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FILED
JAN 04 2009
DEPARTMENT OF REAL ESTATE
By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
SHER-PLATTER, INC.,
Respondent.

No. H-1575 SA

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 15, 1993, in Case No. H-1575 SA, a Decision was rendered revoking the corporate real estate broker license of Respondent effective January 12, 1994, but granting Respondent the right to the issuance of a restricted corporate real estate broker license. A restricted corporate real estate broker license was issued to Respondent on January 12, 1994, and Respondent has operated as a restricted licensee since that time.

On April 24, 1995, Respondent petitioned for reinstatement of said corporate real estate broker license. On December 20, 1995, an Order Granting Reinstatement of License was rendered herein granting Respondent's petition effective December 20, 1995. Respondent failed to apply for said unrestricted license.

On November 12, 1997, Respondent petitioned for reinstatement of said corporate real estate broker license. On May 27, 1998, an Order Denying Reinstatement of License was rendered herein denying Respondent's petition effective June 24, 1998.

1 On June 5, 2008, Respondent again petitioned for reinstatement of said corporate
2 real estate broker license, and the Attorney General of the State of California has been given
3 notice of the filing of the petition.

4 I have considered Respondent's petition and the evidence and arguments in
5 support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the
6 requirements of law for the issuance to Respondent of an unrestricted corporate real estate broker
7 license and that it would not be against the public interest to issue said license to Respondent.

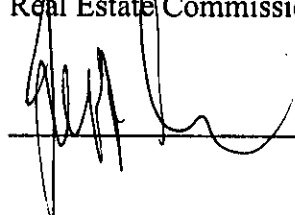
8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
9 reinstatement is granted and that a corporate real estate broker license be issued to Respondent if
10 Respondent satisfies the following conditions within twelve (12) months from the date of this
11 order:

12 1. Submittal of a completed application and payment of the fee for a
13 corporate real estate broker license.

14 This Order shall become effective immediately.

15 DATED: 11-17-09

16 JEFF DAVI
17 Real Estate Commissioner

18 
19 _____

1 the evidence submitted in support thereof. Respondent has
2 failed to demonstrate to my satisfaction that it has
3 undergone sufficient rehabilitation to warrant the
4 reinstatement of its corporate real estate broker license at
5 this time. This determination has been made in light of
6 Respondent's history of acts and conduct which are
7 substantially related to the qualifications, functions and
8 duties of a real estate licensee. That history includes:

9 1. On or about March 26, 1998, an Order to Desist
10 and Refrain No. H-27596 LA was issued to Richmond
11 Investments, Inc. and Respondent based on findings of the
12 Real Estate Commissioner that said parties had violated or
13 caused the violation of or failed to comply with Code
14 Sections 11010 and 11018.2 of the California Business and
15 Professions Code (Code) in their activities selling or
16 offering to sell units, lots or parcels in a subdivision as
17 defined in Section 11000 and 11003 of the Code known as
18 "Quail Run Estates" without first filing an application for,
19 and obtaining a public report from the Department of Real
20 Estate covering the Subdivision.

21 2. The acts and omissions of Respondent as set
22 forth, above, in Paragraph 1, are cause to deny Respondent's
23 petition pursuant to Section 10177(d) of the Code.

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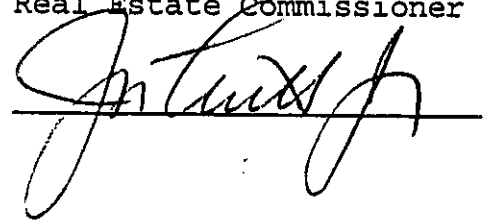
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NOW, THEREFORE, IT IS ORDERED that
respondent's petition for reinstatement of license is denied.

This Order shall become effective at 12
o'clock noon on JUN 24 1998 1998.

DATED; 5/27/98

JIM ANTT, JR.
Real Estate Commissioner



SHER-PLATTER, INC.
18564 Hwy 18
Apple Valley, California 92307
Attention: Norman Wulf

FILED
12-20-95
DEPARTMENT OF REAL ESTATE

By Baker

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
) No. H-1575 SA
)
SHER-PLATTER INC., a California)
Corporation)
)
Respondents)

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 15, 1993, a Decision was rendered herein, revoking the corporate real estate broker license of SHER-PLATTER INC. effective January 12, 1994. Respondent was given the right to apply for and receive a restricted corporate real estate broker license which was issued on January 12, 1994.

