DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED
MAY - 4 2011
DEPARTMENT OF REAL ESTATE
By R. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY, Respondents.	NO. H-4096 SD STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent JONATHAN ALDRICH KOHL (hereafter "Respondent") only, acting by and through Mary E. Work, Counsel for Respondent, and the Complainant, acting by and through John W. Barron, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed on August 26, 2010, in this matter:

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

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2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. On May 3, 2010, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the original Accusation. On September 14, 2010, Respondent filed a Second Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the First Amended Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense and Second Notice of Defense. Respondent acknowledges that Respondent understands that by withdrawing said Notice of Defense and Second Notice of Defense, Respondent will thereby waive Respondent's right to require the Commissioner to prove the allegations in the First Amended Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to Respondent in connection with the hearing such as the right to present evidence in defense of the allegations in the First Amended Accusation and the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the First Amended Accusation. In the interest of expedience and economy, Respondent chooses not to contest these factual allegations, but to remain silent and understands that, as a result thereof, these factual statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set forth below. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations. The attached Statement of Mitigation provided by Respondent is hereby incorporated by reference and shall become part of the Stipulation.

5. This Stipulation and Respondent's decision not to contest the First Amended Accusation are made for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this proceeding and any other proceeding or case in

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which the Department of Real Estate, the State or the federal government, an agency of this State, or an agency of another state is involved.

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

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

8. Respondent understands that by agreeing to this Stipulation and Agreement, Respondent agrees to pay, pursuant to Section 10148 of the Code, the cost of the audit which resulted in the determination that Respondent committed the trust fund violation(s) found in the Determination of Issues, below. The amount of said costs is $3,187.01.

9. Respondent further understands that by agreeing to this Stipulation and Agreement, the findings set forth below in the Determination of Issues become final, and that the Commissioner may charge Respondent for the costs of any audit conducted pursuant to Section 10148 of the Code to determine if the violations have been corrected. The maximum costs of said audit shall not exceed $3,187.01.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending First Amended Accusation without hearing, it is stipulated and agreed that the acts and omissions of Respondent described in the First Amended Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent

under the provisions of Sections 10085, 10145, 10146 and 10159.2 of the Business and Professions Code (hereafter "the Code") in conjunction with Sections 10177(d) of the Code, and Sections 10177(g) and 10177(h) of the Code, and Sections 2970 and 2972 of Title 10 of the California Code of Regulations in conjunction with Section 10177(d) of the Code.

ORDER

All licenses and licensing rights of Respondent under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of the Decision herein; provided, however, thirty (30) days of said suspension shall be stayed upon the condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of $50.00 for each day of the suspension for a total monetary penalty of $1,500.00:

a. 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 delivered to the Department prior to the effective date of the Decision in this matter.

b. 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.

c. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions 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, 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.

d. If Respondent pays the monetary penalty and if 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 herein, then the stay hereby granted shall become permanent.

2. Respondent shall pay the sum of $3,187.01 for the Commissioner's cost of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The Commissioner may

indefinitely suspend all licenses and licensing right of Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

3. Respondent shall pay the Commissioner's costs, not to exceed $3,187.01, of any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has corrected the violations described in the Determination of Issues, above, and any other violations found in the audit which led to this disciplinary action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice, therefore, from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. If Respondent fails to pay such cost within the sixty (60) days, the Commissioner may indefinitely suspend all licenses and licensing rights of Respondent under the Real Estate Law until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite suspension provided for in this paragraph shall be stayed.

4. Respondent shall, within six (6) months from the effective date of this Order, 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 all licenses and licensing rights until Respondent passes the examination.

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5. Notwithstanding any other provision of this Order, all licenses and licensing rights of Respondent are suspended unless and until he provides proof satisfactory to the Commissioner that he has taken and successfully completed the continuing education course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The course must have been completed no earlier than one hundred twenty (120) days prior to the effective date of this Order, and proof must be submitted prior to the effective date of this Order, to prevent suspension of Respondent's license pursuant to this condition.

