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1 Department of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105

FILED

OCT 7 2008

DEPARTMENT OF REAL ESTATE

BY: _____

[Handwritten Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-33747 LA

12)
13 AUSTIN MCBRIDE CORPORATION doing)
business as Re/Max Real Estate)
14 Consultants, Re/Max of the Desert)
and Re/Max of Coronado; LORENZO)
15 LAYTON LOMBARDELLI, individually)
and as designated officer of)
16 Austin McBride Corporation; and)
MARIO A. PEREZ,)

STIPULATION
AND
AGREEMENT

17)
18 Respondents.)

19 It is hereby stipulated by and between Respondents
20 AUSTIN MCBRIDE CORPORATION, a corporate real estate broker, dba
21 Re/Max Real Estate Consultants, Re/Max of the Desert and Re/Max
22 of Coronado, LORENZO LAYTON LOMBARDELLI, individually and as
23 designated officer of Austin McBride Corporation, and MARIO A.
24 PEREZ (sometimes collectively referred to as "Respondents"),
25 represented by Steven F. Spierer, Esq. and the Complainant,
26 acting by and through Elliott Mac Lennan, Counsel for the
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1 Department of Real Estate, as follows for the purpose of settling
2 and disposing of the Accusation ("Accusation") filed on February
3 22, 2007, in this matter:

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

11 2. Respondents have received, read and understand the
12 Statement to Respondent, the Discovery Provisions of the APA and
13 the Accusation filed by the Department of Real Estate in this
14 proceeding.

15 3. Respondents timely filed a Notice of Defense
16 pursuant to Section 11506 of the Government Code for the purpose
17 of requesting a hearing on the allegations in the Accusation.
18 Respondents hereby freely and voluntarily withdraw said Notice of
19 Defense. Respondents acknowledge that they understand that by
20 withdrawing said Notice of Defense they thereby waive their right
21 to require the Commissioner to prove the allegations in the
22 Accusation at a contested hearing held in accordance with the
23 provisions of the APA and that they will waive other rights
24 afforded to them in connection with the hearing such as the right
25 to present evidence in their defense the right to cross-examine
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witnesses.

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2 4. This Stipulation is based on the factual
3 allegations contained in the Accusation. In the interest of
4 expedience and economy, Respondents choose not to contest these
5 allegations, but to remain silent and understand that, as a
6 result thereof, these factual allegations, without being admitted
7 or denied, will serve as a prima facie basis for the disciplinary
8 action stipulated to herein. The Real Estate Commissioner shall
9 not be required to provide further evidence to prove said factual
10 allegations.

11 5. This Stipulation and Respondents decision not to
12 contest the Accusation is made for the purpose of reaching an
13 agreed disposition of this proceeding and is expressly limited to
14 this proceeding and any other proceeding or case in which the
15 Department of Real Estate ("Department"), the state or federal
16 government, or any agency of this state, another state or federal
17 government is involved, and otherwise shall not be admissible in
18 any other criminal or civil proceedings.

19 6. It is understood by the parties that the Real
20 Estate Commissioner may adopt this Stipulation as his Decision in
21 this matter thereby imposing the penalty and sanctions on
22 Respondents' real estate licenses and license rights as set forth
23 in the "Order" herein below. In the event that the Commissioner
24 in his discretion does not adopt the Stipulation, it shall be
25 void and of no effect and Respondents shall retain the right to a
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1 hearing and proceeding on the Accusation under the provisions of
2 the APA and shall not be bound by any stipulation or waiver made
3 herein.

4 7. The Order or any subsequent Order of the Real
5 Estate Commissioner made pursuant to this Stipulation shall not
6 constitute an estoppel, merger or bar to any further
7 administrative or civil proceedings by the Department of Real
8 Estate with respect to any matters which were not specifically
9 alleged to be causes for Accusation in this proceeding but do
10 constitute a bar, estoppel and merger as to any allegations
11 actually contained in the Accusations against Respondent herein.

12 8. Respondents AUSTIN MCBRIDE CORPORATION and LORENZO
13 LAYTON LOMBARDELLI understand that by agreeing to this
14 Stipulation, they agree to pay, pursuant to Business and
15 Professions Code Section 10148, the cost of audit which led to
16 this disciplinary action. The amount of said cost for the audit
17 is \$7,484.74.

