

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

FEB 08 2012

DEPARTMENT OF REAL ESTATE

BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-37457 LA
12)
13 TOM STEVE CHIOLES,) L-2011100031
14) STIPULATION AND AGREEMENT
15 Respondent.)

16 It is hereby stipulated by and between TOM STEVE
17 CHIOLES, (sometimes referred to as "Respondent"), and
18 Respondent's attorney, Angelica M. Leon, Esq., and the
19 Complainant, acting by and through Cheryl D. Keily, Counsel for
20 the Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on August 19,
22 2011, in this matter.

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedure Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate
6 ("Department") in this proceeding.

7 3. On September 12, 2011, Respondent filed a Notice of
8 Defense, pursuant to Section 11506 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that he
12 understands that by withdrawing said Notice of Defense he will
13 thereby waive his right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that he will waive
16 other rights afforded to him in connection with the hearing,
17 such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. It is understood by the parties that the Real
21 Estate Commissioner may adopt the Stipulation and Agreement as
22 his decision in this matter, thereby imposing the penalty and
23 sanctions on Respondent's real estate licenses and license
24 rights as set forth in the below "Order". In the event that
25 the Commissioner in his discretion does not adopt the
26 Stipulation and Agreement, it shall be void and of no effect,
27 and Respondent shall retain the right to a hearing and

1 proceeding on the Accusation under all the provisions of the
2 APA and shall not be bound by any admission or waiver made
3 herein.

4 5. This Stipulation is based on the factual
5 allegations contained in the Accusation. In the interest of
6 expedience and economy, Respondent chooses not to contest these
7 allegations, but to remain silent and understand that, as a
8 result thereof, these factual allegations, without being
9 admitted or denied, will serve as a prima facie basis for the
10 disciplinary action stipulated to herein. The Real Estate
11 Commissioner shall not be required to provide further evidence
12 to prove said factual allegations.
13

14 6. This Stipulation and Respondents' decision not to
15 contest the Accusation are made for the purpose of reaching an
16 agreed disposition of this proceeding, and are expressly
17 limited to this proceeding and any other proceeding or case in
18 which the Department of Real Estate, or another licensing
19 agency of this state, another state or the federal government
20 is involved and otherwise shall not be admissible in any other
21 criminal or civil proceedings.
22

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation and
25 Agreement shall not constitute an estoppel, merger or bar to any
26 further administrative or civil proceedings by the Department of
27 Real Estate with respect to any matters which were not

1 specifically alleged to be causes for accusation in this
2 proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions
5 and waivers and solely for the purpose of settlement of the
6 pending Accusation without a hearing, it is stipulated and
7 agreed that the following determination of issues shall be made:

8 The Conduct of Respondent, as described in the
9 Accusation, is grounds for the suspension or revocation of all
10 of the real estate licenses and license rights of Respondent
11 under the provisions of Sections 10085 and 10177(g) of the
12 Business and Professions Code.

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 ALL licenses and licensing rights of Respondent TOM
16 STEVE CHIOLES, under the Real Estate Law are revoked; provided,
17 however, a restricted real estate broker license shall be issued
18 to Respondent pursuant to Section 10156.5 of the Code if
19 Respondent makes application therefor and pays to the Department
20 the appropriate fee for the restricted license within 90 days
21 from the effective date of this Decision.

22 The Restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the Code
24 and to the following conditions, limitations and restrictions
25 imposed under the authority of Section 10156.6 of the Code:

26 1. The restricted license issued to Respondent may be
27 suspended prior to hearing by Order of the Commissioner in the

1 event of Respondent's conviction or plea of nolo contendere to
2 a crime which is substantially related to Respondent's fitness
3 or capacity as a real estate broker licensee.
4

5 2. The restricted license issued to Respondent may be
6 suspended prior to hearing by Order of the Commissioner on
7 evidence satisfactory to the Commissioner that Respondent has
8 violated provisions of the Real Estate law, the Subdivided
9 Lands Law, Regulations of the Real Estate Commissioner or
10 conditions attaching to the restricted license.

11 3. Respondent shall not be eligible to apply for
12 issuance of an unrestricted real estate broker license nor for
13 the removal of any of the conditions, limitations or
14 restrictions of a restricted license until one (1) year has
15 elapsed from the effective date of this Decision.

16 4. Respondent shall, within nine (9) months from the
17 effective date of this Decision, present evidence satisfactory
18 to the Commissioner that Respondent has, since the most recent
19 issuance of an original or renewal real estate broker license,
20 taken and successfully completed the continuing education
21 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
22 for renewal of a real estate broker license. If Respondent
23 fails to satisfy this condition, the Commissioner may order the
24 suspension of the restricted license until Respondent presents
25 such evidence. The Commissioner shall afford Respondent the
26 opportunity for a hearing pursuant to the APA to present such
27 evidence.

