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FILED

MAR 22 2016

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MATTHEW WAYNE STEWART, Respondent.	No. H-5482 SAC

ORDER DENYING REINSTATEMENT OF LICENSE
BUT GRANTING RIGHT TO A RESTRICTED LICENSE

On May 24, 2012, in Case No. H-5482 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective June 12, 2012.

On September 28, 2015, 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.

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).

I have considered Respondent's petition and the evidence submitted in support thereof.

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

Respondent has not had the opportunity to demonstrate change in business practices.

Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real estate salesperson license.

I am satisfied, however, that it will not be against the public interest to issue a restricted real estate salesperson license to Respondent.

A restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following conditions prior to and as a condition of obtaining a restricted real estate salesperson license within twelve (12) months from the effective date of this Order:

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

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:

A. 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.

B. 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.

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

D. 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 Bureau of Real Estate which shall certify:

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

2. 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.

E. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

This Order shall become effective at 12 o'clock noon on APR 12 2016.

IT IS SO ORDERED 3/16/2016

REAL ESTATE COMMISSIONER

Wayne S. Bell

FILED

May 24, 2012

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MATTHEW WAYNE STEWART, Respondent.	No. H-5482 SAC

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

Respondent MATTHEW WAYNE STEWART petitioned the Commissioner to voluntarily surrender his real estate salesperson license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent MATTHEW WAYNE STEWART's petition for voluntary surrender of his real estate salesperson 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 MATTHEW WAYNE STEWART on April 25, 2012, (attached as Exhibit "A" hereto).

Respondent MATTHEW WAYNE STEWART'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:

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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 JUN 12 2012.

DATED: 5/24/2012

Real Estate Commissioner

By WAYNE S. BELL
Chief Counsel

DEPARTMENT OF REAL ESTATE
P. O. BOX 187007
SACRAMENTO, CA 95818-7007

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, Respondents.	NO. H-5482 SAC

DECLARATION

My name is MATTHEW WAYNE STEWART and I am currently licensed as a real estate salesperson and/or have license rights with respect to said license. I am represented in this matter by Edward O. Lear, Attorney at Law.

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 my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my license(s), I may be re-licensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to Section

EXHIBIT
A

11522 of the Government Code. I also understand that by so voluntarily surrendering my license(s), I agree to the following:

1. The filing of this Declaration shall be deemed as my petition for voluntary surrender.

2. Without admitting the allegations contained in the First Amended Accusation filed herein in Case No. H-5482 SAC on July 7, 2011, it shall also be deemed to be an understanding and agreement by me that I waive all rights I have to require the Commissioner to prove the allegations contained in the Accusation 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 I also waive other rights afforded to me 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.

3. Without admitting the allegations contained in the First Amended Accusation, I further agree 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 First Amended Accusation filed in the Department Case No. H-5482 SAC, may be considered by the Department to be true and correct for the purpose of deciding whether to grant re-licensure or reinstatement pursuant to Government Code Section 11522.

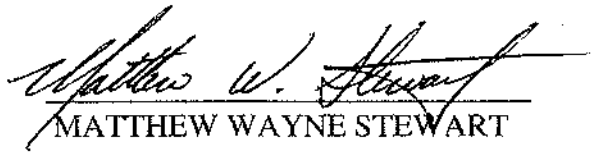
4. For purposes of expediency and economy, I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

5. This Declaration is submitted solely for purposes of concluding the proceeding in Department of Real Estate Case No. H-5482 SAC and does not constitute an admission as to any matter in any other proceeding.

6. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto. If and when a petition application is made for reinstatement of a surrendered license, the Real Estate Commissioner will consider as one of the criteria of rehabilitation,

whether or not restitution has been made to <u>any person</u> who has suffered monetary losses through "substantially related" acts or omissions of Respondent(s), whether or not such persons are named in the Accusation filed in this case.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed on April 25th, 2012, at Rocklin, California.



MATTHEW WAYNE STEWART

FILED
MAR 27 2012
Department of Real Estate
BY:

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

Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of RIVERSIDE CORP, a California Corporation, RORY LEE HOELKER, and MICHELLE CELESTE PETRUZELLI, Respondents.	No. H-5317 SAC OAH No. 2011040496
In the Matter of the Accusation of MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, Respondents.	NO. H-5482 SAC OAH No. 2011040494

STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent RIVERSIDE CORP, and RORY LEE HOELKER (hereinafter "Respondents"), acting by and through their attorney, Justin Dain Hein, and the Complainant, acting by and through Michael B. Rich, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed December 17, 2009, under Department Case No. H-5317 SAC and for the

purpose of settling and disposing of the First Amended Accusation filed on July 7, 2011, under Department Case No. H-5482 SAC (hereinafter collectively "the Accusations"):

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 Accusations, 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 of Real Estate in this proceeding.

3. On January 6, 2010, Respondents filed Notices of Defense in Case No. 5317 SAC and on October 25, 2010, Respondents filed Notices of Defense in Case No. 5482 SAC pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusations. Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of Defense Respondents will thereby waive Respondents' right to require 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 Accusations pertaining to Respondents are true and correct and stipulate and agree that the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

5. It is understood by the parties that the Real Estate 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 Accusations 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 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 Accusation without hearing, it is stipulated and agreed that the following Determination of Issues shall be made:

I

The acts and omissions of Respondent RIVERSIDE CORP described in the Accusation under Case No. H-5317 SAC are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Sections 10176(a), 10176(b), 10176(g), 10176(i), 10177(g), and Section 10177(j) of the Code, and under Sections 10232.5, 10232.5(a)(6), and Section 10240 of the Code all in conjunction with Section 10177(d) of the Code.

II

The acts and omissions of Respondent RIVERSIDE CORP described in the Accusation under Case No. H-5482 SAC are grounds for the suspension or revocation of the licenses and license rights of Respondents under the provisions of Sections 10176(a), 10176(f), 10176(g), 10176(i), 10177(g), and Section 10177(j) of the Code.

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III

The acts and omissions of Respondent RORY LEE HOELKER described in the Accusation under Case No. H-5317 SAC and in the Accusation under Case No. 5482 SAC are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Section 10159.2 of the Code and Section 2725 of the Regulations all in conjunction with Section 10177(d) of the Code and Section 10177(h) of the Code.

ORDER

I

The corporate real estate broker licenses and all license rights of Respondent RIVERSIDE CORP under the Real Estate Law are revoked; provided, however, a restricted corporate real estate broker license shall be issued to Respondent RIVERSIDE CORP pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent RIVERSIDE CORP (permitting Respondent to conduct all activities permitted by a broker license) 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 RIVERSIDE CORP 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 RIVERSIDE CORP 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 RIVERSIDE CORP 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 three (3) years have elapsed from the effective date of this Decision.

4. Any restricted real estate broker license issued to Respondent RIVERSIDE CORP may be suspended or revoked for a violation by Respondent of any of the conditions attaching to the restricted license.

5. The restricted license issued to Respondent RIVERSIDE CORP is suspended for a period of sixty (60) days from the date of issuance of said restricted license; provided, however, that if Respondent petitions, thirty (30) days of said suspension (or a portion thereof) shall be stayed upon condition that:

(a.) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of $100.00 for each day of the suspension for a total monetary penalty of $3,000.00.

