

FILED

DEC 14 2010

DEPARTMENT OF REAL ESTATE

By *L. Zivi*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

DIANE CYNTHIA OHLSSON,

Respondent.

No. H-8161 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 2, 2003, in Case No. H-8161 SF, a Decision was rendered revoking the real estate salesperson license of Respondent effective May 1, 2003, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on May 8, 2003, and Respondent has operated as a restricted licensee since that time.

On May 25, 2010, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate salesperson

1 license and that it would not be against the public interest to issue said license to Respondent.

2 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
3 reinstatement is granted and that a real estate salesperson license be issued to Respondent if
4 Respondent satisfies the following requirements:

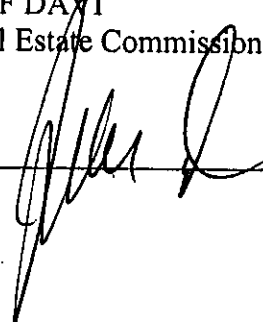
5 1. Submits a completed application and pays the fee for a real estate
6 salesperson license within the 12 month period following the date of this Order; and

7 2. Submits proof that Respondent has completed the continuing education
8 requirements for renewal of the license sought. The continuing education courses must be
9 completed either (i) within the 12 month period preceding the filing of the completed
10 application, or (ii) within the 12 month period following the date of this Order.

11 This Order shall become effective immediately.

12 DATED: 11-30-2000

13 JEFF DAXI
14 Real Estate Commissioner

15 
16 _____
17
18
19
20
21
22
23
24
25
26
27

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
APR - 7 2003

DEPARTMENT OF REAL ESTATE

By *Luisa J. [Signature]*

10 BEFORE THE DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of) DRE No. H-8161 SF
14)
15 RED OAK REALTY, a Corporation,) OAH No. N-2002100375
16 PETER DAVID CAMPBELL, and)
DIANE CYNTHIA OHLSSON,)
Respondents.) STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between Respondents RED
18 OAK REALTY, a corporation, PETER DAVID CAMPBELL, and DIANE
19 CYNTHIA OHLSSON (hereinafter "Respondents"), individually and by
20 and through Mackenroth, Ryand & Fong, attorneys of record herein
21 for Respondents, and the Complainant, acting by and through James
22 L. Beaver, Counsel for the Department of Real Estate (herein "the
23 Department"), as follows for the purpose of settling and
24 disposing of the Accusation filed on August 14, 2002 in this
25 matter (herein "the Accusation"):

26 ///

27 H-8161 SF

RED OAK REALTY, et al.

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 August 30, 2002, 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 ///

26 ///

27 H-8161 SF

RED OAK REALTY, et al.

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

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

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

21 DETERMINATION OF ISSUES

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

26 ///

27 H-8161 SF

RED OAK REALTY, et al.

I

1
2 The acts and omissions of Respondents as described in
3 the Accusation are grounds for the suspension or revocation of
4 the licenses and license rights of such Respondents under the
5 following provisions of the California Business and Professions
6 Code (herein "the Code"):

7 (a) As to Respondents RED OAK REALTY and PETER DAVID
8 CAMPBELL under Section 10177(g) of the Code; and

9 (b) As to Respondent DIANE CYNTHIA OHLSSON under
10 Section 10176(i) of the Code.

11 ORDER

12 I

13 All licenses and licensing rights of Respondent RED
14 OAK REALTY under the Real Estate Law are suspended for a period
15 of ninety (90) days from the effective date of the Decision
16 herein; provided, however:

17 (a) If Respondent petitions, forty-five (45) days of
18 said ninety (90) day suspension (or a portion thereof) shall be
19 stayed upon condition that:

20 1. Respondent pays a monetary penalty pursuant to
21 Section 10175.2 of the Code at the rate of \$100.00 for each day
22 of the suspension for a total monetary penalty of \$4,500.00.

23 2. Said payment shall be in the form of a cashier's
24 check or certified check made payable to the Recovery Account
25 of the Real Estate Fund. Said check must be received by the
26 Department prior to the effective date of the Decision herein.

27 H-8161 SF

RED OAK REALTY, et al.

1 3. If Respondent fails to pay the monetary penalty
2 in accordance with the terms and conditions of the Decision,
3 the Commissioner may, without a hearing, vacate and set aside
4 the stay order, and order the immediate execution of all or any
5 part of the stayed suspension.