1 5. If and when a petition application is made for
2 reinstatement of my broker license, the Real Estate
3 Commissioner will consider as one of the criteria of
4 rehabilitation whether or not restitution has been made within
5 one year from the effective date of this Decision to any person
6 who has suffered monetary losses as a result of the allegations
7 set forth in the Accusation filed in this case.
8

9
10 DATED: Jan 10, 2012

Cheryl D. Kelly
11 CHERYL D. KELLY, Counsel
12 DEPARTMENT OF REAL ESTATE

13 * * *

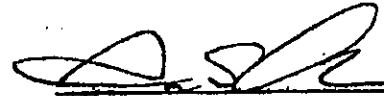
14 I have read the Stipulation and Agreement, and its
15 terms are understood by me and are agreeable and acceptable to
16 me. I understand that I am waiving rights given to me by the
17 California Administrative Procedure Act (including but not
18 limited to Sections 11506, 11508, 11509 and 11513 of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

25 I have read the provisions of Section 2945.2(c), Title
26 10, Chapter 6, Code of Regulations, and am executing this
27 Stipulation and Agreement in reliance thereon.

 Respondent can signify acceptance and approval of the
terms and conditions of this Stipulation and Agreement by faxing

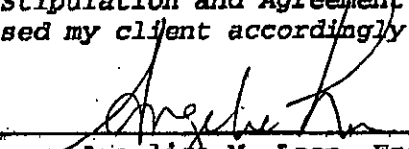
1 a copy of its signature page, as actually signed by Respondent,
 2 to the Department at the following telephone/fax number (213)
 3 576-6917. Respondent agrees, acknowledges, and understands that
 4 by electronically sending to the Department a fax copy of his
 5 actual signature as it appears on the Stipulation and Agreement,
 6 that receipt of the faxed copy by the Department shall be as
 7 binding on Respondent as if the Department had received the
 8 original signed Stipulation and Agreement.

9
 10 DATED: 1/9/12


 TOM STEVE CHIOLES,
 Respondent

12 I have reviewed the Stipulation and Agreement as to
 13 form and content and have advised my client accordingly.

14 DATED: 1/9/12


 Angelica M. Leon, Esq.
 Attorney for Respondent
 TOM STEVE CHIOLES

18 * * *

19 The foregoing Stipulation and Agreement is hereby
 20 adopted as my Decision in this matter and shall become effective
 21 at 12 o'clock noon on _____, 2012.

22 IT IS SO ORDERED _____, 2012.

23
 24
 25 BARBARA J. BIGBY
 26 Acting Real Estate Commissioner
 27

1 a copy of its signature page, as actually signed by Respondent,
2 to the Department at the following telephone/fax number (213)
3 576-6917. Respondent agrees, acknowledges, and understands that
4 by electronically sending to the Department a fax copy of his
5 actual signature as it appears on the Stipulation and Agreement,
6 that receipt of the faxed copy by the Department shall be as
7 binding on Respondent as if the Department had received the
8 original signed Stipulation and Agreement.

9
10 DATED: _____

11 TOM STEVE CHIOLES,
Respondent

12 *I have reviewed the Stipulation and Agreement as to*
13 *form and content and have advised my client accordingly.*

14
15 DATED: _____

16 Angelica M. Leon, Esq.
Attorney for Respondent
17 TOM STEVE CHIOLES

18 * * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision in this matter and shall become effective
21 at 12 o'clock noon on FEB 28 2012, 2012.

22 IT IS SO ORDERED 1/31, 2012.

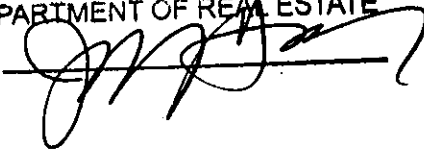
23
24 
25 BARBARA J. BIGBY
26 Acting Real Estate Commissioner
27

1 CHERYL D. KEILY, SNB# 94008
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6905

FILED

AUG 19 2011

DEPARTMENT OF REAL ESTATE
BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation } No. H-37457 LA
13 TOM STEVE CHIOLES, } A C C U S A T I O N
14 }
15 Respondent. }
16 _____)

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against TOM STEVE CHIOLES ("CHIOLES") alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 her official capacity.
24

25 ///

26 ///

27 ///

2.

1
2 Respondent CHIOLES is presently licensed and/or
3 has license rights under the Real Estate Law (Part 1 of Division
4 4 of the Business and Professions Code) ("Code") as real estate
5 broker.

6
7 3.

8 At no time relevant herein was Ameritrust Financial,
9 LLC ("Ameritrust") been licensed by the Department in any
10 capacity.

11
12 4.

13 Respondent CHIOLES ordered, caused, authorized or
14 participated in the conduct of Ameritrust, as is alleged in this
15 Accusation.

16
17 FIRST CAUSE OF ACCUSATION
18 (Advance Fee Violation)

19
20 5.

