


FILED

MAR 27 2012

~~Department of Real Estate~~
BY: 

1 DEPARTMENT OF REAL ESTATE

2 P. O. Box 187007

3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

5
6
7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)

11 RIVERSIDE CORP, a California Corporation,)

12 RORY LEE HOELKER, and)

13 MICHELLE CELESTE PETRUZELLI,)

14 Respondents.)

No. H-5317 SAC

OAH No. 2011040496

15 In the Matter of the Accusation of)

16 MATTHEW WAYNE STEWART,)

17 DANCE HALL INVESTORS, INC., a)

18 California corporation,)

19 WAYNE THOMAS HALL,)

20 RIVERSIDE CORP, a California corporation,)

and RORY LEE HOELKER,)

21 Respondents.)

NO. H-5482 SAC

OAH No. 2011040494

22 STIPULATION AND AGREEMENT

23 It is hereby stipulated by and between Respondent RIVERSIDE CORP, and
24 RORY LEE HOELKER (hereinafter "Respondents"), acting by and through their attorney,
25 Justin Dain Hein, and the Complainant, acting by and through Michael B. Rich, Counsel for the
26 Department of Real Estate, as follows for the purpose of settling and disposing of the
27 Accusation filed December 17, 2009, under Department Case No. H-5317 SAC and for the

No. H-5317 SAC and No. H-5482 SAC
RIVERSIDE CORP and RORY LEE HOELKER

1 purpose of settling and disposing of the First Amended Accusation filed on July 7, 2011, under
2 Department Case No. H-5482 SAC (hereinafter collectively "the Accusations"):

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

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

11 3. On January 6, 2010, Respondents filed Notices of Defense in Case No.
12 5317 SAC and on October 25, 2010, Respondents filed Notices of Defense in Case No. 5482
13 SAC pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing
14 on the allegations in the Accusations. Respondents hereby freely and voluntarily withdraw said
15 Notices of Defense. Respondents acknowledge that they understand that by withdrawing said
16 Notices of Defense Respondents will thereby waive Respondents' right to require the
17 Commissioner to prove the allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that Respondents will waive other rights
19 afforded to Respondents in connection with the hearing such as the right to present evidence in
20 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

25 5. It is understood by the parties that the Real Estate Commissioner may
26 adopt the Stipulation and Agreement as her decision in this matter, thereby imposing the penalty
27 and sanctions on Respondents' real estate license and license rights as set forth in the "Order"

1 below. In the event that the Commissioner in her discretion does not adopt the Stipulation and
2 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
3 and proceeding on the Accusations under all the provisions of the APA and shall not be bound
4 by any admission or waiver made herein.

5 6. This Stipulation and Agreement shall not constitute an estoppel, merger
6 or bar to any further administrative or civil proceedings by the Department of Real Estate with
7 respect to any matters which were not specifically alleged to be causes for accusation in this
8 proceeding.

9 DETERMINATION OF ISSUES

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

13 I

14 The acts and omissions of Respondent RIVERSIDE CORP described in the
15 Accusation under Case No. H-5317 SAC are grounds for the suspension or revocation of the
16 licenses and license rights of Respondent under the provisions of Sections 10176(a), 10176(b),
17 10176(g), 10176(i), 10177(g), and Section 10177(j) of the Code, and under Sections 10232.5,
18 10232.5(a)(6), and Section 10240 of the Code all in conjunction with Section 10177(d) of the
19 Code.

20 II

21 The acts and omissions of Respondent RIVERSIDE CORP described in the
22 Accusation under Case No. H-5482 SAC are grounds for the suspension or revocation of the
23 licenses and license rights of Respondents under the provisions of Sections 10176(a), 10176(f),
24 10176(g), 10176(i), 10177(g), and Section 10177(j) of the Code.

25 ///

26 //

27 /

1 III

2 The acts and omissions of Respondent RORY LEE HOELKER described in the
3 Accusation under Case No. H-5317 SAC and in the Accusation under Case No. 5482 SAC are
4 grounds for the suspension or revocation of the licenses and license rights of Respondent under
5 the provisions of Section 10159.2 of the Code and Section 2725 of the Regulations all in
6 conjunction with Section 10177(d) of the Code and Section 10177(h) of the Code.

