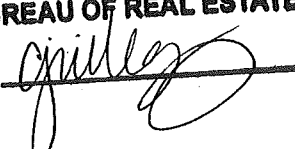


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FILED
OCT 30 2014
BUREAU OF REAL ESTATE
By 

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7
8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) CALBRE No. H-39639 LA
12)
12 BONTERRE REALTY GROUP, INC.,) ACCUSATION
a licensed corporate real estate broker;)
13)
14 ANDREA G. POWERS, individually licensed)
as a real estate broker and as designated officer)
of Bonterre Realty Group, Inc.;)
15)
16 MARLENE A. WATERHOUSE, a licensed)
real estate salesperson; and)
17)
18 NICOLE THEL, a licensed real estate)
salesperson,)
19 Respondents.)

20 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of
21 California, for cause of Accusation against BONTERRE REALTY GROUP, INC. (“BRGI”), a
22 licensed corporate real estate broker; ANDREA G. POWERS (“POWERS”), individually
23 licensed as a real estate broker and as designated officer of Bonterre Realty Group, Inc.;

24 MARLENE A. WATERHOUSE (“WATERHOUSE”), a licensed real estate salesperson; and

1 NICOLE THEL (“THEL”), a licensed real estate salesperson (collectively “Respondents”), is
2 informed and alleges as follows:

3 1.

4 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of
5 California, makes this Accusation in her official capacity.

6 2.

7 All references to the "Code" are to the California Business and Professions Code and all
8 references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10,
9 Chapter 6, California Code of Regulations.

10 3.

11 Respondents are presently licensed and/or have license rights under the Real Estate Law
12 (Part 1 of Division 4 of the California Business and Professions Code).

13 4.

14 From July 8, 2008, through the present, Respondent BRGI has been licensed by the
15 Bureau of Real Estate (“Bureau”) as a corporate real estate broker, License ID 01848558.
16 Respondent is licensed to do business under the fictitious business name, TRI-Generation Loan
17 Services and maintains a branch office address located at 22471 Aspan St., Suite 110, Lake
18 Forest, CA 92630. At all times herein mentioned, Respondent BRGI did not have a license
19 endorsement as a mortgage loan originator. Respondent BRGI is licensed as corporate real
20 estate broker, acting by and through Respondent POWERS as its designated broker-officer.

21 5.

22 From April 19, 2006, through the present, Respondent POWERS has been licensed by the
23 Bureau as a real estate broker, License ID 01375432. At all times herein mentioned, Respondent
24

1 POWERS did not have a license endorsement as a mortgage loan originator. At all times herein
2 mentioned, Respondent POWERS was also licensed as the designated broker-officer of
3 Respondent BRGI pursuant to Code Section 10211.

4 6.

5 Code Section 10159.2, subdivision (a) provides:

6 "The officer designated by a corporate broker licensee pursuant to Section
7 10211 shall be responsible for the supervision and control of the activities
8 conducted on behalf of the corporation by its officers and employees as necessary
9 to secure full compliance with the provisions of this division, including the
10 supervision of salespersons licensed to the corporation in the performance of acts
11 for which a real estate license is required."

12 7.

13 From June 24, 2010, Respondent WATERHOUSE has been licensed by the Bureau as a
14 real estate salesperson, License ID 01884177. Respondent WATERHOUSE's employing broker
15 from July 26, 2010, to May 26, 2014, was BRGI. At all times herein mentioned, Respondent
16 WATERHOUSE did not have a license endorsement as a mortgage loan originator.

17 8.

18 From November 9, 2011, Respondent THEL has been licensed by the Bureau as a real
19 estate salesperson, License ID 01906937. Respondent THEL's employing broker from
20 November 9, 2011, to June 26, 2013, was BRGI. At all times herein mentioned, Respondent
21 THEL did not have a license endorsement as a mortgage loan originator.

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1 Cause of Accusation

2 (Unlicensed Activity/Unlawful Payment of Compensation)

3 9.