On April 24, 1995, SHER-PLATTER INC. petitioned for reinstatement of its license. The Attorney General of the State of California has been given notice of the filing.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that grounds do not presently

1 exist to deny the issuance of an unrestricted real estate
2 broker license to this Respondent.

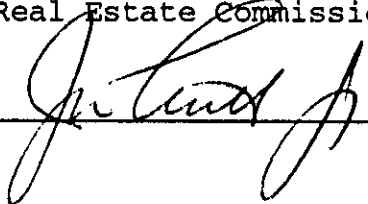
3 NOW, THEREFORE, IT IS ORDERED that Respondent SHER-
4 PLATTER INC.'s petition for reinstatement is granted and that
5 an unrestricted corporate real estate broker license be
6 issued to this Respondent after it satisfies the following
7 condition within one (1) year from the date of this Order:

8 1. Submittal of a completed application and
9 payment of the fee for a corporate real estate broker
10 license.

11 This Order shall become effective immediately.

12 DATED: 12/20/95

13
14 JIM ANTT, JR.
15 Real Estate Commissioner

16 
17

18 SHER-PLATTER INC.
19 Dba Shear Associates
20 18564 Hwy. 18
21 Apple Valley, California 92307
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23
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26
27

FILED
AUG 30 1994
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Sama B. Crane

* * * * *

In the Matter of the Accusation of)
)
BRETT PALM MOWRY,)
)
)
Respondent(s).)
_____)

No. H-1575 SA

DECISION

The Proposed Decision dated July 27, 1994,
of Randolph Brendia, Regional Manager, Department of Real
Estate, is hereby adopted as the Decision of the Real Estate
Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock
noon on September 20, 1994.

IT IS SO ORDERED August 2, 1994.

JOHN R. LIBERATOR
Interim Commissioner

John R. Liberator

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-1575 SA
)
SHER-PLATTER, INC. and)
BRETT PALM MOWRY, et. al.)
)
)
)
Respondent.)
)

PROPOSED DECISION

This is a bifurcated proceeding. There were three Respondents. Two of the Respondents, SHER-PLATTER, INC. and NORMAN WILLIAM WULF stipulated to a settlement. BRETT PALM MOWRY is the sole remaining Respondent in this hearing.

This matter was presided over as an uncontested case by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California on July 27, 1994.

V. Ahda Sands, Counsel, represented the complainant.

No appearance was made by or on behalf of respondent, BRETT PALM MOWRY. On proof of compliance with Government Code Section 11505, the matter proceeded as a default pursuant to Government Code Section 11520.

The following Decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

Thomas Mc Crady made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

At all times mentioned, BRETT PALM MOWRY ("respondent") was and now is licensed by the Department of Real Estate of the State of California ("the Department") as a real estate salesperson.

III

At all times herein mentioned, Respondent, for and in expectation of compensation, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(a) of the Code, wherein Respondent negotiated the sale of real property as the agent of others for compensation.

IV

On or about August 15, 1990, in connection with the real estate brokerage activities described in Paragraph III, above, Golden Purvis and Freida K. Purvis (herein "Sellers") entered into a written agreement with Respondent MOWRY whereby Sellers employed Respondents as Sellers' agents to market and sell residential real property at 2007 Seventh Street, San Fernando, California (herein "the subject property"), to list and advertise the subject property, to find and obtain a buyer of the subject property, and to negotiate and arrange the sale of the subject property, and Respondent MOWRY accepted said employment on his own behalf and on behalf of Respondents.

V

Relying on the representations of MOWRY that he held a personal check for \$2,500 from buyer, Robert E. Hunt (hereinafter HUNT), the Sellers, on August 20, 1990, accepted HUNT's offer to purchase the subject property.

VI

On or about August 24, 1990, Sellers signed an individual Grand Deed in favor of the buyers. On August 26, 1990, escrow instructions were signed. On or about September 27, 1990, additional escrow papers were signed.

