, for which neither of its Designated Officers, Respondents
15 GOLIATH nor OLIVARES were signatories, and unlicensed, unbonded non-employee Larry
16 Jaimez was a signatory, in violation of Code Section 10145 and regulation 2834.

17 (h) Failed to notify the Bureau of BCGI's change of address, in violation of
18 Code Section 10162 and Regulation 2915.

19 (i) Failed to retain records regarding its PRLS activities, in violation of Code
20 Section 10148;

21 The foregoing violations constitute cause for discipline of the real estate license
22 and license rights of Respondents BCGI, GOLIATH and OLIVARES, as aforesaid, under the
23 provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate
24 Law and/or 10177(g) for negligence.

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1 SECOND CAUSE OF ACCUSATION

2 (PRLS Activities)

3 11.

4 At all times herein relevant, all named Respondents engaged in the business of a
5 Prepaid Rental Listing Service within the definition of Code Sections 10131(b), 10131.2 and
6 10167.

7 12.

8 Beginning in 2012 and continuing thereafter to date, Respondents solicited
9 advance fees by offering to supply prospective tenants with listings of residential real properties
10 for tenancy.

11 13.

12 Respondent collected advance fees for PRLS services and entered into contracts
13 with prospective tenants without having had their contract approved by the Bureau. In addition,
14 Respondents provided lists of rental properties which failed to meet the specifications of the
15 prospective tenants, were unavailable for tenancy, were no longer available and/or had not
16 provided Respondents with permission to list the property. Thereafter, Respondents failed to
17 provide refunds to the prospective tenants listed below:

18 Table: PRLS

19

Prospective Tenant	Date	Advance Fee
Donna P.	September 18, 2012	\$200
Yajie W.	July 6, 2013	\$200
Eduardo & Petra R.	September 6, 2013	\$200
Juliana S.	July 21, 2013	\$200
John & Jessica H.	August 5, 2013	\$200
Uriel D. & Nancy P.	August 23, 2013	\$200
Johanna V.	August 28, 2013	\$200

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1 14.

2 The conduct, acts and omissions of Respondents BCGI, GOLIATH, AND
3 OLIVARES as set forth above, are in violation of Code Sections 10167.9, 10167.10, and
4 10167.11 and are cause for the suspension or revocation of the licenses and license rights of said
5 Respondents pursuant to Code Sections 10176(a), 10177(d), 10177(g) and/or 10177(h)(for
6 GOLIATH and OLIVARES).

7 15.

8 Respondents' activities constitute a course of conduct which includes the
9 prospective tenants alleged above by way of example, but is by no means limited to those named
10 consumers.

11 THIRD CAUSE OF ACCUSATION

12 (Failure to Supervise – GOLIATH and OLIVARES)

13 16.

14 Based on the conduct alleged in paragraphs 8, 9, 10, 11, 12, 13, 14, and 15, above,
15 Respondents GOLIATH and OLIVARES failed to exercise reasonable supervision over the
16 activities of BCGI to ensure compliance with the Real Estate Laws and the Commissioner's
17 Regulations in violation of Code Sections 10159.2, 10177(h), 10177(g) and Regulation 2725.

18 17.

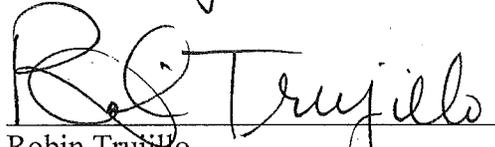
19 The conduct, acts and omissions of Respondents GOLIATH and OLIVARES as
20 set forth above, are cause for the suspension or revocation of the licenses and license rights of
21 those Respondents pursuant to Code Sections 10177(d), 10177(g), and/or 10177(h).

22 18.

23 California Business and Professions Code Section 10106 provides, in pertinent
24 part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the
25 Commissioner may request the administrative law judge to direct a licensee found to have
26 committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation
27 and enforcement of the case.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the license and license rights of Respondents BALBOA CREDIT GROUP INC.,
4 ADELA C. OLIVARES individually and as Designated Officer of Balboa Credit Group Inc., and
5 JOHN STEVEN GOLIATH individually and as Designated Officer of Balboa Credit Group Inc.,
6 under the Real Estate Law, for the costs of investigation and enforcement as provided by law,
7 and for such other and further relief as may be proper under other applicable provisions of law
8 including restitution of advanced fees paid for unearned loan modifications, and for costs of
9 audit.

10 Dated at Los Angeles, California, July 23, 2014.

11 
12 Robin Trujillo
13 Deputy Real Estate Commissioner
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24 cc: Balboa Credit Group Inc.
25 Adela C. Olivares
26 John Steven Goliath
27 Robin Trujillo
Sacto
Audits – Lisa Kwong