18 9. Respondents AUSTIN MCBRIDE CORPORATION and LORENZO
19 LAYTON LOMBARDELLI have received, read, and understand the
20 "Notice Concerning Costs of Subsequent Audit". Said Respondents
21 further understand that by agreeing to this Stipulation, the
22 findings set forth below in the Determination of Issues become
23 final, and the Commissioner may charge Respondents for the cost
24 of any subsequent audit conducted pursuant to Business and
25 Professions Code Section 10148 to determine if the violations
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1 have been corrected. The maximum cost of the subsequent audit
2 will not exceed \$7,484.74.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing, it is stipulated and agreed
5 that the following determination of issues shall be made:

6 I.

7 The conduct, acts or omissions of AUSTIN MCBRIDE
8 CORPORATION and LORENZO LAYTON LOMBARDELLI, as described in
9 Paragraph 4, above, is in violation of Section 10145 of the
10 Business and Professions Code ("Code") and Section 2831, 2832 and
11 2950(d) of Title 10, Chapter 6 of the California Code of
12 Regulations ("Regulations") and is a basis for the suspension or
13 revocation of Respondent's license and license rights as a
14 violation of the Real Estate Law pursuant to Code Section
15 10177(d).

16 II.

17 The conduct, acts or omissions of LORENZO LAYTON
18 LOMBARDELLI, as described in Paragraph 4, constitutes a failure
19 to keep Austin McBride Corporation in compliance with the Real
20 Estate Law during the time that he was the officer designated by
21 a corporate broker licensee, in violation of Code Section
22 10159.2. This conduct is a basis for the suspension or
23 revocation of Respondent's license pursuant to Code Sections
24 10177(d) and 10177(h).
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III.

1 The conduct, acts or omissions of MARIO A. PEREZ, as
2 described in Paragraph 4, above, is in violation of Code Section
3 10177(g) and is a basis for the suspension or revocation of
4 Respondent's license and license rights as violations of the Real
5 Estate Law pursuant to Code Sections 10177(g).
6

7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 I.

10 All licenses and licensing rights of Respondent AUSTIN
11 MCBRIDE CORPORATION under the Real Estate Law suspended for a
12 period of sixty (60) days from the effective date of this
13 Decision.

14 A. Provided, however, that if Respondent requests, the
15 initial thirty (30) days of said suspension (or a portion
16 thereof) shall be stayed for two (2) years upon condition that:

17 1. Respondent pays a monetary penalty pursuant to
18 Section 10175.2 of the Business and Professions Code at the rate
19 of \$66.67 per day for each day of the suspension for a total
20 monetary penalty of \$2,000.

21 2. Said payment shall be in the form of a cashier's
22 check or certified check made payable to the Recovery Account of
23 the Real Estate Fund. Said check must be received by the
24 Department prior to the effective date of the Decision in this
25 matter.
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1 3. No further cause for disciplinary action against
2 the real estate license of Respondent occurs within two (2) years
3 from the effective date of the Decision in this matter.

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

11 5. If Respondent pays the monetary penalty and if no
12 further cause for disciplinary action against the real estate
13 license of Respondent occurs within two (2) years from the
14 effective date of the Decision, the stay hereby granted shall
15 become permanent

16 B. The remaining thirty (30) days of the sixty (60)
17 day suspension shall be stayed for two (2) years upon the
18 following terms and conditions:

19 (a) Respondent shall obey all laws, rules and
20 regulations governing the rights, duties and responsibilities of
21 a real estate licensee in the State of California; and

22 (b) That no final subsequent determination be made
23 after hearing or upon stipulation, that cause for disciplinary
24 action occurred within two (2) years of the effective date of
25 this Decision. Should such a determination be made, the
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1 Commissioner may, in his discretion, vacate and set aside the
2 stay order and reimpose all or a portion of the stayed
3 suspension. Should no such determination be made, the stay
4 imposed herein shall become permanent.

5 II.

6 All licenses and licensing rights of Respondent LORENZO
7 LAYTON LOMBARDELLI under the Real Estate Law suspended for a
8 period of sixty (60) days from the effective date of this
9 Decision.

10 A. Provided, however, that if Respondent requests, the
11 initial thirty (30) days of said suspension (or a portion
12 thereof) shall be stayed for two (2) years upon condition that:

13 1. Respondent pays a monetary penalty pursuant to
14 Section 10175.2 of the Business and Professions Code at the rate
15 of \$50.00 per day for each day of the suspension for a total
16 monetary penalty of \$1,500.

17 2. Said payment shall be in the form of a cashier's
18 check or certified check made payable to the Recovery Account of
19 the Real Estate Fund. Said check must be received by the
20 Department prior to the effective date of the Decision in this
21 matter.

