

1. DANIEL E. KEHEW, Counsel (SBN 231550)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0425 (Direct)

FILED

MAY 18 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of	)	
	)	
13 LONDON PROPERTIES LTD.,	)	NO. R-2632 FR
14 PATRICK JAMES CONNER, and	)	
15 DANIEL JAMES CONNER,	)	<u>ACCUSATION</u>
	)	
16 Respondents.	)	

17  
18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
19 of the State of California, for cause of Accusation against LONDON PROPERTIES LTD.  
20 ("LONDON PROPERTIES"), PATRICK JAMES CONNER ("PATRICK CONNER"), and  
21 DANIEL JAMES CONNER ("DANIEL CONNER") (herein collectively "Respondents"), is  
22 informed and alleges as follows:

23 1

24 Complainant makes this Accusation against Respondents in her official capacity.

25 2

26 At all times mentioned herein, Respondent LONDON PROPERTIES was and  
27 now is licensed and/or has license rights as a corporate real estate broker under the Real Estate

1 Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "the  
2 Code"), acting by and through Respondent PATRICK CONNER as its designated broker officer.

3 3

4 At all times mentioned herein, Respondent PATRICK CONNER was and now is  
5 licensed and/or has license rights as a real estate broker under the Code, and as the designated  
6 broker officer of Respondent LONDON PROPERTIES.

7 4

8 At all times mentioned herein, Respondent DANIEL CONNER was and now is  
9 licensed and/or has license rights as a real estate broker under the Code. DANIEL CONNER was  
10 formerly designated officer of Respondent LONDON PROPERTIES and retains a management  
11 role in that corporate licensee. Respondent DANIEL CONNER is father of Respondent  
12 PATRICK CONNER.

13 5

14 Whenever reference is made in an allegation in this Accusation to an act or  
15 omission of Respondent LONDON PROPERTIES, such allegation shall be deemed to mean that  
16 the officers, directors, employees, agents and real estate licensees employed by or associated  
17 with Respondent LONDON PROPERTIES committed such act or omission while engaged in  
18 the furtherance of the business or operations of Respondent LONDON PROPERTIES and while  
19 acting within the course and scope of their corporate authority and employment.

20 6

21 At all times herein mentioned, Respondents engaged in the business of, acted in  
22 the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Section  
23 10131(a) of the Code, including the operation and conduct of a real estate sales business with  
24 the public wherein, on behalf of others, for compensation or in expectation of compensation,  
25 Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or  
26 purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of  
27 real properties or business opportunities.



1 H. Gohar N. (buyer) and/or Jeffrey H. (seller) in the sale of a residential real property  
2 in the 5500 block of N. Barcus, Fresno, California (documented in Respondent LONDON  
3 PROPERTIES' file number 2003-0486).

4 I. Stephen and Claudia H. (buyers) and/or Richard R. (seller) in the sale of a  
5 residential real property in the 600 block of Decatur, Clovis, California (documented in  
6 Respondent LONDON PROPERTIES' file number 2003-0487).

7 J. Mark and Shannen H. (buyers) in the sale of a residential real property in the  
8 7400 block of N. Recreation, Fresno, California (documented in Respondent LONDON  
9 PROPERTIES' file number 2003-0488).

10 K. Jose M. (buyer) and/or Thomas and Linda C. (sellers) in the sale of a residential  
11 real property in the 3800 block of E. Kerckhoff, Fresno, California (documented in Respondent  
12 LONDON PROPERTIES' file number 2003-0489).

13 L. Jose Maria and Guadalupe G. (buyers) and/or Janyce and Sandra M. (sellers) in the  
14 sale of a residential real property in the 3400 block of E. Pine, Fresno, California (documented in  
15 Respondent LONDON PROPERTIES' file number 2003-1888).

16 M. Gary and Karla O. (buyers) and/or Dave and Linda M. (sellers) in the sale of a  
17 residential real property in the 3000 block of Shirley Avenue, Clovis, California (documented in  
18 Respondent LONDON PROPERTIES' file number 2003-1890).

