

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789

FILED  
APR 13 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Zean

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) DRE No. H-1639 FR  
12 )  
13 NORTH AMERICAN LOAN SERVICING ) OAH No. 2003120159  
14 CORPORATION, a Corporation, )  
15 and ROBERTA MYLDRED STANDEN, ) STIPULATION AND AGREEMENT  
16 Respondents. )

17 It is hereby stipulated by and between Respondents  
18 NORTH AMERICAN LOAN SERVICING CORPORATION, a corporation (herein  
19 "NORTH AMERICAN") and ROBERTA MYLDRED STANDEN (herein "STANDEN")  
20 (herein "Respondents"), individually and by and through Adleson,  
21 Hess & Kelly, attorneys of record herein for Respondents, and the  
22 Complainant, acting by and through James L. Beaver, Counsel for  
23 the Department of Real Estate (herein "the Department"), as  
24 follows for the purpose of settling and disposing of the  
25 Accusation filed on November 7, 2003 in this matter (herein "the  
26 Accusation"):

27 DRE No. H-1639 FR

NORTH AMERICAN LOAN  
SERVICING CORPORATION AND  
ROBERTA MYLDRED STANDEN

1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondents  
3 at a formal hearing on the Accusation, which hearing was to be  
4 held in accordance with the provisions of the Administrative  
5 Procedure Act (APA), shall instead and in place thereof be  
6 submitted solely on the basis of the provisions of this  
7 Stipulation and Agreement.

8           2. Respondents have received, read and understand the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department in this proceeding.

11           3. On November 26, 2003, Respondents filed Notices of  
12 Defense pursuant to Section 11505 of the Government Code for the  
13 purpose of requesting a hearing on the allegations in the  
14 Accusation. Respondents each hereby freely and voluntarily  
15 withdraw said Notice of Defense. Respondents acknowledge that  
16 Respondents understand that by withdrawing said Notice of Defense  
17 Respondents will thereby waive Respondents' right to require the  
18 Real Estate Commissioner (herein "the Commissioner") to prove the  
19 allegations in the Accusation at a contested hearing held in  
20 accordance with the provisions of the APA and that Respondents  
21 will waive other rights afforded to Respondents in connection  
22 with the hearing such as the right to present evidence in defense  
23 of the allegations in the Accusation and the right to cross-  
24 examine witnesses.

25           4. Respondents, pursuant to the limitations set forth

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ROBERTA MYLDRED STANDEN

1 below, hereby admit that the factual allegations in the  
2 Accusation are true and correct and the Real Estate Commissioner  
3 shall not be required to provide further evidence of such  
4 allegations.

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

15 6. This Stipulation and Agreement shall not  
16 constitute an estoppel, merger or bar to any further  
17 administrative or civil proceedings by the Department with  
18 respect to any matters which were not specifically alleged to be  
19 causes for accusation in this proceeding.

20 7. Respondents understand that by agreeing to this  
21 Stipulation and Agreement, Respondents jointly and severally  
22 agree to pay, pursuant to Section 10148 of the California  
23 Business and Professions Code, the cost of the audit which  
24 resulted in the determination that Respondents committed the  
25 trust fund violation(s) found in paragraph I, below, of the

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1 Determination of Issues. The amount of said costs is \$4,507.10.

2 8. Respondents further understand that by agreeing to  
3 this Stipulation and Agreement in Settlement, the findings set  
4 forth below in the Determination Of Issues become final, and that  
5 the Commissioner may charge said Respondents, jointly and  
6 severally, for the costs of any audit conducted pursuant to  
7 Section 10148 of the California Business and Professions Code to  
8 determine if the trust fund violation(s) found in paragraph I,  
9 below, of the Determination of Issues have been corrected. The  
10 maximum costs of said audit shall not exceed \$4,507.10.

