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FILED

JUL 06 2015

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ROY BURKE MCGOVERN, Respondent.	No. H-3779 SAC

AMENDED ORDER GRANTING REINSTATEMENT OF LICENSE

On May 27, 2003, in Case No. H-3779 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective June 25, 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 June 25, 2003. Respondent's restricted real estate salesperson license expired October 04, 2011.

On April 10, 2014, Respondent petitioned for reinstatement of 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 submitted 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 license and that it would not be against the public interest to issue said license to Respondent.

///

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

1. Qualify for, take and pass the real estate salespserson license examination

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

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

This Order shall become effective immediately.

DATED: 7/3/2015

REAL ESTATE COMMISSIONER

Wayne S. Bell

S/a9

FILED

JUN 24 2015

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ROY BURKE MCGOVERN, Respondent.	No. H-3779 SAC

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 27, 2003, in Case No. H 3779 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective June 25, 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 June 25, 2003, and Respondent has held a restricted licensee since that time.

On April 10, 2014, Respondent petitioned for reinstatement of 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 submitted 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 license and that it would not be against the public interest to issue said license to Respondent.

///

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

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

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

This Order shall become effective immediately.

DATED: 6/18/2015

REAL ESTATE COMMISSIONER

Wayne S. Bell

FILED

APR 24 2010

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ROY BURKE MCGOVERN, Respondent.	No. H-3779 SAC

ORDER DENYING REINSTATEMENT OF LICENSE

On May 27, 2003, a Decision was rendered in Case No. H-3779 SAC revoking the real estate salesperson license of Respondent effective June 25, 2003, but granting Respondent the right to apply for and be issued a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on June 25, 2003.

On October 25, 2007, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate salesperson license at this time.

///

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

The Department has developed criteria in Section 2911 of Title 10, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

Regulation 2911(j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

Respondent has provided no information that he has made bona fide efforts to discharge his debts to others.

Regulation 2911(k) Correction of business practices resulting in injury to others or with the potential to cause such injury.

Respondent has provided no information that he has corrected his business practices.

Regulation 2911(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant.

Respondent has provided no information that he has changed his attitude which led to the conduct in question. Respondent failed to disclose four tax liens, four civil cases, and one criminal conviction on his petition.

Given the violations found and the fact that Respondent has not established that Respondent has satisfied Regulations 2911(j), (k), and (n)(1), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate salesperson license.

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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of Respondent's real estate salesperson license is denied.

This Order shall become effective at 12 o'clock noon on MAY 14 2010.

IT IS SO ORDERED 4-14-2010

JEFF DAVI
Real Estate Commissioner

FILED
MAY 31 2006
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ROY BURKE McGOVERN, Respondent.	No. H-3779 SAC

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 27, 2003, a Decision was issued herein revoking the real estate salesperson license of Respondent effective June 25, 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 June 25, 2003, and Respondent has operated as a restricted licensee since that time.

On August 25, 2005, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent 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 license and that it would not be against the public interest to issue said license to Respondent.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement is granted and that a real estate salesperson license be issued to Respondent if Respondent satisfies the following conditions within nine (9) months from the date of this Order:

1. Submittal of a completed application and payment of the fee for a real estate salesperson license.

2. Submittal of evidence of having, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.

This Order shall be effective immediately.

DATED: 5-4-06

JEFF DAVI
Real Estate Commissioner

FILED

MAR - 5 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Zen

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ROY BURKE McGOVERN, Respondent.	No. H-3779 SAC

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Respondent ROY BURKE McGOVERN:

On June 25, 2003, a restricted real estate salesperson license was issued by the Department of Real Estate to Respondent ROY BURKE McGOVERN (hereinafter "Respondent"), on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of May 27, 2003 in Case No. H-3779 SAC. The Order became effective June 25, 2003. The Order of May 27, 2003 granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and

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restrictions imposed under authority of Section 10156.6 of said Code.

Among those terms, conditions and restrictions, Respondent was required to take and pass the Professional Responsibility Examination (hereinafter "the condition") within six months after June 25, 2003, the date the restricted license was issued. The Commissioner has determined that as of January 22, 2004, Respondent has failed to satisfy this condition, and as such, Respondent is in violation of Section 10177(k) of the Business and Professions Code.

