

1 Arizona Department of Real Estate
2 2910 North 44th Street, Suite 100
3 Phoenix, Arizona 85018
4 Telephone: (602) 771-7760
5 Facsimile: (602) 468-0562

6 **BEFORE THE ARIZONA DEPARTMENT OF REAL ESTATE**

7 In the matter of the real estate broker's license of:

8 **File No.: 12F-DI-095**

9 **Ana Margaret Delgado**, holder of license number
10 **BR534834000**,

11 **CEASE AND DESIST ORDER AND
12 NOTICE OF RIGHT TO REQUEST
13 HEARING**

14 And

15 **Valley View Realty, LLC dba Valley View Realty**,
16 holder of entity license number **LC586495000**,

17 Respondents.

18 **DIRECTED TO:**

19 Ana Margaret Delgado
20 C/o Valley View Realty
21 6030 N 23rd Ave
22 Phoenix AZ 85015

23 Valley View Realty, LLC
24 Attn: Robert A. Gibson, Statutory Agent
25 2625 E. Rose Garden Lane
26 Phoenix, Arizona 85050

27 The Commissioner of the Arizona Department of Real Estate (the "Commissioner" and
28 "Department", respectively), based upon information and belief, alleges:

FACTS

1. On or about April 23, 2007, the Department issued real estate broker's license
BR534834000 to Ana Margaret Delgado ("Delgado"). That license expires on April 30, 2013.
Delgado is currently employed as the Designated Broker for Valley View Realty LLC dba
Valley View Realty, holder of license number LC586495000.

2. Valley View Realty, LLC dba Valley View Realty ("Valley") is a licensed domestic

1 entity, organized in Arizona on October 22, 2008 with Casa Latino Partners, LLC, JAG
2 Partners, LLC and Delgado as Members.

3 **Investigation C11-000271**

4 3. On or about March 11, 2011, Gwen Arrechea Gregory ("Gregory") submitted a
5 complaint and supporting documents to the Department regarding Delgado's management of
6 a rental property owned by Gregory located at 4130 W. Claremont, Phoenix, Arizona 85019
7 (the "Property").

8 a. In August of 2009, Gregory entered into a property management agreement
9 with Delgado for management of the Property. Gregory gave instructions to Delgado that
10 Gregory wanted responsible tenants, at least a 1 to 2 year lease with monthly rental
11 payments of at least \$1,000.

12 b. In March of 2010, Gregory received a rental proceeds check from Delgado of
13 \$444, without being advised by Delgado that the Property had been rented and/or leased
14 and without having seen the lease agreement.

15 c. At the end of April 2010, Gregory received three (3) more rental proceeds
16 checks totaling \$1,570, again with no explanation as to what the checks were for. Gregory
17 unsuccessfully attempted to contact Delgado by telephone and correspondence.

18 d. On or about May 10, 2010, Gregory wrote to Delgado requesting an accounting
19 and breakdown of the lease monies received. Gregory did not receive a response.

20 e. Gregory received no payments in May or June of 2010. In July of 2010,
21 Gregory received two (2) checks totaling \$690.00, again with no explanation. Gregory
22 received no further payments from Delgado.

23 f. In November of 2010, Gregory visited the Property and found it to have been
24 vandalized, which Delgado had not advised Gregory of.

25 g. In January of 2011, Gregory demanded a meeting with Delgado and asked for
26 an accounting for the Property as well as copies of the lease, notices to vacate or other
27 notices and any other documents in Delgado's possession regarding the Property. Delgado
28 stated that she could not provide the documents.

1 h. In February of 2011, Gregory received a copy of the lease agreement, notice to
2 vacate, expense invoices and a copy of a summary sheet from Delgado.

3 4. On or about May 26, 2011, Delgado submitted a statement and supporting
4 documents to the Department regarding Gregory's complaint:

5 a. Delgado took "full responsibility for my actions and/or lack of actions as well".

6 b. Upon signing the property management agreement with Gregory, Delgado was
7 advised that Gregory was a licensed realtor in Texas. Gregory did discuss concerns about
8 who would be approved to rent the Property.

9 c. Throughout the time of the property management agreement with Gregory for
10 the Property, there was only one lease. Prior to and during the occupancy of the tenant,
11 Delgado spoke with Gregory several times, with at last two of the conversations pertaining to
12 the tenant and rent. The tenant was having financial problems and had applied for rental
13 assistance, which was reported to Gregory. Delgado and Gregory discussed proceeding with
14 an eviction versus allowing the tenant to continue working on the rental assistance and
15 allowing the tenant to stay in the Property to help avoid vandalism issues.

16 d. In early October of 2010, there was an unusual storm that blew out a few
17 window panes in the front of the Property. There was no other damage other than a messy
18 yard. Delgado did arrange for repairs of the glass breakage; however the contractor was very
19 backed up and out of glass and, once glass was received, the repairs would be done.

20 e. In November of 2010, Delgado left a phone message for Gregory regarding the
21 Property.