VII

Shortly thereafter, Sellers received a notice informing them that Hunt requested the cancellation of escrow. On November 30, 1990, Sellers agreed to said cancellation if the good faith deposit of \$2,500 was returned to them.

VIII

On or about January 11, 1991, Sellers received notice that the escrow had been canceled. Sellers never received the \$2,500 deposit money nor was the individual grant Deed form signed on August 24, 1990, returned to them by Respondents. Sellers never gave any of the Respondents permission to return the good faith deposit to the buyers.

IX

In making the representation regarding the deposit Respondents knew or should have know that the deposit was material to any decision by the Sellers to enter a sale agreement on the subject property. Respondents made said representations in order to induce Sellers to enter the escrow sale.

X

The representation regarding the deposit was false. In fact, no deposit was ever received. The truth was that the representation regarding the deposit was made to induce reliance and in fact Sellers were induced to enter a sales agreement.

XI

Respondents had no reasonable basis for believing the representation regarding the deposit was true.

XII

Seller's acceptance of the offer to purchase the subject property, as described in Paragraph IV, above, was made in reliance on the representation regarding the deposit and without knowledge that the representation regarding the deposit was false.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code Sections 10176(a) and 10176(i) and Section 2785 (a) and 2785 (b) of the Regulations.

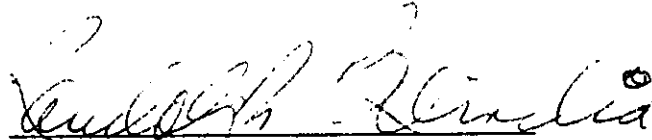
II

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and licensing rights of respondent BRETT
PALM MOWRY under the provisions of Part 1 of Division 4 of the
Business and Professions Code are revoked.

DATED: 27 July 1994.


RANDOLPH BRÉNDIA
Regional Manager
Department of Real Estate

Sher-Platter

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012

DEC 23 1993

4 (213) 897-3937

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DEPARTMENT OF REAL ESTATE
Laura B. Orona

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of)	No. H-1575 SA
)	
)	
12 SHER-PLATTER, INC.,)	
13 a California corporation;)	
14 NORMAN WILLIAM WULF, individually)	
and as designated officer of)	
15 Sher-Platter, Inc.; BRETT PALM)	
MOWRY)	
)	
)	
)	
16 Respondents.)	
)	

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

19 It is hereby stipulated by and between SHER-PLATTER,
20 INC., and NORMAN WILLIAM WULF (hereinafter referred to as SHER-
21 PLATT and WULF, respectively) and the Complainant, acting by
22 and through V. Ahda Sands, Counsel for the Department of Real
23 Estate, as follows, for the purpose of settling and disposing of
24 the Accusation filed on May 5, 1993, in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and
27 Respondents at a formal hearing on the Accusation, which hearing
28 was to be held in accordance with the provisions of the

1 Administrative Procedure Act (APA), shall instead and in place
2 thereof be submitted solely on the basis of the provisions of
3 this Stipulation.

4 2. Respondents have received, read and understand the
5 Statement to Respondents, the Discovery Provisions of the APA
6 and the Accusation filed by the Department of Real Estate in
7 this proceeding.

8 3. Respondents have filed a Notice of Defense
9 pursuant to Section 11505 of the Government Code for the purpose
10 of requesting a hearing on the allegations in this Accusation.
11 Respondents hereby freely and voluntarily waive said Notice of
12 Defense. Respondents acknowledge and understand that by waiving
13 said Notice of Defense, Respondents thereby waive the right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that Respondents will waive other
17 rights afforded to Respondents in connection with the hearing,
18 such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

21 4. Respondents, pursuant to the limitations set forth
22 below, hereby admit that the factual allegations of the
23 Accusation filed in this proceeding are true and correct and the
24 Real Estate Commissioner shall not be required to provide
25 further evidence of such allegations.