7 ORDER

8 I

9 The corporate real estate broker licenses and all license rights of Respondent
10 RIVERSIDE CORP under the Real Estate Law are revoked; provided, however, a restricted
11 corporate real estate broker license shall be issued to Respondent RIVERSIDE CORP pursuant
12 to Section 10156.5 of the Business and Professions Code if Respondent makes application
13 therefor and pays to the Department of Real Estate the appropriate fee for the restricted license
14 within ninety (90) days from the effective date of this Decision. The restricted license issued
15 to Respondent RIVERSIDE CORP (permitting Respondent to conduct all activities permitted
16 by a broker license) shall be subject to all of the provisions of Section 10156.7 of the Business
17 and Professions Code and to the following limitations, conditions and restrictions imposed
18 under authority of Section 10156.6 of that Code:

19 1. The restricted license issued to Respondent RIVERSIDE CORP may be
20 suspended prior to hearing by Order of the Real Estate Commissioner in
21 the event of Respondent's conviction or plea of nolo contendere to a
22 crime which is substantially related to Respondent's fitness or capacity
23 as a real estate licensee.

24 2. The restricted license issued to Respondent RIVERSIDE CORP may be
25 suspended prior to hearing by Order of the Real Estate Commissioner on
26 evidence satisfactory to the Commissioner that Respondent has violated
27 provisions of the California Real Estate Law, the Subdivided Lands

1 Law, Regulations of the Real Estate Commissioner or conditions
2 attaching to the restricted license.

3 3. Respondent RIVERSIDE CORP shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the removal of any
5 of the conditions, limitations, or restrictions of a restricted license until
6 three (3) years have elapsed from the effective date of this Decision.

7 4. Any restricted real estate broker license issued to Respondent
8 RIVERSIDE CORP may be suspended or revoked for a violation by
9 Respondent of any of the conditions attaching to the restricted license.

10 5. The restricted license issued to Respondent RIVERSIDE CORP is
11 suspended for a period of sixty (60) days from the date of issuance of
12 said restricted license; provided, however, that if Respondent petitions,
13 thirty (30) days of said suspension (or a portion thereof) shall be stayed
14 upon condition that:

15 (a.) Respondent pays a monetary penalty pursuant to Section 10175.2
16 of the Business and Professions Code at the rate of \$100.00 for
17 each day of the suspension for a total monetary penalty of
18 \$3,000.00.

19 (b.) Said payment shall be in the form of a cashier's check or
20 certified check made payable to the Consumer Recovery Account
21 of the Real Estate Fund. Said check must be delivered to the
22 Department prior to the effective date of the Decision in this
23 matter.

24 (c.) No further cause for disciplinary action against the real estate
25 license of Respondent occurs within three (3) years from the
26 effective date of the Decision in this matter.

27 ///

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

8 (e.) If Respondent pays the monetary penalty and if no further cause
9 for disciplinary action against the real estate license of
10 Respondent occurs within three (3) years from the effective date
11 of the Decision, the stay hereby granted shall become permanent.

12 6. Thirty (30) days of said sixty-(60) day suspension shall be stayed upon
13 condition that:

14 (a) No final subsequent determination be made, after hearing or upon
15 stipulation, that cause for disciplinary action against Respondent
16 occurred within three (3) years of the effective date of the
17 Decision herein.

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

24 (c) If no order vacating the stay is issued, and if no further cause for
25 disciplinary action against the real estate license of Respondent
26 occurs within three (3) years from the effective date of the
27 Decision, then the stay hereby granted shall become permanent.

1 7. Respondent RIVERSIDE CORP, together with Respondent RORY LEE
2 HOELKER, shall, within twenty-four (24) months from the effective date
3 of this Decision, provide evidence satisfactory to the Commissioner that
4 Respondent has reimbursed Teresa Zuccala the sum of \$15,500.00. If
5 Respondent fails to satisfy this condition within 24 months from the
6 effective date of this Decision, the Commissioner may order suspension
7 of Respondent's restricted license until Respondent has submitted such
8 evidence that Teresa Zuccala has been so reimbursed.