22 f. In January of 2011, Gregory met with Delgado, accusing Delgado of leaving the
23 Property in poor condition, unlocked and doors wide open. Delgado explained that the only
24 damage was to the windows and that Delgado had shown the Property on at least two (2)
25 different occasions and was careful to lock the doors on the Property on each occasion.

26 g. The property management agreement for the Property did show a fee of
27 \$100.00 per month for maintenance while the Property was vacant, which Delgado did not
28 receive. Further, Gregory never exercised her option to cancel the property management

1 agreement with a 30 day notice.

2 5. A review of the property management agreement between Gregory and Delgado
3 showed:

4 a. The agreement did not bear Gregory's signature as required by A.R.S. §32-
5 2173 (A)(1)(b).

6 b. The agreement did not provide for the manner of disposition of all monies
7 collected by Delgado, as required by A.R.S. §32-2173 (A)(1)(e).

8 c. The agreement did not include language indicating the agreement could not be
9 assigned to another licensee without the written consent of the property owner, as required
10 by A.R.S. §32-2173 (A)(1)(j).

11 6. Delgado did not, immediately on termination of the property management
12 agreement with Gregory, provide Gregory with all originals or other copies of all rental
13 agreements or related documents, as required by A.R.S. §32-2173 (B)(1).

14 7. Delgado did not provide Gregory with a final accounting as required by A.R.S. §32-
15 2173 (C).

16 8. Delgado failed to expeditiously perform all acts required by the holding of a license
17 as provided by A.A.C. R4-28-1101 (C).

18 **Investigation C11-000271**

19 9. On or about November 9, 2011, Department staff conducted an onsite audit of
20 Valley and Delgado. The audit found:

21 a. Upon termination of property management agreements, Delgado did not
22 provide property owners with a final accounting as required by A.R.S. §32-2173 (C).

23 b. Funds from the broker trust account appear to be commingled and not being
24 used only for the purpose for which the funds were deposited. Staff noted multiple hotel and
25 retail store debit withdrawals as well as monthly ATM and bank withdrawals passed through
26 the trust account.

27 c. Delgado and Valley have not retained a complete record of all monies received
28 in accordance with Generally Accepted Accounting Principles, as required by A.R.S. §32-

1 2151 (B)(2).

2 d. Delgado and Valley have not maintained records that include a properly
3 descriptive receipts and disbursements journal and client ledger for each transaction, as
4 required by A.R.S. §32-2151 (B)(2).

5 e. Broker journals and clients ledgers are not in balance with each other as well
6 as the results of the audit, as required by A.R.S. §32-2151 (B)(2).

7 f. Delgado and Valley have not maintained trust account reconciliation and client
8 ledger balances on a monthly basis, as required by A.R.S. §32-2151 (B)(2).

9 g. Delgado and Valley have not kept computerized records in a manner allowing
10 reconstruction in the event of destruction of electronic data, as required by A.R.S. §32-2151
11 (B)(2).

12 h. Delgado and Valley did not designate property management accounts as trust
13 accounts and did not include descriptive wording as required by A.R.S. §32-2174 (C).

14 10. Department staff noted that, since Delgado and Valley failed to maintain trust
15 account reconciliations and appropriate accounting, a full and complete audit could not be
16 completed.

17 VIOLATIONS

18 1. The Department has jurisdiction in this matter.

19 2. A.R.S. §32-2101 (44) defines "Person" as meaning "any individual, corporation,
20 partnership or company and any other form of multiple organization for carrying on business,
21 foreign or domestic".

22 3. A.R.S. §32-2101 (48) defines a "real estate broker" as meaning "a person, other
23 than a salesperson, who, for another and for compensation: (a) Sells, exchanges, purchases,
24 rents or leases real estate or timeshare interests, (b) Offers to sell, exchange, purchase, rent
25 or lease real estate or timeshare interests, (d) Lists or offers, attempts or agrees to list real
26 estate or timeshare interests for sale, lease or exchange, and (h) advertises or holds himself
27 out as being engaged in the business of buying, selling, exchanging, renting or leasing real
28 estate or timeshare interests or counseling or advising regarding real estate or timeshare

1 interests”.

2 4. Delgado and Valley, through actions described in Facts, failed, within a reasonable
3 time, to account for or to remit any monies, to surrender to the rightful owner any documents
4 or other valuable property coming into the licensee's possession and that belongs to others,
5 in violation of A.R.S. §32-2153 (A)(9).

6 5. Delgado and Valley, through actions described in Facts, commingled the money or
7 other property of the licensee's principal or client with the licensee's own or converted that
8 money or property to the licensee or another, in violation of A.R.S. §32-2153 (A)(16).

9 6. Delgado and Valley, through actions described in the Findings of Fact, to maintain
10 a complete record of each transaction which comes within this chapter, in violation of A.R.S.
11 §32-2153 (A)(18).

12 7. Delgado and Valley, through actions described in the Findings of Fact,
13 demonstrated negligence and incompetence in performing any act for which a license is
14 required, in violation of A.R.S. §32-2153 (A)(22) and (B)(8).

