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FILED
SEP 16 2019

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-41497 LA
)	
ALONSO GUZMAN RODRIGUEZ;)	ACCUSATION
)	
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Respondent.)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against ALONSO GUZMAN RODRIGUEZ, alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

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

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1 **DEPARTMENT OF REAL ESTATE LICENSE HISTORY**

2 3.

3 A. Respondent ALONSO GUZMAN RODRIGUEZ (“RODRIGUEZ”) is
4 presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the
5 Code) as a real estate broker (“REB”), California Department of Real Estate (“DRE” or
6 “Department”) license ID 01253764.

7 B. RODRIGUEZ was originally licensed by the DRE as a real estate salesperson
8 (“RES”) on or about October 15, 1999 and as a REB on August 16, 2006.

9 C. RODRIGUEZ’ DRE mailing address of record is: 4643 Myrtle St., Picoe
10 Rivera, CA 90660.

11 D. RODRIGUEZ’ DRE main address of record is: 11122 Marbel Ave., Downey, e
12 CA 90241.

13 E. RODRIGUEZ presently holds or has held the following DBAs under his REB
14 license:

15 DBA	Active Dates
16 AGR and Associates	10/12/10 to present
17 Luxor Escrow	1/9/07 to 1/3/10
18 Luxor Mortgage Group	9/13/18 to 1/3/10
19 Luxor Realty Group	9/13/06 to 1/3/10
20 Modern Realtors RE	10/15/18 to present
21 Mountain View Escrow A Non Independent Broker Escrow	4/14/17 to 8/1/18
22 Noble & Associates Realty	9/28/18 to present
23 Prime Escrow Service A Non Independent Broker Escrow	4/14/17 to 8/1/18
24 Strong Tie Financial	11/20/06 to 1/5/09
25 West to East Realty Group	11/14/13 to 8/3/14

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F.sRODRIGUEZ has fifteen (15) RES licensed under his REB license.s

G.sAccording to the DRE's records, RODRIGUEZ' REB license has suffered the following prior suspensions:

Date	Suspension
7/24/15	Suspended per Family Code Section 17520
9/11/15	(Suspension Released 9/8/15)
5/24/18	Suspended per Family Code Section 17520
7/3/18	(Suspension Released 6/28/15)

H.sRODRIGUEZ' REB license will expire on August 15, 2022.s

4.

Paula Jimenez, a.k.a. Paula Rodriguez

Paula Jimenez, a.k.a. Paula Rodriguez ("Jimenez"), is not now, and has never been, licensed by the DRE in any capacity.

APPLICABLE SECTIONS OF THE REAL ESTATE LAW

License Required - Code Sections 10130 and 10131

5.

Pursuant to Code Section 10130 *License Required:*

"It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson within this state without first obtaining a real estate license from the department, or to engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this state without having obtained a license endorsement. The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his or her counsel, deputies, or assistants, may assist in presenting the law or facts at the trial.

1 *Prosecution of Violations:* It is the duty of the district attorney of each county in this state to
2 prosecute all violations of this section in their respective counties in which the violations occur.”

3 6.

4 Pursuant to Code Section 10131 *Broker Defined:*

5 “A real estate broker within this meaning of this part is a person who, for a
6 compensation or in expectation of a compensation, regardless of the form or time of payment,
7 does or negotiates to do one or more of the following acts for another or others:

8 (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or
9 purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or
10 exchange of real property or a business opportunity.

11 (b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings
12 of places for rent, or solicits for prospective tenants, or negotiates the sale,
13 purchase or exchanges of leases o real property, or on a business opportunity, or
14 collects rents from real property, or improvements thereon, or from business
15 opportunities.

16 (c) Assists or offers to assist in filing an application for the purchase or lease of,
17 or in locating or entering upon, lands owned by the state or federal government.

18 (d) Solicits borrowers or lenders for or negotiates loans or collects payments or
19 performs services for borrowers or lenders or note owners in connection with
20 loans secured directly or collaterally by liens on real property or on a business
21 opportunity.

22 (e) Sells or offers to sell, buys or offers to buy, or exchanges or offers to exchange
23 a real property sales contract, or a promissory note secured directly or collaterally
24 by a lien on real property or on a business opportunity, and performs services for
25 the holders thereof.”