4 Code Section 10131 defines a real estate broker as a person who:

5 (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers
6 or purchasers of, solicits or obtains listing of, or negotiates the purchase, sale or
exchange of real property or a business opportunity;

7 (d) Solicits borrowers or lenders for or negotiates loans or collects
8 payments or performs services for borrowers or lenders in connection with loans
secured directly or collaterally by liens on real property; or

9 (e) Sells or offers to sell, buys or offers to buy or exchanges or offers to
10 exchange a real property sales contract, or a promissory note secured directly or
collaterally by a lien on real property or on a business opportunity, and performs
11 services for the holders thereof.

12 10.

13 Code Section 10166.01, subdivision (b)(1), defines a mortgage loan originator as an
14 individual who takes a residential mortgage loan application or offers or negotiates terms of a
15 residential mortgage loan for compensation or gain. Code Section 10166.1, subdivision
16 (b)(2)(A) provides that a mortgage loan originator does not include “[A]n individual who
17 performs purely administrative or clerical tasks on behalf of a person meeting the definition of a
18 mortgage loan originator, except as otherwise provided in subdivision (c) of Section 10166.03.
19 The term ‘administrative tasks’ means the receipt, collection, and distribution of information
20 common for the processing or underwriting of a loan in the mortgage industry and
21 communication with a consumer to obtain information necessary for the processing or
22 underwriting of a residential mortgage loan.”

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11.

Code Section 10166.03, subdivision (c), provides that “[A]n independent contractor who is employed by a mortgage loan originator may not engage in the activities of a loan processor or underwriter for a residential mortgage loan unless the independent contractor loan processor or underwriter obtains and maintains an endorsement as a mortgage loan originator under this article. Each independent contractor loan processor or underwriter who obtains and maintains an endorsement as a mortgage loan originator under this article shall have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.”

12.

Code Section 10137 provides:

“It is unlawful for any licensed real estate broker to compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesperson licensed under the broker employing or compensating him or her, or to employ or compensate, directly or indirectly, any licensee for engaging in any activity for which a mortgage loan originator license endorsement is required, if that licensee does not hold a mortgage loan originator license endorsement; provided, however, that a licensed broker may pay to a commission to a broker of another state.

No real estate salesperson shall be employed by or accept compensation from any person other than the broker under whom he or she is at the time licensed.

It is unlawful for any licensed real estate salesperson to pay any compensation for performing any of the acts within the scope of the chapter to any real estate licensee except through the broker under whom he or she is licensed at the time.”

13.

Code section 10159.5 requires that

“every person applying for a license under this chapter who desires to have such license issued under a fictitious business name shall file with his application a certified copy of his fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.”

14.

1 Regulation 2731, subdivision (a), provides:

2 "A licensee shall not use a fictitious name in the conduct of any activity
3 for which a license is required under the Real Estate Law unless the licensee is the
4 holder of a license bearing the fictitious name."

5 15.

6 Short Sale Solutions, LLC and Tina P. Hartman aka Tina Hartman have never been
7 licensed by the Bureau in any capacity. At all times herein mentioned, Respondents were not
8 licensed to do business as Short Sale Solutions, LLC or Short Sale Solutions. At all times herein
9 mentioned, Short Sale Solutions, LLC, or any of its managers, employees, agents, or independent
10 contractors including, without limitation, Tina P. Hartman, did not have a license endorsement as
11 a mortgage loan originator.

12 16.

13 Short Sale Solutions, LLC is a limited liability company formed in California on or about
14 September 15, 2008. Tina P. Hartman and Respondent WATERHOUSE are owners, members,
15 managers, and/or directors of Short Sale Solutions, LLC, which also used the fictitious name,
16 Short Sale Solutions.

17 17.

18 For an unknown period of time that includes the previous three years, Short Sale
19 Solutions, LLC has offered to perform services for borrowers, lenders, and real estate licensees
20 including negotiation of short sales of real property, loan modifications, refinance, and deeds in
21 lieu of foreclosure. Short Sale Solutions, LLC advertised its services on the following website:
22 www.shortsalesapproved.com. The principal executive office used by Short Sale Solutions, LLC
23 was 22471 Aspan St., Suite 110, Lake Forest, California 92630, the same address listed as a
24 branch office for Respondent BRGI.

