

FILED

JAN 28 2011

DEPARTMENT OF REAL ESTATE

By H. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

SCOTT LOUIS STOBER
and CLEM CORP,

Respondents.

H-5410 SAC

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on January 12, 2011, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes real estate licenses and/or license rights on grounds of violations of Sections 10145(a) (Handling of Trust Funds), 10176(e) (Grounds for Revocation/Suspension – Commingling Money or Property), 10177(d) (Willful Disregard/Violation of Real Estate Law), 10177(h) (Reasonable Supervision by Broker), 10232.2(a) (Filing Fiscal Year Reports), 10232.25 (Trust Fund Status Reports), 10233(a) (Authorization Required to Service Promissory Note), 10238(a) (Claim of Exemption from Securities Qualifications – Form of Notice), 10238(f)(1) (Claim of Exemption from Securities Qualifications – Limitation on Number of Persons to Whom Notes or Interests are Sold) and 10238(h)(4) (Claim of Exemptions from Securities Qualifications – Construction and Rehabilitation Loans/"Current Market Value") of the Code, and Sections 2715 (Business and Mailing Addresses of Licenses), 2831 (Maintenance of Trust Funds), 2831.1 (Separate Records for Each Beneficiary or Transaction), 2831.2 (Trust Account Reconciliation), 2832 (Trust Fund Handling), 2834 (Trust Account Withdrawals) and 2835 (Commingling) of the Regulations.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

FINDINGS OF FACT

1

On June 10, 2010, Tricia D. Sommers made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondents' last known mailing addresses on file with the Department on June 10, 2010.

On January 12, 2011, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default was entered herein.

2

Respondent SCOTT LOUIS STOBBER is presently licensed and/or has license rights under the Real Estate Law, Part I of Division 4, of the California Business and Professions Code ("the Code") as a real estate broker. Respondent SCOTT LOUIS STOBBER is also the designated broker/officer for Respondent CLEM CORP.

3

Respondent CLEM CORP, dba Scott Realty & Investments, and Northern Financial Network, is presently licensed and/or has license rights as a corporate real estate broker.

4

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated, processed and consummated such loans.

5

While acting as a real estate broker as described in Paragraph 4, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in connection with mortgage activities, deposited or caused to be deposited those funds into a bank account maintained by Respondents, including:

///

1. Trust #1

Wells Fargo Bank (WFB)
(Previously Placer Sierra Bank – Merged with WFB)
214 Mill Street
Grass Valley, California 95945

Account No. [REDACTED]

Account Name: "Scott Stober for the Benefit of Sean R. Bothelio"
(Fiduciary Trust)

2. Bank Account #1

Wells Fargo Bank (WFB)
214 Mill Street
Grass Valley, California 95945

Account No. [REDACTED]

Account Name: "Tyler Petros/Scott Stober"

3. Bank Account #2

Wells Fargo Bank (WFB)
214 Mill Street
Grass Valley, California 95945

Account No. [REDACTED]

Account Name: Clem Corp dba Scott Realty and Investments

4. Bank Account #3 (Closed October 2008)

Wells Fargo Bank (WFB)
(Previously Placer Sierra Bank – Merged with WFB)
214 Mill Street
Grass Valley, California 95945

Account No. [REDACTED]
(Previously [REDACTED])

Account Name: Patrick Flynn/Scott Stober/For the
Benefit of Hartman Road Project

Thereafter, from time to time, Respondents made disbursements of said trust funds.

In the course of the activities described in Paragraph 4, above, in connection with the collection and disbursement of trust funds:

- (a) Trust #1 was not maintained under Respondent CLEM CORP as the trustee. Trust # 1 was designated as "Scott Stober for the Benefit of Sean R. Bothelio". The signature card identified this account as a "Fiduciary Trust". Respondent STOBBER's real estate broker license expired on May 19, 1996. Such acts and/or omissions violate Section 2932 of Title 10 of the California Code of Regulations (hereafter "the Regulations").
- (b) Bank Accounts #1, #2 and #3 were not designated as trust accounts and were not in the name of Respondent CLEM CORP. Respondent STOBBER's real estate broker license expired on May 19, 1996. Such acts and/or omissions violate Section 2932 of the Regulations.
- (c) Tyler Petros was named as a signatory and a beneficiary of Bank #1. He was not a real estate licensee and was not covered by a fidelity bond. Such acts and/or omissions violate Section 2834 of the Regulations.
- (d) Patrick Flynn was named as a signatory of Bank #3. He was not a real estate licensee and was not covered by a fidelity bond. Such acts and/or omissions violate Section 2834 of the Regulations.
- (e) Bank #2 was used for Respondent CLEM CORP's business activities and for trust funds collected by Respondents. Bank #2 was used by Respondent CLEM CORP for such activities as ATM card purchases at Raley's, Safeway Store and Best Western Hotel. In addition, the account was used to deposit trust funds collected, including, but not limited to the following transactions:
 - \$2,550 collected from Tyler Petros (borrower) for the property located at 13292 Magnolia Road, Grass Valley, California, was deposited into Bank #2 on September 11, 2008. Those funds were disbursed by Checks #1670 (\$47.50) and #1671 (\$2,502.50), both dated September 9, 2008.
 - \$1,500 transferred from Trust #1 was deposited into Bank #2 on August 18, 2009, related to the property located at 17385 Ashbury Way, Camptonville, California. Those funds were disbursed by Check #2122 on August 18, 2009.
 - \$101,222.23 collected from Roger D. and Kathleen M. Cravy (lender) for the property located at 12360 Nevada City Highway, Grass Valley, California, was deposited into Bank #2 on October 31, 2008. Those funds were disbursed by Check #1727 on October 31, 2008.

Such acts/omissions violate of Section 10176(e) of the Code and Section 2835 of the Regulations.

- (f) Respondents failed to maintain records of all trust funds received and disbursed (control records) for Bank #2 in violation of Section 2831 of the Regulations.
- (g) Respondents failed to maintain separate records for each beneficiary of Bank #2 in violation of Section 2831.1 of the Regulations.
- (h) Respondents failed to perform the reconciliation of the sum of separate beneficiary records to the record of all trust funds received and disbursed at least monthly for Bank #2 in violation of Section 2831.2 of the Regulations.
- (i) Respondents failed to have the disbursement draws for the construction loan for the property at 13292 Magnolia Road, Grass Valley, California, verified by an independent qualified person and failed to use a comprehensive draw schedule in violation of Section 10238(h)(4) of the Code.
- (j) Respondents did not obtain lenders' information to confirm if their investments exceeded 10% of the lenders' net worth related to the property at 13292 Magnolia Road, Grass Valley, California, in violation of Section 10238(f)(1) of the Code.
- (k) Respondents failed to maintain a servicing agreement with lender John Deluca for the single lender construction loan for the property at 17385 Ashbury Way, Camptonville, California, in violation of Section 10233(a) of the Code.
- (l) Respondents failed to file the initial notification with the Department of a multi-lender transaction related to the property at 13292 Magnolia Road, Grass Valley, California, within 30 days after that transaction closed on June 13, 2007, in violation of Section 10238(a) of the Code.
- (m) Respondents submitted "Trust Fund Non-Accountability Reports" when Respondent CLEM CORP met the threshold criteria since 2007. Respondent CLEM CORP handled trust funds and had accountabilities since 2007. Respondents failed to file Trust Fund Status Reports and Trust Fund Bank Account Reconciliations for Trust #1 and Bank #1 since October 1, 2007. Respondents also failed to file a Trust Account Review annually with the Department. Such acts and/or omissions violate Sections 10232.25 and 10232.2(a) of the Code.

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(n) Respondents collected Earnest Money Deposits (hereafter "EMD") from the following buyers:

-Christian and Elaine Rhodes, property located at 19222 Connie Drive, Grass Valley, California; EMD of \$2,500.

-Pack Trust, property located at 13327 Driftwood Court, Penny Valley, California; EMD of \$1,000.

However, Respondents did not maintain a record of the trust funds collected that were not deposited into a broker's trust account in violation of Section 2831(a)(6) of the Regulations.

7

On or about September 7, 2009, Respondents relocated their main office to its current location at 11594 Alta Sierra, Grass Valley, California, but failed to notify the Department of that move by the next business day.

8

At all times herein mentioned, Respondent STOBBER was responsible, as the designated broker/officer for Respondent CLEM CORP, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent STOBBER failed to exercise reasonable supervision and control over the property mortgage loan brokering activities of Respondent CLEM CORP. In particular, Respondent STOBBER permitted, ratified and/or caused the conduct described in Paragraphs 4 through 7, above, to occur, and failed to take reasonable steps, including, but not limited to, the handling of trust funds, supervision of employees and the implementation of policies, rules, procedures and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

DETERMINATION OF ISSUES

1

Cause of disciplinary action against Respondents CLEM CORP and STOBBER exists with reference to the facts set out in Paragraphs 3 through 8, above, for violation of Sections 10145(a), 10176(e), 10177(d), 10232.2(a), 10232.25, 10233(a), 10238(a), 10238(f)(1) and 10238(h)(4) of the Code and Sections 2715, 2831, 2831.1, 2831.2, 2832, 2834 and 2835 of the Regulations; and against Respondent STOBBER for violations of Sections 10177(h) of the Code and Section 2725 of the Regulations.

