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FILED

JAN 14 2015

BUREAU OF REAL ESTATE

By John Gutierrez

7 BEFORE THE BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) CALBRE No. H-39708 LA
11)
BEST CORE GROUP, INC.;) ACCUSATION
12 MICHAEL RAZNIK DERIAN; individually, and)
as designated officer of Best Core Group, Inc.;)
13 DAVID MICHAEL FOGG; and)
KRISTY ANN CISNEROZ,)
14)
Respondents.)
15)

16
17 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of
18 California, for cause of Accusation against BEST CORE GROUP, INC.; MICHAEL RAZNIK
19 DERIAN, individually, and as designated officer of Best Core Group, Inc.; DAVID MICHAEL
20 FOGG; and KRISTY ANN CISNEROZ (collectively "Respondents"), is informed and alleges as
21 follows:

22 1.

23 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of
24 California, makes this Accusation in her official capacity.

1 2.

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

5 3.

6 Respondents are presently licensed and/or have license rights under the Real Estate Law
7 (Part 1 of Division 4 of the Code).

8 4.

9 From January 31, 2006, through the present, Respondent BEST CORE GROUP, INC.
10 ("BCGI") has been licensed and/or has license rights by the Bureau of Real Estate¹ ("Bureau") as
11 a real estate corporation, License ID 01521876.

12 5.

13 From February 27, 1992, through the present, Respondent MICHAEL RAZNIK
14 DERIAN ("DERIAN") has been licensed and/or has license rights by the Bureau as a real estate
15 broker, License ID 01023964.

16 6.

17 At all times herein mentioned, Respondent BCGI was licensed as real estate corporation,
18 acting by and through Respondent DERIAN as its designated broker-officer. As the broker-
19 officer designated by Respondent BCGI pursuant to Section 10211 of the Code, DERIAN was
20 responsible for the supervision and control of the activities conducted on behalf of Respondent
21 BCGI, by its officers and employees, as necessary to secure full compliance with Real Estate
22 Law as set forth in Code Section 10159.2 and Regulation 2725.

23 _____
24 ¹ Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate ("Bureau"). All
references to the agency are to the successor Bureau.

1 7.

2 From November 04, 1992, through the present, Respondent DAVID MICHAEL FOGG
3 (“FOGG”) has been licensed by the Bureau as a real estate salesperson, License ID 01149065.
4 At all times relevant herein, FOGG was licensed under the employment of BCGI.

5 8.

6 From April 24, 2008, through the present, Respondent KRISTY ANN CISNEROZ
7 (“CISNEROZ”) has been licensed by the Bureau as a real estate salesperson, License ID
8 01809433. At all times relevant herein, CISNEROZ was licensed under the employment of
9 BCGI. CISNEROZ’s title was Licensed Transaction Manager for BCGI.

10 9.

11 From October 7, 1985, through the present, Helen Patricia Fogg (“Helen Fogg”) has been
12 licensed by the Bureau as a real estate salesperson, License ID 00627183. At all times relevant
13 herein, Helen Fogg was licensed under the employment of BCGI.

14 CAUSE OF ACCUSATION

15 (Saticoy St. property)

16 10.

17 In or around September of 2012, L.D. as successor trustee of the A.D. Trust (“seller”),
18 hired Respondent FOGG to act as his real estate salesperson for the sale of real property located
19 at 11054-11058 Saticoy St., Sun Valley, California 91352 (“Saticoy St. property”). Respondent
20 BCGI was the seller’s broker. On or about September 24, 2012, Respondent FOGG listed the
21 Saticoy St. property on the Multiple Listing Service (“MLS”) with a list price of \$399,950.
22 Helen Fogg is named as the co-listing agent. The MLS listing included “agent remarks” with the
23
24

1 following instructions, "submit your best offer with lender approval & FICO scores Mon.-Fri.
2 10am-4pm to Kristy@thefoggs.com."

3 11.

4 A.M. is a real estate salesperson who represented prospective buyer A.I, who was
5 interested in purchasing the Saticoy St. property. On October 3, 2012, A.M. emailed prospective
6 buyer A.I.'s offer to Respondent CISNEROZ. Prospective buyer A.I. offered to purchase the
7 Saticoy St. property for \$420,000 with an initial deposit of \$12,000 and a total down payment of
8 \$84,000 or twenty (20%) of the purchase price and a purchase loan in the amount of \$336,000.
9 A.M. included prospective buyer A.I.'s proof of funds, pre-approval letter, and FICO scores with
10 prospective buyer A.I.'s offer. On October 3, 2012, Respondent CISNEROZ confirmed receipt
11 of prospective buyer A.I.'s offer and said that it would be forwarded to the seller to review. On
12 October 4, 2012, at 2:18 p.m., A.M. sent an email to Respondent CISNEROZ asking if
13 prospective buyer A.I.'s offer was "in the running" and when they would get a response from the
14 seller. At 2:29 p.m. of the same day, Respondent CISNEROZ replied, "Seller has not made a
15 decision yet. We have 15 offers seller is still reviewing." On October 5, 2012, Respondent
16 CISNEROZ emailed A.M. and notified her that the seller had accepted another offer and they
17 had already opened escrow. The Saticoy St. property was sold to buyers W.C. and G.C. Escrow
18 closed on November 21, 2012. The sales price was \$410,000.