NOW, THEREFORE, IT IS ORDERED under authority of Section 10156.7 of the Business and Professions Code of the State of California that the restricted real estate salesperson license heretofore issued to Respondent, and the exercise of any privileges thereunder, is hereby suspended until such time as Respondent provides proof satisfactory to the Department of compliance with the "condition" referred to above, or pending final determination made after hearing (see "Hearing Rights" set forth below). Furthermore, Respondent has no right to renew Respondent's restricted license if this condition is not satisfied by the date Respondent's restricted license expires.

IT IS FURTHER ORDERED that all license certificates and identification cards issued by the Department which are in the possession of Respondent be immediately surrendered by personal delivery or by mailing in the enclosed, self-addressed envelope to:

///

Department of Real Estate
Attn: Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

HEARING RIGHTS: Pursuant to the provisions of Section 10156.7 of the Business and Professions Code, Respondent has the right to a hearing to contest the Commissioner's determination that Respondent is in violation of Section 10177(k). If Respondent desires a hearing, Respondent must submit a written request. The request may be in any form, as long as it is in writing and indicates that Respondent wants a hearing. The Department will not be obligated or required to provide Respondent with a hearing unless a written request for a hearing, signed by or on behalf of Respondent, is delivered or mailed to the Department at the following address:

Department of Real Estate
Attn: Legal Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall be effective immediately.

DATED: March 4, 2004

JOHN R. LIBERATOR
Acting Real Estate Commissioner
By Robin T. Wilson, Chief Counsel

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

FILED
JUN - 5 2003
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of R.M. STERLING MORTGAGE SERVICES INC., a Corporation, JOHN ALVIN BOHL, III, and ROY BURKE McGOVERN, Respondents.	DRE No. H-3779 SAC STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent ROY BURKE McGOVERN (hereinafter "McGOVERN"), Respondents R. M. STERLING MORTGAGE SERVICES, INC. (hereinafter "STERLING") and JOHN ALVIN BOHL, III (hereinafter "BOHL"), individually and by and through Kevin M. Dollison, Esq., attorney of record herein for Respondents STERLING and BOHL, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on March 13, 2003 in this matter (herein "the Accusation"):

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

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

3. On March 20, 2003, Respondents filed Notices of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents each hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that Respondents understand that by withdrawing said Notice of Defense Respondents will thereby waive Respondents' right to require the Real Estate Commissioner (herein "the Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondents will waive other rights afforded to Respondents in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondents, pursuant to the limitations set forth below, hereby admit that the factual allegations in the

Accusation are true and correct and the Real Estate Commissioner shall not be required to provide further evidence of such allegations..

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

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

7. Respondents jointly and severally agree to pay the sum of $1,683.48 to Dawn Lanier, prior to the effective date of the Decision herein, as and for restitution on account of the events which resulted in the determination that Respondents

committed the violation(s) found in paragraph I, below, of the Determination of Issues.

DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondents McGOVERN and STERLING as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondents McGOVERN and STERLING under the following provisions of the California Business and Professions Code (herein "the Code"):

(a) as to Paragraph XVI under Section 10176(a) of the Code; and

(b) as to Paragraph XVII under Section 10240 of the Code in conjunction with Section 10177(d) of the Code.

II

The acts and omissions of Respondent BOHL as described in Paragraph XVIII of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent BOHL under Sections 10177(g) and 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

///

ORDER

I

A. All licenses and licensing rights of Respondent R.M. STERLING MORTGAGE SERVICES, INC. under the Real Estate Law are revoked; provided, however, a restricted corporate real estate broker license shall be issued to said Respondent pursuant to Section 10156.5 of the Business and Professions Code if, within 90 days from the effective date of the Decision entered pursuant to this Order, the Respondent, prior to and as a condition of the issuance of said restricted license:

(a) makes application for the restricted license and pays to the Department of Real Estate the appropriate fee therefor; and

(b) submits proof satisfactory to the Commissioner that Respondent STERLING (individually or jointly with Respondents McGOVERN and BOHL) has paid restitution in the sum of $1,683.48 to Dawn Lanier.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to

Respondent's fitness or capacity as a real estate licensee.