15 8. Delgado and Valley, through actions described in the Findings of Fact, disregarded
16 or violated provisions of Title 32, Chapter 20, Arizona Revised Statutes and Title 4, Chapter
17 28, Arizona Administrative Code, in violation of A.R.S. §32-2153 (A)(3).

18 9. Pursuant to A.R.S §32-2154, if it appears that any person has engaged, is
19 engaging or is preparing to engage in any act, practice or transaction that constitutes a
20 violation of Title 32, Chapter 20, the Department may issue an order directing any person to
21 cease and desist from engaging in the act, practice or transaction or doing any act in
22 furtherance of the act, to make restitution or to take appropriate affirmative action to correct
23 the conditions resulting from the act, practice or transaction.

24 **CEASE AND DESIST**

25 NOW, THEREFORE, the Commissioner finds Delgado and Valley are in violation of
26 the Arizona Revised Statutes and Arizona Administrative Codes as outlined in Violations.
27 Thus, the Commissioner is issuing this Cease and Desist Order directing Delgado and Valley
28 to cease and desist from engaging in acts, practices and transactions without first complying

1 with all applicable laws and rules, pursuant to A.R.S. §§32-2154 (A) and 32-2122 (B).

2 **IT IS ORDERED** that Delgado and Valley immediately cease and desist from
3 engaging in any real estate activity, as defined by A.R.S. §32-2101 et seq., in any capacity
4 whatsoever, directly or indirectly, within the State of Arizona, without first complying with all
5 applicable laws and rules.

6 **IT IS FURTHER ORDERED** that this Cease and Desist Order shall be recorded in the
7 offices of the Maricopa County Recorder within the State of Arizona.

8 **NOTICE**

9 This Cease and Desist Order is an appealable agency action under A.R.S. §41-1092.
10 Delgado and Valley may request an administrative hearing to contest this Cease and Desist
11 Order by filing a Notice of Appeal within thirty (30) days of receipt of this notice by Delgado
12 and Valley. Failure to timely file a Notice of Appeal will constitute a waiver of Delgado and
13 Valley's right to any hearing on this matter and to any other appeal right to which Delgado
14 and Valley are otherwise entitled. The Notice of Appeal must identify the appealing party, the
15 party's address, the action being appealed and must also contain a concise statement of the
16 reason(s) for the appeal.

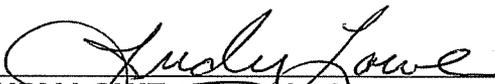
17 Upon the filing of a Notice of Appeal, the Department shall issue a Notice of Hearing
18 scheduling the matter for hearing in accordance with A.R.S. §41-1092.05. The Notice of
19 Hearing will inform Delgado and Valley of the date, time, and location of the hearing, as well
20 as the allegations being contested.

21 If Delgado and Valley file a Notice of Appeal, Delgado and Valley may also request an
22 Informal Settlement Conference at the time of filing the Notice of Appeal, or separately by
23 filing a written request no later than twenty (20) days before the scheduled hearing. This
24 conference shall be held within fifteen (15) days after receipt of the request. A Department
25 representative with authority to act on behalf of the Department will be present at the
26 conference. ***The Department is under no obligation to accept settlement terms Delgado
27 and Valley may offer.*** The Informal Settlement Conference will not delay the scheduled
28 hearing.

1 The Notice of Appeal and request for an Informal Settlement Conference should be
2 addressed to:

3 Enforcement and Compliance Division
4 Arizona Department of Real Estate
5 2910 N. 44th Street, Floor 1, Suite 100
6 Phoenix, Arizona 85018

7 DATED this 7 day of March, 2012.

8 
9 **JUDY LOWE, Commissioner**
10 Arizona Department of Real Estate

11 COPY of the foregoing sent by
12 CERTIFIED MAIL - RETURN RECEIPT REQUESTED
13 (Receipt No. 91 7108 2133 3938 2716 5483
14 this 7th day of March, 2012, to:

15 Ana Margaret Delgado
16 Valley View Realty
17 6030 N 23rd Ave
18 Phoenix AZ 85015
19 Respondent

20 COPY of the foregoing sent by
21 CERTIFIED MAIL - RETURN RECEIPT REQUESTED
22 (Receipt No. 91 7108 2133 3938 2716 5490
23 this 7th day of March, 2012, to:

24 Valley View Realty, LLC
25 Attn: Robert A. Gibson, Statutory Agent
26 2625 E. Rose Garden Lane
27 Phoenix, Arizona 85050

28 COPY of the foregoing mailed this
7th day of March, 2012 to:

Lynette Evans, AAG
Office of the Attorney General, State of Arizona
1275 W. Washington St.
Phoenix, AZ 85007
Attorney for the Department

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Ana Margaret Delgado

Respondent

COPY of the foregoing delivered this
7th day of March, 2012 to:

Arizona Department of Real Estate
Manager, Licensing and Professional Education
Manager, Investigations and Auditing (C11-000271, C11-000879)
Department Compliance Officer
ADRE Chief of Staff
E&C for Real Estate Bulletin



CC/mw