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DEC - 8 2011

DEPARTMENT OF REAL ESTATE
BY: Jana B. Olson

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-2532 FR
1st WEST REALTY SERVICE CORP,)
FORREST LYN DRAIN, and)
RICHARD ERLING HALVORSON,)
Respondents.)

ORDER EXTENDING TIME

On April 25, 2011, a Decision was rendered herein.
The Decision, which became effective on June 9, 2011, was
subject to certain limitations, conditions and restrictions,
including the following:

"Respondent shall, within six months from the
effective date of this Decision, provide evidence
satisfactory to the Real Estate Commissioner, that
Respondent has made payment of restitution in the
amount of \$4,832.43 to Richard Veen. If Respondent
fails to satisfy this condition, the Commissioner may
order suspension of Respondent's license until
Respondent provides evidence of payment satisfactory
to the Commissioner."

1 Good cause having been shown, the time during which
2 Respondent must pay half of the restitution amount described
3 above (\$2,416.22) is hereby extended to June 9, 2012.
4 Respondent shall still provide evidence of paying half of the
5 restitution payment (\$2,416.22) within six months of the
6 effective date of the Decision.

7 This Order shall be effective immediately.

8 DATED: 12/5, 2011

9 BARBARA J. BIGBY
10 Acting Real Estate Commissioner

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OCT 03 2011

1 Department of Real Estate
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105
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DEPARTMENT OF REAL ESTATE
BY: Richard E. Halvorson

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-2532 FR
)	L-2010120951
)	
1 st WEST REALTY SERVICE CORP,)	<u>STIPULATION AND AGREEMENT</u>
FORREST LYNN DRAIN and)	
RICHARD ERLING HALVORSON,)	
)	
Respondents.)	
)	

It is hereby stipulated by and between Respondent FORREST LYNN DRAIN and the Complainant, acting by and through James A. Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on September 20, 2010, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

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

9 3. Respondent timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondent hereby freely and voluntarily withdraws said Notice of
13 Defense. Respondent acknowledges that he understands that by
14 withdrawing said Notice of Defense he thereby waives the right to
15 require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that he will waive other rights
18 afforded to him in connection with the hearing such as the right
19 to present evidence in his defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondent chooses not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
27

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation is made for the purpose of
6 reaching an agreed disposition of this proceeding and is
7 expressly limited to this proceeding and any other proceeding or
8 case in which the Department of Real Estate ("Department"), the
9 state or federal government, or any agency of this state, another
10 state or federal government is a party.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt this Stipulation as her Decision in
13 this matter thereby imposing the penalty and sanctions on
14 Respondent's real estate license and license rights as set forth
15 in the "Order" herein below. In the event that the Commissioner
16 in her discretion does not adopt the Stipulation, it shall be
17 void and of no effect and Respondent shall retain the right to a
18 hearing and proceeding on the Accusation under the provisions of
19 the APA and shall not be bound by any stipulation or waiver made
20 herein.
21

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any matters which were not specifically
27

1 alleged to be causes for Accusation in this proceeding but do
2 constitute a bar, estoppel and merger as to any allegations
3 actually contained in the Accusation against Respondent herein.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing, it is stipulated and agreed
6 that the following determination of issues shall be made:

7 The conduct of FORREST LYNN DRAIN as described in
8 Paragraph 4 above, is a basis for discipline of Respondent's
9 license and license rights as violations of the Real Estate law
10 pursuant to Business and Professions Code ("Code") Sections
11 10177(d) and 10177(g):

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 I.

15 All licenses and licensing rights of Respondent FORREST
16 LYNN DRAIN under the Real Estate Law are suspended for a period
17 of ninety (90) days from the effective date of this Decision;
18 provided, however, that sixty (60) days of said suspension, shall
19 be stayed for one (1) year upon the following terms and
20 conditions:

- 21
- 22 1. Respondent shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and
 - 25 2. That no final subsequent determination be made,
26 after hearing or upon stipulation that cause for disciplinary
27

1 action occurred within one (1) year of the effective date of this
2 Decision. Should such a determination be made, the Commissioner
3 may, in his discretion, vacate and set aside the stay order and
4 reimpose all or a portion of the stayed suspension. Should no
5 such determination be made, the stay imposed herein shall become
6 permanent.

7 II.

8 If Respondent petitions, an additional 30 days shall be
9 stayed upon condition that:

10 1. Respondent pays a monetary penalty pursuant to
11 Section 10175.2 of the Code at the rate of \$50 for each day of
12 the suspension for a total monetary penalty of \$1,500.