9 II

10 All licenses and licensing rights of Respondent RORY LEE HOELKER under
11 the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall
12 be issued to said Respondent pursuant to Section 10156.5 of the Business and Professions Code
13 if, within 90 days from the effective date of the Decision entered pursuant to this Order.
14 Respondent makes application for the restricted license and pays to the Department of Real
15 Estate the appropriate fee therefor.

16 The restricted license issued to Respondent shall be subject to all of the
17 provisions of Section 10156.7 of the Business and Professions Code and to the following
18 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

- 19 1. The restricted license issued to Respondent RORY LEE HOELKER may be
20 suspended prior to hearing by Order of the Real Estate Commissioner on
21 evidence satisfactory to the Commissioner that Respondent has violated
22 provisions of the California Real Estate Law, the Subdivided Lands Law,
23 Regulations of the Real Estate Commissioner or conditions attaching to the
24 restricted license.
- 25 2. The restricted license issued to Respondent RORY LEE HOELKER may
26 be suspended prior to hearing by Order of the Real Estate Commissioner in
27 the event of Respondent's conviction or plea of nolo contendere to a crime

1 which is substantially related to Respondent's fitness or capacity as a real
2 estate licensee.

3 3. Respondent RORY LEE HOELKER shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the removal of any of
5 the conditions, limitations or restrictions of a restricted license until three
6 (3) years have elapsed from the effective date of this Decision.

7 4. Respondent RORY LEE HOELKER shall, within nine (9) months from the
8 effective date of the Decision, present evidence satisfactory to the Real
9 Estate Commissioner that Respondent has, since the most recent issuance
10 of an original or renewal real estate license, taken and successfully
11 completed the continuing education requirements of Article 2.5 of Chapter
12 3 of the Real Estate Law for renewal of a real estate license. If Respondent
13 fails to satisfy this condition, the Commissioner may order the suspension
14 of the restricted license until the Respondent presents such evidence. The
15 Commissioner shall afford Respondent the opportunity for a hearing
16 pursuant to the Administrative Procedure Act to present such evidence.

17 5. Respondent RORY LEE HOELKER shall, within six (6) months from the
18 effective date of this Decision, take and pass the Professional
19 Responsibility Examination administered by the Department including the
20 payment of the appropriate examination fee. If Respondent fails to satisfy
21 this condition, the Commissioner may order suspension of Respondent's
22 license until Respondent passes the examination.

23 6. The restricted license issued to Respondent RORY LEE HOELKER is
24 suspended for a period of sixty (60) days from the date of issuance of said
25 restricted license; provided, however, that if Respondent petitions, thirty
26 (30) days of said suspension (or a portion thereof) shall be stayed upon
27 condition that:

1 (a.) Respondent pays a monetary penalty pursuant to Section 10175.2 of
2 the Business and Professions Code at the rate of \$100.00 for each
3 day of the suspension for a total monetary penalty of \$3,000.00.

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

8 (c.) No further cause for disciplinary action against the real estate license
9 of Respondent occurs within three (3) years from the effective date
10 of the Decision in this matter.

11 (d.) If Respondent fails to pay the monetary penalty in accordance with
12 the terms and conditions of the Decision, the Commissioner may,
13 without a hearing, order the immediate execution of all or any part of
14 the stayed suspension in which event the Respondent shall not be
15 entitled to any repayment nor credit, prorated or otherwise, for
16 money paid to the Department under the terms of this Decision.

17 (e.) If Respondent pays the monetary penalty and if no further cause for
18 disciplinary action against the real estate license of Respondent
19 occurs within three (3) years from the effective date of the Decision,
20 the stay hereby granted shall become permanent.

21 7. Thirty (30) days of said sixty-(60) day suspension shall be stayed upon
22 condition that:

23 (a) No final subsequent determination be made, after hearing or upon
24 stipulation, that cause for disciplinary action against Respondent
25 occurred within three (3) years of the effective date of the Decision
26 herein.

27 (b) Should such a determination be made, the Commissioner may, in his

1 or her discretion, vacate and set aside the stay order, and order the
2 execution of all or any part of the stayed suspension, in which event
3 the Respondent shall not be entitled to any repayment nor credit,
4 prorated or otherwise, for money paid to the Department under the
5 terms of this Decision.

6 (c) If no order vacating the stay is issued, and if no further cause for
7 disciplinary action against the real estate license of Respondent occurs
8 within three (3) years from the effective date of the Decision, then the
9 stay hereby granted shall become permanent.