(b.) Said payment shall be in the form of a cashier's check or certified check made payable to the Consumer 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.

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

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

6. Thirty (30) days of said sixty-(60) day suspension shall be stayed upon condition that:

(a) No final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent occurred within three (3) years of the effective date of the Decision herein.

(b) 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.

(c) If no order vacating the stay is issued, and if no further cause for disciplinary action against the real estate license of Respondent occurs within three (3) years from the effective date of the Decision, then the stay hereby granted shall become permanent.

7. Respondent RIVERSIDE CORP, together with Respondent RORY LEE HOELKER, shall, within twenty-four (24) months from the effective date of this Decision, provide evidence satisfactory to the Commissioner that Respondent has reimbursed Teresa Zuccala the sum of $15,500.00. If Respondent fails to satisfy this condition within 24 months from the effective date of this Decision, the Commissioner may order suspension of Respondent's restricted license until Respondent has submitted such evidence that Teresa Zuccala has been so reimbursed.

II

All licenses and licensing rights of Respondent RORY LEE HOELKER under the Real Estate Law are revoked; provided, however, a restricted 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, Respondent makes application for the restricted license and pays to the Department of Real Estate the appropriate fee therefor.

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 RORY LEE HOELKER 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.

2. The restricted license issued to Respondent RORY LEE HOELKER 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.

3. Respondent RORY LEE HOELKER 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 three (3) years have elapsed from the effective date of this Decision.

4. Respondent RORY LEE HOELKER shall, within nine (9) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, 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. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondent RORY LEE HOELKER shall, within six (6) months from the effective date of this Decision, 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 suspension of Respondent's license until Respondent passes the examination.

6. The restricted license issued to Respondent RORY LEE HOELKER is suspended for a period of sixty (60) days from the date of issuance of said restricted license; provided, however, that if Respondent petitions, thirty (30) days of said suspension (or a portion thereof) shall be stayed upon condition that:

(a.) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of $100.00 for each day of the suspension for a total monetary penalty of $3,000.00.

(b.) Said payment shall be in the form of a cashier's check or certified check made payable to the Consumer 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.

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

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

7. Thirty (30) days of said sixty-(60) day suspension shall be stayed upon condition that:

(a) No final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent occurred within three (3) years of the effective date of the Decision herein.

(b) 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.

(c) If no order vacating the stay is issued, and if no further cause for disciplinary action against the real estate license of Respondent occurs within three (3) years from the effective date of the Decision, then the stay hereby granted shall become permanent.

8. Respondent RORY LEE HOELKER, together with Respondent RIVERSIDE CORP, shall, within twenty-four (24) months from the effective date of this Decision, provide evidence satisfactory to the Commissioner that Respondent has reimbursed Teresa Zuccala the sum of $15,500.00. If Respondent fails to satisfy this condition within 24 months from the effective date of this Decision, the Commissioner may order suspension of Respondent's restricted license until Respondent has submitted such evidence that Teresa Zuccala has been so reimbursed.

February 22, 2012
DATED

MICHAEL B. RICH, Counsel
Department of Real Estate

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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.

RIVERSIDE CORP.
Respondent

2-3-2012
DATED

By: Rory Hoelker
RORY LEE HOELKER
Title: Broker

2-3-2012
DATED

RORY LEE HOELKER, Respondent

Approved as to form and content by counsel for Respondents.

2/8/2012
DATED

JUSTIN DAIN HEIN
Attorney for Respondents

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* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent RIVERSIDE CORP and Respondent RORY LEE HOELKER and shall become effective at 12 o'clock noon on APR 16 2012.

IT IS SO ORDERED 3/23/12.

BARBARA J. BIGBY
Acting Real Estate Commissioner

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

Telephone: (916) 227-0789

FILED
OCT 12 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, Respondents.	NO. H-5482 SAC STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent DANCE HALL INVESTORS, INC., and WAYNE THOMAS HALL (hereinafter referred to as "Respondents"), acting by and through their attorney of record, Mary E. Work, and the Complainant, acting by and through Michael B. Rich, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed on July 7, 2011, in this matter (hereinafter "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 of Real Estate in this proceeding.

3. On October 11, 2010, Respondents filed a 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 hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that Respondents understands that by withdrawing said Notices of Defense, Respondents will thereby waive Respondents' right to require 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, only as set forth below in the Determination of Issues, pertaining to Respondents are true and correct and stipulate and agree that the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

5. 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 Respondents' real estate licenses 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 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 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 Accusation without hearing, it is stipulated and agreed that the following Determination of Issues shall be made:

I

The acts and omissions of Respondent DANCE HALL INVESTORS, INC., described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Section 10177(g) of the Code.

II

The acts and omissions of Respondent WAYNE THOMAS HALL described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Section 10159.2 of the Code and Section 2725 of the Regulations all in conjunction with Section 10177(d) of the Code and under the provisions of Section 10177(h) of the Code.

ORDER

I

All licenses and licensing rights of Respondent DANCE HALL INVESTORS, INC., under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of the Decision herein provided, however:

1. If Respondent DANCE HALL INVESTORS, INC., petitions, thirty (30) days of the sixty (60) day suspension shall be stayed upon the condition that:

(a) Respondent DANCE HALL INVESTORS, INC., pays a monetary penalty pursuant to Section 10175.2 of the Code of $4,500.00.

(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 DANCE HALL INVESTORS, INC., 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 DANCE HALL INVESTORS, INC., 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 DANCE HALL INVESTORS, INC., 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. Thirty (30) days of said sixty (60) day suspension shall be stayed upon condition that:

(a) No final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent DANCE HALL INVESTORS, INC., occurred within two (2) years of the effective date of the Decision herein.

(b) 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 DANCE HALL INVESTORS, INC., shall

not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

(c) If no order vacating the stay is issued, and if no further cause for disciplinary action against the real estate license of Respondent DANCE HALL INVESTORS, INC., occurs within two (2) years from the effective date of the Decision, then the stay hereby granted shall become permanent.

II

All licenses and licensing rights of Respondent WAYNE THOMAS HALL, under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of the Decision herein provided, however:

1. If Respondent WAYNE THOMAS HALL petitions, thirty (30) days of the sixty (60) day suspension shall be stayed upon the condition that:

(a) Respondent WAYNE THOMAS HALL pays a monetary penalty pursuant to Section 10175.2 of the Code of $4,500.00.

(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 WAYNE THOMAS HALL 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 WAYNE THOMAS HALL 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 WAYNE THOMAS HALL 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. Thirty (30) days of said sixty (60) day suspension shall be stayed upon condition that:

(a) No final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent WAYNE THOMAS HALL occurred within two (2) years of the effective date of the Decision herein.

(b) 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 WAYNE THOMAS HALL shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

(c) If no order vacating the stay is issued, and if no further cause for disciplinary action against the real estate license of Respondent WAYNE THOMAS HALL occurs within two (2) years from the effective date of the Decision, then the stay hereby granted shall become permanent.

8/22/11
DATED

michael B. Rich
MICHAEL B. RICH, 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.

DANCE HALL INVESTORS, INC.

8-5-11
DATED

By: _____
WAYNE THOMAS HALL
President

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.