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

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

II

A. All licenses and licensing rights of Respondent JOHN ALVIN BOHL, III under the Real Estate Law are indefinitely suspended until such time as Respondent BOHL provides proof satisfactory to the Commissioner that Respondent BOHL (individually or jointly with Respondents McGOVERN and STERLING) has paid restitution in the sum of $1,683.48 to Dawn Lanier. Upon satisfaction of this condition, the indefinite suspension provided in this paragraph shall terminate.

B. All licenses and licensing rights of Respondent BOHL under the Real Estate Law are suspended for a period of ten (10) days from the effective date of the Decision herein; provided, however, if Respondent BOHL petitions, ten (10) days of

said ten (10) day suspension (or a portion thereof) shall be stayed upon condition that:

(a) Respondent BOHL pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of $100.00 for each day of the suspension for a total monetary penalty of $1,000.00.

(b) 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.

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

(d) No final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent BOHL occurred within two (2) years of the effective date of the Decision herein. Should such a determination be made, the Commissioner may, in his or her discretion, vacate and set aside the stay order, and order the 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 this Decision.

(e) If Respondent BOHL pays the monetary penalty and

if no further cause for disciplinary action against the real estate license of Respondent BOHL occurs within two (2) years from the effective date of the Decision herein, then the stay hereby granted shall become permanent.

III

All licenses and licensing rights of Respondent ROY BURKE McGOVERN under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to such Respondent pursuant to Section 10156.5 of the Business and Professions Code if, within 90 days from the effective date of the Decision entered pursuant to this Order, the Respondent, prior to and as a condition of the issuance of said restricted license:

(a) makes application for the restricted license and pays to the Department of Real Estate the appropriate fee therefor; and

(b) submits proof satisfactory to the Commissioner that Respondent McGOVERN (individually or jointly with Respondents STERLING and BOHL) has paid restitution in the sum of $1,683.48 to Dawn Lanier.

The restricted license issued to such Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to such Respondent

may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of the Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to such Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that the Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

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

a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

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

May 12, 2003
DATED

JAMES L. BEAVER, Counsel
Department of Real Estate

* * *

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

///

4-28-03
DATED

R. M. STERLING MORTGAGE SERVICES, INC.
Respondent

By _____
JOHN ALVIN BOHL, III
Designated Officer - Broker

4-28-03
DATED

_____
JOHN ALVIN BOHL, III
Respondent

4-28-03
DATED

_____
ROY BURKE McGOVERN
Respondent

* * *

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

4/24/03
DATED

_____
KEVIN M. DOLLISON
Attorney for Respondents
STERLING and BOHL

* * *

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 JUNE 25, 2003.

IT IS SO ORDERED May 27, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

_____

FILED

APR 25 2003

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

R.M. STERLING MORTGAGE SERVICES, INC., A CORPORATION, JOHN ALVIN BOHL, III, AND ROY BURKE MC GOVERN,	Case No. H-3779 SAC OAH No. N-2003040603

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 **THE OFFICE OF ADMINISTRATIVE HEARINGS, 560 J STREET, SUITE 340/360, SACRAMENTO, CA 95814** on **THURSDAY, JULY 24, 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 subpenas 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: APRIL 25, 2003

By James L. Beaver

JAMES L. BEAVER, Counsel

JAMES L. BEAVER, Counsel (SBN 60543)
Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED
MAR 13 2003
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of R.M. STERLING MORTGAGE SERVICES, INC., a Corporation, JOHN ALVIN BOHL, III, and ROY BURKE McGOVERN, Respondents.	No. H-3779 SAC ACCUSATION

The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against R.M. STERLING MORTGAGE SERVICES, INC., a Corporation (herein "STERLING"), JOHN ALVIN BOHL, III (herein "BOHL"), and ROY BURKE McGOVERN (herein "McGOVERN"), is informed and alleges as follows:

I

The Complainant, Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

///

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II

At all times herein mentioned, Respondents STERLING, BOHL and McGOVERN (herein "Respondents") were and now are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

III

At all times herein mentioned, STERLING was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker by and through BOHL as designated officer-broker of STERLING to qualify said corporation and to act for said corporation as a real estate broker.

IV

At all times herein mentioned, BOHL was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of STERLING. As said designated officer-broker, BOHL 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 STERLING for which a license is required.

V

At all times herein mentioned, McGOVERN was and now is licensed by the Department as a real estate salesperson in the employ of Respondent STERLING.

