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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-2660 FR
13 CHRISTINA L. FLANARY)
14 and DAVID E. MENDEZ,) ACCUSATION
15 Respondents.)

16 The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the
17 State of California ("Complainant"), for Accusation against Respondents CHRISTINA L.
18 FLANARY, individually and doing business as "The Pro Per Legal Professionals",
19 ("FLANARY"), and DAVID E. MENDEZ, ("MENDEZ"), (collectively "Respondents"), is
20 informed and alleges as follows:

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22 Complainant makes this Accusation against Respondents in his official capacity.

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24 At all times mentioned, FLANARY was and now is licensed by the State of
25 California Department of Real Estate ("the Department") as a real estate salesperson employed
26 by MENDEZ.

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2 At all times mentioned, MENDEZ was and now is licensed by the Department
3 as a real estate broker.

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5 At no time has "The Pro Per Legal Professionals" been licensed by the
6 Department in any capacity or registered as a fictitious business name to MENDEZ.

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8 At all times mentioned, Respondents engaged in the business of, acted in the
9 capacity of, advertised or assumed to act as a real estate broker in the State of California within
10 the meaning of Section 10131(d) of the California Business and Professions Code (performing
11 services for borrowers and/or lenders in connection with loans secured by real property), ("the
12 Code"), including performing services for one or more borrowers and negotiated to do one or
13 more of the following acts for another or others, for or in expectation of compensation:
14 negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect
15 to the collection of advance fees and loan modification, loan refinance, principal reduction,
16 foreclosure abatement or short sale services and/or those borrowers' lenders in connection with
17 loans secured directly or collaterally by one or more liens on real property; and charged,
18 demanded or collected an advance fee for any of the services offered.

19 FIRST CAUSE OF ACTION

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21 In connection with the activities described in Paragraph 5, above, Respondents
22 collected advance fees within the meaning of Sections 10026 and 10131.2 ("advance fee") of
23 the Code in exchange for providing loan modification services, including, but not limited to,
24 the following:

- 25 a. On or about October 30, 2009, FLANARY, using the fictitious business
26 name of "The Pro Per Legal Professionals", entered into an advance fee
27 agreement to perform loan modification services for Ana Maria Garza on

1 her property located at 1317 Shawdowglen Road, Sacramento,
2 California. On or about November 4, 2009, Ana Maria Garza paid an
3 advance fee of \$1,595.00 to FLANARY for the loan modification
4 services.

5 b. On or about October 7, 2009, FLANARY, using the fictitious business
6 name of "The Pro Per Legal Professionals", entered into an agreement
7 with Elida L. Garza to perform loan modification services on property
8 located at 33444 Canvas Back, Woodland, California, in exchange for an
9 initial advance fee payment of \$250.00. On or about November 11,
10 2009, FLANARY demanded and received an additional payment of
11 \$1,595.00 from Elida L. Garza to enroll her in the "The Hedge Fund
12 Program" loan modification program.

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14 At all time mentioned, MENDEZ was aware of FLANARY'S loan modification
15 and advance fee activities under the name of 'The Pro Per Legal Professionals' while she was
16 employed under his real estate broker license.

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18 After receiving advance fee payments from each of the borrowers identified in
19 Paragraph 6, above, Respondents failed to obtain loan modifications for them and did not repay
20 the advance fees received from those borrowers. Respondents' failure to provide the services
21 promised or to refund the borrowers' funds constitutes dishonest dealing.

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23 The acts and/or omissions by Respondents as alleged in Paragraphs 6 through 8,
24 above, violate Sections 10085.5 (failure to comply with advance fees collection regulations)
25 and 10085.6 (collection of advance fees prior to performance of services) of the Code, and are
26 grounds for the revocation or suspension of Respondents' real estate licenses or license rights

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1 under Sections 10177(d), and 10176(i) (fraud or dishonest dealing) or 10177(g) (negligence) of
2 the Code.

3 SECOND CAUSE OF ACTION

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5 In connection with the collection and handling of advance fees as alleged in
6 Paragraph 6, above, Respondents failed to submit the advance fee contract and all materials
7 used in obtaining those advance fee agreements to the Department of Real Estate for approval
8 prior to their use in obtaining advance fees.

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10 The acts and/or omissions of Respondents described above violate Sections
11 10085.5, 10085.6 and 10177(d) in conjunction with Section 10085 (submission of advance fee
12 agreements and materials) of the Code, and Sections 2970 (submission of advance fee
13 agreements and materials) and 2972 (content requirements of verified accounting) of Title 10,
14 Chapter 6, California Code of Regulations (“the Regulations”), and are grounds for the
15 suspension or revocation of Respondents’ licenses and license rights under Sections 10177(d)
16 and 10177(g) of the Code.

17 THIRD CAUSE OF ACTION

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19 At all times mentioned, MENDEZ failed to exercise reasonable supervision over
20 the acts of and its agents and employees in such a manner as to allow the acts and omissions as
21 set forth in Paragraphs 6 through 10 above, to occur.

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23 The acts and/or omissions by MENDEZ as alleged in Paragraph 12, above,
24 violate Section 10159.2 (supervision responsibility of designated broker/officer) of the Code
25 and Section 2725 (reasonable supervision by broker) of the Regulations, and are grounds for
26 the suspension or revocation of the license or license rights of MENDEZ under Sections
27 10177(d), 10177(g) and 10177(h) (reasonable supervision by broker) of the Code.

1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondents under the Code and for
4 such other and further relief as may be proper under other provisions of law.

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7 LUKE MARTIN
8 Deputy Real Estate Commissioner

9 Dated at Fresno, California,
10 this 5th day of August, 2011.

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