19 12.

20 On or about November 21, 2012, A.M. discovered that the Saticoy St. property had sold
21 to buyers W.C. and G.C. for a sales price of \$410,000. A.M. emailed Respondent CISNEROZ
22 and asked why prospective buyer A.I.'s offer, which was for a higher sales price, was not
23 accepted and A.M. asked that BCGI provide the seller's signed rejection of A.I.'s offer.

1 Respondents failed to provide A.M. with a copy of the signed rejection. On November 21, 2012,
2 A.M. emailed Respondent CISNEROZ again, stating, “[V]ery hard to explain to my client who
3 offered 420K with 20% down that 410 offer took it with less than 2% down - loan recorded is
4 \$402,573.” In response, Respondent CISNEROZ replied, “Ultimately, it’s the sellers [sic]
5 decision. We presented all offers as they are received. The sellers hand picked that offer.
6 Again, I apologize your clients offer was not selected.”

7 13.

8 On November 28, 2012, prospective buyer A.I. sent a letter to the seller regarding the
9 Saticoy St. property. Prospective buyer A.I. explained the terms of his offer to purchase the
10 property and asked the seller to explain why his offer had been rejected. The seller contacted
11 prospective buyer A.I. and A.M. after receiving prospective buyer A.I.’s letter. In fact,
12 Respondents had not presented prospective buyer A.I.’s offer to the seller. According to the
13 seller, Respondent FOGG only presented one (1) actual offer to purchase the Saticoy St.
14 property, not fifteen (15) offers as Respondent CISNEROZ had claimed to A.M. Respondent
15 FOGG told the seller that there were a “couple of other offers” made, but that buyers W.C. and
16 G.C.’s offer- the only offer presented to the seller- was the highest offer. Respondent FOGG
17 induced the seller to accept W.C. and G.C.’S offer by claiming it was the best offer for the seller.

18 14.

19 The seller contacted Respondent FOGG and asked him to explain why FOGG hadn’t
20 shown prospective buyer A.I.’s offer to him. Respondent FOGG refunded \$10,000 of the
21 commission he received from the sale of the Saticoy St. property to the seller in response to the
22 seller’s complaint.

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1 15.

2 On December 14, 2012, the Bureau received a complaint against Respondent FOGG
3 regarding the Saticoy St. property transaction and began an investigation. The Bureau contacted
4 Respondent FOGG and asked for his version of events. In Respondent FOGG's response to the
5 Bureau, he claimed that, "five (5) offers came in ranging from \$350,000 to \$420,000 to purchase
6 the Saticoy St. property. All offers were presented to the seller. The seller selected the offer that
7 best met his needs." Respondent FOGG provided copies of five purchase offers for the Saticoy
8 St. property. None of the offers included the signature of the seller indicating that he had
9 reviewed the offers and rejected them. Respondent CISNEROZ informed A.M. that fifteen (15)
10 offers had been presented to the seller. The seller claims that Respondent FOGG told him that "a
11 couple" of offers had been made but W.C. and G.C.'s offer was the highest and was the only
12 offer actually presented to the seller.

13 16.

14 The conduct, acts and/or omissions of Respondents BCGI, FOGG, and CISNEROZ as set
15 forth above in Paragraphs 10 through 15, constitute cause for the suspension or revocation of the
16 real estate licenses and license rights of Respondents BCGI, FOGG, and CISNEROZ pursuant to
17 Code Sections Code sections 10176(a) (substantial misrepresentation); 10176(i) (fraud or
18 dishonest dealing), and/or 10177(g) (negligence).

19 17.

20 The conduct, acts and/or omissions of Respondent DERIAN, in failing to reasonably
21 supervise Respondents BCGI, FOGG, and CISNEROZ, resulting in their violation of the Real
22 Estate Law as set forth above, constitutes a failure by Respondent DERIAN to exercise the
23 supervision and control over the activities of Respondents BCGI, FOGG, and CISNEROZ, as
24

1 required by Code Section 10159.2 and Regulation 2725, and constitutes cause to suspend or
2 revoke the real estate license and license rights of Respondent DERIAN under Code Sections
3 10177(h) (failure to supervise), 10177(d), and/or 10177(g).

4 18.

5 Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a
6 disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the
7 administrative law judge to direct a licensee found to have committed a violation of this part to
8 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all licenses and/or license rights of Respondents BEST CORE GROUP, INC.;
4 MICHAEL RAZNIK DERIAN, individually, and as designated officer of Best Core Group, Inc.;
5 DAVID MICHAEL FOGG; and KRISTY ANN CISNEROZ under the Real Estate Law (Part 1
6 of Division 4 of the Business and Professions Code), for the cost of investigation and
7 enforcement as permitted by law, and for such other and further relief as may be proper under
8 other provisions of law.

9 Dated at Los Angeles, California

10 this 29th day of December, 2014.

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14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
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21 cc: Best Core Group, Inc.
22 Michael Raznik Derian
23 David Michael Fogg
24 Kristy Ann Cisneroz
Maria Suarez
Sacto