22 3. No further cause for disciplinary action against
23 the real estate license of Respondent occurs within two (2) years
24 from the effective date of the Decision in this matter.

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

7 5. If Respondent pays the monetary penalty and if no
8 further cause for disciplinary action against the real estate
9 license of Respondent occurs within two (2) years from the
10 effective date of the Decision, the stay hereby granted shall
11 become permanent

12 B. The remaining thirty (30) days of the sixty (60)
13 day suspension shall be stayed for two (2) years upon the
14 following terms and conditions:

15 (a) Respondent shall obey all laws, rules and
16 regulations governing the rights, duties and responsibilities of
17 a real estate licensee in the State of California; and

18 (b) That no final subsequent determination be made
19 after hearing or upon stipulation, that cause for disciplinary
20 action occurred within two (2) years of the effective date of
21 this Decision. Should such a determination be made, the
22 Commissioner may, in his discretion, vacate and set aside the
23 stay order and reimpose all or a portion of the stayed
24 suspension. Should no such determination be made, the stay
25 imposed herein shall become permanent.
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III.

All licenses and licensing rights of Respondent MARIO

A. PEREZ under the Real Estate Law suspended for a period of sixty (60) days from the effective date of this Decision.

A. Provided, however, that if Respondent requests, the initial thirty (30) days of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 per day for each day of the suspension for a total monetary penalty of \$1,500.

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

3. No further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision in this matter.

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

1 this Decision.

2 5. If Respondent pays the monetary penalty and if no
3 further cause for disciplinary action against the real estate
4 license of Respondent occurs within two (2) years from the
5 effective date of the Decision, the stay hereby granted shall
6 become permanent

7 B. The remaining thirty (30) days of the sixty (60)
8 day suspension shall be stayed for two (2) years upon the
9 following terms and conditions:

10 (a) Respondent shall obey all laws, rules and
11 regulations governing the rights, duties and responsibilities of
12 a real estate licensee in the State of California; and

13 (b) That no final subsequent determination be made
14 after hearing or upon stipulation, that cause for disciplinary
15 action occurred within two (2) years of the effective date of
16 this Decision. Should such a determination be made, the
17 Commissioner may, in his discretion, vacate and set aside the
18 stay order and reimpose all or a portion of the stayed
19 suspension. Should no such determination be made, the stay
20 imposed herein shall become permanent.

22 IV.

23 Respondent MARIO A. PEREZ shall within six (6) months
24 from the effective date of the Decision herein, take and pass the
25 Professional Responsibility Examination administered by the
26 Department including the payment of the appropriate examination
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1 fee. If Respondent fails to satisfy this condition, the
2 Commissioner may order suspension of Respondent's license until
3 Respondent passes the examination.

4 V.

5 All licenses and licensing rights of Respondent LORENZO
6 LAYTON LOMBARDELLI are indefinitely suspended unless or until
7 Respondent provides proof satisfactory to the Commissioner, of
8 having taken and successfully completed the continuing education
9 course on trust fund accounting and handling specified in
10 paragraph (3) of subdivision (a) of Section 10170.5 of the
11 Business and Professions Code. Proof of satisfaction of this
12 requirement includes evidence that respondent has successfully
13 completed the trust fund account and handling continuing
14 education course within 120 days prior to the effective date of
15 the Decision in this matter.

16 VI.

17 Pursuant to Section 10148 of the Business and
18 Professions Code, Respondents AUSTIN MCBRIDE CORPORATION and
19 LORENZO LAYTON LOMBARDELLI shall pay the Commissioner's
20 reasonable cost for (a) the audit which led to this disciplinary
21 action (b) a subsequent audit to determine if Respondents are now
22 in compliance with the Real Estate Law. The cost of the audit
23 which led to this disciplinary action is \$7,484.74. In
24 calculating the amount of the Commissioner's reasonable cost, the
25 Commissioner may use the estimated average hourly salary for all
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1 persons performing audits of real estate brokers, and shall
2 include an allocation for travel time to and from the auditor's
3 place of work. Said amount for the prior and subsequent audits
4 shall not exceed \$14,969.48.

5 Respondents shall pay such cost within 60 days of
6 receiving an invoice from the Commissioner detailing the
7 activities performed during the audit and the amount of time
8 spent performing those activities.