11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations, admissions and  
13 waivers and solely for the purpose of settlement of the pending  
14 Accusation without hearing, it is stipulated and agreed that the  
15 following Determination of Issues shall be made:

16 I

17 The acts and omissions of Respondent NORTH AMERICAN as  
18 described in the Accusation are grounds for the suspension or  
19 revocation of the licenses and license rights of Respondent NORTH  
20 AMERICAN under the following provisions of the California  
21 Business and Professions Code (herein "the Code") and/or the  
22 provisions of Chapter 6, Title 10, California Code of Regulations  
23 (herein "the Regulations"):

24 (a) as to paragraph X(a) under Section 10145 of the  
25 Code and Section 2831.2 of the Regulations in conjunction with

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1 Section 10177(d) of the Code;

2 (b) as to paragraph X(b) under Section 10145 of the  
3 Code and Section 2832.1 of the Regulations in conjunction with  
4 Section 10177(d) of the Code; and

5 (c) as to paragraph XI under under Sections 10229(n)  
6 and 10132.2(a) of the Code in conjunction with Section 10177(d)  
7 of the Code.

8 II

9 The acts and omissions of Respondent STANDEN as  
10 described in Paragraph XII of the Accusation are grounds for the  
11 suspension or revocation of the licenses and license rights of  
12 Respondent STANDEN under Sections 10177(g) and 10177(h) of the  
13 Code and Section 10159.2 of the Code in conjunction with Section  
14 10177(d) of the Code.

15 ORDER

16 I

17 A. All licenses and licensing rights of Respondent  
18 NORTH AMERICAN under the Real Estate Law are suspended for a  
19 period of sixty (60) days from the effective date of the Decision  
20 herein; provided, however:

21 1. If Respondent NORTH AMERICAN petitions, fifteen  
22 (15) days of said sixty (60) day suspension (or a portion  
23 thereof) shall be stayed upon condition that:

24 (a) Respondent NORTH AMERICAN pays a monetary penalty  
25 pursuant to Section 10175.2 of the Code at the rate of \$100.00

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27 NORTH AMERICAN LOAN  
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1 for each day of the suspension for a total monetary penalty of  
2 \$1,500.00.

3 (b) Said payment shall be in the form of a cashier's  
4 check or certified check made payable to the Recovery Account of  
5 the Real Estate Fund. Said check must be received by the  
6 Department prior to the effective date of the Decision in this  
7 matter.

8 (c) If Respondent NORTH AMERICAN fails to pay the  
9 monetary penalty in accordance with the terms and conditions of  
10 the Decision, the Commissioner may, without a hearing, vacate and  
11 set aside the stay order, and order the immediate execution of  
12 all or any part of the stayed suspension.

13 (d) No final subsequent determination be made, after  
14 hearing or upon stipulation, that cause for disciplinary action  
15 against Respondent NORTH AMERICAN occurred within two (2) years  
16 of the effective date of the Decision herein. Should such a  
17 determination be made, the Commissioner may, in his or her  
18 discretion, vacate and set aside the stay order, and order the  
19 execution of all or any part of the stayed suspension, in which  
20 event the Respondent NORTH AMERICAN shall not be entitled to any  
21 repayment nor credit, prorated or otherwise, for money paid to  
22 the Department under the terms of this Decision.

23 (e) If Respondent NORTH AMERICAN pays the monetary  
24 penalty and if no further cause for disciplinary action against  
25 the real estate license of Respondent occurs within two (2) years  
26

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1 from the effective date of the Decision herein, then the stay  
2 hereby granted shall become permanent.

3 2. Forty-five (45) days of said sixty (60) day  
4 suspension shall be stayed upon condition that:

5 (a) No final subsequent determination be made, after  
6 hearing or upon stipulation, that cause for disciplinary action  
7 against Respondent occurred within two (2) years of the  
8 effective date of the Decision herein.