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18.

At all times herein mentioned, Short Sale Solutions and Tina P. Hartman received compensation directly or indirectly through Respondents BRGI, POWERS, and WATERHOUSE for activities that require a real estate broker license including, without limitation, negotiating the sale, purchase, or exchange of real property and negotiating loans or performing services for borrowers in connection with loans secured directly or indirectly by liens on real property.

19.

Long Beach Property

On or about November 30, 2011, homeowners John and Marie C. entered into a residential listing agreement with Tom Swanner as their agent and Results Real Estate as their broker for the short sale of their property located on Heather Avenue, in Long Beach, California (“Long Beach property”). On or about December 14, 2011, John and Marie C. signed a notice to their lender titled “Please Do Not Contact Me by Phone.” The notice instructed Bank of America not to contact the borrowers directly and to make any future communication regarding their loan on the Long Beach property to “Marlene Waterhouse, Short Sale Solutions, LLC who is assisting me in selling my home. The information obtained by my agent is to be used for the purpose of facilitating the resolution of my foreclosure.” On or about January 17, 2012, John and Marie C. signed a Third Party Authorization which authorized their lender to communicate directly with Respondent WATERHOUSE, Tina Hartman, and Tom Swanner regarding the short sale and loans on the Long Beach property. On or about June 25, 2012, John and Marie C. signed a Short Sale Third-Party Authorization Form for Bank of America which authorized John and Marie C.’s designated representatives, Marlene Waterhouse, Nicole Thel, Benjamin Mills

1 (Assistant/Processor) and Evan Gowins (Assistant/Processor), to negotiate the short sale of the
2 Long Beach property with Bank of America. Respondents WATERHOUSE and THEL signed
3 acknowledgements stating that they had all licenses, permits or authorizations required by state
4 law to perform duties undertaken in connection with said short sale.

5 20.

6 From on or about December 19, 2011, through October 4, 2012, agents, employees, or
7 independent contractors working for Short Sale Solutions, including Respondents
8 WATERHOUSE and THEL, communicated directly with John and Marie C.'s lenders to
9 negotiate the short sale, foreclosure forbearance, and/or loan modification of the borrowers'
10 loans secured by liens on the Long Beach property. Two separate buyers made offers to
11 purchase the Long Beach property. On or about February 8, 2012, buyer Alan J. made an offer
12 to purchase the Long Beach property for \$385,000. The buyer was represented by agent Steven
13 Mills and broker Prudential California Realty. On or about April 17, 2012, buyers Fajer K. and
14 Heather B. made an offer to purchase the Long Beach property for \$368,000. The buyers were
15 represented by agent Guido Jennigee and broker Century 21 Amber Realty.

16 21.

17 On or about August 8, 2012, Tina Hartman and Respondent WATERHOUSE issued an
18 invoice on behalf of Tri-Generation Loan Services to listing agent Tom Swanner for \$3,900 for
19 "processing fees" related to the Long Beach property. On or about October 9, 2012, Act One
20 Escrow, Inc. disbursed a check in the amount of \$3,900 made payable to TRI Generation Loan
21 Services for the processing fee, per invoice, related to the Long Beach property. On or about
22 October 12, 2012, Short Sale Solutions submitted an invoice to Tri-Generation Loan Services for
23 the Long Beach property in the amount of \$3,900 as a "processing fee." On October 15, 2012,
24

1 Respondent POWERS signed a Commission Disbursement Agreement on behalf of BRGI. The
2 Commission Disbursement Agreement noted that a commission of \$3,670 was due to
3 Respondent WATERHOUSE related to the Long Beach property. On October 15, 2012,
4 Respondent POWERS signed a check on behalf of Respondent BRGI. The check no. 1358 was
5 made payable to Short Sale Solutions for \$3,670.