12/17/2010
DATED

JOHN W. BARRON, 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 First Amended 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.

12/17/2010
DATED

JONATHAN ALDRICH KOHL
Respondent

* * *

I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.

12/17/10
DATED

MARY E. WORK
Attorney For Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent JONATHAN ALDRICH KOHL and shall become effective at 12 o'clock noon on MAY 25 2011.

IT IS SO ORDERED 5/2/11.

Acting
Real Estate Commissioner

BY: Barbara J. Bigby

DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED
APR 28 2011
DEPARTMENT OF REAL ESTATE
By R. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY, Respondents.	NO. H-4096 SD STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent DAVID MASSOT HARVEY (hereafter "Respondent") only, and the Complainant, acting by and through John W. Barron, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed on August 26, 2010, in this matter:

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

2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. On May 6, 2010, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. On September 14, 2010, Respondent filed a First Amended Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the First Amended Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense and First Amended Notice of Defense. Respondent acknowledges that Respondent understands that by withdrawing said Notice of Defense and First Amended Notice of Defense, Respondent will thereby waive Respondent's right to require the Commissioner to prove the allegations in the First Amended Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to Respondent in connection with the hearing such as the right to present evidence in defense of the allegations in the First Amended Accusation and the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the First Amended Accusation. In the interest of expedience and economy, Respondent chooses not to contest these factual allegations, but to remain silent and understands that, as a result thereof, these factual statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set forth below. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations. The attached Statement of Mitigation provided by Respondent is hereby incorporated by reference and shall become part of the Stipulation.

5. This Stipulation and Respondent's decision not to contest the First Amended Accusation are made for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate, the State or the federal government, an agency of this State, or an agency of another state is involved.

6. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and

sanctions on Respondent's real estate license and license rights as set forth in the "Order" below. In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing and proceeding on the First Amended Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.

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

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending First Amended Accusation without hearing, it is stipulated and agreed that the acts and omissions of Respondent described in the First Amended Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Sections 10085, 10145 and 10146 of the Business and Professions Code (hereafter "the Code") in conjunction with Section 10177(d) of the Code and Sections 2970 and 2972 of Title 10 of the California Code of Regulations in conjunction with Section 10177(d) of the Code.

ORDER

All licenses and licensing rights of Respondent under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of the Decision herein; provided, however, thirty (30) days of said suspension shall be stayed upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of $50.00 for each day of the suspension for a total monetary penalty of $1,500.00:

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a. 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 delivered to the Department prior to the effective date of the Decision in this matter.

b. 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.

c. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions 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, 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.

d. If Respondent pays the monetary penalty and if 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 herein, then the stay hereby granted shall become permanent.

2. Respondent shall, within six (6) months from the effective date of this Order, 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 all licenses and licensing rights until Respondent passes the examination.

3. Notwithstanding any other provision of this Order, all licenses and licensing rights of Respondent are suspended unless and until he provides proof satisfactory to the Commissioner that he has taken and successfully completed the continuing education course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The course must have been completed no earlier than one hundred twenty (120) days prior to the effective date of this Order, and proof must be submitted prior to the effective date of this Order, to prevent suspension of Respondent's license pursuant to this condition.

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2/28/11
DATED

JOHN W. BARRON, 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 First Amended 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.

1-15-11
DATED

DAVID MASSOT HARVEY
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent DAVID MASSOT HARVEY and shall become effective at 12 o'clock noon on MAY 19 2011.

IT IS SO ORDERED 4/26/2011.

JEFF DAVI
Real Estate Commissioner

H-4096 SD

FILED

SEP 21 2010

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY, Respondents.	No. H-4096 SD

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On April 26, 2010, an Accusation was filed in this matter against the above-entitled Respondents.