1 Retention of Records – Code Section 10148

2 7.

3 Pursuant to Code Section 10148 *Retention of Records – Chargeable Audits – Cost*
4 *Recovery – Penalties for Unlawful Destruction of Records:*

5 “(a) A licensed real estate broker shall retain for three years copies of all listings,
6 deposit receipts, cancelled checks, trust records, and other documents executed by him or her or
7 obtained by him or her in connection with any transactions for which a real estate broker license
8 is required. The retention period shall run from the date of the closing of the transaction or from
9 the date of the listing if the transaction is not consummated. After notice, the books, accounts,
10 and records shall be made available for examination, inspection, and copying by the
11 commissioner or his or her designated representative during regular business hours; and shall,
12 upon the appearance of sufficient cause, be subject to audit without further notice, except that the
13 audit shall not be harassing in nature. This subdivision shall not be construed to require a
14 licensed real estate broker to retain electronic messages of an ephemeral nature, as described in
15 subdivision (d) of Section 1624 of the Civil Code.

16 (b) The commissioner shall charge a real estate broker for the cost of any audit, if
17 the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a
18 final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing
19 with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker
20 has violated Section 10145 or a regulation or rule of the commissioner interpreting Section
21 10145.

22 (c) The bureau may suspend or revoke the license of any real estate broker, real
23 estate salesperson, or corporation licensed as a real estate broker, if the real estate broker, real
24 estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a
25 real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books,
26

1 papers, writings, documents, or tangible objects that are required to be maintained by this section
2 or that have been sought in connection with an investigation, audit, or examination of a real
3 estate licensee by the commissioner.”

4 **Responsibility of Corporate Officer in Charge – Code Section 10159.2 and Regulation 2725**

5 8.

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

7 “(a) The officer designated by a corporate broker licensee pursuant to Section
8 10211 shall be responsible for the supervision and control of the activities conducted on behalf
9 of the corporation by its officers and employees as necessary to secure full compliance with the
10 provisions of this division, including the supervision of salespersons licensed to the corporation
11 in the performance of acts for which a real estate license is required.

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

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

19 9.

20 Pursuant to Regulation 2725 *Broker Supervision*:

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

24 (a) Transactions requiring a real estate license.

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

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

4 (d) The handling of trust funds.

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

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

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

9 The form and extent of such policies, rules, procedures and systems shall take into
10 consideration the number of salespersons employed and the number and location of branch
11 offices.

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

16 **False or Fictitious Business Name – Code Section 10159.5 and Regulation 2731**

17 10.

18 Pursuant to Code Section 10159.5(a)(1), “Every person applying for a license
19 under this chapter who desires to have the license issued under a fictitious business name shall
20 file with his or her application a certified copy of his or her fictitious business name statement
21 filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of
22 Division 7.”

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11.

Pursuant to Regulation 2731(a), "A licensee shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious business name."

Branch Offices – Code Section 10163

12.

Pursuant to Code Section 10163 *Branch Offices*:

"If the applicant for a real estate broker's license maintains more than one place of business within the State he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place or places of business for which such license is desired. The commissioner may determine whether or not a real estate broker is doing a real estate brokerage business at or from any particular location which requires him to have a branch office license."

Further Grounds for Disciplinary Action – Code Section 10177

13.

Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*:

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

...

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

...

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

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

7 **FIRST CAUSE FOR DISCIPLINE**

8 **DRE AUDIT LA180044: ALONSO GUZMAN RODRIGUEZ**

9 **(REAL ESTATE SALES ACTIVITIES)**

10 14.

11 On February 28, 2019, the DRE completed its audit examinations of the books
12 and records of Respondent RODRIGUEZ pertaining to his real estate sales activities
13 (LA180044), which require a real estate license. The audit examination covered a period of time
14 beginning on January 1, 2016 and ending on November 30, 2016 (“audit examination period” or
15 “audit period”). The final report of February 28, 2019 revealed violations of the Code and the
16 Regulations as set forth in the following paragraphs, and more fully discussed in the Audit
17 Report for LA180044.

18 **Subpoena Duces Tecum**

19 15.

20 A *subpoena duces tecum* was served on RODRIGUEZ by DRE Auditor Shirley
21 Xie (“Auditor Xie”) on December 31, 2018 for RODRIGUEZ to produce books and records
22 related to his real estate sales activities on January 15, 2019 for the audit examination to be held
23 at the DRE’s Los Angeles District Office (“LADO”).