21 At all times mentioned herein, Respondent CHIOLES
22 engaged in the business of a real estate broker in the State of
23 California within the meaning of Code Sections 10131(d) and
24 10131.2 including brokering mortgage loans and performing loan
25 modification activities and claiming, demanding, charging,
26 receiving, collecting or contracting for the collection of an
27 advance fee, within the meaning of Code Section 10026, including,
but not limited to, the following loan modification activities
with respect to loans which were secured by liens on real
property:

1 a. On or about October 6, 2008, Rafael N. paid
2 CHIOLES, doing business as AMERITRUST, an advance fee of \$5,000.
3 The advance fee was collected pursuant to the provisions of an
4 agreement pertaining to loan solicitation, negotiation, and
5 modification services to be provided by CHIOLES, doing business
6 as AMERITRUST, with respect to a loan secured by real property
7 in San Leandro, California.

8 b. On or about October 24, 2008, and November 24,
9 2008, Alberto B. paid CHIOLES, doing business as AMERITRUST, and
10 advance fees totaling \$13,500. The advance fee was collected
11 pursuant to the provisions of an agreement pertaining to loan
12 solicitation, negotiation, and modification services to be
13 provided by CHIOLES, doing business as AMERITRUST, with respect
14 to a loan secured by five separate real properties.

15 c. On or about December 9, 2008, Edith S. paid
16 CHIOLES, doing business as AMERITRUST, an advance fee of \$3,500.
17 The advance fee was collected pursuant to the provisions of an
18 agreement pertaining to loan solicitation, negotiation, and
19 modification services to be provided by CHIOLES, doing business
20 as AMERITRUST, with respect to a loan secured by real property
21 in Van Nuys, California.

22 d. On or about January 30, 2009, Manuel O. paid
23 CHIOLES, doing business as AMERITRUST, an advance fee of \$2,500.
24 The advance fee was collected pursuant to the provisions of an
25 agreement pertaining to loan solicitation, negotiation, and
26 modification services to be provided by CHIOLES, doing business
27

1 as AMERITRUST, with respect to a loan secured by real property.
2 in Riverside, California.

3 e. On or about January 17, 2009, Fred P. paid CHIOLES,
4 doing business as AMERITRUST, an advance fee of \$3,000. The
5 advance fee was collected pursuant to the provisions of an
6 agreement pertaining to loan solicitation, negotiation, and
7 modification services to be provided by CHIOLES, doing business
8 as AMERITRUST, with respect to a loan secured by real property
9 in Sun City, California.

10 f. On or about March 16, 2009, Jaime A. paid CHIOLES,
11 doing business as AMERITRUST, an advance fee of \$2,500. The
12 advance fee was collected pursuant to the provisions of an
13 agreement pertaining to loan solicitation, negotiation, and
14 modification services to be provided by CHIOLES, doing business
15 as AMERITRUST, with respect to a loan secured by real property
16 in Victorville, California.
17

18 6.

19 Respondent collected the advance fees described in
20 Paragraph 5, above, pursuant to the provisions of written
21 agreements which constitute an advance fee agreement within the
22 meaning of Code Section 10085.

23 7.

24 Respondent CHIOLES failed to submit the written
25 agreement referred to in Paragraphs 5 and 6, above, to the
26 Commissioner ten days before using it in violation of Code
27

1 Section 10085 and Section 2970, Title 10, Chapter 6, Code of
2 Regulations ("Regulations").

3 8.

4 The conduct, acts and/or omissions of Respondent
5 CHIOLES, as set forth above, are cause for the suspension or
6 revocation of the licenses and license rights of Respondent
7 CHIOLES pursuant to Code Sections 10085, 10177(d) and/or
8 10177(g).

9 SECOND CAUSE OF ACCUSATION

10 (Use of Unauthorized Fictitious Business Name)

11 9.

12 Complainant hereby incorporates by reference the
13 allegations set forth in Paragraphs 1 through 8, above.

14 10.

15 Respondent CHIOLES acted without Department
16 authorization in using the fictitious business name "Ameritrust
17 Financial, LLC" to engage in activities requiring the issuance of
18 a real estate license.

19 11.

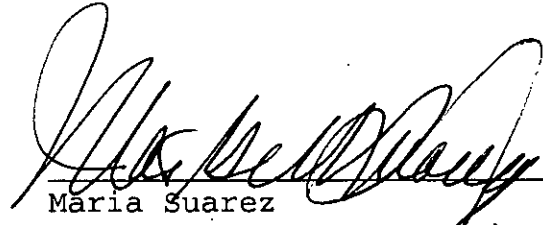
20 The conduct, acts and/or omissions of Respondent
21 CHIOLES, as set forth in Paragraph 10, above, violate Code
22 Section 10159.5 and Section 2731 of the Regulations, and are
23 cause for the suspension or revocation of the licenses and
24 license rights of Respondent CHIOLES pursuant to Code Sections
25 10177(d) and/or 10177(g).

26 ///
27

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of Respondent
5 TOM STEVE CHIOLES under the Real Estate Law, and for such other
6 and further relief as may be proper under other applicable
7 provisions of law.

8 Dated at Los Angeles, California

9 this 17 day of August, 2011.

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12
13 
14 Maria Suarez
15 Deputy Real Estate Commissioner
16
17
18
19
20
21
22
23

24 cc: TOM STEVE CHIOLES
25 Maria Suarez
26 Sacto.
27