2

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

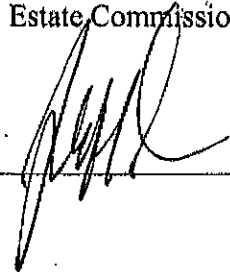
ORDER

All licenses and licensing rights of Respondents SCOTT LOUIS STORER and CLEM CORP under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on
FEB 18 2011

DATED: 1-26-2011

JEFF DAVI
Real Estate Commissioner



1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

JAN 12 2011

DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)

12 SCOTT LOUIS STOBER)
13 and CLEM CORP.,)

14 Respondents.)

H-5410 SAC

DEFAULT ORDER

15
16 Respondents, SCOTT LOUIS STOBER and CLEM CORP., having failed to file
17 a Notice of Defense within the time required by Section 11506 of the Government Code, are
18 now in default. It is, therefore, ordered that a default be entered on the record in this matter.

19 IT IS SO ORDERED JANUARY 12, 2011.

20 JEFF DAVI
21 Real Estate Commissioner

22
23 By:

Phillip Hilde
24 PHILLIP HILDE
25 Northern Regional Manager
26
27

1 JOHN W. BARRON, Counsel (SBN 171246)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789 (main)
6 (916) 227-0792 (direct)

FILED

JUN 10 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 ***

11			
12	In the Matter of the Accusation of)	
13)	No. H-5410 SAC
14	SCOTT LOUIS STOBER)	
15	and CLEM CORP,)	
16)	<u>ACCUSATION</u>
17	Respondents.)	

18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
19 of the State of California, for cause of Accusation against SCOTT LOUIS STOBER (hereafter
20 "Respondent STOBER") and CLEM CORP (hereafter "Respondent CLEM CORP"), (hereafter
collectively "Respondents"), is informed and alleges as follows:

21 1

22 The Complainant makes this Accusation in her official capacity.

23 2

24 Respondent STOBER was licensed and/or had license rights under the Real Estate
25 Law, Part 1 of Division 4 of the Business and Professions Code (hereafter "the Code") as a real
26 estate broker, License No. 00693152, which expired on May 19, 1996.

27 ///

1 3

2 Respondent CLEM CORP dba Scott Realty & Investments, and Northern
3 Financial Network, is presently licensed by the Department of Real Estate (hereafter "the
4 Department"), License No. 01182090, as a corporate real estate broker.

5 4

6 At all times herein mentioned, Respondent STOBBER was licensed by the
7 Department as the designated broker/officer of Respondent CLEM CORP, License No.
8 01182090. As the designated broker/officer, Respondent STOBBER was responsible, pursuant to
9 Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real
10 estate licensees and employees of Respondent CLEM CORP for which a real estate license is
11 required.

12 5

13 At all times herein mentioned, Respondents engaged in the business of, acted in
14 the capacity of, advertised or assumed to act as a real estate broker within the State of California
15 within the meaning of Section 10131(d) of the Code, including the operation and conduct of a
16 loan brokerage business with the public, wherein, on behalf of others, for compensation or in
17 expectation of compensation, Respondents solicited lenders and borrowers for loans secured
18 directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated,
19 processed and consummated such loans.

20 6

21 Whenever reference is made in an allegation in this Accusation to an act or
22 omission of Respondent CLEM CORP, such allegation shall be deemed to mean that the officers,
23 directors, employees, agents and real estate licensees employed by or associated with Respondent
24 CLEM CORP committed such act or omission while engaged in furtherance of the business or
25 operations of Respondent CLEM CORP and while acting within the course and scope of their
26 corporate authority and employment.

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1 FIRST CAUSE OF ACTION

2 7

3 Beginning January 11, 2010, and continuing intermittently through February 8,
4 2010, an audit was conducted at Respondents' main office located at 11594 Alta Sierra Drive,
5 Grass Valley, California, where the auditor examined the records for the period of January 1,
6 2007, through December 31, 2009 (the audit period).