13 2. Said payment shall be in the form of a cashier's
14 check or certified check made payable to the Recovery Account of
15 the Real Estate Fund. Said check must be received by the
16 Department prior to the effective date of the Decision in this
17 matter.

18 3. No further cause for disciplinary action against
19 the real estate license of Respondent occurs within one year from
20 the effective date of the Decision in this matter.

21 4. If Respondent fails to pay the monetary penalty in
22 accordance with the terms and conditions of the Decision, the
23 Commissioner may, without a hearing, order the immediate
24 execution of all or any part of the stayed suspension in which
25 event the Respondent shall not be entitled to any repayment nor
26
27

1 credit, prorated or otherwise, for money paid to the Department
2 under the terms of this Decision.

3 5. If Respondent pays the monetary penalty and if no
4 further cause for disciplinary action against the real estate
5 license of Respondent occurs within one year from the effective
6 date of the Decision, the stay hereby granted shall become
7 permanent.

8
9
10 DATED: 8/23/11

James A. Demus
11 JAMES A. DEMUS, Counsel for
12 the Department of Real Estate

13 EXECUTION OF THE STIPULATION

14 I have read the Stipulation and discussed it with my
15 counsel. Its terms are understood by me and are agreeable and
16 acceptable to me. I understand that I am waiving rights given to
17 me by the California Administrative Procedure Act (including but
18 not limited to Sections 11506, 11508, 11509 and 11513 of the
19 Government Code), and I willingly, intelligently and voluntarily
20 waive those rights, including the right of requiring the
21 Commissioner to prove the allegations in the Accusation at a
22 hearing at which I would have the right to cross-examine
23 witnesses against me and to present evidence in defense and
24 mitigation of the charges.

25 Respondent can signify acceptance and approval of the
26
27

1 terms and conditions of this Stipulation by faxing a copy of its
 2 signature page, as actually signed by Respondent, to the
 3 Department at the following telephone/fax number: James A. Demus
 4 at (213) 576-6917. Respondent agrees, acknowledges and
 5 understands that by electronically sending to the Department a
 6 fax copy of Respondent's actual signature as it appears on the
 7 Stipulation that receipt of the faxed copy by the Department
 8 shall be as binding on Respondent as if the Department had
 9 received the original signed Stipulation.

11
 12 DATED: 8/22/11

Forrest Lynn Drain
 FORREST LYNN DRAIN Respondent

14 * * *

15 The foregoing Stipulation and Agreement is hereby
 16 adopted as my Decision as to Respondent FORREST LYNN DRAIN and
 17 shall become effective at 12 o'clock noon on
 18 _____, 2011.

19 IT IS SO ORDERED _____, 2011.

21 BARBARA J. BIGBY
 Acting Real Estate Commissioner

1 terms and conditions of this Stipulation by faxing a copy of its
2 signature page, as actually signed by Respondent, to the
3 Department at the following telephone/fax number: James A. Demus
4 at (213) 576-6917. Respondent agrees, acknowledges and
5 understands that by electronically sending to the Department a
6 fax copy of Respondent's actual signature as it appears on the
7 Stipulation that receipt of the faxed copy by the Department
8 shall be as binding on Respondent as if the Department had
9 received the original signed Stipulation.

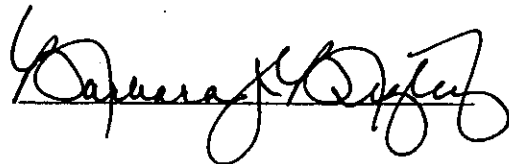
10
11
12 DATED: _____
13 FORREST LYNN DRAIN Respondent

14 * * *

15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision as to Respondent FORREST LYNN DRAIN and
17 shall become effective at 12 o'clock noon on
18 OCT 24 2011, 2011.

19 IT IS SO ORDERED 9/26, 2011.

20
21 BARBARA J. BIGBY
22 Acting Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H- 2532 FR
)	L-2010120951
<u>1ST WEST REALTY SERVICE CORP,</u>)	
FORREST LYNN DRAIN, and)	
RICHARD ERLING HALVORSON,)	
)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On September 20, 2010, an Accusation was filed in this matter against Respondent 1ST WEST REALTY SERVICE CORP.