19 N. Don J. (buyer) and/or Tiffany C. (seller) in the sale of a residential real property in  
20 the 5700 block of N. McCaffrey, Fresno, California (documented in Respondent LONDON  
21 PROPERTIES' file number 2003-1891).

22 O. Roy and Barbara M. (buyers) and/or Lorrain B. (sellers) in the sale of a residential  
23 real property in the 4200 block of W. Brown, Fresno, California (documented in Respondent  
24 LONDON PROPERTIES' file number 2003-1896).

25 P. Kue S. (buyer) and/or Hubert W. (seller) in the sale of a residential real property in  
26 the 1400 block of E. Drummond, Fresno, California (documented in Respondent LONDON  
27 PROPERTIES' file number 2003-1899).

1 Q. Mr. and Mrs. Randy H. (buyers) and/or Norma M. (seller) in the sale of a residential  
2 real property in the 51000 block of Rusty Lane, Oakhurst, California (documented in Respondent  
3 LONDON PROPERTIES' file number 2003-4013).

4 R. Peter D. and Su-Jaen H. (buyers) and/or John E. (seller) in the sale of a real property  
5 in the 100 block of River Road, Coarsegold, California (documented in Respondent LONDON  
6 PROPERTIES' file number 2003-4016).

7 S. Gordon and Elizabeth J. (buyers) and/or Nobuo and Noriko H. (sellers) in the sale  
8 of a residential real property in the 5500 block of Harris Cut-Off, Mariposa, California  
9 (documented in Respondent LONDON PROPERTIES' file number 2003-4019).

10 T. Hans K. and Vilya O. (buyers) and/or Beth C. and Eric L. (sellers) in the sale of a  
11 residential real property in the 2700 block of Purvis, Clovis, California (documented in  
12 Respondent LONDON PROPERTIES' file number 2004-0023).

13 U. Jose and Estanislá C. (buyers) and/or Abel and Maria P. (sellers) in the sale of a  
14 residential real property in the 700 block of Kate Street, Mendota, California (documented in  
15 Respondent LONDON PROPERTIES' file number 2004-0025).

16 V. Sofia R. (buyer) and/or Dharmit and Gurmeet S. (sellers) in the sale of a residential  
17 real property in the 100 block of E. Adams, Fowler, California (documented in Respondent  
18 LONDON PROPERTIES' file number 2004-0026).

19 W. Ryan S. (buyer) and/or Kevin and Wanda H. (sellers) in the sale of a residential  
20 real property in the 4200 block of W. Weldon, Fresno, California (documented in Respondent  
21 LONDON PROPERTIES' file number 2004-0027).

22 X. Rodney and Reyna M. (buyers) and/or Clariarene L. (seller) in the sale of a  
23 residential real property in the 4100 block of N. Kenmore, Fresno, California (documented in  
24 Respondent LONDON PROPERTIES' file number 2004-0029).

25 Y. Cheryl and Randolph H. (buyers) and/or Carrol A. (seller) in the sale of a residential  
26 real property in the 51600 block of Crane Valley Road, Oakhurst, California (documented in  
27 Respondent LONDON PROPERTIES' file number 2004-0526).

1 Z. Gary C. (buyer) and/or Mark and Patricia B. (sellers) in the sale of a residential real  
2 property in the 700 block of N. Hughes, Clovis, California (documented in Respondent  
3 LONDON PROPERTIES' file number 2004-0528).

4 AA. Thomas and Ana M. (buyers) and/or Brian and Judith J. (sellers) in the sale of a  
5 residential real property in the 1400 block of W. Pinedale, Fresno, California (documented in  
6 Respondent LONDON PROPERTIES' file number 2004-0529).

7 BB. Anatolly and Lyubov K. (buyers) and/or Mildred K. (seller) in the sale of a  
8 residential real property in the 1100 block of McKelvy, Clovis, California (documented in  
9 Respondent LONDON PROPERTIES' file number 2004-0530).