7 8

8 While acting as a real estate broker as described in Paragraph 5, above, and within
9 the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf
10 of lenders, investors, borrowers and others in connection with mortgage activities, deposited or
11 caused to be deposited those funds into a bank account maintained by Respondents, including:

12
13 1. Trust #1

14 Wells Fargo Bank (WFB)
15 (Previously Placer Sierra Bank – Merged with WFB)
16 214 Mill Street
17 Grass Valley, California 95945
18 Account No. [REDACTED]
19 Account Name: "Scott Stober for the Benefit of Sean R. Bothelio"
20 (Fiduciary Trust)

21 2. Bank Account #1

22 Wells Fargo Bank (WFB)
23 214 Mill Street
24 Grass Valley, California 95945
25 Account No. [REDACTED]
26 Account Name: "Tyler Petros/Scott Stober"

27 3. Bank Account #2

Wells Fargo Bank (WFB)
214 Mill Street
Grass Valley, California 95945
Account No. [REDACTED]
Account Name: Clem Corp dba Scott Realty and Investments

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4. Bank Account #3 (Closed October 2008)

Wells Fargo Bank (WFB)
(Previously Placer Sierra Bank – Merged with WFB)
214 Mill Street
Grass Valley, California 95945
Account No. [REDACTED]
(Previously [REDACTED])
Account Name: Patrick Flynn/Scott Stober/For the
Benefit of Hartman Road Project

Thereafter, from time to time, Respondents made disbursements of said trust funds.

9

In the course of the activities described in Paragraph 8, above, in connection with the collection and disbursement of trust funds:

(a) Trust #1 was not maintained under Respondent CLEM CORP as the trustee.

Trust # 1 was designated as "Scott Stober for the Benefit of Sean R. Bothelio".

The signature card identified this account as a "Fiduciary Trust". Respondent STOBBER's real estate broker license expired on May 19, 1996. Such acts and/or omissions violate Section 2832 of Title 10 of the California Code of Regulations (hereafter "the Regulations").

(b) Bank Accounts #1, #2 and #3 were not designated as trust accounts and were not in the name of Respondent CLEM CORP. Respondent STOBBER's real estate broker license expired on May 19, 1996. Such acts and/or omissions violate Section 2832 of the Regulations.

(c) Tyler Petros was named as a signatory and a beneficiary of Bank #1. He was not a real estate licensee and was not covered by a fidelity bond. Such acts and/or omissions violate Section 2834 of the Regulations.

(d) Patrick Flynn was named as a signatory of Bank #3. He was not a real estate licensee and was not covered by a fidelity bond. Such acts and/or omissions violate Section 2834 of the Regulations.

1 (e) Bank #2 was used for Respondent CLEM CORP's business activities and for
2 trust funds collected by Respondents. Bank #2 was used by Respondent
3 CLEM CORP for such activities as ATM card purchases at Raley's, Safeway
4 Store and Best Western Hotel. In addition, the account was used to deposit
5 trust funds collected, including, but not limited to the following transactions:

6 -\$2,550 collected from Tyler Petros (borrower) for the property located at
7 13292 Magnolia Road, Grass Valley, California, was deposited into Bank
8 #2 on September 11, 2008. Those funds were disbursed by Checks #1670
9 (\$47.50) and #1671 (\$2,502.50), both dated September 9, 2008.

10 -\$1,500 transferred from Trust #1 was deposited into Bank #2 on August
11 18, 2009, related to the property located at 17385 Ashbury Way,
12 Camptonville, California. Those funds were disbursed by Check #2122
13 on August 18, 2009.

14 -\$101,222.23 collected from Roger D. and Kathleen M. Cravy (lender) for
15 the property located at 12360 Nevada City Highway, Grass Valley,
16 California, was deposited into Bank #2 on October 31, 2008. Those
17 funds were disbursed by Check #1727 on October 31, 2008.

18 Such acts/omissions violate of Section 10176(e) of the Code and Section 2835
19 of the Regulations.

20 (f) Respondents failed to maintain records of all trust funds received and
21 disbursed (control records) for Bank #2 in violation of Section 2831 of the
22 Regulations.

23 (g) Respondents failed to maintain separate records for each beneficiary of Bank
24 #2 in violation of Section 2831.1 of the Regulations.

25 (h) Respondents failed to perform the reconciliation of the sum of separate
26 beneficiary records to the record of all trust funds received and disbursed at
27 least monthly for Bank #2 in violation of Section 2831.2 of the Regulations.

(i) Respondents failed to have the disbursement draws for the construction loan
for the property at 13292 Magnolia Road, Grass Valley, California, verified by

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1 an independent qualified person and failed to use a comprehensive draw schedule
2 in violation of Section 10238(h)(4) of the Code.

3 (j) Respondents did not obtain lenders' information to confirm if their
4 investments exceeded 10% of the lenders' net worth related to the property at
5 13292 Magnolia Road, Grass Valley, California, in violation of Section
6 10238(f)(1) of the Code.

