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FILED

MAR 08 2019

DEPT. OF REAL ESTATE
By Ingrid Lannan

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 R E SETTLEMENT CORP;)
13 R E ADVISORS CORP; and)
14 RICHARD GARY MOORE, individually)
15 and as designated officer of R E Settlement)
16 Corp and as designated officer of)
17 R E Advisors Corp,)
18)
19 Respondents.)

No. H-41243 LA
**FIRST AMMENDED
ACCUSATION**

20 *The Accusation filed on December 10, 2018 is amended in its entirety as follows:*

21 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of
22 California, for cause of Accusation against R E SETTLEMENT CORP; R E ADVISORS CORP;
23 and RICHARD GARY MOORE, individually and as designated officer of R E SETTLEMENT
24 CORP and R E ADVISORS CORP, alleges as follows:

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1. 1

2 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of
3 California, makes this Accusation in her official capacity.

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

7 **RESPONDENTS**

8 3.

9 **RICHARD GARY MOORE**

10 A. Respondent RICHARD GARY MOORE ("MOORE") is presently licensed
11 and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real
12 estate broker ("REB"), California Department of Real Estate ("Department" or "DRE") License
13 ID 01335144.

14 B. According to DRE records to date, MOORE has a Mortgage Loan Originator
15 ("MLO") license endorsement, Nationwide Multistate Licensing System ("NMLS") ID 308705.

16 C. MOORE's REB license will expire on March 15, 2021.

17 4.

18 **R E SETTLEMENT CORP**

19 A. Respondent R E SETTLEMENT CORP ("RESC") is presently licensed and/or
20 has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB
21 (corporation), DRE License ID 01516165.

22 B. According to DRE records to date, MOORE is the designated officer ("D.O.")
23 of RESC until his officer expiration date of September 8, 2021.

24 C. According to DRE records to date, RESC maintains four (4) DBAs under its
25 DRE license:

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1. CB Platinum Commercial (active as of December 19, 2006);
2. Platinum Commercial Brokerage (active as of January 10, 2011);
3. Sterling Escrow (active as of June 5, 2006); and
4. Sterling Escrow, A Non-Independent Broker Escrow (active as of February 7, 2007).

D. RESC's REB license will expire on September 8, 2021.

5.

R E ADVISORS CORP

A. Respondent R E ADVISORS CORP ("REAC") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB (corporation), DRE License ID 01516164.

B. According to DRE records to date, MOORE is the designated officer ("D.O.") of RESC until his officer expiration date of August 19, 2021.

C. According to DRE records to date, REAC maintains three (3) DBAs under its DRE license:

1. Coldwell Banker Platinum (active as of August 21, 2005);
 2. Coldwell Banker Platinum Properties (active as of December 21, 2005);
- and
3. Sterling Escrow II, A Non-Independent Broker Escrow (active as of February 27, 2018).

D. REAC's REB license will expire on August 19, 2021.

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1 When Broker Handles Escrow – Regulation 2950

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3 Pursuant to Regulation 2950 *When Broker Handles Escrow*:

4 “The following acts in the handling of an escrow by a real estate broker
5 exempted from the provisions of the Escrow Law (by Section 17006(a)(4) of the Financial
6 Code) are prohibited and may be considered grounds for disciplinary action:

7 (a) Soliciting or accepting an escrow instruction (or amended or supplemental
8 escrow instruction) containing any blank to be filled in after signing or initialing of such
9 escrow instruction (or amended or supplemental escrow instruction).

10 (b) Permitting any person to make any addition to, deletion from, or alteration of
11 an escrow instruction (or amended or supplemental escrow instruction) received by such
12 licensee, unless such addition, deletion or alteration is signed or initialed by all persons who
13 had signed or initialed such escrow instruction (or amended or supplemental escrow
14 instruction) prior to such addition, deletion or alteration.

15 (c) Failing to deliver at the time of execution of any escrow instruction or
16 amended or supplemental escrow instruction a copy thereof to all persons executing the same.

17 (d) Failing to maintain books, records and accounts in accordance with accepted
18 principles of accounting and good business practice.

19 (e) Failing to maintain the office, place of books, records, accounts, safes, files,
20 and papers relating to such escrows freely accessible and available for audit, inspection and
21 examination by the commissioner.

22 (f) Failing to deposit all money received as an escrow agent and as part of an
23 escrow transaction in a bank, trust account, or escrow account on or before the close of the next
24 full working day after receipt thereof.

1 (g) Withdrawing or paying out any money deposited in such trustee account or
2 escrow account without the written instruction of the party or parties paying the money into
3 escrow.

4 (h) Failing to advise all parties in writing if he has knowledge that any licensee
5 acting as such in the transaction has any interest as a stockholder, officer, partner or owner of
6 the agency holding the escrow.