8-5-11
DATED

_____
WAYNE THOMAS HALL

Approved as to form and content by counsel for Respondent.

8/9/11
DATED

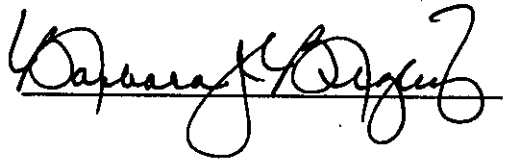
_____
MARY E. WORK
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent DANCE HALL INVESTORS, INC., and WAYNE THOMAS HALL and shall become effective at 12 o'clock noon on 11/2/2011.

IT IS SO ORDERED 9/28/11.

BARBARA J. BIGBY
Acting Real Estate Commissioner



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FILED

July 7, 2011

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, Respondents.	NO. H-5482 SAC FIRST AMENDED ACCUSATION

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, for Causes of this First Amended Accusation against MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, is informed and alleges as follows:

1

Respondent MATTHEW WAYNE STEWART (hereinafter "Respondent STEWART), DANCE HALL INVESTORS, INC. (hereinafter "Respondent DHI"), WAYNE THOMAS HALL (hereinafter "Respondent HALL"), RIVERSIDE CORP (hereinafter "Respondent RIVERSIDE"), and RORY LEE HOELKER (hereinafter "Respondent

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

2

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in her official capacity.

3

At all times herein mentioned, Respondent STEWART was and is licensed by the Department of Real Estate (hereinafter "Department") as an individual real estate salesperson. At no time has the Department licensed Respondent STEWART as a real estate broker.

4

At all times herein mentioned, Respondent DHI was and is licensed by the Department as a corporate real estate broker.

5

At all times herein mentioned, Respondent HALL was and is licensed by the Department as an individual real estate broker.

6

At all times herein mentioned, Respondent HALL was licensed by the Department as the designated broker/officer of Respondent DHI. As said designated broker/officer, Respondent HALL was, at all times herein mentioned, responsible pursuant to Sections 10159.2 and 10177(h) of the Code and Section 2725 of Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations") for the supervision of the activities of the officers, agents, and employees of, and of the real estate licensees employed by, Respondent DHI and of the activities of said corporation for which a real estate license is required.

7

At all times herein mentioned, Respondent RIVERSIDE was and is licensed by the Department as a corporate real estate broker.

8

At all times herein mentioned, Respondent HOELKER was and is licensed by the Department as an individual real estate broker.

9

At all times herein mentioned, Respondent HOELKER was licensed by the Department as the designated broker/officer of Respondent RIVERSIDE. As said designated broker/officer, Respondent HOELKER was, at all times herein mentioned, responsible pursuant to Sections 10159.2 and 10177(h) of the Code and Section 2725 Regulations for the supervision of the activities of the officers, agents, and employees of, and of the real estate licensees employed by, Respondent RIVERSIDE and of the activities of said corporation for which a real estate license is required.

10

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

11

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

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12

Respondent STEWART was licensed as a real estate salesperson in the employ of Respondent DHI from December 5, 2000, through June 21, 2009.

13

Respondent STEWART was and is licensed as a real estate salesperson in the employ of Respondent RIVERSIDE beginning July 22, 2009.

14

At all times herein mentioned, Respondent STEWART is and was the chief executive officer, corporate secretary, treasurer, sole director, and sole stockholder of Pardus Ventures, Inc., a Nevada corporation, and, therefore, Pardus Ventures, Inc., was and is the alter ego of Respondent STEWART and whenever a reference is made to an act, omission or representation of Pardus Ventures, Inc., such allegation shall be deemed to mean that Respondent STEWART was so acting, failing to act, and/or speaking.

15

At no time herein mentioned did Pardus Ventures, Inc., as a foreign corporation, register with and obtain from the California Secretary of State a certificate of qualification, and, therefore, was not authorized to transact, and was not authorized to advertise to transact, intrastate business within the State of California in violation of Section 2105 of the California Corporations Code [a foreign corporation shall not transact intrastate business without having first obtained from the Secretary of State a certificate of qualification].

16

At no time has the Department issued a real estate license to Pardus Ventures, Inc., a Nevada corporation.

17

As of December 17, 2009, Stewart Ventures, Inc., was duly incorporated in and under the laws of the State of California identified by Entity Number C3264338.

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18

At all times herein mentioned, Respondent STEWART is and was the chief executive officer of, agent for service of process for, principal director of, and principal stockholder of Stewart Ventures, Inc., and, therefore, Stewart Ventures, Inc., was and is the alter ego of Respondent STEWART and whenever a reference is made to an act, omission or representation of Stewart Ventures, Inc., such allegation shall be deemed to mean that Respondent STEWART was so acting, failing to act, and/or speaking.

19

At no time has the Department issued a real estate license to Stewart Ventures, Inc., a California corporation.

20

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 meaning of Section 10131(a) of the Code, including, on behalf of others, for or in expectation of compensation, Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchases of, solicited or obtained listings of, and/or negotiated the purchase or sale of real property.

FIRST CAUSE OF ACTION

21

There is hereby incorporated in this First, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 20, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

22

Within three years prior to the filing of this Accusation, on or about October 18, 16, 2008, in the course and scope of conducting the activities set forth in Paragraph 20, above, Respondent STEWART and Respondent DHI solicited for and negotiated a listing agreement with Eric and Julie Harvey (hereinafter "Sellers Harvey") to sell their real property identified as

12916 Austin Forest Circle in Auburn, California (hereinafter "Auburn property") with a broker's commission not to exceed 7% of the sale price.

23

At all times herein mentioned, the Auburn property was encumbered by a senior deed of trust held by Washington Mutual Bank (now J. P. Morgan Chase Bank as successor in interest, hereinafter "Chase Bank") having an approximate balance due in excess of $900,000.00 and by a junior deed of trust held by Chase Bank having an approximate balance due in excess of $225,000.00.

24

At all times herein mentioned, the value of the property was not sufficient to cover the full amount due on the loans and extinguish all costs of sale and property taxes due.

25

Within three years prior to the filing of this Accusation, Respondent STEWART and Respondent DHI solicited for and negotiated with the lender Chase Bank on behalf of Sellers Harvey to permit sale of the subject property for an amount less than needed to extinguish all costs of sale, taxes, and the full balance due on the loans secured by the subject property whereby the lender would either forgive any remaining balance due on the promissory notes and/or release their liens; a sale transaction otherwise known as a "short sale."

26

On or about May 4, 2009, Respondent STEWART and Respondent DHI received from John Renwick, a licensed real estate agent on behalf of Tom and Lesley Daley (hereinafter "Buyers Daley"), a RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS offering to purchase the Auburn property for a sale price of $665,000.00, which offer the Sellers Harvey accepted.

27

Within three years prior to the filing of this Accusation, on or about May 22, 2009, Respondent STEWART, while employed by and acting on behalf of and with the

approval or ratification of Respondent DHI, submitted to Buyers Daley through their real estate agent a written agreement entitled "S S Buyer Fee Agreement" ostensibly for the purpose of allocating a 3% sellers credit to the buyers for the purpose of compensating Pardus Ventures, Inc., for negotiating short sale terms with Chase Bank.