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

16 5. If Respondent pays the monetary penalty 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 herein, then the stay hereby
20 granted shall become permanent.

21 (b) Forty-five (45) days of said ninety (90) day
22 suspension shall be stayed upon condition that:

23 1. No final subsequent determination be made, after
24 hearing or upon stipulation, that cause for disciplinary action
25 against Respondent occurred within two (2) years of the
26 effective date of the Decision herein.

1 2. Should such a determination be made, the
2 Commissioner may, in his or her discretion, vacate and set
3 aside the stay order, and order the execution of all or any
4 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 3. If no order vacating the stay is issued, and if
9 no further cause for disciplinary action against the real
10 estate license of Respondent occurs within two (2) years from
11 the effective date of the Decision, then the stay hereby
12 granted shall become permanent.

13 II

14 All licenses and licensing rights of Respondent PETER
15 DAVID CAMPBELL under the Real Estate Law are suspended for a
16 period of ninety (90) days from the effective date of the
17 Decision herein; provided, however:

18 (a) If Respondent petitions, forty-five (45) days of
19 said ninety (90) day suspension (or a portion thereof) shall be
20 stayed upon condition that:

21 1. Respondent pays a monetary penalty pursuant to
22 Section 10175.2 of the Code at the rate of \$100.00 for each day
23 of the suspension for a total monetary penalty of \$4,500.00.

24 2. Said payment shall be in the form of a cashier's
25 check or certified check made payable to the Recovery Account
26 of the Real Estate Fund. Said check must be received by the

1 Department prior to the effective date of the Decision herein.

2 3. If Respondent fails to pay the monetary penalty
3 in accordance with the terms and conditions of the Decision,
4 the Commissioner may, without a hearing, vacate and set aside
5 the stay order, and order the immediate execution of all or any
6 part of the stayed suspension.

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

17 5. If Respondent pays the monetary penalty and if
18 no further cause for disciplinary action against the real
19 estate license of Respondent occurs within two (2) years from
20 the effective date of the Decision herein, then the stay hereby
21 granted shall become permanent.

22 (b) Forty-five (45) days of said ninety (90) day
23 suspension shall be stayed upon condition that:

24 1. No final subsequent determination be made, after
25 hearing or upon stipulation, that cause for disciplinary action
26 against Respondent occurred within two (2) years of the

1 effective date of the Decision herein.

2 2. Should such a determination be made, the
3 Commissioner may, in his or her discretion, vacate and set
4 aside the stay order, and order the execution of all or any
5 part of the stayed suspension, in which event the Respondent
6 shall not be entitled to any repayment nor credit, prorated or
7 otherwise, for money paid to the Department under the terms of
8 this Decision.

9 3. If no order vacating the stay is issued, and if no
10 further cause for disciplinary action against the real estate
11 license of Respondent occurs within two (2) years from the
12 effective date of the Decision, then the stay hereby granted
13 shall become permanent.

14 III

15 All licenses and licensing rights of Respondent DIANE
16 CYNTHIA OHLSSON under the Real Estate Law are revoked; provided,
17 however, a restricted real estate salesperson license shall be
18 issued to said Respondent pursuant to Section 10156.5 of the
19 Business and Professions Code if, within 90 days from the
20 effective date of the Decision entered pursuant to this Order
21 Respondent makes application for the restricted license and pays
22 to the Department of Real Estate the appropriate fee therefor.

23 (a) Any restricted real estate license issued to
24 Respondent pursuant to this Decision shall be suspended for a
25 period of eighty (80) days from the date of issuance of said
26 restricted license; provided however, that if Respondent

1 petitions, forty (40) days of said eighty (80) day suspension (or
2 a portion thereof) shall be stayed upon condition that said
3 Respondent pays a monetary penalty pursuant to Section 10175.2 of
4 the Code at the rate of \$200.00 for each day of the stayed
5 suspension for a total monetary penalty of \$8,000.00, and upon
6 condition that no further cause for disciplinary action against
7 the real estate license of Respondent occurs within two years
8 from the effective date of the Decision in this matter. Any stay
9 granted pursuant to this paragraph shall be subject to the
10 following terms:

11 1. Said monetary penalty payment shall be in the form
12 of a cashier's check or certified check made payable to the
13 Recovery Account of the Real Estate Fund. Said check must be
14 received by the Department prior to the effective date of the
15 Decision in this matter.