9 (b) Should such a determination be made, the  
10 Commissioner may, in his or her discretion, vacate and set  
11 aside the stay order, and order the execution of all or any  
12 part of the stayed suspension, in which event the Respondent  
13 shall not be entitled to any repayment nor credit, prorated or  
14 otherwise, for money paid to the Department under the terms of  
15 this Decision.

16 (c) If no order vacating the stay is issued, and if  
17 no further cause for disciplinary action against the real  
18 estate license of Respondent occurs within two (2) years from  
19 the effective date of the Decision, then the stay hereby  
20 granted shall become permanent.

21 B. Respondent NORTH AMERICAN shall, within 45 days of  
22 receiving an invoice therefor from the Commissioner, pay (jointly  
23 and severally with Respondent STANDEN) the Commissioner's costs  
24 in the amount of \$4,507.10 of the audit conducted pursuant to  
25 Section 10148 of the Business and Professions Code that resulted

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1 in the determination that Respondent NORTH AMERICAN committed the  
2 violations described in Paragraph I of the Determination of  
3 Issues, above. If Respondent NORTH AMERICAN fails to pay such  
4 cost within the 45 days, the Commissioner may in his or her  
5 discretion indefinitely suspend all license and licensing rights  
6 of Respondent under the Real Estate Law until payment is made in  
7 full or until Respondent enters into an agreement satisfactory to  
8 the Commissioner to provide for payment. Upon payment in full,  
9 any indefinite suspension provided in this paragraph shall be  
10 stayed.

11 C. Respondent NORTH AMERICAN shall pay (jointly and  
12 severally with Respondent STANDEN) the Commissioner's costs, not  
13 to exceed \$4,507.10, of any audit conducted pursuant to Section  
14 10148 of the Business and Professions Code to determine if  
15 Respondent has corrected the violations described in Paragraph I  
16 of the Determination of Issues, above. In calculating the amount  
17 of the Commissioner's reasonable cost, the Commissioner may use  
18 the estimated average hourly salary for all persons performing  
19 audits of real estate brokers, and shall include an allocation  
20 for travel time to and from the auditor's place of work.

21 Respondent NORTH AMERICAN shall pay such cost within 45 days of  
22 receiving an invoice therefor from the Commissioner detailing the  
23 activities performed during the audit and the amount of time  
24 spent performing those activities. If Respondent fails to pay  
25 such cost within the 45 days, the Commissioner may in his or her

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1 discretion indefinitely suspend all license and licensing rights  
2 of Respondent NORTH AMERICAN under the Real Estate Law until  
3 payment is made in full or until Respondent NORTH AMERICAN enters  
4 into an agreement satisfactory to the Commissioner to provide for  
5 payment. Upon payment in full, the indefinite suspension provided  
6 in this paragraph shall be stayed.

7 II

8 A. All licenses and licensing rights of Respondent  
9 STANDEN under the Real Estate Law are indefinitely suspended  
10 until such time as Respondent STANDEN provides submits proof  
11 satisfactory to the Commissioner of having taken and completed at  
12 an accredited institution the continuing education course on  
13 trust fund accounting and handling specified in paragraph (3) of  
14 subdivision (a) of Section 10170.5 of the Business and  
15 Professions Code. Said course must have been completed not  
16 earlier than 130 days prior to the effective date of the Decision  
17 herein. Upon satisfaction of this condition, the indefinite  
18 suspension provided in this paragraph shall be stayed.

19 B. All licenses and licensing rights of Respondent  
20 STANDEN under the Real Estate Law are suspended for a period of  
21 sixty (60) days from the effective date of the Decision herein;  
22 provided, however:

23 1. If Respondent STANDEN petitions, fifteen (15) days  
24 of said sixty (60) day suspension (or a portion thereof) shall be  
25 stayed upon condition that:

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1 (a) Respondent STANDEN pays a monetary penalty  
2 pursuant to Section 10175.2 of the Code at the rate of \$100.00  
3 for each day of the suspension for a total monetary penalty of  
4 \$1,500.00.