28

Within three years prior to the filing of this Accusation, on or about June 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent DHI, induced Buyers Daley to sign the "S S Buyer Fee Agreement" by representing to them and/or to their real estate agent that Respondent STEWART would not submit their purchase offer to Chase Bank and that they would not be able to purchase the Auburn property unless Buyers Daley signed the "S S Buyer Fee Agreement." The agreement did not contain a definite date of final termination.

29

Within three years prior to the filing of this Accusation, on or about July 16, 2009, escrow for the sale of the Auburn property to Buyers Daley closed. In addition to the total of $39,900.00 paid as commissions to the parties' respective real estate brokers from the funds available to Sellers Harvey, $19,950.00 was also paid to Pardus Ventures, Inc., from the funds available to Buyers Daley.

30

At no time herein mentioned prior to the close of escrow did Respondent STEWART or Respondent DHI inform Sellers Harvey or the lender Chase Bank that: 1.) he was requiring buyers to pay for services related to the short sale; 2.) he had required the Buyers Daley to sign the "S S Buyer Fee Agreement;" 3.) he was allocating 3% of the purchase price to Pardus Ventures, Inc.; and, 4.) that he would be the ultimate recipient and beneficiary of the 3% of the purchase price allocated to Pardus Ventures, Inc., which would increase his commission to an amount in excess of the 7% maximum authorized in the listing agreement.

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31

Upon the close of escrow, there were insufficient funds to extinguish the principal balance and costs dues under the junior note secured by the second deed of trust such that only $5,000.00 was allocated to the junior note and Sellers Harvey remained contractually liable to Chase Bank for the unpaid amounts due.

32

In truth and in fact, as Respondent STEWART and Respondent DHI knew or should have known at the time through the exercise of reasonable diligence, that: 1.) the "S S Buyer Fee Agreement" submitted to the Buyers Daley would not and did not result in any short sale negotiations or services to be performed by anyone other than by Respondent STEWART; 2.); Respondent STEWART had no intention of limiting his compensation to the amounts authorized under the listing agreement; 3.) Respondent STEWART had no intention of disclosing to Sellers Harvey the compensation and/or profit he would receive through Pardus Ventures, Inc.; 4.) Sellers Harvey would not have authorized the payment of any additional compensation or costs; 5.) as the real estate agent on behalf of Sellers Harvey, Respondent STEWART alone had sole responsibility for negotiating with Chase Bank; and, 6.) that Pardus Ventures, Inc., was not authorized to conduct business within the state of California and was not licensed by the Department to conduct activities for compensation, including negotiations on behalf of others to sell real property, that required a real estate license.

33

The acts and/or omissions of Respondents described in Paragraphs 18 through 29, inclusive, above, constituted substantial misrepresentations, fraud, deceit, and dishonest dealing.

34

The acts and/or omissions of Respondents, as alleged in Paragraphs 21 through 33, inclusive, above, above constitute grounds for the revocation or suspension of Respondents' licenses and/or license rights:

a.) As to Respondents STWEART and DHI, under Section 10176(a) of the Code [making any substantial misrepresentation];

b.) As to Respondents STWEART and DHI, under Section 10176(f) of the Code [licensee claiming or demanding compensation under an agreement for performing licensed acts not containing a definite and final date of termination];

c.) As to Respondents STWEART and DHI, under Section 10176(g) of the Code [licensee claiming or taking any secret or undisclosed compensation or profit or failure to disclose full amount of compensation or profit to licensee's employer];

d.) As to Respondents STWEART and DHI, under Section 10176(i) of the Code [engaged in any other conduct, while acting in a licensed capacity whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

e.) As to Respondents STWEART and DHI, under Section 10177(g) [demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license];

f.) As to Respondents STWEART and DHI, under Section 10177(j) of the Code [engaged in any other conduct, whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

g.) As to Respondent STWEART, under Section 10137 of the Code [no real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he licensed at the time] in conjunction with Section 10177(d) of the Code [suspension or revocation of license for willful disregard or violation of the Real Estate Law,

Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of the Regulations]; and/or,

h.) As to Respondent STEWART, under Section 10138 of the Code [unlawful to pay or deliver compensation to anyone for performing acts requiring a real estate license when such payee is not known to be so licensed] in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

35

There is hereby incorporated in this Second, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 34, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

36

Within three years prior to the filing of this Accusation, on or about May 20, 2009, in the course and scope of conducting the activities set forth in Paragraph 20, above, Respondent STEWART and Respondent RIVERSIDE solicited for and entered into a listing agreement with Sellers Morrow to sell their real property identified as 263 Hornsby Court in Folsom, California (hereinafter "Folsom property") with a broker's commission not to exceed 7% of the sale price.

37

At all times herein mentioned, the Folsom property was encumbered by a senior deed of trust held by Aurora Loan Services (hereinafter "Aurora Loan") having an approximate balance due in excess of $300,000.00 and by a junior deed of trust held by Bank of America having an approximate balance due in excess of $115,000.00.

38

At all times herein mentioned, the value of the property was not sufficient to cover the full amount due on the loans and extinguish all costs of sale and property taxes due.

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39

Within three years prior to the filing of this Accusation, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, solicited for and negotiated with the lender Aurora Loan on behalf of Sellers Morrow to permit sale of the subject property for an amount less than needed to extinguish all costs of sale, taxes, and the full balance due on the loans secured by the subject property whereby the lender would forgive any remaining balance due on the promissory notes and/or release their liens; a sale transaction otherwise known as a "short sale."

40

On or about December 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, negotiated on behalf of Sadiq Mohiuddin (hereinafter "Buyer Mohiuddin") and submitted to Sellers Morrow on behalf of Buyer Mohiuddin a RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS offering to purchase the Folsom property for a sale price of $300,000.00, which offer the Sellers Morrow accepted.

41

Within three years prior to the filing of this Accusation, on or about December 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, submitted to Buyer Mohiuddin a written agreement entitled "S S Buyer Fee Agreement" ostensibly for the purpose of allocating a 3% sellers credit to the buyer for the purpose of compensating Pardus Ventures, Inc., for negotiating short sale terms with Aurora Loan.

42

Within three years prior to the filing of this Accusation, on or about December 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, induced Buyer Mohiuddin to sign the "S S Buyer Fee Agreement" by representing to Buyer Mohiuddin that Pardus Ventures, Inc., needed

to be paid for negotiating the short sale, that Respondent STEWART would not submit the purchase offer to Aurora Loan if Buyer Mohiuddin did not sign the agreement, and that Respondent STEWART would find another buyer if Buyer Mohiuddin did not sign the agreement. The agreement did not contain a definite date of final termination.

43

Within three years prior to the filing of this Accusation, on or about February 3, 2010, escrow for the sale of the Folsom property to Buyer Mohiuddin closed. In addition to the total of $18,000.00 paid as commissions to the listing real estate broker from the funds available to Sellers Morrow, $5,000.00 was also paid to Pardus Ventures, Inc., from the funds available to Buyer Mohiuddin, and escrow was directed by Respondent STEWART to pay $1,925.00 to Stewart Ventures, Inc., from funds available to Sellers Morrow.