6 El Monte Property

7 22.

8 On or about July 22, 2010, Romeo Guevara aka Rommie Guevara entered into a Short
9 Sale Processing Agreement with Short Sale Solutions, LLC, for the processing of short sales for
10 Romeo Guevara. The agreement was signed by Tina P. Hartman on behalf of Short Sale
11 Solutions, LLC. On or about March 19, 2012, homeowner Zoraida A. entered into a residential
12 listing agreement with Romeo Guevara as her agent and Prudential California Realty as her
13 broker for the short sale of her property located on Sitka Street, in El Monte, California ("El
14 Monte property"). On March 26, 2012, Zoraida A. signed a notice to her lender titled, "Please
15 Do Not Contact Me by Phone." The notice instructed Bank of America not to contact the
16 borrower directly and to make any future communication regarding her loan on the El Monte
17 property to "Marlene Waterhouse, Short Sale Solutions, LLC who is assisting me in selling
18 my home. The information obtained by my agent is to be used for the purpose of facilitating the
19 resolution of my foreclosure." On May 21, 2012, Zoraida A. signed a Borrower's Authorization
20 to Release and Receive Information which authorized her lenders to communicate directly with
21 Tina Hartman, Respondents WATERHOUSE and THEL, among others, regarding the payoff
22 and settlement of loans on the El Monte property. On May 21, 2012, Zoraida A. signed a Short
23 Sale Third-Party Authorization Form for Bank of America which authorized Zoraida A.'s
24

1 designated representatives, Marlene Waterhouse, Nicole Thel, and Ken Chrenow to negotiate the
2 short sale of the El Monte property with Bank of America. Respondents WATERHOUSE and
3 THEL signed acknowledgements stating that they had all licenses, permits or authorizations
4 required by state law to perform duties undertaken in connection with said short sale.

5 23.

6 From on or about April 27, 2012, through February 14, 2013, agents, employees, or
7 independent contractors working for Short Sale Solutions, including Respondents
8 WATERHOUSE and THEL, communicated directly with Zoraida A.'s lenders to negotiate the
9 short sale, postponement of trustee sale, foreclosure forbearance, and/or loan modification of the
10 borrowers' loans secured by liens on the El Monte property.

11 24.

12 On or about February 6, 2013, Tina Hartman and Respondent WATERHOUSE issued an
13 invoice on behalf of Tri-Generation Loan Services to listing agent Rommie Guevara for \$3,900
14 for "processing fees" related to Zoraida A. On or about February 8, 2013, Castlehead, Inc.
15 Escrows disbursed a check in the amount of \$3,900 made payable to TRI Generation Loan
16 Services for the processing fee related to the El Monte property. On or about February 26, 2013,
17 Short Sale Solutions submitted an invoice to Tri-Generation Loan Services for the El Monte
18 property in the amount of \$3,900 as a "processing fee." On February 7, 2013 Respondent
19 POWERS signed a Commission Disbursement Agreement on behalf of BRGI. The Commission
20 Disbursement Agreement noted that a commission of \$3,670 was due to Respondent
21 WATERHOUSE related to the El Monte property. On February 7, 2013, the amount of \$3,760
22 was posted to Bank of the West account # X2908, in Mission Viejo, California.

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1 Winchester Property

2 25.

3 On or about October 30, 2012, Paul Ruff entered into a Short Sale Processing Agreement
4 with Short Sale Solutions, LLC, for the processing of short sales for Paul Ruff. On October 30,
5 2012, homeowners Gary and Nicole L. signed a Borrower's Authorization to Release and
6 Receive Information which authorized their lenders to communicate directly with Tina Hartman
7 and Respondents WATERHOUSE and THEL, among others, regarding the payoff and
8 settlement of loans on Gary and Nicole L.'s property located on Cottonwood Street, in
9 Winchester, California ("Winchester property"). On or about November 29, 2012, Gary and
10 Nicole L. entered into an Agreement to Select Short Sale Processor & Processor Fee Agreement
11 authorizing Short Sale Solutions, LLC to process the short sale of the Winchester property.