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16.

The audit examination was performed from December 31, 2018 to February 28, 2019. RODRIGUEZ provided records and other documents for examination, and some records were copied, on a sample basis where appropriate, at RODRIGUEZ' main office address of record at Marbel Avenue and at the DRE's LADO from December 31, 2018 to February 8, 2019.

Business Activities

17.

According to RODRIGUEZ and the documents examined, RODRIGUEZ performs real estate sales and represents buyers and sellers. In the last twelve (12) months leading into the audit examination, RODRIGUEZ closed six (6) listing transactions, four (4) sales transactions, and three (3) dual transactions with a total aggregate value of approximately \$7.1 million. Earnest money deposits ("EMDs") were held and delivered directly to the escrow companies by the buyers in connection with the sales activity.

No Trust Account Maintained During Audit Period

18.

According to RODRIGUEZ' written statement signed and dated January 14, 2019, he "...did not open any trust accounts or any bank accounts with Paula¹." In a separate, undated statement also signed by RODRIGUEZ, he stated, "I do not have any trust accounts that I know of therefore I do not deposit into any of my accounts..."

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¹ Paula Jimenez a.k.a. Paula Rodriguez is a non-licensee and is the escrow officer of Prime Escrow.

1 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

2 19.

3 In the course of real estate sales activities and during the audit examination period
4 described in Paragraph 14., Respondent RODRIGUEZ violated the Code and the Regulations, as
5 described below:

6 20.

7 **Use of False or Fictitious Name**

8 **(Code Section 10159.5 and Regulation 2731)**

9 During the audit period, RODRIGUEZ conducted his real estate sales activities
10 using the unlicensed fictitious names “AGR & Associates” when RODRIGUEZ was not the
11 holder of a license bearing the fictitious name, in violation of **Code Section 10159.5 and**
12 **Regulation 2731.**

13 21.

14 **Branch Offices**

15 **(Code Section 10163)**

16 During the audit period, RODRIGUEZ performed real estate sales activities at an
17 office location that was not registered as a branch office, in violation of **Code Section 10163.**
18 According to DRE licensing records, RODRIGUEZ did not maintain branch office licenses for
19 the following addresses: 4745 Ivy Street, Pico Rivera, CA 90660 and 4025 Florence Ave. #B,
20 Downey, CA 90240.

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22.

Retention of Records

(Code Section 10148)

With respect to the *subpoena duces tecum* described above in Paragraph 15., some of the books, records, and documents related to the real estate activity conducted by RODRIGUEZ were not made available for examination for the audit period January 1, 2016 to November 30, 2018, in violation of **Code Section 10148**. Among the items not provided by RODRIGUEZ for the audit examination were broker escrow transaction files and records of trust fund receipts and disbursements related to RODRIGUEZ' broker escrow activities. According to RODRIGUEZ' written statement signed and dated January 14, 2019, "...as far as I'm aware there were no closed escrows under my license...I do not have any records to any prior escrows that were conducted by Paula Jimenez under Prime Escrow services."

23.

Broker Supervision

(Code Section 10177(h) and Regulation 2725)

RODRIGUEZ failed to exercise reasonable supervision and control over the activities conducted on his behalf by his employees as necessary to ensure full compliance with the Real Estate Law and the Commissioner's Regulations, in violation of **Code Section 10177(h) and Regulation 2725**. RODRIGUEZ failed to adequately supervise the real estate activities conducted at the San Jacinto branch office location during the audit period. RODRIGUEZ stated that he was unaware that broker escrow activities were being conducted and that trust funds were collected during the audit period in connection to the San Jacinto branch office. In his undated, signed statement, RODRIGUEZ indicated, "...She [Paula Jimenez] has a location at 151. E. Main St. San Jacinto CA. 92583. As to my recollection there was never any escrows closed or any trust accounts under my name, I saw that nothing was happening with this location..."

1 non-independent escrow” filed and signed by Jimenez (as “Partner”) with San Bernardino
2 County on July 8, 2014.

3 28.

4 On September 4, 2014, Jimenez filed a Statement of Information for “Prime
5 Escrow Service, Corp.” as the Chief Executive Officer and Director. Carcamo was listed as the
6 Secretary, Director and Agent for Service of Process. The business address was listed as 293
7 North D Street, San Bernardino, California.