10 8. Respondent RORY LEE HOELKER, together with Respondent
11 RIVERSIDE CORP, shall, within twenty-four (24) months from the
12 effective date of this Decision, provide evidence satisfactory to the
13 Commissioner that Respondent has reimbursed Teresa Zuccala the sum of
14 \$15,500.00. If Respondent fails to satisfy this condition within 24 months
15 from the effective date of this Decision, the Commissioner may order
16 suspension of Respondent's restricted license until Respondent has
17 submitted such evidence that Teresa Zuccala has been so reimbursed.

18
19
20 DATED February 22, 2012

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

21
22 ///

23 //

24 /

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.

RIVERSIDE CORP.
Respondent

2-3-2012
DATED

By: Rory Lee Hoelker
RORY LEE HOELKER
Title: Broker

2-3-2012
DATED

Rory Lee Hoelker
RORY LEE HOELKER, Respondent

Approved as to form and content by counsel for Respondents.

2/8/2012
DATED

Justin Dain Hein
JUSTIN DAIN HEIN
Attorney for Respondents

///

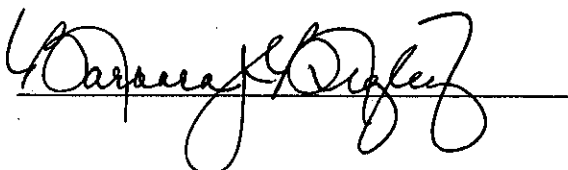
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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent RIVERSIDE CORP and Respondent RORY LEE
HOELKER and shall become effective at 12 o'clock noon on APR 16 2012

IT IS SO ORDERED 3/23/12

BARBARA J. BIGBY
Acting Real Estate Commissioner



File

MICHAEL B. RICH, Counsel
State Bar No. 84257
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007
Telephone: (916) 227-1126

FILED
DEC 17 2009
DEPARTMENT OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-5317 SAC
RIVERSIDE CORP, a California Corporation,)	
RORY LEE HOELKER, and)	ACCUSATION
MICHELLE CELESTE PETRUZZELLI,)	
)	
Respondents.)	

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, for Accusation against Respondent RIVERSIDE CORP, a California Corporation, doing business under the fictitious names of AVALAR REAL ESTATE AND MORTGAGE, AVALAR REAL ESTATE & MORTGAGE NETWORK, AVALAR REALTY, STANFORD RANCH REALTY, SACTOBYOWNER.COM, SACTOBYOWNER, RIVERSIDE PROPERTIES, RIVERSIDE INVESTMENTS, CASH FLOW INVESTMENTS, CASH FLOW PROPERTIES and FOLSOM HILLS REALTY, against Respondent RORY LEE HOELKER, and against Respondent MICHELLE CELESTE PETRUZZELLI formerly known as MICHELLE CELESTE CSEREP, is informed and alleges as follows:

1

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in her official capacity.

2

Respondents RIVERSIDE CORP, RORY LEE HOELKER, and MICHELLE CELESTE PETRUZZELLI are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code").

3

At all times herein mentioned, Respondent RIVERSIDE CORP, (hereafter "Respondent RIVERSIDE") was and is licensed by the Department of Real Estate (hereinafter "the Department") as a corporate real estate broker:

4

At all times herein mentioned, Respondent RORY LEE HOELKER (hereinafter "Respondent HOELKER") was and is licensed by the Department as a real estate broker.

5

At all times herein mentioned, Respondent HOELKER was licensed by the Department as the designated broker/officer of Respondent RIVERSIDE. As said designated Broker/officer, Respondent HOELKER was at all times mentioned herein responsible pursuant to Sections 10159.2 and 10177(h) of the Code for the supervision of the activities of the officers, agents, and employees of, and of the real estate licensees employed by, Respondent RIVERSIDE and of the activities of said corporation for which a real estate license is required.

6

At all times herein mentioned, Respondent MICHELLE CELESTE PETRUZZELLI (hereinafter "Respondent PETRUZZELLI") was and is licensed by the Department as a restricted real estate salesperson employed by Respondent RIVERSIDE as a restricted salesperson licensee.