44

At no time herein mentioned prior to the close of escrow did Respondent STEWART or Respondent RIVERSIDE inform Sellers Morrow or the lenders Aurora Loan or Bank of America that: 1.) he was requiring buyers to pay for services related to the short sale; 2.) he had required the Buyer Mohiuddin to sign the "S S Buyer Fee Agreement;" 3.) he was allocating 3% of the purchase price to Pardus Ventures, Inc., for any purpose; 4.) he would be the ultimate recipient and beneficiary of the 3% of the purchase price allocated to Pardus Ventures, Inc., which would increase his commission to an amount in excess of the 7% maximum authorized in the listing agreement; and, 5.) that Respondent STEWART was directing escrow to pay an additional $1,925.00 of their funds to Stewart Ventures, Inc.

45

Upon the close of escrow, there were insufficient funds to extinguish the principal balance and costs dues under the junior note secured by the second deed of trust such that only $8,500.00 was allocated to the junior note and Sellers Harvey remained contractually liable to Bank of America for the unpaid amounts due.

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46

In truth and in fact, as Respondent STEWART and Respondent RIVERSIDE knew or should have known at the time through the exercise of reasonable diligence, that: 1.) the "S S Buyer Fee Agreement" submitted to the Buyer Mohiuddin would not and did not result in any short sale negotiations or services to be performed by anyone other than by Respondent STEWART; 2.); Respondent STEWART had no intention of limiting his compensation to the amounts authorized under the listing agreement; 3.) Respondent STEWART had no intention of disclosing to Sellers Morrow the compensation and/or profit he would receive through Pardus Ventures, Inc.; 4.) Respondent STEWART had no intention of disclosing to Sellers Morrow the compensation or profit he would receive through Stewart Ventures, Inc.; 5.) Sellers Morrow would not have authorized the payment of any additional compensation or costs to Pardus Ventures, Inc., or to Stewart Ventures, Inc.; 6.) as the real estate agent on behalf of Sellers Morrow, Respondent STEWART alone had sole responsibility for negotiating with Aurora Loan and Bank of America; 7.) that Pardus Ventures, Inc., was not authorized to conduct business within the state of California and was not licensed by the Department to conduct activities for compensation, including negotiations on behalf of others to sell real property, that required a real estate license; and, 8.) that Stewart Ventures, Inc., was not licensed by the Department to conduct activities for compensation, including negotiations on behalf of others to sell real property, that required a real estate license.

47

The acts and/or omissions of Respondents described in Paragraphs 35 through 47, inclusive, above, constituted substantial misrepresentations, fraud, deceit, and dishonest dealing.

48

The acts and/or omissions of Respondents as alleged in Paragraphs 35 through 47, inclusive, above, constitute grounds for the revocation or suspension of Respondents' licenses and/or license rights:

a.) As to Respondents STEWART and RIVERSIDE, under Section 10176(a) of the Code [making any substantial misrepresentation];

b.) As to Respondents STEWART and RIVERSIDE, under Section 10176(f) of the Code [licensee claiming or demanding compensation under an agreement for performing licensed acts not containing a definite and final date of termination];

c.) As to Respondents STEWART and RIVERSIDE, under Section 10176(g) of the Code [licensee claiming or taking any secret or undisclosed compensation or profit or failure to disclose full amount of compensation or profit to licensee's employer];

d.) As to Respondents STEWART and RIVERSIDE, under Section 10176(i) of the Code [engaged in any other conduct, while acting in a licensed capacity whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

e.) As to Respondents STEWART and RIVERSIDE, under Section 10177(g) [demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license];

f.) As to Respondents STEWART and RIVERSIDE, under Section 10177(j) of the Code [engaged in any other conduct, whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

g.) As to Respondents STEWART, under Section 10137 of the Code [no real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he licensed at the time] in conjunction with Section 10177(d) of the Code [suspension or revocation of license for willful disregard or violation of the Real Estate Law,

Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of the Regulations]; and/or,

h.) As to Respondents STEWART, under Section 10138 of the Code [unlawful to pay or deliver compensation to anyone for performing acts requiring a real estate license when such payee is not known to be so licensed] in conjunction with Section 10177(d) of the Code.

THIRD CAUSE OF ACTION

49

There is hereby incorporated in this Third, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 48, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

50

At all times above mentioned, Respondent HALL was responsible, as the designated broker officer of Respondent DHI, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent HALL failed to exercise reasonable supervision and control over the real property purchase and sale activities of Respondent DHI. In particular, Respondent HALL permitted, ratified, and/or caused the conduct described in the First and Second Causes of Action, above, to occur, and failed to take reasonable steps, including but not limited to: the review of transactional documents; review of purchase agreements; review of escrow instructions; review of settlement statements; prevent misrepresentations and false statements on transactional documents; prevent the payment of commissions to unlicensed entities; assure full disclosure of all compensation and profits received by licensed salesperson employees; failure to intervene in a transaction to protect consumers from the fraud of a licensed salesperson employee; the supervision of employees; and, the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law.

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51

The above acts and/or omissions of Respondent HALL constitute grounds for the suspension or revocation of the licenses and licensing rights of Respondent under the provisions of Section 10159.2 of the Code [designated broker/officer responsible for supervision and control of activities conducted on behalf of corporation by officers, licensed salespersons and employees to secure compliance with the Real Estate Law] and Section 2725 of the Regulations [broker shall: exercise reasonable supervision over licensed employees; establish policies and procedures for compliance with Real Estate Law; supervise transactions requiring a real estate license; trust fund handling; etc.] all in conjunction with Section 10177(d) of the Code and/or under the provisions of Section 10177(h) of the Code [suspension or revocation for broker or designated broker/officer who fails to exercise reasonable supervision of licensed employees or licensed activities of broker corporation].

FIFTH CAUSE OF ACTION

52

There is hereby incorporated in this Fifth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 51, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

53

At all times above mentioned, Respondent HOELKER was responsible, as the designated broker officer of Respondent RIVERSIDE, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent HOELKER failed to exercise reasonable supervision and control over the real property purchase and sale activities of Respondent RIVERSIDE. In particular, Respondent HOELKER permitted, ratified, and/or caused the conduct described in the Second Cause of Action, above, to occur, and failed to take reasonable steps, including but not limited to: the review of transactional documents; review of purchase agreements; review of escrow instructions; review of settlement statements; prevent misrepresentations and false statements on transactional

documents; prevent the payment of commissions to unlicensed entities; assure full disclosure of all compensation and profits received by licensed salesperson employees; failure to intervene in a transaction to protect consumers from the fraud of a licensed salesperson employee; the supervision of employees; and, the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law.

51

The above acts and/or omissions of Respondent HOELKER constitute grounds for the suspension or revocation of the licenses and licensing rights of Respondent under the provisions of Section 10159.2 of the Code [designated broker/officer responsible for supervision and control of activities conducted on behalf of corporation by officers, licensed salespersons and employees to secure compliance with the Real Estate Law] and Section 2725 of the Regulations [broker shall: exercise reasonable supervision over licensed employees; establish policies and procedures for compliance with Real Estate Law; supervise transactions requiring a real estate license; trust fund handling; etc.] all in conjunction with Section 10177(d) of the Code and/or under the provisions of Section 10177(h) of the Code [suspension or revocation for broker or designated broker/officer who fails to exercise reasonable supervision of licensed employees or licensed activities of broker corporation].