9 The Commissioner may suspend the license of Respondents
10 pending a hearing held in accordance with Section 11500, et seq.,
11 of the Government Code, if payment is not timely made as provided
12 for herein, or as provided for in a subsequent agreement between
13 the Respondent and the Commissioner. The suspension shall remain
14 in effect until payment is made in full or until Respondents
15 enter into an agreement satisfactory to the Commissioner to
16 provide for payment, or until a decision providing otherwise is
17 adopted following a hearing held pursuant to this condition.
18

19
20 DATED: 5-3-07

ELI
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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22 * * *

23 EXECUTION OF THE STIPULATION

24 We have read the Stipulation and discussed it with our
25 counsel. Its terms are understood by us and are agreeable and
26 acceptable to us. We understand that we are waiving rights given
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1 to us by the California Administrative Procedure Act (including
2 but not limited to Sections 11506, 11508, 11509 and 11513 of the
3 Government Code), and we willingly, intelligently and voluntarily
4 waive those rights, including the right of requiring the
5 Commissioner to prove the allegations in the Accusation at a
6 hearing at which we would have the right to cross-examine
7 witnesses against us and to present evidence in defense and
8 mitigation of the charges.

9 Respondents (1) shall mail the original signed
10 signature page of the stipulation herein to Jennifer A. Granat:
11 Attention: Legal Section, Department of Real Estate, 320 W.
12 Fourth St., Suite 350, Los Angeles, California 90013-1105.
13 Additionally, Respondent shall also (2) facsimile a copy of
14 signed signature page, to the Department at the following
15 telephone/fax number: (213) 576-6917, Attention: Jennifer A.
16 Granat. A facsimile constitutes acceptance and approval of the
17 terms and conditions of this stipulation. Respondent agrees,
18 acknowledges and understands that by electronically sending to
19 the Department a facsimile copy of Respondent's actual signature
20 as it appears on the stipulation, that receipt of the facsimile
21 copy by the Department shall be as binding on Respondent as if
22 the Department had received the original signed stipulation.
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DATED:

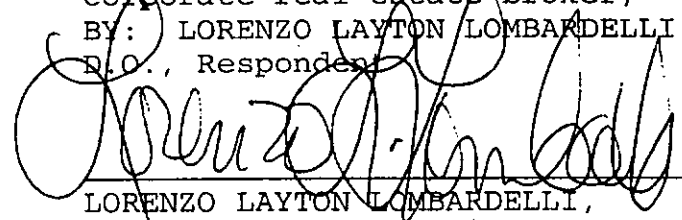
5/21/07



AUSTIN MCBRIDE CORPORATION, a
corporate real estate broker,
BY: LORENZO LAYTON LOMBARDELLI,
P.O., Respondent

DATED:

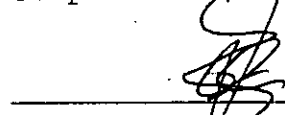
5/21/07



LORENZO LAYTON LOMBARDELLI,
individually and as designated
officer of Austin McBride
Corporation, Respondent

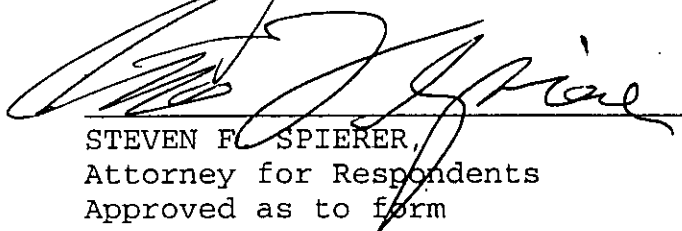
DATED:

5/21/07


MARIO A. PEREZ, Respondent

DATED:

5/21/07



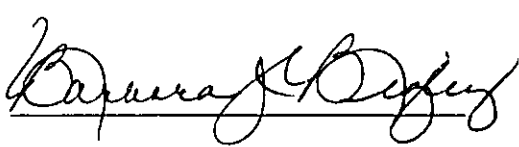
STEVEN F. SPIERER,
Attorney for Respondents
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents AUSTIN MCBRIDE
CORPORATION, LORENZO LAYTON LOMBARDELLI, individually and as
designated officer of Austin McBride Corporation, and MARIO A.
PEREZ, and shall become effective at 12 o'clock noon on
November 5, 2008.

IT IS SO ORDERED 9/5, 2008.

JEFF DAVI
Real Estate Commissioner



JENNIFER A. GRANAT, SBN 199868
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6907

FILED
FEB 22 2007
DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-33747 LA
AUSTIN McBRIDE CORPORATION,)	<u>A C C U S A T I O N</u>
a real estate corporation)	
doing business as Re/Max Real)	
Estate Consultants, ReMax of the)	
Desert and Re/Max of Coronado;)	
LORENZO LAYTON LOMBARDELLI,)	
individually and as designated)	
officer of Austin McBride)	
Corporation; and MARIO A. PEREZ,)	
Respondents.)	

