FILED

| | August 2, 2012 |
|-----|--|
| 1 | KENNETH C. ESPELL (SBN 178757)Real Estate Counsel IIDEPARTMENT OF REAL ESTATE |
| 2 | Department of Real Estate |
| 3 | P. O. Box 187007 Sacramento, CA 95818-7007 |
| 4 | Telephone: (916) 227-0789 |
| . 5 | -or- (916) 227-0868 (Direct) |
| 6 | |
| 7 | |
| 8 | BEFORE THE DEPARTMENT OF REAL ESTATE |
| 9 | STATE OF CALIFORNIA |
| 10 | * * * |
| 11 | |
| 12 | In the Matter of the Accusation of) No. H-5856 SAC |
| 13 | RUTHERFORD BERNARD BROWNING III,) <u>ACCUSATION</u> |
| 14 | Respondent. |
| 15 | |
| 16 | The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy |
| 17 | Real Estate Commissioner of the State of California, for cause of Accusation against |
| 18 | RUTHERFORD BERNARD BROWNING III (hereinafter "Respondent"), is informed and |
| 19 | alleges as follows: |
| 20 | 1 |
| 21 | Respondent is presently licensed and/or has license rights under the Real Estate |
| 22 | Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "Code") as a real |
| 23 | estate salesperson. |
| 24 | 2 |
| 25 | In addition, Respondent has filed for a corporate brokers license. The |
| 26 | Department has filed as a separate Statement of Issues in Department of Real Estate, Case |
| 27 | Number H-5857 SAC. This Accusation and the Statement of Issues have common questions of |
| | |

- 1 -

a . V

. ||

| 1 | questions of fact and law. Therefore, pursuant to Government Code Section 11507.3, the | |
|----|---|--|
| 2 | Department intends to seek consolidation of these actions prior to hearing. | |
| 3 | 3 | |
| 4 | On or about April 3, 2012, in the San Joaquin County Superior Court, State of | |
| 5 | California, case number TF036194A, Respondent was convicted of violating Section 368 (b)(1) | |
| 6 | of the Penal Code (Elder or Dependent Adult Abuse), a misdemeanor, and Section 597 (b) of | |
| 7 | the Penal Code (Cruelty to Animals), a felony, each of which jointly and severally bears a | |
| 8 | substantial relationship under Section 2910, Title 10, California Code of Regulations, to the | |
| 9 | qualifications, functions, or duties of a real estate licensee. | |
| 10 | 4 | |
| 11 | The crimes of which Respondent was convicted, as alleged in Paragraph 3, | |
| 12 | above, jointly and severally constitute cause for suspension or revocation of all licenses and | |
| 13 | license rights of Respondent under Sections 490 and 10177(b) of the California Business and | |
| 14 | Professions Code. | |
| 15 | Recovery of Reasonable Costs of Investigation and Enforcement | |
| 16 | 5 | |
| 17 | Section 10106 of the Code provides, in pertinent part, that in any order issued in | |
| 18 | resolution of a disciplinary proceeding before the department, the commissioner may request the | |
| 19 | administrative law judge to direct a licensee found to have committed a violation of this part to | |
| 20 | pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. | |
| 21 | //// | |
| 22 | /// | |
| 23 | /// | |
| 24 | /// | |
| 25 | /// | |
| 26 | | |
| 27 | /// | |
| | | |

- 2 -

WHEREFORE, Complainant prays that a hearing be conducted on the allegations
of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and
license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business
and Professions Code), for the cost of investigation and enforcement as permitted by law, and for
such other and further relief as may be proper under other provisions of law.

D. SOMMERS TR

Deputy Real Estate Commissioner

DISCOVERY DEMAND:

2012.

Pursuant to Sections 11507.6, et seq. of the Administrative Procedures Act, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the Administrative Procedures Act. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.

20

6

7

8

9

10

11

12

13

14

this

Dated at Sacramento, California,

- 21 . 22
- 24

25

23

26 27

- 3 -