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1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his decision in this matter thereby imposing the penalty and
4 sanctions on Respondents' real estate license and license rights
5 as set forth in the below "Order". In the event that the
6 Commissioner, in his discretion does not adopt the Stipulation
7 and the Agreement, the Agreement shall be void and of no effect,
8 and Respondents shall retain the right to a hearing and
9 proceeding on the Accusation under all the provisions of the APA
10 and shall not be bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation shall not
13 constitute an estoppel, merger or bar to any further
14 administrative or civil proceedings by the Department of Real
15 Estate with respect to any matters which were not specifically
16 alleged to be causes for accusation in this proceeding.

17 DETERMINATION OF ISSUES

18 By reason of the foregoing stipulations, admissions and
19 waivers and solely for the purpose of settlement of the pending
20 Accusation without a hearing, it is stipulated and agreed that
21 the following determination of issues shall be made:

22 I

23 The conduct of Respondents, as described in the Accusation
24 is in violation of Sections 10176(a), 10176(i) and 10159.2 of
25 the Code and Sections 2785(a), 2785(b), 2831, 2831.1 and 2731 of
26 the Regulations cited in the Accusation, and is grounds for the
27 suspension or revocation of the real estate license and license
28

1 rights of Respondents under the provisions of Section 10177(h)
2 of the Business and Professions Code.

3 ORDER

4 All licenses and licensing rights of respondent SHER-
5 PLATTER, are hereby revoked; provided, however, a restricted
6 real estate corporate license shall be issued to Respondent
7 pursuant to Section 10156.5 of the Business and Professions Code
8 if Respondent makes application therefor and pays to the
9 Department of Real Estate the appropriate fee for said license
10 within 90 days from the effective date of the Decision herein.

11 The restricted license issued to Respondents shall be subject
12 to all of the provisions of Section 10156.7 of the Business and
13 Professions Code and to the following limitations, conditions
14 and restrictions imposed under authority of Section 10156.6 of
15 the Code, where applicable:

16 1. Prior to the issuance of a restricted license
17 Respondent SHER-PLATTER shall provide proof satisfactory to the
18 Commissioner that restitution had been made to the Complainant
19 Mr. Golden Purvis.

20 2. The restricted license issued to Respondent SHER-
21 PLATTER may be suspended prior to hearing by Order of the Real
22 Estate Commissioner on evidence satisfactory to the Commissioner
23 that Respondent has violated provisions of the California Real
24 Estate Law, the Subdivided Lands Law, Regulations of the Real
25 Estate Commissioner or conditions attaching to the restricted
26 license.

27 3. Respondent SHER-PLATTER shall not be eligible to
28 apply for the issuance of an unrestricted real estate license

1 nor for the removal of any of the conditions, limitations or
2 restrictions attaching to the restricted license until one year
3 has elapsed from the effective date of the Decision.

4 4. Pursuant to Section 10148 of the Business and
5 Professions Code, Respondent SHER-PLATTER shall pay the
6 Commissioner's reasonable cost (not to exceed \$1,000) for an
7 audit to determine if Respondent has corrected the trust fund
8 violations(s) found in the Accusation. In calculating the
9 amount of the Commissioner's reasonable cost, the Commissioner
10 may use the estimated average hourly salary for all persons
11 performing audits of real estate brokers, and shall include an
12 allocation for travel time to and from the auditor's place of
13 work. Respondent shall pay such cost within 45 days of
14 receiving an invoice from the Commissioner detailing the
15 activities performed during the audit and the amount of time
16 spent performing those activities. The Commissioner may
17 suspend the restricted licenses issued to Respondent pending a
18 hearing held in accordance with Section 11500, et. seq., of the
19 Government Code, if payment is not timely made as provided for
20 herein, or as provided for in a subsequent agreement between the
21 Respondents and the Commissioner. The suspension shall remain
22 in effect until payment is made in full or until Respondent
23 enters into an agreement satisfactory to the Commissioner to
24 provide for payment, or until a decision providing otherwise is
25 adopted following a hearing held pursuant to this condition.

26 5. The license issued to Respondent WULF shall be
27 suspended for a period of ninety (90) days from the date of the
28 Decision. Provided, however, that sixty (60) days of said

1 suspension shall be stayed for one (1) year upon the following
2 terms and conditions:

3 a. Respondent shall obey all laws, rules and
4 regulations governing the rights, duties and responsibilities of
5 a real estate licensee in the State of California; and

6 b. That no final subsequent determination be
7 made, after hearing or upon stipulation, that cause for
8 disciplinary action occurred within one (1) year of the
9 effective date of this Decision. Should such a determination be
10 made, the Commissioner may, in his discretion, vacate and set
11 aside the stay order and reimpose all or a portion of the stayed
12 suspension. Should no such determination be made, the stay
13 imposed herein shall become permanent.