On August 22, 2011, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent 1ST WEST REALTY SERVICE CORP's petition for voluntary surrender of its real estate broker license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated August 22,

1 2011 (attached as Exhibit "A" hereto). Respondent's license
2 certificate(s), pocket card(s) and any branch office license
3 certificate(s) shall be sent to the below listed address so that
4 they reach the Department on or before the effective date of this
5 Order:

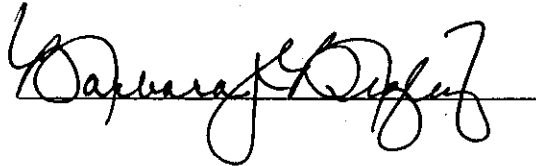
6 DEPARTMENT OF REAL ESTATE
7 Attn: Licensing Flag Section
8 P. O. Box 187000
9 Sacramento, CA 95818-7000

10 This Order shall become effective at 12 o'clock noon

11 on OCT 24 2011

12 DATED: 9/26/11

13 BARBARA J. BIGBY
14 Acting Real Estate Commissioner

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Exhibit "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-2532 FR
)	
<u>1ST WEST REALTY SERVICE CORP,</u>)	
FORREST LYNN DRAIN, and)	
RICHARD ERLING HALVORSON,)	
)	
Respondents.)	

DECLARATION

My name is FORREST LYNN DRAIN and I am authorized and empowered to sign this declaration on behalf of 1ST WEST REALTY SERVICE CORP, which is licensed as a corporate real estate broker and/or has license rights with respect to said license.

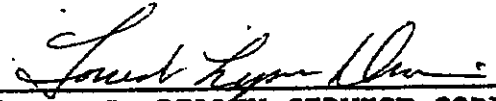
In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), 1ST WEST REALTY SERVICE CORP wishes to voluntarily surrender its real estate license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

1 I understand that 1ST WEST REALTY SERVICE CORP, by so
2 voluntarily surrendering its license, can only have it reinstated
3 in accordance with the provisions of Section 11522 of the
4 Government Code. I also understand that by so voluntarily
5 surrendering its license, 1ST WEST REALTY SERVICE CORP agrees to
6 the following:

7 The filing of this Declaration shall be deemed as its
8 petition for voluntary surrender. It shall also be deemed to be
9 an understanding and agreement by 1ST WEST REALTY SERVICE CORP
10 that it waives all rights it has to require the Commissioner to
11 prove the allegations contained in the Accusation filed in this
12 matter at a hearing held in accordance with the provisions of the
13 Administrative Procedure Act (Government Code Sections 11400 et
14 seq.), and that it also waives other rights afforded to it in
15 connection with the hearing such as the right to discovery, the
16 right to present evidence in defense of the allegations in the
17 Accusation and the right to cross-examine witnesses. I further
18 agree on behalf of 1ST WEST REALTY SERVICE CORP that upon
19 acceptance by the Commissioner, as evidenced by an appropriate
20 order, all affidavits and all relevant evidence obtained by the
21 Department in this matter prior to the Commissioner's acceptance,
22 and all allegations contained in the Accusation filed in the
23 Department Case No. H-2532 FR, may be considered by the
24 Department to be true and correct for the purpose of deciding
25 whether or not to grant reinstatement of the license of 1ST WEST
26 REALTY SERVICE CORP, pursuant to Government Code Section 11522.

1 I declare under penalty of perjury under the laws of
2 the State of California that the above is true and correct and
3 that I am acting freely and voluntarily on behalf of 1ST WEST
4 REALTY SERVICE CORP to surrender its license and all license
5 rights attached thereto.

6 8/22/11
7 Date and Place
8 1072 Bristol Street
9 Costa Mesa, CA 92626


1ST WEST REALTY SERVICE CORP
by FORREST LYNN DRAIN

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1 Department of Real Estate
320 West Fourth Street, #350
2 Los Angeles, California 90013

MAY 20 2011

3 (213) 576-6982
4 (213) 576-6910

DEPARTMENT OF REAL ESTATE
BY: James Demus

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	NO. H-2532 FR
12	1 st WEST REALTY SERVICE CORP,)	
13	FORREST LYNN DRAIN, and)	<u>STIPULATION AND AGREEMENT</u>
14	<u>RICHARD ERLING HALVORSON,</u>)	
15	Respondents.)	

16
17 It is hereby stipulated by and between
18 RICHARD ERLING HALVORSON (hereinafter "Respondent"), and the
19 Complainant, acting by and through James Demus, Counsel for the
20 Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on September 20,
22 2010 in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedure Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

7 3. Respondent, pursuant to the limitations set forth
8 below, hereby admits that the factual allegations of the
9 Accusation filed in this proceeding are true and correct and the
10 Real Estate Commissioner shall not be required to provide
11 further evidence of such allegations.