10 CC. Kiet T. (buyer) and/or Stephen and Becky L. (sellers) in the sale of a residential real  
11 property in the 2700 block of Antonio, Clovis, California (documented in Respondent LONDON  
12 PROPERTIES' file number 2004-0532).

13 DD. Bee V. (buyer) and/or Avelino and Martha C. (sellers) in the sale of a residential  
14 real property in the 5200 block of S. Clay, Clovis, California (documented in Respondent  
15 LONDON PROPERTIES' file number 2004-0534).

16 EE. Robert and Cynthia S. (buyers) and/or Marilyn H. (seller) in the sale of a residential  
17 real property in the 4800 block of N. Arthur, Fresno, California (documented in Respondent  
18 LONDON PROPERTIES' file number 2004-0535).

19 FF. Ronald and Cheryl L. (buyers) and/or Carlo and Hagop K. (sellers) in the sale of a  
20 residential real property in the 7700 block of N. Carnegie, Fresno, California (documented in  
21 Respondent LONDON PROPERTIES' file number 2004-0536).

22 GG. Brian and Jamie N. (buyers) and/or Mary S. (seller) in the sale of a residential real  
23 property in the 600 block of E. Pinedale, Fresno, California (documented in Respondent  
24 LONDON PROPERTIES' file number 2004-0697).

25 HH. Scott and Cynthia S. (buyers) and/or Steven and Pamela J. (sellers) in the sale of a  
26 residential real property in the 8800 block of N. 6th, Fresno, California (documented in  
27 Respondent LONDON PROPERTIES' file number 2004-0702).

1 II. Jerry D. (buyer) and/or Jackie G. (seller) in the sale of a residential real property in  
2 the 400 block of E. Lindbrook, Fresno, California (documented in Respondent LONDON  
3 PROPERTIES' file number 2004-0708).

4 JJ. Enrique A. and Sylvia N. (buyers) and/or Kenneth K. (seller) in the sale of a  
5 residential real property in the 4200 block of W. Avalon, Fresno, California (documented in  
6 Respondent LONDON PROPERTIES' file number 2004-0709).

7 KK. Eric M. (buyer) and/or John and Mary W. (sellers) in the sale of a residential real  
8 property in the 5600 block of W. Indianapolis, Fresno, California (documented in Respondent  
9 LONDON PROPERTIES' file number 2004-1772).

10 LL. Carlos and Guadalupe T. (buyers) and/or Richard L. (seller) in the sale of a  
11 residential real property in the 3100 block of N. Selland, Fresno, California (documented in  
12 Respondent LONDON PROPERTIES' file number 2004-1773).

13 MM. Charles and Elaine L. (buyers) and/or Saul and Babs E. (sellers) in the sale of a  
14 residential real property in the 700 block of E. Princeton, Fresno, California (documented in  
15 Respondent LONDON PROPERTIES' file number 2004-1774).

16 NN. Justin and Kimberly R. (buyers) and/or Stergeos and Stephanie D. (sellers) in the  
17 sale of a residential real property in the 1900 block of N. Burgan, Clovis, California (documented  
18 in Respondent LONDON PROPERTIES' file number 2004-1781).

19 OO. Randy and Maribel H. (buyers) and/or Greg and Zana F. (sellers) in the sale of a  
20 residential real property in the 1300 block of Merced Street, Selma, California (documented in  
21 Respondent LONDON PROPERTIES' file number 2004-1782).

22 PP. Linda W. (buyer) and/or Agnus M. (seller) in the sale of a residential real property  
23 in the 1100 block of E. Decatur, Fresno, California (documented in Respondent LONDON  
24 PROPERTIES' file number 2004-1784).

25 QQ. Chaman and Pankaj G. (buyers) and/or Geneva K. (seller) in the sale of a residential  
26 real property in the 5900 block of W. Babcock, Visalia, California (documented in Respondent  
27 LONDON PROPERTIES' file number 2004-1785).