7

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent RIVERSIDE, such allegation shall be deemed to mean that the officers,

1 directors, employees, agents and real estate licensees employed by or associated with
2 Respondent RIVERSIDE committed such act or omission while engaged in the furtherance of
3 the business or operations of Respondent RIVERSIDE and while acting within the course and
4 scope of their corporate authority and employment.

5 8

6 Within the three year period prior to the filing of this Accusation and at all times
7 herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised,
8 or assumed to act as a real estate broker within the State of California within the meaning of
9 Section 10131(d) of the Code, including the operation of and conduct of a mortgage loan
10 brokerage business with the public wherein lenders and borrowers were solicited for loans to be
11 secured directly or collaterally by liens on real property, wherein such loans were arranged,
12 negotiated, processed, and consummated on behalf of others for compensation or in expectation
13 of compensation, and wherein such loans were serviced and payments thereon were collected on
14 behalf of others.

15 FIRST CAUSE OF ACTION

16 9

17 There is hereby incorporated in this First, separate and distinct, Cause of Action,
18 all of the allegations contained in Paragraphs 1 through 8, inclusive, of the Accusation with the
19 same force and effect as if herein fully set forth.

20 10

21 Within the three year period prior to the filing of this Accusation, on or about
22 March 20, 2008, Respondent RIVERSIDE CORP and Respondent PETRUZZELLI, in the
23 course and scope of the licensed activities set forth in Paragraph 8, above, solicited and induced
24 Teresa Zuccala (hereinafter "Lender") to loan \$20,000.00 (hereinafter "subject loan") to
25 Ravindar Pratap (hereinafter "Borrower") to be secured by real property at 6330 Cushing Way,
26 Sacramento, California (hereinafter "subject property"), by representing to Lender that the funds
27 would be repaid to lender within 14 days plus 20% interest, and by submitting to Lender a

1 settlement statement showing costs of \$5,500.00 payable to W. P. Investments for services
2 rendered.

3 11

4 The representations described in Paragraph 10, above, were false and misleading
5 and were known by Respondents RIVERSIDE and PETRUZZELLI to be false and misleading
6 when made or were made by such Respondents with no reasonable grounds for believing said
7 representations to be true, and/or said Respondents should have known at the time through the
8 exercise of reasonable diligence that such representations were false and misleading. In truth
9 and in fact: 1.) the Lender's \$20,000.00 would not be repaid with or without interest by the
10 Borrower within 14 days or at any time thereafter; 2.) Respondents had no certain knowledge
11 and no reason to believe with certainty that Borrower would obtain funds or financing sufficient
12 to repay the \$20,000.00 loan within 14 days or at any time thereafter; 3.) the Borrower had no
13 financial capability to repay the subject loan; 4.) beginning on April 1, 2008, and continuing
14 thereafter, Borrower defaulted on his obligation to make monthly mortgage payments to a pre-
15 existing lender holding a senior trust deed encumbering the subject property and lost the
16 property to the senior lender by foreclosure; 5.) W. P. Investments had not rendered any services
17 of any kind with reference to the loan and was not entitled to collect \$5,500.00 from the loan
18 proceeds; 6.) Respondent PETRUZZELLI was a stockholder and chief financial officer of W. P.
19 Investments; 7.) Respondent PETRUZZELLI failed to disclose to Lender PETRUZZELLI's
20 personal interest in W. P. Investments; and, 8.) Respondent PETRUZZELLI failed to disclose to
21 Lender that Respondent PETRUZZELLI would claim and receive the \$5,500.00 from the loan
22 proceeds for her personal benefit.

23 12

24 The acts and omissions of Respondent RIVERSIDE and Respondent
25 PETRUZZELLI described in Paragraphs 10 and 11, above, constitute misrepresentation, fraud,
26 deceit, and dishonest dealing.

27 ///

Within the three year period prior to the filing of this Accusation, in the course of brokering the subject loan as set forth in Paragraph 10, Respondents RIVERSIDE and PETRUZZELLI failed to provide to Lender a written Lender/Purchaser Disclosure Statement as required by Section 10232.5 of the Code containing all of the information required by that Section, including, but not limited to: the subject property address; estimated fair market value of subject property; age, construction type and improvements on subject property; identity, occupation, employment, income and credit data of borrower; terms of promissory note; information regarding pre-existing encumbrances and liens against subject property; knowledge of any anticipated or expected loan to be secured by the property; loan servicing provisions; information regarding any joint beneficiaries; and, detailed statement of any intended use and disposition of loan funds which the licensee will use or benefit from for other than commissions, fees, and costs and expenses.