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

22 5. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation and
24 Agreement shall not constitute an estoppel, merger or bar to any
25 further administrative or civil proceedings by the Department of
26 Real Estate with respect to any matters which were not
27 specifically alleged to be causes for accusation in this

1 proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions
4 and waivers and solely for the purpose of settlement of the
5 pending Accusation without a hearing, it is stipulated and
6 agreed that the following determination of issues shall be made:

7 The conduct of Respondent RICHARD ERLING HALVORSON, as
8 set forth in the Accusation constitutes grounds for suspension
9 or revocation of Respondent's real estate salesperson license
10 under the provisions of Sections 10176(i), 10177(j) and 10177(g)
11 of the Business and Professions Code.

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 I.

15 All licenses and licensing rights of Respondent
16 RICHARD ERLING HALVORSON, under the Real Estate Law are revoked;
17 provided, however, a restricted real estate salesperson license
18 shall be issued to Respondent pursuant to Section 10156.5 of the
19 Business and Professions Code, if Respondent makes application
20 therefore and pays to the Department the appropriate fee within
21 90 days from the effective date of this Decision.

22 The restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the
24 Business and Professions Code and to the following limitations,
25 conditions and restrictions imposed under authority of Section
26 10156.6 of that code:

27

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

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

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

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

23 (a) That the employing broker has read the
24 Decision of the Commissioner which granted
25 the right to a restricted license; and

26 (b) That the employing broker will exercise
27 close supervision over the performance by

1 the restricted licensee relating to activities
2 for which a real estate license is required.

3 5. Respondent shall, within nine months from the
4 effective date of this Decision, present evidence satisfactory
5 to the Real Estate Commissioner that Respondent has, since the
6 most recent issuance of an original or renewal real estate
7 license, taken and successfully completed the continuing
8 education requirements of Article 2.5 of Chapter 3 of the Real
9 Estate Law for renewal of a real estate license. If Respondent
10 fails to satisfy this condition, the Commissioner may order the
11 suspension of the restricted license until the Respondent
12 presents such evidence. The Commissioner shall afford
13 Respondent the opportunity for a hearing pursuant to the
14 Administrative Procedure Act to present such evidence.

15 II.

16 Respondent shall within six months from the effective
17 date of this Decision, take and pass the Professional
18 Responsibility Examination administered by the Department
19 including the payment of the appropriate examination fee. If
20 Respondent fails to satisfy this condition, the Commissioner may
21 order suspension of Respondent's license until Respondent passes
22 the examination.

23 III.

24 Respondent shall, within six months from the effective
25 date of this Decision, provide evidence satisfactory to the Real
26 Estate Commissioner, that Respondent has made payment of
27 restitution in the amount of \$4,832.43 to Richard Veen. If

1 Respondent fails to satisfy this condition, the Commissioner may
2 order suspension of Respondent's license until Respondent
3 provides evidence of payment satisfactory to the Commissioner.

4 IV.

5 Respondent shall not engage in mortgage loan
6 origination activities during the term of the restricted
7 license.

8
9 DATED: 4/11/11

James O'Hemus
10 JAMES DEMUS Counsel for Complainant

11 * * *

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

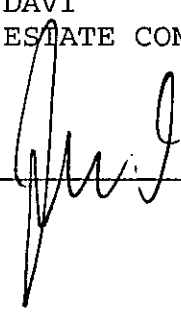
23 Respondent can signify acceptance and approval of the
24 terms and conditions of this Stipulation and Agreement by faxing
25 a copy of the signature page, as actually signed by Respondent,
26 to the Department at fax number (213) 576-6917. Respondent
27 agrees, acknowledges and understands that by electronically

1 sending to the Department a fax copy of his actual signature as
2 it appears on the Stipulation and Agreement, that receipt of the
3 faxed copy by the Department shall be as binding on Respondent
4 as if the Department had received the original signed
5 Stipulation and Agreement.

6 DATED: 7-30-11 
7 RICHARD ERLING HALVORSON, Respondent

8
9 The foregoing Stipulation and Agreement is hereby
10 adopted as my Decision in this matter and shall become effective
11 at 12 o'clock noon on JUN 09 2011.

12 IT IS SO ORDERED 4-25-2011.

13
14 JEFF DAVI
15 REAL ESTATE COMMISSIONER
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SEP 20 2010

DEPARTMENT OF REAL ESTATE

L. Henry

1 KENNETH C. ESPELL, Counsel (SBN 178757)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0868 (Direct)

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of) No. H- 2532 FR
13 1ST WEST REALTY SERVICE CORP,) ACCUSATION
14 FORREST LYNN DRAIN, and,)
15 RICHARD ERLING HALVORSON,)
16 Respondents.)