14 6. The remaining thirty (30) days of said suspension
15 (or a portion thereof) shall be stayed upon condition that:

16 a. Respondent WULF shall provide proof
17 satisfactory to the Commissioner that restitution had been made
18 to the Complainant, Mr. Golden Purvis.

19 b. Respondent pay a monetary penalty pursuant
20 to Section 10175.2 of the Business and Professions Code at the
21 rate of \$100 for each day of the suspension with a total
22 monetary penalty of \$3,000.00.

23 c. Said payment shall be in the form of a
24 cashier's check or certified check made payable to the Recovery
25 Account of the Real Estate Fund. Said check must be delivered
26 to the Department prior to the effective date of the Decision in
27 this matter.

28

1 d. No further cause for disciplinary action
2 against the real estate license of Respondents occurs within one
3 year from the effective date of the Decision in this matter.

4 e. If Respondent fails to pay the monetary
5 penalty in accordance with the terms and conditions of the
6 Decision, the Commissioner may, without a hearing, order the
7 immediate execution of all or any part of the stayed suspension
8 in which event the Respondent shall not be entitled to any
9 repayment nor credit, prorated or otherwise, for money paid to
10 the Department under the terms of this Decision.

11 7. If Respondent WULF pays the monetary penalty and
12 restitution and if no further cause for disciplinary action
13 against the real estate license of Respondent occurs within one
14 year from the effective date of the Decision, the stay hereby
15 granted shall become permanent.

16 8. In addition, each Respondent (Sher-PLATTER and
17 WULF) is responsible for payment of restitution to Golden
18 Purvis. Total restitution of \$2,500.00 shall be paid to the
19 victim/complainant.

20
21
22 DATED: Nov. 30, 1993

V. Ahda Sands
V. AHDA SANDS
Counsel for Complainant

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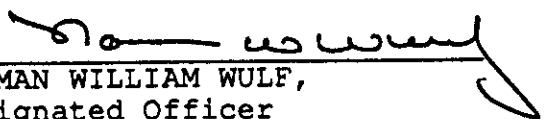
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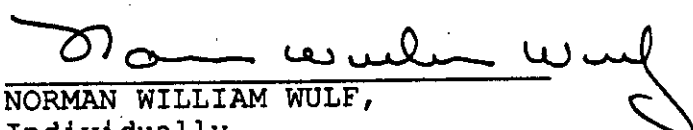
I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

SHER-PLATTER, INC.

DATED: Nov. 29, 1993

BY: 
NORMAN WILLIAM WULF,
Designated Officer

DATED: Nov 29, 1993


NORMAN WILLIAM WULF,
Individually

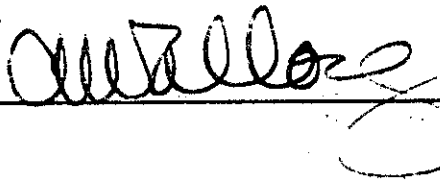
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The foregoing Stipulation and Agreement in Settlement and
Order is hereby adopted by the Real Estate Commissioner as
Decision and Order and shall become effective at 12 o'clock noon
on January 12, 1994.

IT IS SO ORDERED 12/15/93.

CLARK WALLACE
Real Estate Commissioner



cc: Sher-Platter Inc.
Norman William Wulf
Brett Palm Mowry
Sacto.
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Sacto

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of) Case No. H-1575 SA
) OAH No. L-61363
SHER-PLATTER, INC., ET AL.,)
)
)

Respondents.)