5 (b) Said payment shall be in the form of a cashier's  
6 check or certified check made payable to the Recovery Account of  
7 the Real Estate Fund. Said check must be received by the  
8 Department prior to the effective date of the Decision in this  
9 matter.

10 (c) If Respondent STANDEN fails to pay the monetary  
11 penalty in accordance with the terms and conditions of the  
12 Decision, the Commissioner may, without a hearing, vacate and set  
13 aside the stay order, and order the immediate execution of all or  
14 any part of the stayed suspension.

15 (d) No final subsequent determination be made, after  
16 hearing or upon stipulation, that cause for disciplinary action  
17 against Respondent STANDEN occurred within two (2) years of the  
18 effective date of the Decision herein. Should such a  
19 determination be made, the Commissioner may, in his or her  
20 discretion, vacate and set aside the stay order, and order the  
21 execution of all or any part of the stayed suspension, in which  
22 event the Respondent shall not be entitled to any repayment nor  
23 credit, prorated or otherwise, for money paid to the Department  
24 under the terms of this Decision.

25 (e) If Respondent STANDEN pays the monetary penalty

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1 and if no further cause for disciplinary action against the real  
2 estate license of Respondent STANDEN occurs within two (2) years  
3 from the effective date of the Decision herein, then the stay  
4 hereby granted shall become permanent.

5 2. Forty-five (45) days of said sixty (60) day  
6 suspension shall be stayed upon condition that:

7 (a) No final subsequent determination be made, after  
8 hearing or upon stipulation, that cause for disciplinary action  
9 against Respondent occurred within two (2) years of the  
10 effective date of the Decision herein.

11 (b) Should such a determination be made, the  
12 Commissioner may, in his or her discretion, vacate and set  
13 aside the stay order, and order the execution of all or any  
14 part of the stayed suspension, in which event the Respondent  
15 shall not be entitled to any repayment nor credit, prorated or  
16 otherwise, for money paid to the Department under the terms of  
17 this Decision.

18 (c) If no order vacating the stay is issued, and if  
19 no further cause for disciplinary action against the real  
20 estate license of Respondent occurs within two (2) years from  
21 the effective date of the Decision, then the stay hereby  
22 granted shall become permanent.

23 C. Respondent STANDEN shall, within 45 days of  
24 receiving an invoice therefor from the Commissioner, pay (jointly  
25 and severally with Respondent NORTH AMERICAN) the Commissioner's

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SERVICING CORPORATION AND  
ROBERTA MYLDRED STANDEN

1 costs in the amount of \$4,507.10 of the audit conducted pursuant  
2 to Section 10148 of the Business and Professions Code that  
3 resulted in the determination that Respondent NORTH AMERICAN  
4 committed the violations described in Paragraph I of the  
5 Determination of Issues, above. If Respondent STANDEN fails to  
6 pay such cost within the 45 days, the Commissioner may in his or  
7 her discretion indefinitely suspend all license and licensing  
8 rights of Respondent under the Real Estate Law until payment is  
9 made in full or until Respondent STANDEN enters into an agreement  
10 satisfactory to the Commissioner to provide for payment. Upon  
11 payment in full, any indefinite suspension provided in this  
12 paragraph shall be stayed.

13 D. Respondent STANDEN shall pay (jointly and  
14 severally with Respondent NORTH AMERICAN) the Commissioner's  
15 costs, not to exceed \$4,507.10, of any audit conducted pursuant  
16 to Section 10148 of the Business and Professions Code to  
17 determine if Respondent NORTH AMERICAN has corrected the  
18 violations described in Paragraph I of the Determination of  
19 Issues, above. In calculating the amount of the Commissioner's  
20 reasonable cost, the Commissioner may use the estimated average  
21 hourly salary for all persons performing audits of real estate  
22 brokers, and shall include an allocation for travel time to and  
23 from the auditor's place of work. Respondent shall pay such cost  
24 within 45 days of receiving an invoice therefor from the  
25 Commissioner detailing the activities performed during the audit