On August 16, 2010, Respondent LAST DANCE INC. petitioned the Commissioner to voluntarily surrender its real estate corporation license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that the petition of Respondent LAST DANCE INC. for voluntary surrender of its real estate corporation license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in the Declaration executed by Respondent LAST DANCE INC. on August 16, 2010 (attached as Exhibit "A" hereto).

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Respondent LAST DANCE INC.'s license certificate and pocket card shall be sent to the below-listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
Attention: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on OCT 12 2010

DATED: 9/15/2010

JEFF DAVI
Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY, Respondents.	No. H-4096 SD

DECLARATION

LAST DANCE INC. is licensed as a corporate real estate broker and/or has license rights with respect to said license. My name is Geoffrey Mountain and I am an officer and/or director of LAST DANCE INC., and I am authorized to sign this declaration on behalf of LAST DANCE INC. I am acting on behalf of LAST DANCE INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) I wish to voluntarily surrender the real estate license(s) issued by the Department of Real Estate ("Department") to LAST DANCE INC., pursuant to Business and Professions Code Section 10100.2.

It is understood that by so voluntarily surrendering this license, LAST DANCE INC. may be relicensed as a broker corporation only by petitioning for reinstatement pursuant to

EXHIBIT "A"

Section 11522 of the Government Code. I also understand that by so voluntarily surrendering said license, LAST DANCE INC. agree to the following:

The filing of this Declaration shall be deemed as the petition of LAST DANCE INC. for voluntary surrender. It shall also be deemed to be an understanding and agreement by LAST DANCE INC. that it hereby waives all rights it may have to require the Commissioner to prove the allegations contained in the Accusations filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that LAST DANCE INC. also waives other rights afforded to it in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses. LAST DANCE INC. further agrees that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusations heretofore filed in the Department Case No. H-4096 SD, may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that LAST DANCE INC. freely and voluntarily surrender all license(s) and license rights under the Real Estate Law.

8/16/10 Carlsbad, CA
Date and Place

Geoffrey Mountain for
LAST DANCE INC.

TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
(916) 227-0781 (Direct)

FILED

AUG 26 2010

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY, Respondents.	No. H-4096 SD FIRST AMENDED ACCUSATION

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY (hereinafter "Respondents"), is informed and alleges as follows:

1

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

2

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

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3

At all times mentioned, LAST DANCE INC., (hereinafter "LDI") was and is licensed by the State of California Department of Real Estate (hereinafter "Department") as a real estate broker corporation.

4

At all times mentioned, Respondent JONATHAN ALDRICH KOHL, (hereinafter "KOHL") was and is licensed by the Department individually as a real estate broker. At all time mention herein and continuing through October 27, 2008, KOHL was licensed as the designated broker officer of LDI. As said designated officer-broker, KOHL was 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 LDI for which a license is required.

5

At all times mentioned, Respondent DAVID MASSOT HARVEY (hereinafter "HARVEY") was and is licensed by the Department as a real estate salesperson.

6

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property.

7

In connection with the operation and conduct of the real estate activities described in Paragraph 6, HARVEY, on behalf of LDI, engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 of the Code including but not limited to the following:

Property Owner	Property Address	Date	Advance Fee
Mariano R. Albano	30534 Muir Court, Murrieta	1/14/08	$6,000
Mariano & Pavita Albano	106 East 18th Street, San Diego	8/16/07	$4,000

8

In connection with the collection and handling of said advance fee:

(a) HARVEY and LDI failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations (hereinafter "the Regulations");

(b) LDI failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Sections 10146 and 10145, and Section 2832 of the Regulations; and

(c) LDI failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations.

(d) LDI commingled with its own money or property, the money or property of others which was received or held by LDI in trust in violation of Section 10176(e) of the Code.

9

KOHL failed to exercise reasonable supervision over the acts of LDI in such a manner as to allow the acts and events described above to occur.