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 license(s) 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 provisions of law.

Tricia D. Sommers

TRICIA D. SOMMERS
Deputy Commissioner

Dated at Sacramento, California
this 6th day of July, 2011

MICHAEL B. RICH, Counsel
State Bar No. 84257
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916)-227-1126 Direct
(916) 227-0789 Legal Section

FILED
OCT 05 2010
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, Respondents.	NO. H-5482 SAC ACCUSATION

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, for Causes of Accusation against MATTHEW WAYNE STEWART, DANCE HALL INVESTORS, INC., a California corporation, WAYNE THOMAS HALL, RIVERSIDE CORP, a California corporation, and RORY LEE HOELKER, is informed and alleges as follows:

1

Respondent MATTHEW WAYNE STEWART (hereinafter "Respondent STEWART), DANCE HALL INVESTORS, INC. (hereinafter "Respondent DHI"), WAYNE THOMAS HALL (hereinafter "Respondent HALL"), RIVERSIDE CORP (hereinafter "Respondent RIVERSIDE"), and RORY LEE HOELKER (hereinafter "Respondent

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

2

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in her official capacity.

3

At all times herein mentioned, Respondent STEWART was and is licensed by the Department of Real Estate (hereinafter "Department") as an individual real estate salesperson. At no time has the Department licensed Respondent STEWART as a real estate broker.

4

At all times herein mentioned, Respondent DHI was and is licensed by the Department as a corporate real estate broker.

5

At all times herein mentioned, Respondent HALL was and is licensed by the Department as an individual real estate broker.

6

At all times herein mentioned, Respondent HALL was licensed by the Department as the designated broker/officer of Respondent DHI. As said designated broker/officer, Respondent HALL was, at all times herein mentioned, responsible pursuant to Sections 10159.2 and 10177(h) of the Code and Section 2725 of Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations") for the supervision of the activities of the officers, agents, and employees of, and of the real estate licensees employed by, Respondent DHI and of the activities of said corporation for which a real estate license is required.

7

At all times herein mentioned, Respondent RIVERSIDE was and is licensed by the Department as a corporate real estate broker.

8

At all times herein mentioned, Respondent HOELKER was and is licensed by the Department as an individual real estate broker.

9

At all times herein mentioned, Respondent HOELKER was licensed by the Department as the designated broker/officer of Respondent RIVERSIDE. As said designated broker/officer, Respondent HOELKER was, at all times herein mentioned, responsible pursuant to Sections 10159.2 and 10177(h) of the Code and Section 2725 Regulations for the supervision of the activities of the officers, agents, and employees of, and of the real estate licensees employed by, Respondent RIVERSIDE and of the activities of said corporation for which a real estate license is required.

10

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

11

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

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12

Respondent STEWART was licensed as a real estate salesperson in the employ of Respondent DHI from December 5, 2000, through July 21, 2009.

13

Respondent STEWART was and is licensed as a real estate salesperson in the employ of Respondent RIVERSIDE beginning July 22, 2009.

14

At all times herein mentioned, Respondent STEWART is and was the chief executive officer, corporate secretary, treasurer, sole director, and sole stockholder of Pardus Ventures, Inc., a Nevada corporation, and, therefore, Pardus Ventures, Inc., was and is the alter ego of Respondent STEWART and whenever a reference is made to an act, omission or representation of Pardus Ventures, Inc., such allegation shall be deemed to mean that Respondent STEWART was so acting, failing to act, and/or speaking.

15

At no time herein mentioned did Pardus Ventures, Inc., as a foreign corporation, register with and obtain from the California Secretary of State a certificate of qualification, and, therefore, was not authorized to transact, and was not authorized to advertise to transact, intrastate business within the State of California in violation of Section 2105 of the California Corporations Code [a foreign corporation shall not transact intrastate business without having first obtained from the Secretary of State a certificate of qualification].

16

At no time has the Department issued a real estate license to Pardus Ventures, Inc., a Nevada corporation.

17

As of December 17, 2009, Stewart Ventures, Inc., was duly incorporated in and under the laws of the State of California identified by Entity Number C3264338.

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18

At all times herein mentioned, Respondent STEWART is and was the chief executive officer of, agent for service of process for, principal director of, and principal stockholder of Stewart Ventures, Inc., and, therefore, Stewart Ventures, Inc., was and is the alter ego of Respondent STEWART and whenever a reference is made to an act, omission or representation of Stewart Ventures, Inc., such allegation shall be deemed to mean that Respondent STEWART was so acting, failing to act, and/or speaking.

19

At no time has the Department issued a real estate license to Stewart Ventures, Inc., a California corporation.

20

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 meaning of Section 10131(a) of the Code, including, on behalf of others, for or in expectation of compensation, Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchases of, solicited or obtained listings of, and/or negotiated the purchase or sale of real property.

FIRST CAUSE OF ACTION

21

There is hereby incorporated in this First, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 20, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

22

Within three years prior to the filing of this Accusation, on or about October 18, 16, 2008, in the course and scope of conducting the activities set forth in Paragraph 20, above, Respondent STEWART and Respondent DHI solicited for and negotiated a listing agreement with Eric and Julie Harvey (hereinafter "Sellers Harvey") to sell their real property identified as

12916 Austin Forest Circle in Auburn, California (hereinafter "Auburn property") with a broker's commission not to exceed 7% of the sale price.

23

At all times herein mentioned, the Auburn property was encumbered by a senior deed of trust held by Washington Mutual Bank (now J. P. Morgan Chase Bank as successor in interest, hereinafter "Chase Bank") having a balance due of $573,754.24 and by a junior deed of trust held by Chase Bank having a balance due of $5,000.00, for a total balance of $578,754.24.

24

At all times herein mentioned, the value of the property was not sufficient to cover the full amount due on the loans and extinguish all costs of sale and property taxes due.

25

Within three years prior to the filing of this Accusation, Respondent STEWART and Respondent DHI solicited for and negotiated with the lender Chase Bank on behalf of Sellers Harvey to permit sale of the subject property for an amount less than needed to extinguish all costs of sale, taxes, and the full balance due on the loans secured by the subject property whereby the lender would forgive any remaining balance due on the promissory notes and/or release their liens; a sale transaction otherwise known as a "short sale."

26

On or about May 4, 2009, Respondent STEWART and Respondent DHI received from John Renwick, a licensed real estate agent on behalf of Tom and Lesley Daley (hereinafter "Buyers Daley"), a RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS offering to purchase the Auburn property for a sale price of $665,000.00, which offer the Sellers Harvey accepted.

27

Within three years prior to the filing of this Accusation, on or about May 22, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent DHI, submitted to Buyers Daley through their real estate

agent a written agreement entitled "S S Buyer Fee Agreement" ostensibly for the purpose of allocating a 3% sellers credit to the buyers for the purpose of compensating Pardus Ventures, Inc., for negotiating short sale terms with Chase Bank.

28

Within three years prior to the filing of this Accusation, on or about June 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent DHI, induced Buyers Daley to sign the "S S Buyer Fee Agreement" by representing to them and/or to their real estate agent that Respondent STEWART would not submit their purchase offer to Chase Bank and that they would not be able to purchase the Auburn property unless Buyers Daley signed the "S S Buyer Fee Agreement." The agreement did not contain a definite date of final termination.