12 26.

13 From on or about October 31, 2012, through May 7, 2013, agents, employees, or
14 independent contractors working for Short Sale Solutions, including Respondents
15 WATERHOUSE and THEL, communicated directly with Gary and Nicole L.'s lenders to
16 negotiate the short sale, postponement of trustee sale, foreclosure forbearance, and/or loan
17 modification of the borrowers' loans secured by liens on the Winchester property.

18 27.

19 On or about February 12, 2013, Tina Hartman and Respondent WATERHOUSE issued
20 an invoice on behalf of Tri-Generation Loan Services to listing agent Paul Ruff for \$3,900 for
21 "processing fees" related to the Winchester property. On March 28, 2013, Hartford Escrow, Inc.
22 disbursed a check in the amount of \$3,900 made payable to TRI Generation Loan Services for
23 the processing fee, per invoice, related to the Winchester property. On or about March 27, 2013,
24

1 Short Sale Solutions submitted an invoice to Tri-Generation Loan Services for the Winchester
2 property in the amount of \$3,900 as a "processing fee." On March 27, 2013 Respondent
3 POWERS signed a Commission Disbursement Agreement on behalf of BRGI. The Commission
4 Disbursement Agreement noted that a commission of \$3,670 was due to Respondent
5 WATERHOUSE related to the Winchester property. On April 4, 2013, Respondent POWERS
6 signed a check on behalf of Respondent BRGI. The check no. 1445 was made payable to Short
7 Sale Solutions for \$3,670.

8 San Juan Capistrano Property

9 28.

10 On or about February 9, 2012, homeowner Susan R. signed a Borrower's Authorization
11 to Release and Receive Information which authorized her lenders to communicate directly with
12 Tina Hartman and Respondents WATERHOUSE and THEL, among others, regarding the payoff
13 and settlement of loans on Susan R.'s property located on Vivente de Marlita, in San Juan
14 Capistrano, California ("San Juan Capistrano property"). On or about February 12, 2012, Susan
15 R. signed a notice to her lender titled "Please Do Not Contact Me by Phone." The notice
16 instructed GMAC Mortgage not to contact the borrower directly and to make any future
17 communication regarding her loan on the San Juan Capistrano property to "Marlene
18 Waterhouse, Short Sale Solutions, LLC who is assisting me in selling my home. The
19 information obtained by my agent is to be used for the purpose of facilitating the resolution of
20 my foreclosure." On or about February 16, 2012, seller Susan R. and prospective buyer Steven
21 S. entered into an Agreement to Select Short Sale Processor & Processor Fee Agreement
22 authorizing Short Sale Solutions, LLC to process the short sale of the San Juan Capistrano
23 property for a fee of \$3,900.

1 29.

2 From on or about February 6, 2012, through July 9, 2012, agents, employees, or
3 independent contractors working for Short Sale Solutions, including Respondents
4 WATERHOUSE and THEL, communicated directly with Susan R.'s lender to negotiate the
5 short sale, postponement of trustee sale, foreclosure forbearance, and/or loan modification of the
6 borrowers' loans secured by liens on the San Juan Capistrano property.

7 30.

8 On or about May 13, 2012, Tina Hartman and Respondent WATERHOUSE issued an
9 invoice on behalf of Tri-Generation Loan Services to listing agent Mike Ahumada for \$3,900 for
10 "processing fees" related to the San Juan Capistrano property. On or about May 16, 2012, Short
11 Sale Solutions submitted an invoice to Tri-Generation Loan Services for the San Juan Capistrano
12 property in the amount of \$3,900 as a "processing fee." On May 17, 2012, Homestead Escrow,
13 Inc. disbursed a check in the amount of \$4,290 made payable to TRI Generation Loan Services
14 for the invoice related to the San Juan Capistrano property. On May 18, 2012, Respondent
15 POWERS signed a Commission Disbursement Agreement on behalf of BRGI. The Commission
16 Disbursement Agreement noted that a commission of \$4,048.30 was due to Respondent
17 WATERHOUSE related to the San Juan Capistrano property. On May 30, 2012, Respondent
18 POWERS signed a check on behalf of Respondent BRGI. The check no. 1281 was made
19 payable to Short Sale Solutions for \$4,048.30.