10

The acts and/or omissions of KOHL described in paragraph 9, constitutes failure on the part of KOHL, as designated broker-officer for LDI, to exercise reasonable supervision and control over the licensed activities of LDI required by Section 10159.2 of the Code.

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The acts and/or omissions of HARVEY described in Paragraphs 7 and 8, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085 of the Code and Section 2970 of the Regulations, and are cause for the suspension or revocation of HARVEY's license and license rights.

12

The acts and/or omissions of LDI described in Paragraphs 7 and 8, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, 10145, and 10146 of the Code and Sections 2970, 2972, and 2832 of the Regulations, and Section 10176(e) of the Code, and are cause for the suspension or revocation of LDI's license and license rights. In addition, the Department is entitled to reimbursement of the costs of its audit pursuant to Section 10148 of the Code.

13

The facts alleged in Paragraphs 9 and 10, are grounds from the suspension or revocation of the licenses and license rights of KOHL under Sections 10177(g) and/or 10177(h) of the Code, and Section 10177(d) of the Code in conjunction with Section 10159.2 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 under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) of Respondents, and for such other and further relief as may be proper under applicable provisions of law.

JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 27 day of August, 2010.

TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
(916) 227-0781 (Direct)

FILED

APR 26 2010

DEPARTMENT OF REAL ESTATE

By _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY, Respondents.	No. H-4096 SD ACCUSATION

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LAST DANCE INC., JONATHAN ALDRICH KOHL, and DAVID MASSOT HARVEY (hereinafter "Respondents"), is informed and alleges as follows:

1

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

2

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

///

3

At all times mentioned, LAST DANCE INC., (hereinafter "LDI") was and is licensed by the State of California Department of Real Estate (hereinafter "Department") as a real estate broker corporation.

4

At all times mentioned, Respondent JONATHAN ALDRICH KOHL, (hereinafter "KOHL") was and is licensed by the Department individually as a real estate broker. At all time mention herein and continuing through October 27, 2008, KOHL was licensed as the designated broker officer of LDI. As said designated officer-broker, KOHL was 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 LDI for which a license is required.

5

At all times mentioned, Respondent DAVID MASSOT HARVEY (hereinafter "HARVEY") was and is licensed by the Department as a real estate salesperson.

6

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property.

7

In connection with the operation and conduct of the real estate activities described in Paragraph 6, HARVEY, on behalf of LDI, engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the

///

meaning of Sections 10026 and 10131.2 (advance fees) of the Code including but not limited to the following:

Property Owner	Property Address	Date	Advance Fee
Mariano R. Albano	30534 Muir Court, Murrieta	1/14/08	$6,000
Mariano & Pavita Albano	106 East 18th Street, San Diego	8/16/07	$4,000

8

In connection with the collection and handling of said advance fee, HARVEY and LDI failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10, California Code of Regulations (hereinafter "Regulations").

9

KOHL failed to exercise reasonable supervision over the acts of LDI in such a manner as to allow the acts and events described above to occur.

10

The acts and/or omissions of KOHL described in paragraph 9, constitutes failure on the part of KOHL, as designated broker-officer for LDI, to exercise reasonable supervision and control over the licensed activities of LDI required by Section 10159.2 of the Code.

11

The acts and/or omissions of LDI and HARVEY described in Paragraphs 7 and 8, constitute violation of Section 10177(d) of the Code in conjunction with Section 10085 of the Code and Section 2970 of the Regulations (Submission of Advance Fee Agreement and Materials), and are cause for the suspension or revocation of LDI and HARVEY's license and license rights.

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The facts alleged in Paragraphs 9 and 10, are grounds from the suspension or revocation of the licenses and license rights of KOHL under Sections 10177(g) and/or 10177(h) of the Code, and Section 10177(d) of the Code in conjunction with Section 10159.2 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 under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) of Respondents, and for such other and further relief as may be proper under applicable provisions of law.

JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 22 day of April, 2010.