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against AUSTIN McBRIDE CORPORATION dba Re/Max Real Estate Consultants, ReMax of the Desert and Re/Max of Coronado ("AMC"); LORENZO LAYTON LOMBARDELLI, individually and as designated officer of Austin McBride Corporation ("LOMBARDELLI"); and MARIO A. PEREZ ("PEREZ"), is informed and alleges as follows:

1.

1 The Complainant, Joseph Aiu, a Deputy Real Estate
2 Commissioner of the State of California, makes this Accusation
3 in his official capacity.
4

5 2.

6 Respondent AMC, Respondent LOMBARDELLI and Respondent
7 PEREZ (collectively, "Respondents") are presently licensed
8 and/or have license rights under the Real Estate Law (Part 1 of
9 Division 4 of the California Business and Professions Code
10 ("Code").

11 LICENSE HISTORY

12 3.

13 At all times herein mentioned, Respondent AMC was
14 licensed as a real estate corporation acting by and through
15 Respondent LOMBARDELLI as its designated broker-officer. AMC
16 was originally licensed as a corporate real estate broker on
17 November 30, 1994. At all times herein mentioned, Respondent
18 LOMBARDELLI, as the officer designated by AMC pursuant to
19 Section 10211 of the Code, was responsible for the supervision
20 and control of the activities requiring a real estate license
21 conducted on behalf of AMC by its officers, agents and
22 employees, as set forth in Code Section 10159.2.
23

24 4.

25 At all times herein mentioned, Respondent LOMBARDELLI
26 was licensed as a real estate broker and as the broker-officer
27

1 of Respondent AMC. LOMBARDELLI was originally licensed as a
2 real estate broker on August 15, 1984.

3 5.

4 At all times herein mentioned, Respondent PEREZ was
5 licensed as a real estate salesperson acting in the employ of
6 Respondent AMC. Respondent PEREZ was originally licensed as a
7 real estate salesperson on December 3, 1997.

8 LICENSED ACTIVITIES

9 6.

10 At all times herein mentioned, in the City of Palm
11 Desert, County of San Bernardino, AMC and LOMBARDELLI acted as
12 real estate brokers and conducted licensed activities within the
13 meaning of:

14 (a) Code Section 10131(a). AMC operated a
15 residential resale brokerage dba Re/Max Real Estate Consultants.

16 (b) Code Section 10131(b). AMC operated a property
17 management brokerage dba ReMax of the Desert and Re/Max of
18 Coronado; and

19 (c) AMC conducted broker-controlled escrows through
20 its escrow division, under the exemption set forth in California
21 Financial Code Section 17006(a)(4) for real estate brokers
22 performing escrows incidental to a real estate transaction where
23 the broker is a party and where the broker is performing acts
24 for which a real estate license is required.
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AUDIT

7.

On October 13, 2006, the Department completed an audit examination of the books and records of AMC pertaining to the residential resale, property management and broker escrow activities described in paragraph 6, which require a real estate license. The audit examination for the residential resale, property management and broker escrow covered the time period from June 1, 2005 to July 31, 2006. The audit examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations ("Regulations"), as set forth in the following paragraphs and more fully discussed in combined Audit Report SD060006, SD060011 and SD060012, and the exhibits and workpapers attached to said report.

TRUST ACCOUNTS

8.

At all times herein mentioned, in connection with the activities described in paragraph 6, AMC accepted or received funds including funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions handled by AMC, and thereafter made deposits and/or disbursements of such funds. From time to time during the audit period, said trust funds were deposited and/or maintained by AMC in two trust accounts at Union Bank of California, P.O. Box 513840, Los Angeles, California 90051, identified as follows:

1 1. Account No. 9120143937, entitled "Austin
2 McBride Corporation dba Re/Max Real
3 Estate Consultants Escrow Trust Account"
4 ("Escrow Trust Account")

5 2. Account No. 9120047938, entitled "Austin
6 McBride Corporation dba ReMax of the
7 Desert dba Re/Max Real Estate Consultants
8 Client Trust Account"
9 ("Property Management Trust Account")

10 There is no trust account for the resale activity of AMC.

11 VIOLATIONS OF THE REAL ESTATE LAW

12 9.