29

Within three years prior to the filing of this Accusation, on or about July 16, 2009, escrow for the sale of the Auburn property to Buyers Daley closed. In addition to the total of $39,900.00 paid as commissions to the parties' respective real estate brokers from the funds available to Sellers Harvey, $19,950.00 was also paid to Pardus Ventures, Inc., from the funds available to Buyers Daley.

30

At no time herein mentioned prior to the close of escrow did Respondent STEWART or Respondent DHI inform Sellers Harvey that: 1.) he was requiring buyers to pay for services related to the short sale; 2.) he had required the Buyers Daley to sign the "S S Buyer Fee Agreement;" 3.) he was allocating 3% of the purchase price to Pardus Ventures, Inc., for any purpose; and, 4.) that he would be the ultimate recipient and beneficiary of the 3% of the purchase price allocated to Pardus Ventures, Inc., which would increase his commission to an amount in excess of the 7% maximum authorized in the listing agreement.

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31

Upon the close of escrow, there were insufficient funds to extinguish the principal balance and costs dues under the junior note secured by the second deed of trust such that Sellers Harvey remained contractually liable to Chase Bank for the unpaid amounts due.

32

In truth and in fact, as Respondent STEWART and Respondent DHI knew or should have known at the time through the exercise of reasonable diligence, that: 1.) the "S S Buyer Fee Agreement" submitted to the Buyers Daley would not and did not result in any short sale negotiations or services to be performed by anyone other than by Respondent STEWART; 2.); Respondent STEWART had no intention of limiting his compensation to the amounts authorized under the listing agreement; 3.) Respondent STEWART had no intention of disclosing to Sellers Harvey the compensation and/or profit he would receive through Pardus Ventures, Inc.; 4.) Sellers Harvey would not have authorized the payment of any additional compensation or costs; 5.) as the real estate agent on behalf of Sellers Harvey, Respondent STEWART alone had sole responsibility for negotiating with Chase Bank; and, 6.) that Pardus Ventures, Inc., was not authorized to conduct business within the state of California and was not licensed by the Department to conduct activities for compensation, including negotiations on behalf of others to sell real property, that required a real estate license.

33

The acts and/or omissions of Respondents described in Paragraphs 21 through 32, inclusive, above, constituted substantial misrepresentations, fraud, deceit, and dishonest dealing.

34

The acts and/or omissions of Respondents, as alleged in Paragraphs 21 through 33, inclusive, above, constitute grounds for the revocation or suspension of Respondents' licenses and/or license rights:

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a.) As to Respondents STEWART and DHI, under Section 10176(a) of the Code [making any substantial misrepresentation];

b.) As to Respondents STEWART and DHI, under Section 10176(f) of the Code [licensee claiming or demanding compensation under an agreement for performing licensed acts not containing a definite and final date of termination];

c.) As to Respondents STEWART and DHI, under Section 10176(g) of the Code [licensee claiming or taking any secret or undisclosed compensation or profit or failure to disclose full amount of compensation or profit to licensee's employer];

d.) As to Respondents STEWART and DHI, under Section 10176(i) of the Code [engaged in any other conduct, while acting in a licensed capacity whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

e.) As to Respondents STEWART and DHI, under Section 10177(g) [demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license];

f.) As to Respondents STEWART and DHI, under Section 10177(j) of the Code [engaged in any other conduct, whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

g.) As to Respondent STEWART, under Section 10137 of the Code [no real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he licensed at the time] in conjunction with Section 10177(d) of the Code [suspension or revocation of license for willful disregard or violation of the Real Estate Law,

Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of the Regulations]; and/or,

h.) As to Respondent STEWART, under Section 10138 of the Code [unlawful to pay or deliver compensation to anyone for performing acts requiring a real estate license when such payee is not known to be so licensed] in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

35

There is hereby incorporated in this Second, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 34, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

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36

Within three years prior to the filing of this Accusation, on or about May 20, 2009, in the course and scope of conducting the activities set forth in Paragraph 20, above, Respondent STEWART and Respondent RIVERSIDE solicited for and entered into a listing agreement with Sellers Morrow to sell their real property identified as 263 Hornsby Court in Folsom, California (hereinafter "Folsom property") with a broker's commission not to exceed 7% of the sale price.

37

At all times herein mentioned, the Folsom property was encumbered by a senior deed of trust held by Aurora Loan Services (hereinafter "Aurora Loan") having a balance due of $258,359.25 and by a junior deed of trust held by Bank of America having a balance due of $8,500.00, for total balance of $266,859.25.

38

At all times herein mentioned, the value of the property was not sufficient to cover the full amount due on the loans and extinguish all costs of sale and property taxes due.

39

Within three years prior to the filing of this Accusation, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, solicited for and negotiated with the lender Aurora Loan on behalf of Sellers Morrow to permit sale of the subject property for an amount less than needed to extinguish all costs of sale, taxes, and the full balance due on the loans secured by the subject property whereby the lender would forgive any remaining balance due on the promissory notes and/or release their liens; a sale transaction otherwise known as a "short sale."

40

On or about December 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, negotiated on behalf of Sadiq Mohiuddin (hereinafter "Buyer Mohiuddin") and submitted to Sellers Morrow on behalf of Buyer Mohiuddin a RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS offering to purchase the Folsom property for a sale price of $300,000.00, which offer the Sellers Morrow accepted.

41

Within three years prior to the filing of this Accusation, on or about December 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, submitted to Buyer Mohiuddin a written agreement entitled "S S Buyer Fee Agreement" ostensibly for the purpose of allocating a 3% sellers credit to the buyer for the purpose of compensating Pardus Ventures, Inc., for negotiating short sale terms with Aurora Loan.

42

Within three years prior to the filing of this Accusation, on or about December 10, 2009, Respondent STEWART, while employed by and acting on behalf of and with the approval or ratification of Respondent RIVERSIDE, induced Buyer Mohiuddin to sign the "S S Buyer Fee Agreement" by representing to Buyer Mohiuddin that Pardus Ventures, Inc., needed

to be paid for negotiating the short sale, that Respondent STEWART would not submit the purchase offer to Aurora Loan if Buyer Mohiuddin did not sign the agreement, and that Respondent STEWART would find another buyer if Buyer Mohiuddin did not sign the agreement. The agreement did not contain a definite date of final termination.

43

Within three years prior to the filing of this Accusation, on or about February 3, 2010, escrow for the sale of the Folsom property to Buyer Mohiuddin closed. In addition to the total of $18,000.00 paid as commissions to the listing real estate broker from the funds available to Sellers Morrow, $5,000.00 was also paid to Pardus Ventures, Inc., from the funds available to Buyer Mohiuddin, and escrow was directed by Respondent STEWART to pay $1,925.00 to Stewart Ventures, Inc., from funds available to Sellers Morrow.

44

At no time herein mentioned prior to the close of escrow did Respondent STEWART or Respondent RIVERSIDE inform Sellers Morrow that: 1.) he was requiring buyers to pay for services related to the short sale; 2.) he had required the Buyer Mohiuddin to sign the "S S Buyer Fee Agreement;" 3.) he was allocating 3% of the purchase price to Pardus Ventures, Inc., for any purpose; 4.) he would be the ultimate recipient and beneficiary of the 3% of the purchase price allocated to Pardus Ventures, Inc., which would increase his commission to an amount in excess of the 7% maximum authorized in the listing agreement; and, 5.) that Respondent STEWART was directing escrow to pay an additional $1,925.00 of their funds to Stewart Ventures, Inc.