1 RR. Patricia L. (buyer) and/or Gregory and Michelle R. (sellers) in the sale of a  
2 residential real property in the 4400 block of W. Yale, Fresno, California (documented in  
3 Respondent LONDON PROPERTIES' file number 2004-1787).

4 SS. Joshua and Amanda W. (buyers) and/or Michael and Gail G. (sellers) in the sale  
5 of a residential real property in the 2700 block of Fine, Clovis, California (documented in  
6 Respondent LONDON PROPERTIES' file number 2004-1788).

7 TT. Antonio and Alexandra D. (buyers) and/or Mr. and Mrs. Cesar B. (sellers) in the  
8 sale of a residential real property in the 6100 block of E. Church, Fresno, California (documented  
9 in Respondent LONDON PROPERTIES' file number 2004-1789).

10 UU. E.C. and Donna M. (buyers) and/or Ronald and Joan S. (sellers) in the sale of a  
11 residential real property in the 3200 block of Triangle Park Road, Mariposa, California  
12 (documented in Respondent LONDON PROPERTIES' file number 2004-4016).

13 8

14 In its licensed capacity as agent and fiduciary of the clients described in Paragraph  
15 7, above, Respondent LONDON PROPERTIES received, accepted and entered into the  
16 associated client files such personal identifying information as photocopies of personal checks  
17 (including bank account information), bank account statements (including bank account  
18 numbers), social security numbers, other bank and trust account routing instructions and  
19 numbers, and copies of death certificates of clients' relatives.

20 9

21 On or about May 16, 2008, Jacob Thibault, an unlicensed employee of  
22 Respondent LONDON PROPERTIES, placed the paper file records of the 48 specific client  
23 parties described in Paragraph 7, above, and the paper file records of an unknown number of  
24 other clients of Respondent LONDON PROPERTIES, in unsecured waste dumpsters in various  
25 public locations in Fresno, California, without destroying the files or otherwise rendering  
26 unreadable the private information of clients contained in the files.

27 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

10

Respondent LONDON PROPERTIES knew or should have known that such placement of these paper file records, including the personal information described in Paragraph 8, above, constituted a violation of Civil Code sections 1798.80, 1798.81, and 1798.81.5, and a violation of LONDON PROPERTIES' fiduciary duty to hold this valuable private information confidential.

11

On or about May 17, 2008, the 48 paper file records associated with the clients described in Paragraph 7 were recovered from an unsecured waste dumpster by a person not employed by Respondent LONDON PROPERTIES. That person subsequently provided access to the 48 paper file records to other, unlicensed persons not employed by Respondent LONDON PROPERTIES, and finally gave custody of the files to the Department of Real Estate (herein, "the Department").

12

From on or about May 16, 2008, through on or about May 20 or May 21, 2008, an unknown number of persons not employed by Respondent LONDON PROPERTIES viewed the paper file records described in Paragraph 9, above, at the public locations of the unsecured waste dumpsters.

13

On or about May 20 or May 21, 2008, employees of Respondent LONDON PROPERTIES attempted to recover the paper file records from the unsecured waste dumpsters. One unsecured waste dumpster that had been filled with an unknown number of the files was found to be empty. An unknown number of the remaining files were recovered from the unsecured waste dumpsters by employees of Respondent LONDON PROPERTIES.

14

Respondent LONDON PROPERTIES failed to inventory the recovered files that had been improperly stored in unsecured waste dumpsters.

1  
2 Despite the apparent violation of Civil Code sections 1798.80, 1798.81, and  
3 1798.81.5 due to the improper storage of sensitive private information of clients in unsecured  
4 waste dumpsters, and the apparent violation of the Respondent LONDON PROPERTIES'  
5 fiduciary duty to its clients, Respondent LONDON PROPERTIES failed to preserve for criminal  
6 and licensing investigators the client files, described in Paragraph 13, above, that were recovered  
7 by LONDON PROPERTIES. On or about May 26, 2008, Respondent LONDON PROPERTIES  
8 contracted for and commenced the destruction of the unknown number of paper file records  
9 described in Paragraph 13, above.