16 2. The Commissioner may, if a final subsequent
17 determination is made, after hearing or upon stipulation, that
18 cause for disciplinary action occurred during the two (2) year
19 period following the effective date of the Decision in this
20 matter, vacate and set aside the stay and order the immediate
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 Order.

25 ///

26 ///

27 H-8161 SF

RED OAK REALTY, et al.

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

8 4. If Respondent pays the monetary penalty and if no
9 order vacating the stay is made pursuant to Paragraph (2), above,
10 the stay granted pursuant to this Decision shall become
11 permanent.

12 (b) The restricted license issued to Respondent shall
13 be subject to all of the provisions of Section 10156.7 of the
14 Business and Professions Code and to the following limitations,
15 conditions and restrictions imposed under authority of Section
16 10156.6 of that Code:

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

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

1 Commissioner or conditions attaching to the restricted license.

2 3. Respondent shall not be eligible to apply for the
3 issuance of an unrestricted real estate license nor for the
4 removal of any of the conditions, limitations or restrictions
5 of a restricted license until two (2) years have elapsed from
6 the effective date of this Decision.

7 4. Respondent shall submit with any application for
8 license under an employing broker, or any application for
9 transfer to a new employing broker, a statement signed by the
10 prospective employing real estate broker on a form approved by
11 the Department of Real Estate which shall certify:

12 (i) That the employing broker has read the Decision
13 of the Commissioner which granted the right to a restricted
14 license; and

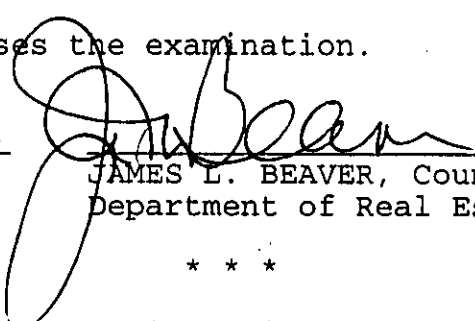
15 (ii) That the employing broker will exercise close
16 supervision over the performance by the restricted license
17 relating to activities for which a real estate license is
18 required.

19 5. Respondent shall, within nine months from the
20 effective date of the Decision, present evidence satisfactory
21 to the Real Estate Commissioner that Respondent has, since the
22 most recent issuance of an original or renewal real estate
23 license, taken and successfully completed the continuing
24 education requirements of Article 2.5 of Chapter 3 of the Real
25 Estate Law for renewal of a real estate license. If Respondent
26 fails to satisfy this condition, the Commissioner may order the

1 suspension of the restricted license until the Respondent
2 presents such evidence. The Commissioner shall afford
3 Respondent the opportunity for a hearing pursuant to the
4 Administrative Procedure Act to present such evidence.

5 6. Respondent shall, within six (6) months from the
6 issuance of the restricted license, take and pass the
7 Professional Responsibility Examination administered by the
8 Department including the payment of the appropriate examination
9 fee. If Respondent fails to satisfy this condition, the
10 Commissioner may order the suspension of the restricted license
11 until Respondent passes the examination.

12 March 3, 2003
13 DATED


14 JAMES L. BEAVER, Counsel
15 Department of Real Estate

16 * * *

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

///

H-8161 SF

RED OAK REALTY, et al.

1 March 4, 2003
DATED

RED OAK REALTY, a Corporation
Respondent

By Peter David Campbell
PETER DAVID CAMPBELL
Designated Officer

5 March 4, 2003
DATED

Peter David Campbell
PETER DAVID CAMPBELL
Respondent

7 March 1, 2003
DATED

Diane Cynthia Ohlsson
DIANE CYNTHIA OHLSSON
Respondent

* * *

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

13 March 3, 2003
DATED

MACKENROTH, RYAN & FONG
Attorneys for Respondent

By [Signature]

* * *

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 1, 2003.