7 (i) Failing upon closing of an escrow transaction to render to each principal in the
8 transaction a written statement of all receipts and disbursements together with the name of the
9 person to whom any such disbursement is made.

10 (j) Delivering or recording any instrument which purportedly transfers a party's
11 title or interest in or to real property without first obtaining the written consent of that party to
12 the delivery or recording.”

13 **Broker Supervision – Code Section 10159.2 and Regulation 2725**

14 8.

15 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

16 “(a) The officer designated by a corporate broker licensee pursuant to Section
17 10211 shall be responsible for the supervision and control of the activities conducted on behalf
18 of the corporation by its officers and employees as necessary to secure full compliance with the
19 provisions of this division, including the supervision of salespersons licensed to the corporation
20 in the performance of acts for which a real estate license is required.

21 (b) A corporate broker licensee that has procured additional licenses in accordance
22 with Section 10158 through officers other than the officer designated pursuant to Section 10211
23 may, by appropriate resolution of its board of directors, assign supervisory responsibility over
24 salespersons licensed to the corporation to its broker-officers.

1 (c) A certified copy of any resolution of the board of directors assigning
2 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
3 with the Real Estate Commissioner within five days after the adoption or modification thereof.”

4 9.

5 Pursuant to Regulation 2725 *Broker Supervision*:

6 “A broker shall exercise reasonable supervision over the activities of his or her
7 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
8 rules, procedures and systems to review, oversee, inspect and manage:

9 (a) Transactions requiring a real estate license.

10 (b) Documents which may have a material effect upon the rights or obligations
11 of a party to the transaction.

12 (c) Filing, storage and maintenance of such documents.

13 (d) The handling of trust funds.

14 (e) Advertising of any service for which a license is required.

15 (f) Familiarizing salespersons with the requirements of federal and state laws
16 relating to the prohibition of discrimination.

17 (g) Regular and consistent reports of licensed activities of salespersons.

18 The form and extent of such policies, rules, procedures and systems shall take into
19 consideration the number of salespersons employed and the number and location of branch
20 offices.

21 A broker shall establish a system for monitoring compliance with such policies,
22 rules, procedures and systems. A broker may use the services of brokers and salespersons to
23 assist in administering the provisions of this section so long as the broker does not relinquish
24 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

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1 **Further Grounds for Disciplinary Action –**

2 **Code Section 10177**

3 10.

4 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*
5 (selected portions):

6 “The commissioner may suspend or revoke the license of a real estate licensee,
7 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an
8 applicant, who has done any of the following:

9 ...

10 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
11 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
12 regulations of the commissioner for the administration and enforcement of the Real Estate Law
13 and Chapter 1 (commencing with Section 11000) of Part 2.

14 ...

15 (g) Demonstrated negligence or incompetence in performing an act for which he
16 or she is required to hold a license.

17 (h) As a broker licensee, failed to exercise reasonable supervision over the
18 activities of his or her salespersons, or, as the officer designated by a corporate broker licensee,
19 failed to exercise reasonable supervision and control of the activities of the corporation for which
20 a real estate license is required.

21 ...

22 (j) Engaged in any other conduct, whether of the same or a different character than
23 specified in this section, that constitutes fraud or dishonest dealing...”

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1 **DRE AUDIT LA 170065**

2 **(RESC's Broker Escrow Activities)**

3 11.

4 On February 26, 2018, the DRE completed an audit examination of the books and
5 records of RESC pertaining to its broker escrow activities described in Paragraph 12 below,
6 which require a real estate license. The audit examination covered a period of time beginning on
7 January 1, 2016 and ending on September 30, 2017 ("audit period"), and was performed between
8 October 19, 2017 and January 10, 2018. The final report of February 26, 2018 revealed
9 violations of the Code and the Regulations as set forth in the following paragraphs, and more
10 fully discussed in Audit Report LA 170065

11 12.

12 **RESC's Business Activities & Corporate Structure: Real Estate Sales Activities**

13 A. According to D.O. MOORE, RESC was engaged in broker escrow activity for
14 the audit period. In addition, according to MOORE, RESC maintained its DBA "CB Platinum
15 Commercial" to perform real estate sales for commercial properties, but no one sale transaction
16 was closed during the audit period.

17 B. According to MOORE, his other corporation, REAC, performs sales
18 transactions.

19 C. According to MOORE, RESC's corporate structure is as follows: MOORE is
20 the President and 51% shareholder and REB Jon Fasola (DRE ID 01093094) ("Fasola") is the
21 Secretary and Treasurer and the 49% shareholder. According to MOORE, he and Fasola also
22 own REAC, which is located at the same address of records as RESC, at 3500 Barranca Pkwy.,
23 in Irvine, California.

