

FILED

SEP 05 2012

1 Department of Real Estate  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

4 Telephone: (916) 227-0781

By R. Jones

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6  
7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-11255 SF

12 TIMOTHY JON CARRE, )

STIPULATION AND  
AGREEMENT

13 Respondent. )  
14

15 It is hereby stipulated by and between TIMOTHY JON CARRE (Respondent)  
16 and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of  
17 Real Estate (Department), as follows for the purpose of settling and disposing the Accusation  
18 filed on December 1, 2011 in this matter:

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

24 2. Respondent has received, read, and understands the Statement to  
25 Respondent, and the Discovery Provisions of the APA filed by the Department in this  
26 proceeding.  
27

1           3.       Respondent filed a Notice of Defense pursuant to Section 11505 of the  
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
3 Respondent hereby freely and voluntarily withdraw said Notice of Defense. Respondent  
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense  
5 Respondent will thereby waive Respondent's rights to require the Real Estate Commissioner  
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
7 accordance with the provisions of the APA, and that Respondent will waive other rights afforded  
8 to Respondent in connection with the hearing such as the right to present evidence in defense of  
9 the allegations in the Accusation and the right to cross-examine witnesses.

10           4.       This stipulation is based on the factual allegations contained in the  
11 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these  
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual  
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set forth  
14 below. The Commissioner shall not be required to provide further evidence to prove such  
15 allegations.

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

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



- 1 b) No further cause for disciplinary action against the Real Estate licenses of Respondent  
2 occurs within two (2) years from the effective date of the decision in this matter.
- 3 c) If Respondent fails to pay the monetary penalty as provided above prior to the effective  
4 date of this Order, the stay of the suspension shall be vacated and the order of suspension  
5 shall be immediately executed, in which event Respondent shall not be entitled to any  
6 repayment nor credit, prorated or otherwise, for the money paid to the Department under  
7 the terms of this Order.
- 8 d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation  
9 and Agreement and if no further cause for disciplinary action against the real estate  
10 license of Respondent occurs within two (2) years from the effective date of this Order,  
11 the entire stay hereby as to Respondent only, shall become permanent.
- 12 2) The remaining ninety (90) days of said suspension shall be stayed for two (2) years upon the  
13 following terms and conditions:
  - 14 a) Respondent shall obey all laws, rules and regulations governing the rights, duties and  
15 responsibilities of a real estate licensee in the State of California; and,
  - 16 b) That no final subsequent determination be made, after hearing or upon stipulation, that  
17 cause for disciplinary action occurred within two (2) years from the effective date of this  
18 Order. Should such a determination be made, the Commissioner may, in his discretion,  
19 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension.  
20 Should no such determination be made, the stay imposed herein shall become permanent.
- 21 3) Respondent shall, within six (6) months from the effective date of this Decision, take and  
22 pass the Professional Responsibility Examination administered by the Department including  
23 the payment of the appropriate examination fee. If Respondent fails to satisfy this condition,  
24 the Commissioner may order suspension of the license until Respondent passes the  
25 examination.

24 7-June-12  
25 DATED

24   
25 TRULY SUGHRUE  
26 Counsel for Complainant

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I have read the Stipulation and Agreement, discussed it with counsel, 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, 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.

6/14/2012  
DATED

Timothy Jon Carre  
TIMOTHY JON CARRE  
Respondent

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

6-6-12

DATED

Joshua A. Rosenthal  
JOSHUA A. ROSENTHAL  
Attorney for Respondent

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on SEP 25 2012.