IT IS SO ORDERED April 2, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED

DEC 11 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

RED OAK REALTY, a Corporation,
PETER DAVID CAMPBELL, and
DIANE CYNTHIA OHLSSON,

}

By James L. Beaver
Case No. H-8161 SF
OAH No. N-2002100375

Respondents

**FIRST AMENDED
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 OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **MARCH 4 & 5, 2003**, 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 11, 2002

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

NOV 13 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

RED OAK REALTY, a Corporation,
PETER DAVID CAMPBELL, and
DIANE CYNTHIA OHLSSON,

By Terrie G. Fair
Case No. H-8161 SF

OAH No. N-2002100375

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

OFFICE OF ADMINISTRATIVE HEARING, THE ELIHU HARRIS STATE BUILDING,
1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612

on FEBRUARY 5 & 6, 2003, 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: NOVEMBER 13, 2002

By James L. Beaver
JAMES L. BEAVER, COUNSEL (2)

RE 501 (Rev. 8/97)

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 (916) 227-0788 (Direct)
7

FILED
AUG 14 2002

DEPARTMENT OF REAL ESTATE

Laurie P. Zini

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No.: H-8161 SF
12 RED OAK REALTY, a Corporation,)
13 PETER DAVID CAMPBELL, and) ACCUSATION
14 DIANE CYNTHIA OHLSSON,)
15 Respondents.)

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against RED OAK REALTY, a Corporation, PETER DAVID
19 CAMPBELL and DIANE CYNTHIA OHLSSON (hereinafter "Respondents"),
20 is informed and alleges as follows:

21 I

22 Respondents are presently licensed and/or have license
23 rights under the Real Estate Law, Part 1 of Division 4 of the
24 Business and Professions Code (hereinafter "Code").

25 ///

26 ///

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

II

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

III

At all times herein mentioned, Respondent RED OAK REALTY was and now is licensed by the Department of Real Estate of the State of California (hereinafter "the Department") as a corporate real estate broker by and through Respondent PETER DAVID CAMPBELL (hereinafter "CAMPBELL") as designated officer-broker of Respondent RED OAK REALTY to qualify said corporation and to act for said corporation as a real estate broker.

IV

At all times herein mentioned, Respondent CAMPBELL was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of Respondent RED OAK REALTY. As said designated officer-broker, Respondent CAMPBELL was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent RED OAK REALTY for which a license is required.

V

At all times mentioned herein Respondent DIANE CYNTHIA OHLSSON (hereinafter "OHLSSON") was and now is licensed by the Department as a real estate salesperson on in the employ of RED OAK REALTY.

1
2 VI

3 Whenever reference is made in an allegation in this
4 Accusation to an act or omission of Respondent RED OAK REALTY,
5 such allegation shall be deemed to mean that the officers,
6 directors, employees, agents and real estate licensees employed
7 by or associated with Respondent RED OAK REALTY committed such
8 act or omission while engaged in the furtherance of the business
9 or operations of such corporate Respondent and while acting
10 within the course and scope of their corporate authority and
11 employment.

12 VII

13 At all times herein mentioned, Respondents RED OAK
14 REALTY and CAMPBELL, and Respondent OHLSSON as a salesperson
15 employed by RED OAK REALTY, engaged in the business of, acted in
16 the capacity of, advertised, or assumed to act as real estate
17 brokers within the State of California within the meaning of
18 Section 10131(a) of the Code, including the operation and
19 conduct of a real estate resale brokerage with the public
20 wherein, on behalf of others, for compensation or in expectation
21 of compensation, Respondents sold and offered to sell, bought
22 and offered to buy, solicited prospective sellers and purchases
23 of, solicited and obtained listings of, and negotiated the
24 purchase and sale of real property.

25 ///

26 ///

27 ///

///

1
2 VIII

3 On or about August 5, 2001, in course of the real
4 estate brokerage activities described in Paragraph VII, above,
5 Respondents RED OAK REALTY and OHLSSON as agents for Reiko
6 Hibbett (hereinafter "Buyer") induced Maurice and Susan O'Brien
7 (hereinafter "Sellers") to agree in writing to sell residential
8 real property at 3028 Jordan Road, Oakland, Alameda County,
9 California (hereinafter "the subject property") to Buyer for the
10 sum of \$480,000, contingent upon the prior close of escrow of
11 Buyer's property at 1053 Danbeck Avenue, Santa Rosa, Sonoma
12 County, California (hereinafter "the contingent property").