///

VI

Whenever reference is made in an allegation in this Accusation to an act or omission of STERLING, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with STERLING committed such act or omission while engaged in the furtherance of the business or operations of such corporate Respondent and while acting within the course and scope of their authority and employment.

VII

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Sections 10131(d) and 10131(e) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated, processed, and consummated such loans.

VIII

At all times mentioned herein to and until July 16, 2002, residential real property owned and occupied by Dawn Lanier (herein "Lanier") at 12435 Huston Street, Valley Springs, Los Angeles County, California (herein "the Lanier residence") was subject to a first deed of trust securing a mortgage loan owed First Federal Bank of California (herein "First Federal")

payable in installments of $1,683.48 per month (herein "the First Federal loan").

IX

Between on or about May 13, 2002 and on or about June 13, 2002, Respondents McGOVERN and STERLING negotiated and arranged a mortgage loan from BNC Mortgage Corp (herein "BNC") to Lanier to refinance and pay off the First Federal loan and thereafter to be secured by a first deed of trust encumbering the Lanier residence (herein "the BNC loan").

X

On or about May 30, 2002, BNC issued its commitment to make the BNC loan upon the express condition, among others, of proof of payment of the May and June, 2002, installments of the First Federal loan.

XI

Commencing on or about May 31, 2002, and continuing thereafter until on and after July 13, 2002, to induce Lanier to accept the BNC loan, Respondents McGOVERN and STERLING represented to and assured Lanier that, on May 31, 2002, Respondents McGOVERN and STERLING paid the sum of $1,683.48 to First Federal as and for the May, 2002 installment of the First Federal loan, subject to the right of Respondents McGOVERN and STERLING to reimbursement therefor from Lanier, but Respondents McGOVERN and STERLING concealed and failed to disclose to Lanier that Respondents McGOVERN and STERLING retained the power to "stop payment", reverse and thereby dishonor the payment to First Federal.

XII

In reliance on the representations and assurances, and in ignorance of the facts concealed, described in Paragraph XI, above:

(a) On or about June 13, 2002, Lanier caused and permitted escrow to close consummating the BNC loan; and

(b) On or about June 21, 2002, Lanier paid $1,683.48 to Respondents McGOVERN and STERLING to reimburse said Respondents for the $1,683.48 payment to First Federal described in Paragraph XI, above.

XIII

On or about July 2, 2002, Respondents McGOVERN and STERLING "stopped payment", reversed and thereby caused to be dishonored the $1,683.48 payment to First Federal described in Paragraph XI, above.

XIV

On or about July 16, 2002, Lanier paid $1,683.48 to First Federal as and for the May, 2002 installment of the First Federal loan.

XV

At all times mentioned herein since July 16, 2002, Respondents McGOVERN and STERLING have failed and refused, despite demand therefor, to repay Lanier for the $1,683.48 payment to First Federal described in Paragraph XIV, above.

XVI

The acts and omissions of Respondents McGOVERN and STERLING described above constitute the substantial

misrepresentation of a material fact and fraud and dishonest dealing.

XVII

At all times mentioned herein, in course of the mortgage loan transaction described above, Respondent STERLING failed to comply with, and Respondent McGOVERN willfully disregarded, the provisions of Section 10240 of the Code, in that said Respondents:

(a) Failed to obtain the signature of Lanier on the statement required by Section 10240 (herein "Written Disclosure Statement");

(b) Failed to deliver a copy of the required Written Disclosure Statement to Lanier; and/or

(c) Failed to retain on file for a period of three years a true and correct copy of the required Written Disclosure Statement signed by Lanier.

XVIII

Respondent BOHL failed to exercise reasonable supervision over the acts of Respondent STERLING in such a manner as to allow the acts and omissions on the part of Respondent STERLING, described above, to occur.

XIX

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents McGOVERN and STERLING under the following provisions of the Code and/or the Regulations:

///

(a) As to Paragraph XVI, under Sections 10176(a) and 10176(i) of the Code; and

(b) As to Paragraph XVII, under Section 10240 of the Code in conjunction with Section 10177(d) of the Code.

XX

The facts alleged above as to Paragraph XVIII of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent BOHL 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.

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

CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 13th day of March, 2003.