Within the three year period prior to the filing of this Accusation, in the course of brokering the subject loan as set forth in Paragraph 10, Respondents RIVERSIDE and PETRUZZELLI failed to provide to Lender a copy of a written loan application and a credit report for the Borrower as required by Section 10232.5(a)(6) of the Code

Within the three year period prior to the filing of this Accusation, in the course of brokering the subject loan as set forth in Paragraph 10, Respondents RIVERSIDE and PETRUZZELLI failed to provide to the Borrower a Mortgage Lender Disclosure Statement as required by Section 10240 of the Code containing all of the information required under Section 10241 (requiring disclosure of estimated costs and expenses of loan, commissions, origination fees, lien information, estimated insurance costs, taxes due, creditor claims, loan principal, interest rate, loan term, balloon payments, etc.) as signed by the borrower and the broker, and/or failed to maintain for a period of three years a copy of the Mortgage Lender Disclosure

1 Statement as signed by the borrower and the broker in violation of Section 10148 of the Code
2 (requiring licensed brokers to maintain for three years all transactional documents and records
3 executed by the broker or obtained by broker in connection with any transactions requiring a
4 real estate license).

5 16

6 The facts alleged in Paragraphs 10, 11, 12, 13, 14, and 15, above, are grounds for
7 the suspension or revocation of the licenses and licensing rights of Respondent RIVERSIDE and
8 Respondent PETRUZZELLI under the following provisions:

- 9 (a) As to Paragraphs 10, 11, and 12, under Sections 10176(a) of the Code
10 (making a substantial misrepresentation);
- 11 (b) As to Paragraphs 10, 11, and 12, under Section 10176(b) of the Code
12 (making any false promises of a character likely to influence, persuade or
13 induce);
- 14 (c) As to Paragraphs 10, 11, and 12, under Section 10176(g) of the Code
15 (claiming or taking any secret or undisclosed amount of compensation,
16 commission or profit);
- 17 (d) As to Paragraphs 10, 11, and 12, under Section 10176(i) of the Code (any
18 other conduct, whether of the same or a different character than specified
19 in this section, which constitutes fraud or dishonest dealing);
- 20 (e) As to Paragraphs 10, 11, and 12, under Section 10177(g) of the Code
21 (demonstrated negligence or incompetence in performing an act for which
22 he or she is required to hold a license);
- 23 (g) As to Paragraphs 10, 11, and 12, under Section 10177(j) of the Code (any
24 other conduct, whether of the same or a different character than specified
25 in this section, which constitutes fraud or dishonest dealing);
- 26 (h) As to Paragraph 13, under Section 10232.5 of the Code (requiring broker
27 to provide Lender/Purchaser Disclosure Statement to lender) in

1 conjunction with Section 10177(d) of the Code (suspension or revocation
2 of license for willful disregard or violation of the Real Estate Law,
3 Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of
4 Chapter 6, Title 10, California Code of Regulations);

5 (i) As to Paragraph 14, under Section 10232.5(a)(6) of the Code (requiring
6 broker to provide loan application and credit report to lender) in
7 conjunction with Section 10177(d) of the Code (suspension or revocation
8 of license for willful disregard or violation of the Real Estate Law,
9 Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of
10 Chapter 6, Title 10, California Code of Regulations);

11 (k) As to Paragraph 15, under Section 10240 of the Code (requiring broker to
12 provide and keep copy of signed Mortgage Lender Disclosure Statement
13 to borrower) in conjunction with Section 10177(d) of the Code
14 (suspension or revocation of license for willful disregard or violation of
15 the Real Estate Law, Sections 10000 et seq. and Sections 11000 et seq. of
16 the Code, or of Chapter 6, Title 10, California Code of Regulations); and,

17 17

18 The facts alleged in Paragraph 15 are grounds for the suspension or revocation of
19 the license and licensing rights of Respondent RIVERSIDE under Section 10148 of the Code
20 (requiring licensed brokers to maintain for three years all transactional documents and records
21 executed by the broker or obtained by broker in connection with any transactions requiring a
22 real estate license) in conjunction with Section 10177(d) of the Code (suspension or revocation
23 of license for willful disregard or violation of the Real Estate Law, Sections 10000 et seq. and
24 Sections 11000 et seq. of the Code, or of Chapter 6, Title 10, California Code of Regulations).