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13.

Bank Account

A. RESC maintained one (1) trust account in connection with its broker escrow activity. RESC closed about one hundred seventy-four (174) escrow transactions and collected about \$133,110,000.00 in escrow trust funds in the past twelve (12) months.

B. RESC's one (1) trust account for its broker escrow activity was sampled for DRE Audit LA 170065:

Trust Account #1 ("T/A 1")

* Bank Name: Comerica Bank

* Bank Address: 13200 Crossroads Pkwy., N. Suite, 100, La Puente, CA 91746

* Account No. #####7758

* Account Name: R E SETTLEMENT CORP Escrow Trust Account

AUDIT LA 170065

RESC's BROKER ESCROW ACTIVITIES -

VIOLATIONS OF THE REAL ESTATE LAW

14.

In the course of activities as described above, and during the audit period described in Paragraph 11, RESC acted in violation of the Code and the Regulations, as described below:

Engaging in Prohibited Activity - Exemptions From Escrow Law/ Third Party Escrow

(Code Section 10086(a) / Financial Code Section 17006(a)(4)(b))

15.

Based on an examination of records, RESC performed escrow services in which it was not an agent or a party to the transaction, as required, and performed said broker escrow activity under its DRE license, in violation of **Financial Code Section 17006(a)(4)(b)** [as a prohibited activity pursuant to **Code Section 10086(a)**]. The escrow transaction files in which RESC performed escrow services as a non-agent or non-party to the transaction are:

Escrow Number	Loan Amount	Date Escrow Closed
4901-MK	\$1,680,000.00	8/28/17
4657-MK	\$ 950,000.00	9/27/16
4861-MK	\$1,200,000.00	8/31/17
4733-MK	\$ 730,000.00	11/30/16
4550-MK	\$ 730,000.00	3/7/16
4704-MK	\$ 355,000.00	10/13/16
4638-MK	\$ 490,000.00	7/8/16

Failure to Disclose Interest in The Agency Holding The Escrow/ When Broker Handles

Escrow

(Regulation 2950(h))

16.

RESC did not provide a full written disclosure to all principals that D.O. MOORE and REB associate Fasola had an interest as stockholder, officer, partner or owner of the agency holding the escrow, in violation of **Regulation 2950(h)**. Examples of such failure to disclose are the escrow transaction files listed above in Paragraph 15.

Responsibility of Corporate Officer in Charge/Broker Supervision

(Code Section 10159.2 and 10177(h) and Regulation 2725)

17.

During the audit period, D.O. MOORE failed to exercise reasonable control and supervision over the activities conducted by licensees and/or employees on behalf of RESC as necessary to secure full compliance with the Real Estate Laws and Regulations. D.O. MOORE's failure to establish policies, rules, procedures, and systems to review, oversee, inspect and manage transactions requiring a real estate license and the handling of trust funds relating to such transactions is in violation of **Code Sections 10159.2 and 10177(h) and Regulation 2725**.

1 **Additional Violations of the Real Estate Law**

2 **(Code Sections 10177(d) and (g))**

3 18.

4 The overall conduct of Respondents RESC and MOORE is violative of the Real
5 Estate Law and constitutes cause for the suspension or revocation of their real estate licenses and
6 license rights under the provisions of **Code Section 10177(d)** for willful disregard of the Real
7 Estate Law and **Code Section 10177(g)** for negligence.

8 **COSTS**

9 **Investigation and Enforcement Costs**

10 19.

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

16 **Audit Costs**

17 20.

18 **Code Section 10148(b)** provides, in pertinent part, the Commissioner shall charge
19 a real estate broker for the cost of any audit, if the Commissioner has found in a final decision
20 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
21 or rule of the Commissioner interpreting said section.

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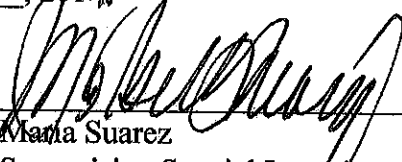
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the licenses and license rights of Respondents R E SETTLEMENT CORP, R E
4 ADVISORS CORP, and RICHARD GARY MOORE under the Real Estate Law (Part 1 of vision
5 4 of the Business and Professions Code), for the cost of investigation and enforcement as
6 permitted by law, for costs of audit, and for such other and further relief as may be proper under
7 other provisions of law.

8 Dated at Los Angeles, California

9 this 1st day of March, 2019.

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11 
12 Maria Suarez
Supervising Special Investigator

13
14 cc: R E SETTLEMENT CORP
15 R E ADVISORS CORP
16 RICHARD GARY MOORE
17 Enforcement – M. Suarez
Audits – I. Beltran, J. Lin
18 Sacto.
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