20 Violations

21 31.

22 The conduct, acts and/or omissions of Respondents BRGI, POWERS and
23 WATERHOUSE, in compensating directly or indirectly, Short Sale Solutions, LLC and its
24

1 mangers, employees, or independent contractors including, without limitation, Tina P. Hartman
2 and Respondents WATERHOUSE and THEL, for engaging in activities that require a real estate
3 broker license and/or a mortgage loan originator license endorsement, as set forth above in
4 Paragraphs 4 through 30, are in violation of Code section 10137 and Section 10166.02,
5 subdivision (b). Said conduct, acts and/or omissions constitute cause for the suspension or
6 revocation of the licenses and license rights of Respondents BRGI, POWERS, and
7 WATERHOUSE pursuant to Code Sections 10177(d) (violation of the Real Estate Law) and/or
8 10177(g) (negligence).

9 32.

10 The conduct, acts and/or omissions of Respondents WATERHOUSE and THEL, in
11 engaging in activities that require a real estate broker license and/or mortgage loan originator
12 license endorsement while doing business as Short Sale Solutions, LLC, as set forth above in
13 Paragraphs 4 through 30, are in violation of Code Sections 10130 and 10166.02, and constitute
14 cause for the suspension or revocation of the licenses and license rights of Respondents
15 WATERHOUSE and THEL pursuant to Code Sections 10177(d) (violation of the Real Estate
16 Law) and/or 10177(g) (negligence).

17 33.

18 The conduct, acts and/or omissions of Respondents WATERHOUSE and THEL, in
19 making substantial misrepresentations on Short Sale Third-Party Authorization Forms, that they
20 had all licenses, permits or authorizations required by state law to perform duties undertaken in
21 connection with said short sale, as set forth above in Paragraphs 19 and 22, constitute grounds
22 for the suspension or revocation of the licenses and license rights of Respondents
23 WATERHOUSE and THEL pursuant to Code Sections 10176(a) (making any substantial
24

1 misrepresentation).

2 34.

3 The conduct, acts and/or omissions of Respondent POWERS, in allowing Respondents
4 BRGI, WATERHOUSE, and THEL to violate the Real Estate Law, as set forth above in
5 Paragraph 31, constitutes a failure by Respondent POWERS to exercise the supervision and
6 control over the activities of Respondent BRGI as required by Code Section 10159.2 and
7 Regulation 2725, and is cause to suspend or revoke the real estate license and license rights of
8 Respondent POWERS pursuant to Code Sections 10177(h), 10177(d), and/or 10177(g).

9 35.

10 Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a
11 disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the
12 administrative law judge to direct a licensee found to have committed a violation of this part to
13 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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2 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
3 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
4 against all licenses and/or license rights of Respondents, BONTERRE REALTY GROUP, INC.
5 (“BRGI”), a licensed corporate real estate broker; ANDREA G. POWERS (“POWERS”),
6 individually licensed as a real estate broker and as designated officer of Bonterre Realty Group,
7 Inc.; MARLENE A. WATERHOUSE (“WATERHOUSE”), a licensed real estate salesperson;
8 and NICOLE THEL (“THEL”), a licensed real estate salesperson, under the Real Estate Law
9 (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and
10 enforcement as permitted by law, and for such other and further relief as may be proper under
11 other provisions of law.

12 Dated at Los Angeles, California

13 this 17th day of October, 2014.

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16 
17 MARIA SUAREZ
18 Deputy Real Estate Commissioner
19
20

21 cc: Bonterre Realty Group, Inc.
22 Andrea G. Powers
23 Marlene A. Waterhouse
24 Eric Lane Engle
Nicole Thel
Sacto