25 18

26 The facts alleged in Paragraphs 10, 11, 12, 13, 14, 15, and 16, above, are grounds
27 for the suspension or revocation of the license and licensing rights of Respondent

1 PETRUZZELLI under Section 10177(k) of the Code (violated any of the terms, conditions or
2 restrictions, and limitations contained in an order granting a restricted license).

3 SECOND CAUSE OF ACTION

4 19

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

8 20

9 At all times above mentioned, Respondent HOELKER was responsible, as the
10 designated broker officer of Respondent RIVERSIDE, for the supervision and control of the
11 activities conducted on behalf of the corporation by its officers and employees. Respondent
12 HOELKER failed to exercise reasonable supervision and control over the mortgage brokering
13 activities of Respondent RIVERSIDE and its licensed employees. In particular, Respondent
14 HOELKER permitted, ratified, and/or caused the conduct described in the First Cause of
15 Action, above, to occur, and failed to take reasonable steps, including but not limited to the
16 review of loan applications and transactional documents, preventing misrepresentations and
17 false statements on transactional documents, failure to provide required lending disclosure
18 statements and credit reports, failure to disclose personal interests of licensee in transaction,
19 failure to disclose secret or undisclosed amount of compensation to licensee, the supervision of
20 employees, and the implementation of policies, rules, procedures, and systems to ensure the
21 compliance of the corporation and its licensed employees with the Real Estate Law (Business
22 and Professions Code Sections 10000 et seq. and Sections 11000 et seq.) and the
23 Commissioner's Regulations (Chapter 6, Title 10, California Code of Regulations) .

24 21

25 The acts and/or omissions of Respondent HOELKER as described in Paragraph
26 19, above, constitute grounds for the suspension or revocation of the licenses and license rights
27 of Respondent HOELKER under the provisions Section 10159.2 of the Code (designated

1 broker/officer responsible for supervision and control of activities conducted on behalf of
2 corporation by officers, licensed salespersons and employees to secure compliance with the Real
3 Estate Law) and Section 2725 of Chapter 6, Title 10, California Code of Regulations (broker
4 shall exercise reasonable supervision over: licensed employees; establish policies and
5 procedures for compliance with Real Estate Law; supervise transactions requiring a real estate
6 license; trust fund handling; etc.) all in conjunction with Section 10177(d) of the Code and/or of
7 Section 10177(h) of the Code (suspension or revocation for broker or designated broker/officer
8 who fails to exercise reasonable supervision of licensed employees or licensed activities of
9 broker corporation).

10 MATTERS IN AGGRAVATION

11 PRIOR PROCEEDING

12 22

13 Effective June 8, 1995, in Case No. H-3018 SAC (OAH Case No. N-9408053),
14 the real estate salesperson license of Respondent PETRUZZELLI, formerly known as
15 MICHELLE CELESTE CSEREP, was revoked after hearing, subject to the right to apply for a
16 restricted real estate salesperson license subject to terms and conditions. The real estate
17 salesperson license of Respondent PETRUZZELLI was revoked for violating Section 10176(a)
18 of the Code (making a substantial misrepresentation) and Section 10176(i) of the Code (any
19 other conduct, whether of the same or a different character than specified in this section, which
20 constitutes fraud or dishonest dealing) for having defrauded a lender.

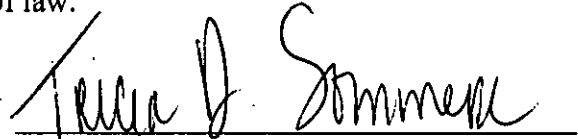
21 WHEREFORE, Complainant prays that a hearing be conducted on the
22 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
23 disciplinary action against all licenses and license rights of Respondents under the Real Estate

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1 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
2 relief as may be proper under other provisions of law.

3 
4

TRICIA D. SOMMERS

Deputy Real Estate Commissioner

6
7 Dated at Sacramento, California,

8 this 9th day of December, 2009.