13 IX

14 In order to induce Sellers to agree to sell the
15 subject property to Buyers subject to the contingency described
16 in Paragraph VIII, above, Respondents RED OAK REALTY and OHLSSON
17 represented to Sellers that (hereinafter "the representations"):

18 (a) Respondents OHLSSON, at that time, had received
19 Buyer's personal check in the sum of \$15,000 payable to Placer
20 Title Company toward the purchase of the subject property, to be
21 held uncashed until acceptance by Sellers and then deposited
22 within three (3) business days with Placer Title Company;

23 (b) The contingent property was, at the time, listed
24 for sale by Buyer with Respondent RED OAK REALTY;

25 (c) The contingent property was, at the time, in
26 escrow at New Century Title Company; and

27 (d) The contingent property was, at the time,
scheduled to close escrow on September 18, 2001.

1
2 X

3 The representations were false, as Respondent OHLSSON
4 knew and Respondent RED OAK REALTY should have known in the
5 exercise of reasonable diligence. In truth and fact:

6 (a) Respondent OHLSSON had not received any deposit
7 whatever from Buyer;

8 (b) The contingent property had never been listed for
9 sale by Buyer with Respondent RED OAK REALTY;

10 (c) The contingent property was not in escrow at New
11 Century Title Company; and

12 (d) The contingent property was not scheduled to
13 close escrow.

14 XI

15 Respondent RED OAK REALTY made the representations
16 without a reasonable basis for believing that the
17 representations were true. When Respondents RED OAK REALTY and
18 OHLSSON made the representations, such Respondents knew the
19 representations were material to a decision by the Sellers to
20 sell the property to Buyer. Seller agreed to sell the subject
21 property to Buyer in reasonable reliance on the representations.

22 XII

23 The acts and omissions of Respondents RED OAK REALTY
24 and OHLSSON described in Paragraphs VIII through XI, above,
25 constituted a substantial misrepresentation of a material fact.

26 ///

27 ///

///

1
2 XIII

3 The acts and omissions of Respondent RED OAK REALTY
4 described in Paragraphs VIII through XI, above, demonstrated
5 negligence and/or incompetence.

6 XIV

7 The acts and omissions of Respondent OHLSSON described
8 in Paragraphs VIII through XI, above, constituted fraud and
9 dishonest dealing.

10 XV

11 At all times mentioned herein Respondent RED OAK
12 REALTY failed to exercise reasonable supervision over the
13 activities of Respondent OHLSSON, in that Respondent RED OAK
14 REALTY failed at all times herein mentioned:

15 (a) To establish and maintain policies, rules,
16 procedures and systems to review, oversee inspect and manage (i)
17 documents which may have a material effect upon the rights or
18 obligations of a party to the transaction, and (ii) the handling
19 of trust funds; and/or

20 (b) To establish a system for monitoring compliance
21 with such policies, rules, procedures and systems.

22 XVI

23 Respondent CAMPBELL failed to exercise reasonable
24 supervision over the acts of Respondent RED OAK REALTY in such a
25 manner as to allow the acts and omissions on the part of
26 Respondents RED OAK REALTY and OHLSSON described above, to
27 occur.

///
27

XVII

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or Chapter 6, title 10 California Code of Regulations (hereinafter "the Regulations"):

(a) As to Paragraphs VIII through XII, inclusive, and Respondents RED OAK REALTY and OHLSSON under Section 10176(a) of the Code;

(b) As to Paragraph XIII and Respondent RED OAK REALTY under Section 10177(g) of the Code;

(c) As to Paragraph XIV and Respondent OHLSSON under Section 10176(i) of the Code;

(d) As to Paragraph XV and Respondent RED OAK REALTY under Section 10177(g) of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code; and

(e) As to Paragraph XVI and Respondent CAMPBELL under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

///

///

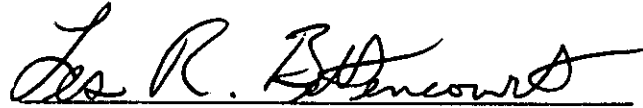
///

///

///

///

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

9
10 
11 LES R. BETTENCOURT
12 Deputy Real Estate Commissioner

13 Dated at Oakland, California,
14 this 19th day of July, 2002.
15
16
17
18
19
20
21
22
23
24
25
26
27