10  
11 The facts alleged in Paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, above, are  
12 grounds for the suspension or revocation of the license and license rights of Respondent LONDON  
13 PROPERTIES under Section 2725 of the Regulations of the Real Estate Commissioner (Title 10,  
14 Chapter 6 of the California Code of Regulations) (herein, "the Regulations").

15 SECOND CAUSE OF ACTION:

16 SUBSTANTIAL MISREPRESENTATION AND DISHONEST DEALING

18 There is hereby incorporated in this Second, separate and distinct Cause of  
19 Action, all of the allegations contained in Paragraphs 1 through 16, inclusive, with the same  
20 force and effect as if herein fully set forth.

21  
22 In early 2008, Respondent DANIEL CONNER, acting in his management  
23 capacity on behalf of Respondent LONDON PROPERTIES, and after consultation with  
24 Respondent PATRICK CONNER, directed Matthew Montijo (herein, "Montijo"), an employee  
25 of Respondent LONDON PROPERTIES, to dispose of the paper file records of clients described  
26 in Paragraph 8, above, using unsecured waste dumpsters, rather than through controlled, secure  
27 destruction. Montijo refused to comply with the instruction.

1  
2 In May, 2008, Respondent DANIEL CONNER, acting in his management  
3 capacity on behalf of Respondent LONDON PROPERTIES, and in the presence of LONDON  
4 PROPERTIES' Controller Tish Guzman, directed Jacob Thibault (herein, "Thibault"), an  
5 employee of Respondent LONDON PROPERTIES, to dispose of the paper file records of clients  
6 described in Paragraph 8, above, using specific, unsecured waste dumpsters associated with  
7 LONDON PROPERTIES' offices, rather than through controlled, secure destruction. The  
8 instructions to Thibault included directions explicitly designed to conceal the use of the  
9 unsecured waste dumpsters for this paper file disposal purpose. As described in Paragraph 9,  
10 above, Thibault complied with this instruction with assistance from other LONDON  
11 PROPERTIES' employees.

12  
13 On or about May 20 or May 21, 2008, Thibault was instructed to recover the  
14 paper file records described in Paragraph 8, above, from the unsecured waste dumpsters, and  
15 to initiate the destruction of these files.

16  
17 On or about Thursday, May 29, Respondent PATRICK CONNER, participating  
18 in a television interview relating to the paper file records described in Paragraph 9, above, made  
19 assertions that:

- 20 A. The placement of the files in the dumpsters was the result of a  
21 mistake by a new employee.
- 22 B. "Definitely sorry for any breach of confidentiality, but the good thing  
23 is that real estate files do contain very little personal information on  
24 clients."
- 25 C. When confronted with the reporter's claim that she had seen Social  
26 Security numbers and checking account numbers within the client  
27 files, "That would be an anomaly."

1  
2 On June 4, 2008, Respondent PATRICK CONNER submitted a declaration to the  
3 Department, including assertions that:

- 4 A. "London Properties' policy and procedure for disposing of expired  
5 client transition (sic) files is to shred all files."  
6 B. "I did not have any knowledge of the events that led up to the files  
7 being thrown in a dumpster."  
8 C. "Our Controller Tish Guzman was the employee who directed the  
9 disposal."

10  
11 Also on June 4, 2008, Respondent PATRICK CONNER submitted to the  
12 Department a declaration by Respondent DANIEL CONNER, including DANIEL CONNER's  
13 assertions that:

- 14 A. "... 'the buck stops here' and I will personally take responsibility."  
15 B. The use of the unsecured waste dumpsters was discussed, but  
16 rejected.  
17 C. The actual use of the unsecured waste dumpsters resulted from  
18 miscommunication between Respondent DANIEL CONNER and  
19 LONDON PROPERTIES' Controller, Tish Guzman.  
20 D. The form of that miscommunication was that he, DANIEL  
21 CONNER, intended only non-client files to be "disposed of," but  
22 failed to make that clear in his directions on the matter.  
23 E. Over 4000 files were shredded subsequent to the recovery of the files  
24 from the dumpsters.  
25 F. He believed only 200 to 300 files had been placed in the dumpsters.  
26 G. Respondent LONDON PROPERTIES had sent a letter "to over  
27 1,000 clients (beginning before and after the dates of the file

1 numbers we have recovered, including those currently with the  
2 Department of Real Estate) offering to pay each client for Personal  
3 Identity Theft insurance.