13 In the course of activities described in paragraphs 6
14 and 8 above, and during the audit period described in paragraph
15 7, Respondents acted in violation of the Code and the
16 Regulations in that:

17 (a) AMC and LOMBARDELLI failed to disburse from the
18 escrow trust account broker's escrow fees and commissions
19 totaling \$17,045.00 within twenty-five days of deposit, in
20 violation of Code Sections 10145 and 10176(e) and Regulations
21 2835, 2950(d) and 2951.

22 (b) AMC and LOMBARDELLI failed to maintain an
23 accurate and complete control record, in the form of a columnar
24 record in chronological order, of all trust funds received from
25 AMC's resale activity that were not placed into a trust account,
26 in violation of Code Section 10145 and Regulation 2831.

27 (c) AMC and LOMBARDELLI failed to place trust funds,
including earnest money deposits ("EMD"), accepted on behalf of
another, including from buyers Rodda Jr., Barnette and

1 Rodriguez, into the hands of the owner of the funds, a neutral
2 escrow depository or into a trust fund account in the name of
3 the trustee at a bank or other financial institution not later
4 than three business days following receipt of the funds by the
5 broker or by the broker's salesperson, as required by Code
6 Section 10145 and Regulation 2832.

7 (d) AMC and LOMBARDELLI permitted unlicensed and
8 unbonded persons, Byron Cornelius and Peggy Merrell, to be
9 authorized signatories on the two trusts accounts, the Escrow
10 Trust Account and the Property Management Trust Account, in
11 violation of Code Section 10145 and Regulations 2834, 2950(d)
12 and 2951.

13 (e) AMC, LOMBARDELLI and PEREZ misrepresented to
14 sellers that they held a \$1,000 EMD for buyer Susan Glass, not
15 having the EMD on hand when the offer was presented to the
16 seller, in violation of Code Sections 10176(a) and 10177(g).

17 (f) AMC and LOMBARDELLI failed to obtain a license
18 for use of the branch office located at 74-199 El Paseo #101,
19 Palm Desert, CA 92260, in violation of Code Section 10163 and
20 Regulation 2715.
21

22 10.

23 The conduct of Respondents AMC, LOMBARDELLI and PEREZ,
24 described in paragraph 9 above, violated the Code and the
25 Regulations as set forth below:
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	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
1	9(a)	Code Sections 10145, 10176(e) and Regulations 2835, 2950(d) and 2951
2	9(b)	Code Section 10145 and Regulation 2831
3	9(c)	Code Section 10145 and Regulation 2832
4	9(d)	Code Section 10145 and Regulations 2834, 2950(d) and 2951
5	9(e)	Code Sections 10176(a) and 10177(g) (AMC, LOMBARDELLI and PEREZ)
6	9(f)	Code Section 10163 and Regulation 2715
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12 The foregoing violations constitute cause for the suspension or
13 revocation of the real estate licenses and license rights of
14 Respondents AMC, LOMBARDELLI and PEREZ pursuant to Code Sections
15 10176(a), 10176(e), 10177(d) and/or 10177(g).

16 11.

17 The overall conduct of Respondents AMC, LOMBARDELLI
18 and PEREZ constitutes negligence or incompetence. This conduct
19 and violations are cause for the suspension or revocation of the
20 real estate licenses and license rights of Respondents pursuant
21 to Code Section 10177(g).

22 12.

23 The overall conduct of Respondent LOMBARDELLI
24 constitutes a failure on his part, as the officer designated by
25 a corporate broker licensee, to exercise the reasonable
26 supervision and control over the licensed activities of AMC as
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1 required by Code Section 10159.2, and to keep AMC in compliance
2 with the Real Estate Law, and is cause for the suspension or
3 revocation of the real estate license and license rights of
4 LOMBARDELLI pursuant to Code Sections 10177(d), 10177(g) and
5 10177(h).

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against the licenses and license rights of Respondents
10 AUSTIN McBRIDE CORPORATION, LORENZO LAYTON LOMBARDELLI and MARIO
11 A. PEREZ under the Real Estate Law (Part 1 of Division 4 of the
12 Business and Professions Code) and for such other and further
13 relief as may be proper under other provisions of law.

14 Dated at San Diego, California

15 this 21 day of February, 2007.

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18 
19 _____
20 JOSEPH AIU
21 Deputy Real Estate Commissioner

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23
24 cc: Austin McBride Corporation
25 c/o Lorenzo Layton Lombardelli D.O.
26 Mario A. Perez
27 Joseph Aiu
Sacto
Zaky Wanis/L.A. Audits