IT IS SO ORDERED 8/23/2012

Real Estate Commissioner

Wayne S. Bell  
By WAYNE S. BELL  
Chief Counsel

**FILED**

**December 1, 2011**

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

DEPARTMENT OF REAL ESTATE

By *R. Jones*

6 Telephone: (916) 227-0789  
7 (916) 227-0781 (Direct)

8 **BEFORE THE DEPARTMENT OF REAL ESTATE**  
9 **STATE OF CALIFORNIA**

10 \* \* \*

11 In the Matter of the Accusation of )  
12 TIMOTHY JON CARRE, ) No. H-11255 SF  
13 Respondent. ) ACCUSATION  
14

15 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of  
16 the State of California, for cause of Accusation against TIMOTHY JON CARRE (hereinafter  
17 "Respondent"), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

19 1

20 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the  
21 State of California, makes this Accusation in his official capacity.

22 2

23 Respondent is presently licensed and/or has license rights under the Real Estate  
24 Law, Part 1 of Division 4 of the Business and Professions Code (" the Code") as a real estate  
25 salesperson. At no time after November 8, 2010, has Respondent's real estate salesperson  
26 license been affiliated with an employing broker. At no time mentioned was Respondent  
27 licensed by the Department as a real estate broker, or endorsed as a mortgage loan originator.

1 3

2 At no time mentioned was United Equity Negotiations LLC (hereinafter "UEN")  
3 licensed by the Department as a real estate broker, or endorsed as a mortgage loan originator.

4 4

5 At all times mentioned, Respondent engaged in the business of, acted in the  
6 capacity of, advertised or assumed to act as a real estate broker in the State of California within  
7 the meaning of section 10131(d) of the Code, including the operation and conduct of a mortgage  
8 loan brokerage business with the public wherein Respondent solicited lenders and borrowers for  
9 loans secured directly or collaterally by liens on real property or a business opportunity, and  
10 wherein such loans were arranged, negotiated, processed, and consummated by Respondent on  
11 behalf of others for compensation or in expectation of a compensation.

12 FIRST CAUSE OF ACTION

13 5

14 Each and every allegation in Paragraphs 1 through 4, inclusive, above, are  
15 incorporated by this reference as if fully set forth herein.

16 6

17 Beginning on or about July 2011, in the course of the activities described in  
18 Paragraph 4, Respondent, on behalf of UEN, solicited and/or performed services for borrowers,  
19 in connection with loans secured directly or collaterally by liens on real property or on a business  
20 opportunity, for or in expectation of compensation. Such activities include, but are no limited to:

21 BORROWER

PROPERTY ADDRESS

22 Jim S.

325 Brisk Avenue, Waterford, California

23 7

24 By the commission of the acts alleged above, Respondent engaged in the business  
25 and acted in the capacity of a real estate broker within the State of California as defined by  
26 Section 10131(d) of the Code.

27 ///

The facts alleged in the above are grounds for the suspension or revocation of the licenses of Respondent under Sections 10130 and 10166.02 of the Code in conjunction with 10177(d) of the Code.

SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 8, inclusive, above, are incorporated by this reference as if fully set forth herein.

In connection with the operation and conduct of the real estate activities described in Paragraph 4, Respondent engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (advance fees) of the Code including, but not limited to, the following:

<u>PROPERTY OWNER</u>	<u>DATE</u>	<u>ADVANCE FEE</u>
Jim S.	July 2011	\$3,995.00

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

The acts and/or omissions of Respondent described above, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, 10085.5, and 10146 of the Code and Section 2970 of the Regulations, and are cause for the suspension or revocation of Respondent's license and license rights.

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1 PRIOR DISCIPLINARY ACTION

2 13

3 Effective September 17, 2002, in Case No. H-8184 SF before the Department of  
4 Real Estate, the Real Estate Commissioner denied the real estate salesperson license of  
5 Respondent for violation of Section 480(a) of the Code, but granted the right to a restricted real  
6 estate salesperson license, on terms, conditions, and restrictions set forth in the Order.

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

12  
13   
14 E. J. HABERER II  
15 Deputy Real Estate Commissioner

16 Dated at Oakland, California,  
17 this 9 day of November, 2011

18 DISCOVERY DEMAND

19 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of  
20 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the  
21 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate  
22 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the  
23 Office of Administrative Hearings deems appropriate.