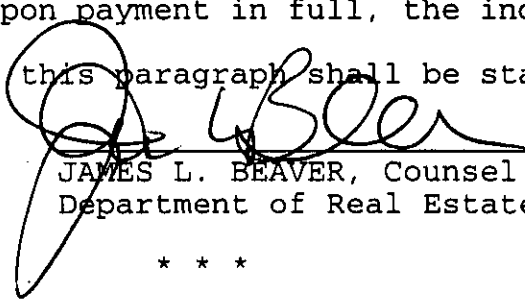
26 DRE No. H-1639 FR

NORTH AMERICAN LOAN  
SERVICING CORPORATION AND  
ROBERTA MYLDRED STANDEN

1 and the amount of time spent performing those activities. If  
2 Respondent STANDEN fails to pay such cost within the 45 days, the  
3 Commissioner may in his or her discretion indefinitely suspend  
4 all license and licensing rights of Respondent under the Real  
5 Estate Law until payment is made in full or until Respondent  
6 enters into an agreement satisfactory to the Commissioner to  
7 provide for payment. Upon payment in full, the indefinite  
8 suspension provided in this paragraph shall be stayed.

9 3-23-04

DATED

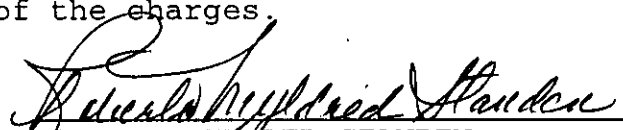
  
10 JAMES L. BEAVER, Counsel  
11 Department of Real Estate

12 \* \* \*

13 I have read the Stipulation and Agreement and have  
14 discussed its terms with my attorney and its terms are understood  
15 by me and are agreeable and acceptable to me. I understand that I  
16 am waiving rights given to me by the California Administrative  
17 Procedure Act (including but not limited to Sections 11506,  
18 11508, 11509, and 11513 of the Government Code), and I willingly,  
19 intelligently, and voluntarily waive those rights, including the  
20 right of requiring the Commissioner to prove the allegations in  
21 the Accusation at a hearing at which I would have the right to  
22 cross-examine witnesses against me and to present evidence in  
23 defense and mitigation of the charges.

24 3-12-04

DATED

  
25 ROBERTA MYLDRED STANDEN  
26 Respondent

27 DRE No. H-1639 FR

NORTH AMERICAN LOAN  
SERVICING CORPORTION AND  
ROBERTA MYLDRED STANDEN

3-12-04  
DATED

NORTH AMERICAN LOAN  
SERVICING CORPORATION  
Respondent

By Roberta Myldred Standen  
ROBERTA MYLDRED STANDEN  
Designated Officer - Broker

\* \* \*

I have reviewed the Stipulation and Agreement as to  
form and content and have advised my clients accordingly.

3-11-04  
DATED

ADLESON, HESS & KELLY  
Attorneys for Respondent

By Phillip M. Adleson  
Phillip M. Adleson

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter and shall become  
effective at 12 o'clock noon on MAY 4, 2004.

IT IS SO ORDERED April 2, 2004.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

John R. Liberator

DRE No. H-1639 FR

NORTH AMERICAN LOAN  
SERVICING CORPORATION AND  
ROBERTA MYLDRED STANDEN

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED

DEC 30 2003

DEPARTMENT OF REAL ESTATE

By Laurie G. Jean

In the Matter of the Accusation of

NORTH AMERICAN LOAN SERVICING  
CORPORATION, a Corporation,  
and ROBERTA MYLDRED STANDEN,

Case No. H-1639 FRESNO

OAH No. N-2003120159

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at THE STATE BUILDING, 2550 MARIPOSA MALL, ROOM 1007, FRESNO, CA 93721 on THURSDAY, MARCH 11, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: DECEMBER 30, 2003