8 29.

9 On October 15, 2014, the DRE received a Corporate License Application (RE 201
10 (Rev. 11/13)) from then-REB Maximillian Pelayo (DRE license ID 01162944³) (“Pelayo”) as
11 Secretary for “Prime Escrow Service Corp.”

12 30.

13 On February 10, 2015, Pelayo filed a Statement of Information for “Prime Escrow
14 Service, Corp.” as the Chief Executive Officer and Director. Carcamo was listed as the
15 Secretary, Director and Agent for Service of Process. The business address was listed as 801 E.
16 Florida Ave., Suite A, Hemet, CA 92543.

17 31.

18 On March 4, 2015, the DRE licensed Prime Escrow Service, Corp. (“PESC”),
19 DRE license ID 01967854. PESC’s DRE license expired on March 3, 2019.

20 32.

21 On or about March 2, 2015, the California Franchise Tax Board suspended the
22 powers, rights and privileges of Prime Escrow Service, Corp. As of this writing, the status of
23 Prime Escrow Service Corp. remains “FTB Suspended.”

24
25 ³ On May 11, 2016, in DRE Case No. H-39773, Maximillion John Pelayo’s REB license was revoked with a right
26 to apply for and be granted a restricted RES license. Pelayo is presently licensed under REB RODRIGUEZ.

Mountain View Escrow Corp

33.

On August 4, 2016, RODRIGUEZ filed Articles of Incorporation for "Mountain View Escrow Corp." (California Corporate Number 3933393) ("MVEC") as the Incorporator with the California Secretary of State using the address 151 E. Main St., San Jacinto, CA 92583.

34.

On September 14, 2016, the DRE received a Broker Change Application (RE 204 (Rev. 5/16)) from RODRIGUEZ to add "Mountain View Escrow "A Non-Independent Broker Escrow"" as a FBN to his license; attached to the form was a FBN statement for "Mountain View Escrow "A Non-Independent Broker Escrow"" at the San Jacinto address, signed and filed by Jimenez with Riverside County on May 19, 2014.

35.

On April 14, 2017, the DRE received a Broker Change Application (RE 204 (Rev. 5/16)) from RODRIGUEZ to add "Prime Escrow Service a non independent broker escrow" and "Mountain View Escrow a non-independent broker escrow" as FBNs to his license; attached to the form was a FBN statement for both "Prime Escrow Service a non independent broker escrow" and "Mountain View Escrow a non-independent broker escrow" at 9025 Florence Ave Suite B, Downey, CA 90240 signed and filed by RODRIGUEZ with Los Angeles County on April 14, 2017.

36.

According to RODRIGUEZ: he opened the two DBAs for MVEC and PESC for Jimenez, who approached him to open the DBAs for her to operate her escrow business; he visited the MVEC office twice and did not sign the lease agreement for the office; he was aware that unlicensed Jimenez was involved in prior broker affiliated escrows using "Prime Escrow" and other variations of the name; he did not have a relationship agreement or constant contact

1 with Jimenez; and he did not open trust accounts, collect trust funds, or review documents
2 relating to MVEC or PESC, in violation of **Code Sections 10130; Code Section 10159.5 and**
3 **Regulation 2731; Code Section 10177(g); and Code Section 10177(h) and Regulation 2725.**

4 37.

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

6 The overall conduct of Respondent ALONSO GUZMAN RODRIGUEZ, is
7 violative of the Real Estate Law and constitutes cause for the suspension or revocation of his real
8 estate license(s) and license rights under the provisions of **Code Section 10177(g)** for
9 negligence; **Code Section 10177(d)** for willful disregard of the Real Estate Law; and **Code**
10 **Section 10177(h)** for failure to supervise.

11 **COSTS**

12 **Investigation and Enforcement Costs**

13 38.

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

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the licenses and license rights of Respondent ALONSO GUZMAN RODRIGUEZ under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law, and for costs of audit.

Dated at Los Angeles, California

this 10 day of September, 2019.



Veronica Kilpatrick
Supervising Special Investigator

cc: ALONSO GUZMAN RODRIGUEZ
Enforcement – V. Kilpatrick
Audits – J. Lin
Sacto.