SEP 21 1993

DEPARTMENT OF REAL ESTATE
BY Laura B. Orona

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on DECEMBER 7, 1993 at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: September 21, 1993

DEPARTMENT OF REAL ESTATE

By: V. Ahda Sands
V. AHDA SANDS, Counsel

cc : Sher-Platter, Inc.
Norman William Wulf
Brett Palm Mowry
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V. AHDA SANDS, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

MAY -5 1993

DEPARTMENT OF REAL ESTATE
BY *Laura B. Orora*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-1575 SA
)	
SHER-PLATTER, INC.,)	A C C U S A T I O N
a California corporation;)	
NORMAN WILLIAM WULF, individually)	
and as designated officer of)	
Sher-Platter, Inc.; BRETT PALM)	
MOWRY)	
)	
)	
)	
Respondents.)	

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against SHER-PLATTER, INC., a California corporation; NORMAN WILLIAM WULF, individually and as designated officer of Sher-Platter, Inc.; and BRETT PALM MOWRY is informed and alleges as follows:

I

SHER-PLATTER, INC. (herein respondent "SPI"), NORMAN WILLIAM WULF (herein respondent "WULF"), are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

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II

At all times herein mentioned, respondent SPI was licensed as a corporate real estate broker, acting by and through respondent WULF , its designated broker-officer.

III

At all times herein mentioned, respondent WULF was licensed, individually, as a real estate broker and as the broker-officer of respondent SPI.

IV

At all times herein mentioned, respondent BRETT PALM MOWRY (herein "MOWRY") was and now is licensed by the Department as a real estate salesperson.

V

The term "the Regulations" as used herein refers to provisions of Title 10, Chapter 6, California Code of Regulations.

VI

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

VII

All further references herein to "Respondent" include the parties identified in Paragraphs I and II, above, and also include the employees, agents and real estate licensees employed by or associated with said parties and who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course

and scope of their authority and employment.

VIII

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(a) of the Code, wherein Respondent negotiated the sale of real property as the agent of others for compensation.

FIRST CAUSE OF ACCUSATION

IX

On or about August 15, 1990, in connection with the real estate brokerage activities described in Paragraph VIII, above, Golden Purvis and Freida K. Purvis (herein "Sellers") entered into a written agreement with Respondent MOWRY whereby Sellers employed Respondents as Sellers' agents to market and sell residential real property at 2007 Seventh Street, San Fernando California (herein "the subject property"), to list and advertise the subject property, to find and obtain a buyer of the subject property, and to negotiate and arrange the sale of the subject property, and Respondent MOWRY accepted said employment on his own behalf and on behalf of Respondents.

X

Relying on the representations of MOWRY that he held a personal check for \$2,500 from buyer, Robert E. Hunt (hereinafter HUNT), the Sellers, on August 20, 1990, accepted HUNT's offer to purchase the subject property.

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XI

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3 On or about August 24, 1990, Sellers signed an
4 individual Grand Deed in favor of the buyers. On August 26,
5 1990, escrow instructions were signed. On or about September 27,
6 1990, additional escrow papers were signed.

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XII

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Shortly thereafter, Sellers received a notice informing them that Hunt requested the cancellation of escrow. On November 30, 1990, Sellers agreed to said cancellation if the good faith deposit of \$2,500 was returned to them.

XIII

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On or about January 11, 1991, Sellers received notice that the escrow had been canceled. Sellers never received the \$2,500 deposit money nor was the individual grant Deed form signed on August 24, 1990 returned to them by Respondents. Sellers never gave any of the Respondents permission to return the good faith deposit to the buyers.

XIV

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In making the representation regarding the deposit Respondents knew or should have know that the deposit was material to any decision by the Sellers to enter a sale agreement on the subject property. Respondents made said representations in order to induce Sellers to enter the escrow sale.

XV

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The representation regarding the deposit was false. In fact, no deposit was ever received. The truth was that the representation regarding the deposit was made to induce reliance

1 and in fact Sellers were induced to enter a sales agreement.

2 XVI

3 Respondents had no reasonable basis for believing the
4 representation regarding the deposit was true.

5 XVII

6 Seller's acceptance of the offer to purchase the subject
7 property, as described in Paragraph X, above, was made in reliance
8 on the representation regarding the deposit and without knowledge
9 that the representation regarding the deposit was false.