By James L. Beaver  
JAMES L. BEAVER, Counsel (L2)

1 JAMES L. BEAVER, Counsel (SBN 60543)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0788 (Direct)

FILED  
NOV - 7 2003

DEPARTMENT OF REAL ESTATE

By Laurie A. Zini

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 NORTH AMERICAN LOAN SERVICING ) No. H-1639 FRESNO  
13 CORPORATION, a Corporation, ) ACCUSATION  
14 and ROBERTA MYLDRED STANDEN, )  
15 Respondents. )

16 The Complainant, John Sweeney, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against NORTH AMERICAN LOAN SERVICING CORPORATION, a corporation  
19 (herein "NORTH AMERICAN") and ROBERTA MYLDRED STANDEN (herein  
20 "STANDEN"), is informed and alleges as follows:

21 I

22 The Complainant, John Sweeney, a Deputy Real Estate  
23 Commissioner of the State of California, makes this Accusation  
24 in his official capacity.

25 ///

26 ///

27 ///



1 II

2 At all times herein mentioned, Respondents NORTH  
3 AMERICAN and STANDEN (herein "Respondents") were and now are  
4 licensed and/or have license rights under the Real Estate Law  
5 (Part 1 of Division 4 of the Business and Professions Code)  
6 (herein "the Code").

7 III

8 At all times herein mentioned herein NORTH AMERICAN  
9 was and now is licensed by the Department of Real Estate of the  
10 State of California (herein "the Department") as a corporate  
11 real estate broker by and through STANDEN as designated officer-  
12 broker of NORTH AMERICAN to qualify said corporation and to act  
13 for said corporation as a real estate broker.

14 IV

15 At all times herein mentioned, STANDEN was and now is  
16 licensed by the Department as a real estate broker, individually  
17 and as designated officer-broker of NORTH AMERICAN. As said  
18 designated officer-broker, STANDEN was at all times mentioned  
19 herein responsible pursuant to Section 10159.2 of the Code for  
20 the supervision of the activities of the officers, agents, real  
21 estate licensees and employees of NORTH AMERICAN for which a  
22 license is required.

23 V

24 Whenever reference is made in an allegation in this  
25 Accusation to an act or omission of NORTH AMERICAN, such  
26 allegation shall be deemed to mean that the officers, directors,  
27 employees, agents and/or real estate licensees employed by or

1 associated with NORTH AMERICAN committed such act or omission  
2 while engaged in the furtherance of the business or operations  
3 of such corporate Respondent and while acting within the course  
4 and scope of their authority and employment.

5 VI

6 At all times herein mentioned, Respondents engaged in  
7 the business of, acted in the capacity of, advertised, or  
8 assumed to act as real estate brokers within the State of  
9 California within the meaning of Sections 10131(d) and 10131(e)  
10 of the Code, including the operation and conduct of a mortgage  
11 loan brokerage with the public wherein, on behalf of others, for  
12 compensation or in expectation of compensation, Respondents  
13 serviced and collected payments on loans secured directly or  
14 collaterally by liens on real property, and wherein Respondents  
15 performed services for the holders of promissory notes secured  
16 directly or collaterally by a lien on real property, including  
17 collecting payments thereon.

18 VII

19 At all times mentioned herein Respondent NORTH  
20 AMERICAN was and now is a real estate broker:

21 (a) Meeting the "threshold" criteria of subdivisions  
22 (a) and (b) of Section 10232 with a fiscal year ending each year  
23 on the last day of December; and

24 (b) Meeting the "multi-lender" criteria of Section  
25 10229 of the Code, in that at all times mentioned herein  
26 Respondent was a servicing agent meeting the criteria of  
27 paragraph (3) of subdivision (j) of Section 10229 of the Code

1 with respect to notes or interests sold pursuant to Section  
2 10229 of the Code.