7 (k) Respondents failed to maintain a servicing agreement with lender John Deluca
8 for the single lender construction loan for the property at 17385 Ashbury Way,
9 Camptonville, California, in violation of Section 10233(a) of the Code.

10 (l) Respondents failed to file the initial notification with the Department of a
11 multi-lender transaction related to the property at 13292 Magnolia Road,
12 Grass Valley, California, within 30 days after that transaction closed on June
13 13, 2007, in violation of Section 10238(a) of the Code.

14 (m) Respondents submitted "Trust Fund Non-Accountability Reports" when
15 Respondent CLEM CORP met the threshold criteria since 2007. Respondent
16 CLEM CORP handled trust funds and had accountabilities since 2007.
17 Respondents failed to file Trust Fund Status Reports and Trust Fund Bank
18 Account Reconciliations for Trust #1 and Bank #1 since October 1, 2007.
19 Respondents also failed to file a Trust Account Review annually with the
20 Department. Such acts and/or omissions violate Sections 10232.25 and
21 10232.2(a) of the Code.

22 (n) Respondents collected Earnest Money Deposits (hereafter "EMD") from the
23 following buyers:

24 -Christian and Elaine Rhodes, property located at 19222 Connie Drive, Grass
25 Valley, California; EMD of \$2,500.

26 -Pack Trust, property located at 13327 Driftwood Court, Penny Valley,
27 California; EMD of \$1,000

However, Respondents did not maintain a record of the trust funds collected that were not deposited into a broker's trust account in violation of Section 2831(a)(6) of the Regulations.

10

The acts and/or omissions of Respondents as alleged above violate Sections 10145(a) (Handling of Trust Funds), 10176(e) (Grounds for Revocation/Suspension – Commingling Money or Property), 10177(d) (Willful Violation of Real Estate Law), 10232.2(a) (Filing Fiscal Year Reports), 10232.25 (Trust Fund Status Reports), 10233(a) (Authorization Required to Service Promissory Note), 10238(a) (Claim of Exemption from Securities Qualifications – Form of Notice), 10238(f)(1) (Claim of Exemption from Securities Qualifications – Limitation on Number of Persons to Whom Notes or Interests are Sold) and 10238(h)(4) (Claim of Exemptions from Securities Qualifications – Construction and Rehabilitation Loans/“Current Market Value”) of the Code, and Sections 2831 (Maintenance of Trust Funds), 2831.1 (Separate Records for Each Beneficiary or Transaction), 2831.2 (Trust Account Reconciliation), 2832 (Trust Fund Handling), 2834 (Trust Account Withdrawals) and 2835 (Commingling) of the Regulations.

SECOND CAUSE OF ACTION

11

Complainant refers to Paragraphs 1 through 10, above, and incorporates them herein by reference.

12

On or about September 7, 2009, Respondent's relocated their main office to its current location at 11594 Alta Sierra, Grass Valley, California, but failed to notify the Department of that move by the next business day in violation of Section 2715 of the Regulations.

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13

The acts and/or omissions of Respondents as alleged in Paragraph 11, above, violate Section 2715 of the Regulations (Business and Mailing Addresses of Licensees) and Section 10177(d) (Willful Violation of Real Estate Law) of the Code.

THIRD CAUSE OF ACTION

14

Complainant refers to Paragraphs 1 through 13, above, and incorporates them herein by reference.

15

At all times herein mentioned, Respondent STOBBER was responsible, as the designated broker/officer for Respondent CLEM CORP, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent STOBBER failed to exercise reasonable supervision and control over the property mortgage loan brokering activities of Respondent CLEM CORP. In particular, Respondent STOBBER permitted, ratified and/or caused the conduct described in the First and Second Causes of Action, above, to occur, and failed to take reasonable steps, including, but not limited to, the handling of trust funds, supervision of employees and the implementation of policies, rules, procedures and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

16

The above acts and/or omissions of Respondent STOBBER constitute grounds for disciplinary action under Section 10177(d) and (h) of the Code.

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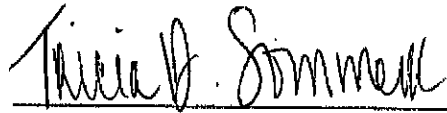
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondents under the Code, and for such other
4 and further relief as may be proper under applicable provisions of law.

5
6 

7 TRICIA D. SOMMERS
8 Deputy Real Estate Commissioner

9 Dated at Sacramento, California,

10 this 10th day of June, 2010.