4 24

5 The letter to clients described in Paragraph 23(G), above, includes these  
6 assertions:

- 7 A. "It has recently come to our attention that a very limited number of  
8 old files may have been inadvertently discarded without shredding."  
9 B. "You may or may not have been a client in one of these  
10 transactions."  
11 C. "Though our files contain very little personal data it is possible that a  
12 copy of a check, SS# (sic), or some other information could have  
13 been in a file."

14 25

15 Respondent LONDON PROPERTIES was in a position to know, via inventory,  
16 and with certainty, that the clients whose files had been recovered had, in fact, been subject  
17 to exposure of personal information, and what personal information had been subject to  
18 exposure.

19 26

20 The statements of Respondents PATRICK CONNER, DANIEL CONNER, and  
21 LONDON PROPERTIES described in Paragraphs 21; 22(B) and (C); 23(B), (C), (D), and (F);  
22 and 24 were false and/or misleading, and substantially related to these licensees' practice of real  
23 estate sales.

24 27

25 The actions, omissions, and statements of Respondents PATRICK CONNER,  
26 DANIEL CONNER, and LONDON PROPERTIES described in Paragraphs 14, 15, 21, 22, 23,  
27 and 24 constitute a pattern of misrepresentation intended to preserve the commercial reputation

1 of each of the Respondents, and to mitigate potential discipline warranted by Respondents'  
2 actions and omissions described in Paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, above.

3 28

4 The facts alleged in Paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,  
5 21, 22, 23, and 24, above, are grounds for the suspension or revocation of the license(s) and  
6 license right(s) of Respondents LONDON PROPERTIES, PATRICK CONNER, and DANIEL  
7 CONNER under Section 10176(a) and/or 10177(j) of the Code.

8 THIRD CAUSE OF ACTION:

9 NEGLIGENCE OR INCOMPETENCE IN FIDUCIARY DUTY

10 29

11 There is hereby incorporated in this Third, separate and distinct Cause of Action,  
12 all of the allegations contained in Paragraphs 1 through 28, inclusive, with the same force and  
13 effect as if herein fully set forth.

14 30

15 The actions, omissions, and statements of Respondents PATRICK CONNER,  
16 DANIEL CONNER, and LONDON PROPERTIES described in Paragraphs 6, 7, 8, 9, 10, 11,  
17 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27, above, constitute a violation of  
18 Respondents' fiduciary duty to the clients described in Paragraph 7, above, and to an unknown  
19 number of other clients whose files were among those improperly discarded in unsecured waste  
20 dumpsters located in public places. Such fiduciary duty is inherent to the activities requiring a  
21 license described by Section 10130 of the Code as it interacts with Section 10131(a) of the Code.

22 31

23 The facts alleged in Paragraph 30, above, are grounds for the suspension or  
24 revocation of the license and license rights of Respondents LONDON PROPERTIES,  
25 PATRICK CONNER, and DANIEL CONNER under Section 10177(d) and/or (g) of the Code.

26 ///

27 ///



1                    WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary  
3 action against all licenses and license rights of Respondents LONDON PROPERTIES LTD,  
4 PATRICK JAMES CONNER, and DANIEL JAMES CONNER under the Real Estate Law  
5 (Part 1 of Division 4 of the Code) and for such other and further relief as may be proper under  
6 other applicable provisions of law.

7  
8  
9                      
10                    TRICIA D. SOMMERS  
11                    Deputy Real Estate Commissioner

12  
13 Dated at Sacramento, California  
14 this 17<sup>th</sup> day of May, 2011.