3 VIII

4 In so acting as a real estate brokers, Respondents  
5 accepted or received funds in trust (herein "trust funds") from  
6 or on behalf of lenders, investors, borrowers and others in  
7 connection with the mortgage loan brokerage activities described  
8 in Paragraphs VI and VII, above, and thereafter from time to  
9 time made disbursements of said trust funds.

10 IX

11 The aforesaid trust funds accepted or received by  
12 Respondents were deposited or caused to be deposited by  
13 Respondents into one or more bank accounts (herein "trust fund  
14 accounts") maintained by Respondents for the handling of trust  
15 funds, including but not necessarily limited to the North  
16 American Loan Servicing Corp Broker As Trustee Loan Servicing  
17 Account, account number 1150591234, maintained by Respondents at  
18 the Mariposa, California, branch of County Bank (herein  
19 "Trust 1").

20 X

21 During the three year period next preceding the filing  
22 of this Accusation, in connection with the collection and  
23 disbursement of said trust funds, Respondent NORTH AMERICAN:

24 (a) Failed to reconcile, at least once a month, the  
25 balance of all separate beneficiary or transaction records with  
26 Trust 1 as required by Section 2831.2 of the Regulations; and

27 ///

1 (b) Caused, suffered or permitted the balance of  
2 funds in Trust 1 to be reduced to an amount which, as of  
3 March 31, 2003, was approximately \$43,031.16 less than the  
4 aggregate liability of Respondents to all owners of such funds,  
5 without the prior written consent of the owners of such funds.

6 XI

7 Within the three-year period immediately preceding  
8 the filing of this Accusation, in course of the activities  
9 described in Paragraphs VI through IX, above, Respondent NORTH  
10 AMERICAN, while meeting "multi-lender" broker and "threshold"  
11 broker criteria, as described in Paragraph VII, above, failed  
12 until June 27, 2003 to file with the Department the annual  
13 review, required by Sections 10229(n) and/or 10232.2(a) of the  
14 Code, by an independent public accountant of NORTH AMERICAN's  
15 trust fund financial statements for the fiscal year ending  
16 December 31, 2001 which became finally and fully due  
17 May 31, 2002.

18 XII

19 Respondent STANDEN failed to exercise reasonable  
20 supervision over the acts of NORTH AMERICAN in such a manner as  
21 to allow the acts and omissions on the part of NORTH AMERICAN  
22 described above, to occur.

23 XIII

24 The facts alleged above are grounds for the suspension  
25 or revocation of the licenses and license rights of Respondent  
26 NORTH AMERICAN under the following provisions of the Code and/or  
27 the Regulations:

1 (a) As to paragraph X(a), under Section 10145 of the  
2 Code and Section 2831.2 of the Regulations in conjunction with  
3 Section 10177(d) of the Code;

4 (b) As to paragraph X(b), under Section 10145 of the  
5 Code and Section 2832.1 of the Regulations in conjunction with  
6 Section 10177(d) of the Code; and

7 (c) As to paragraph XI, under Sections 10229(n) and  
8 10232.2(a) of the Code in conjunction with Section 10177(d) of  
9 the Code.

10 XIV

11 The facts alleged above in Paragraph XII of the  
12 Accusation are grounds for the suspension or revocation of the  
13 licenses and license rights of STANDEN under Section 10177(g)  
14 and/or Section 10177(h) of the Code and Section 10159.2 of the  
15 Code in conjunction with Section 10177(d) of the Code.

16 WHEREFORE, Complainant prays that a hearing be  
17 conducted on the allegations of this Accusation and that upon  
18 proof thereof, a decision be rendered imposing disciplinary  
19 action against all licenses and license rights of Respondents  
20 under the Real Estate Law (Part 1 of Division 4 of the Business  
21 and Professions Code), and for such other and further relief as  
22 may be proper under other provisions of law.

23  
24   
25 JOHN SWEENEY  
26 Deputy Real Estate Commissioner

26 Dated at Fresno, California,  
27 this 4<sup>th</sup> day of November, 2003.