10 XVIII

11 The acts and omissions of Respondents set forth in
12 Paragraph IX through XVII, above, constitute unlawful conduct
13 within the meaning of Section 2785(a) and Section 2785(6) of the
14 Regulations and the making of a substantial misrepresentation, and
15 are cause for the suspension or revocation of all licenses and
16 license rights of Respondents pursuant to the provisions of
17 Section 10176(a) and 10176(i) of the Code.

18 **SECOND CAUSE OF ACCUSATION**

19 XIX

20 On February 17, 1988 the Department issued a Desist and
21 Refrain Order against SHER-PLATTER, INC., and BRETT PALM MOWRY.

22 XX

23 The Desist and Refrain Order was issued for the
24 following violations:

- 25 (a) failure to maintain daily balances of the
26 trust account, in violation of Regulation 2831
27 (b) allowing unlicensed, unbonded persons to make
withdrawals from the trust account, in

violation of Regulation 2834.

- 1
2 (c) operating branch offices without first
3 notifying the Department, in violation of
4 Regulation 2715.
5 (d) failure to review, initial and date documents
6 prepared by licensed real estate salespersons,
7 in violation of Regulation 2725.
8 (e) use of fictitious business names without
9 first notifying the Department, in violation
10 of Regulation 2731.
11 (f) failure to notify the Department of new
12 employees, in violation of Code 10161.8(a).

13 XXI

14 On or about January 2, 1992, the Department completed an
15 examination of Respondent's books and records pertaining to the
16 trust fund handling activities described in Paragraph XXII, below,
17 for the eighteen (18) month period ending November 30, 1991, which
18 revealed violations of the Code and the Regulations as set forth
19 in the following paragraphs.

20 XXII

21 In connection with the real estate brokerage activities
22 described in Paragraph VIII, above, Respondents accepted or
23 received funds in trust (herein "trust funds") from or on behalf
24 of buyers and sellers and thereafter made disbursements of such
25 funds. Respondents deposited certain of said funds into the Sher-
26 Platter, Inc. d.b.a. Sher Associates Trust Account trust account,
27 account number 0330-106-698 maintained by Respondents at the
Victorville branch of Security Pacific Bank, located in

Victorville California (herein "said account"):

XXIII

In connection with the trust funds referred to in Paragraph XXII, above, Respondent SPI:

(a) violated Section 2831 of the Regulations by failing to maintain columnar records showing the date of deposit, check number and daily balance of the escrow account.

(b) violated Section 2831.1 of the Regulations by failing to maintain separate records for each beneficiary.

(c) violated Section 2731 of the Regulations in that Respondent SPI used the unlicensed business name "Sher Realty" without first obtaining permission from the Department.

XXIV

The acts and omissions of Respondent described in Paragraph XXIII, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
XXIII(a)	Sec. 2831 of the Regulations;
XXIII(b)	Sec. 2831.1 of the Regulations;
XXIII(c)	Sec. 2731 of the Regulations;

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondent under the provisions of Sections 10086 and 10177(d) of the Code, especially since violations of Regulations 2831, and 2731 are repeat offenses.

XXV

Complainant incorporates herein the allegations of Paragraphs I through XXIV, inclusive, herein.

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XXVI

Respondent WULF caused, suffered, and permitted Respondent MOWRY and SPI to violate Sections 10176(a) and 10176(i) of the Code and Section 2785(a) of the Regulations, and caused, suffered, and permitted Respondent SPI to violate Section 10176(a) of the Code and Sections 2785(a), 2831.2, 2832.1 and 2834 of the Regulations, as described above.

XXVII

The conduct, acts and omissions of Respondent WULF described above, independently and collectively constitute failure on the part of WULF, as the officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of SPI required by Section 10159.2 of the Code, and is cause for the suspension or revocation of all real estate licenses and license rights of WULF pursuant to the provisions of Section 10177(h) of the Code.

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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 all licenses and license rights of respondents SHER-PLATTER INC., a California corporation; NORMAN WILLIAM WULF, individually and as designated officer of Sher-Platter, Inc.; and BRETT PALM MOWRY, individually, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Santa Ana, California
this 5th day of May, 1993.

THOMAS McCRADY

Deputy Real Estate Commissioner

cc: Sher-Platter Inc.
Norman William Wulf
Brett Palm Mowry
Sacto.
AK