45

Upon the close of escrow, there were insufficient funds to extinguish the principal balance and costs dues under the junior note secured by the second deed of trust such that Sellers Morrow remained contractually liable to Bank of America for the unpaid amounts due.

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46

In truth and in fact, as Respondent STEWART and Respondent RIVERSIDE knew or should have known at the time through the exercise of reasonable diligence, that: 1.) the "S S Buyer Fee Agreement" submitted to the Buyer Mohiuddin would not and did not result in any short sale negotiations or services to be performed by anyone other than by Respondent STEWART; 2.); Respondent STEWART had no intention of limiting his compensation to the amounts authorized under the listing agreement; 3.) Respondent STEWART had no intention of disclosing to Sellers Morrow the compensation and/or profit he would receive through Pardus Ventures, Inc.; 4.) Respondent STEWART had no intention of disclosing to Sellers Morrow the compensation or profit he would receive through Stewart Ventures, Inc.; 5.) Sellers Morrow would not have authorized the payment of any additional compensation or costs to Pardus Ventures, Inc., or to Stewart Ventures, Inc.; 6.) as the real estate agent on behalf of Sellers Morrow, Respondent STEWART alone had sole responsibility for negotiating with Aurora Loan; 7.) that Pardus Ventures, Inc., was not authorized to conduct business within the state of California and was not licensed by the Department to conduct activities for compensation, including negotiations on behalf of others to sell real property, that required a real estate license; and, 8.) that Stewart Ventures, Inc., was not licensed by the Department to conduct activities for compensation, including negotiations on behalf of others to sell real property, that required a real estate license.

47

The acts and/or omissions of Respondents described in Paragraphs 35 through 46, inclusive, above, constituted substantial misrepresentations, fraud, deceit, and dishonest dealing.

48

The acts and/or omissions of Respondents as alleged in Paragraphs 35 through 47, inclusive, above, constitute grounds for the revocation or suspension of Respondents' licenses and/or license rights:

a.) As to Respondents STEWART and RIVERSIDE, under Section 10176(a) of the Code [making any substantial misrepresentation];

b.) As to Respondents STEWART and RIVERSIDE, under Section 10176(f) of the Code [licensee claiming or demanding compensation under an agreement for performing licensed acts not containing a definite and final date of termination];

c.) As to Respondents STEWART and RIVERSIDE, under Section 10176(g) of the Code [licensee claiming or taking any secret or undisclosed compensation or profit or failure to disclose full amount of compensation or profit to licensee's employer];

d.) As to Respondents STEWART and RIVERSIDE, under Section 10176(i) of the Code [engaged in any other conduct, while acting in a licensed capacity whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

e.) As to Respondents STEWART and RIVERSIDE, under Section 10177(g) [demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license];

f.) As to Respondents STEWART and RIVERSIDE, under Section 10177(j) of the Code [engaged in any other conduct, whether of the same or different character than specified in this section, constituting fraud or dishonest dealing];

g.) As to Respondent STEWART, under Section 10137 of the Code [no real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he licensed at the time] in conjunction with Section 10177(d) of the Code [suspension or revocation of license for willful disregard or violation of the Real Estate Law,

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Sections 10000 et seq. and Sections 11000 et seq. of the Code, or of the Regulations]; and/or,

h.) As to Respondent STEWART, under Section 10138 of the Code [unlawful to pay or deliver compensation to anyone for performing acts requiring a real estate license when such payee is not known to be so licensed] in conjunction with Section 10177(d) of the Code.

THIRD CAUSE OF ACTION

49

There is hereby incorporated in this Third, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 48, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

50

At all times above mentioned, Respondent HALL was responsible, as the designated broker officer of Respondent DHI, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent HALL failed to exercise reasonable supervision and control over the real property purchase and sale activities of Respondent DHI. In particular, Respondent HALL permitted, ratified, and/or caused the conduct described in the First and Second Causes of Action, above, to occur, and failed to take reasonable steps, including but not limited to: the review of transactional documents; review of purchase agreements; review of escrow instructions; review of settlement statements; prevent misrepresentations and false statements on transactional documents; prevent the payment of commissions to unlicensed entities; assure full disclosure of all compensation and profits received by licensed salesperson employees; failure to intervene in a transaction to protect consumers from the fraud of a licensed salesperson employee; the supervision of employees; and, the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law.

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51

The above acts and/or omissions of Respondent HALL constitute grounds for the suspension or revocation of the licenses and licensing rights of Respondent under the provisions of Section 10159.2 of the Code [designated broker/officer responsible for supervision and control of activities conducted on behalf of corporation by officers, licensed salespersons and employees to secure compliance with the Real Estate Law] and Section 2725 of the Regulations [broker shall: exercise reasonable supervision over licensed employees; establish policies and procedures for compliance with Real Estate Law; supervise transactions requiring a real estate license; trust fund handling; etc.] all in conjunction with Section 10177(d) of the Code and/or under the provisions of Section 10177(h) of the Code [suspension or revocation for broker or designated broker/officer who fails to exercise reasonable supervision of licensed employees or licensed activities of broker corporation].

FOURTH CAUSE OF ACTION

52

There is hereby incorporated in this Fourth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 51, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

53

At all times above mentioned, Respondent HOELKER was responsible, as the designated broker officer of Respondent RIVERSIDE, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent HOELKER failed to exercise reasonable supervision and control over the real property purchase and sale activities of Respondent RIVERSIDE. In particular, Respondent HOELKER permitted, ratified, and/or caused the conduct described in the Second Cause of Action, above, to occur, and failed to take reasonable steps, including but not limited to: the review of transactional documents; review of purchase agreements; review of escrow instructions; review of settlement statements; prevent misrepresentations and false statements on transactional

documents; prevent the payment of commissions to unlicensed entities; assure full disclosure of all compensation and profits received by licensed salesperson employees; failure to intervene in a transaction to protect consumers from the fraud of a licensed salesperson employee; the supervision of employees; and, the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law.

51

The above acts and/or omissions of Respondent HOELKER constitute grounds for the suspension or revocation of the licenses and licensing rights of Respondent under the provisions of Section 10159.2 of the Code [designated broker/officer responsible for supervision and control of activities conducted on behalf of corporation by officers, licensed salespersons and employees to secure compliance with the Real Estate Law] and Section 2725 of the Regulations [broker shall: exercise reasonable supervision over licensed employees; establish policies and procedures for compliance with Real Estate Law; supervise transactions requiring a real estate license; trust fund handling; etc.] all in conjunction with Section 10177(d) of the Code and/or under the provisions of Section 10177(h) of the Code [suspension or revocation for broker or designated broker/officer who fails to exercise reasonable supervision of licensed employees or licensed activities of broker corporation].

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 license(s) 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 provisions of law.

Tricia D. Sommers

TRICIA D. SOMMERS
Deputy Commissioner

Dated at Sacramento, California
this 14th day of September, 2010