17 The Complainant, LUKE MARTIN, in his official capacity as a Deputy Real
18 Estate Commissioner of the State of California, for cause of Accusation against 1ST WEST
19 REALTY SERVICE CORP ("1ST WEST"), FORREST LYNN DRAIN ("DRAIN") and
20 RICHARD ERLING HALVORSON ("HALVORSON") (hereinafter collectively
21 "Respondents"), is informed and alleges as follows:

22 1

23 Respondent 1ST WEST is presently licensed and/or has license rights under the
24 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), (hereinafter "the
25 Code") as a corporate real estate broker.

26 ////

27 ////

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2 Respondent DRAIN is presently licensed and/or has license rights under the Real
3 Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code")
4 as a real estate broker and at all times mentioned herein, for or in expectation of compensation,
5 was performing acts requiring a real estate license.

6 3

7 Whenever reference is made in an allegation in this Accusation to an act or
8 omission of Respondent 1ST WEST, such allegation shall be deemed to mean that the officers,
9 directors, employees, agents and real estate licensees employed by or associated with Respondent
10 1ST WEST committed such act or omission while engaged in the furtherance of the business or
11 operations of Respondent 1ST WEST and while acting within the course and scope of their
12 corporate authority and employment.

13 4

14 Respondent DRAIN is the designated officer/broker of Respondent 1ST WEST.
15 Pursuant to Sections 10159.2 and 10177(h) of the Code, as the designated officer/broker of
16 Respondent 1ST WEST, Respondent DRAIN was at all times mentioned herein responsible for
17 the supervision of the activities of the officers, agents, real estate licensees and employees of
18 Respondent 1ST WEST.

19 5

20 At all times herein mentioned, Respondent 1ST WEST engaged in the business of,
21 acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of
22 California within the meaning of Sections 10131(a) and 10131(b) of the Code including the
23 operation and conduct of a mortgage loan brokerage business with the public wherein
24 Respondent 1ST WEST solicited lenders and borrowers for loans secured directly or collaterally
25 by liens on real property or a business opportunity, and wherein such loans were arranged,
26 negotiated, processed, and consummated by Respondent 1ST WEST on behalf of others and
27 wherein promissory notes or interests therein were sold or purchased on behalf of another or

1 others for compensation or in expectation of compensation and, the operation and conduct of a
2 residential resale brokerage wherein Respondent 1ST WEST bought, sold, or offered to buy or
3 sell, solicited or obtained listings of, and negotiated the purchase, sale or exchange of real
4 property or business opportunities.

5 6

6 Respondent HALVORSON is presently licensed and/or has license rights under
7 the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the
8 Code") as a real estate salesperson licensed to Respondent 1ST WEST and at all times mentioned
9 herein, for or in expectation of compensation, was performing acts requiring a real estate license.

10 7

11 In at least two closed loan transactions, set out below, 1ST WEST failed to
12 maintain true and correct copies of the MLDS as signed by borrower as required by Sections
13 10240 (Written Mortgage Loan Disclosure Statement required) and 10241 (Guidelines for
14 Mortgage Loan Disclosure Statement content) of the Code.

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16 Investor Name	Loan Amount	Date Closed
17 Richard Veen	\$400,000.00	12/11/2007
18 Richard Veen	\$750,000.00	07/09/2009

19 8

20 In at least four closed transactions, set out below, 1ST WEST failed to include
21 accurate broker compensation disclosures as required by Sections 10240 and 10241 of the Code
22 which included the payment of a Yield Spread Premium to Respondents which resulted in a
23 higher interest rate for the borrowers' loan.

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Borrower Name	Loan Amount	Date Closed	Commission Disclosed on MLDS	Undisclosed Yield Spread Premium	Commission Reported on the Hud-1 Statement
Richard Veen	\$400,000.00	12/11/2007	No Signed MLDS	\$1,500.00	\$5,500.00
Richard Veen	\$675,000.00	07/09/2009	No Signed MLDS	\$7,340.40	\$7,340.40
Bala Bhat	\$750,000.00	02/29/2008	\$8,536.00	\$8,574.80	\$8,574.80
Jose Landin	\$150,000.00	03/28/2008	\$1,500.00	\$1,068.00	\$2,568.00

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On or about April 13, 2010, HALVORSON contacted Jose Landin, a client of HALVORSON's, informing Landin that HALVORSON was under investigation by the "government." HALVORSON told Landin to expect a letter from the government concerning the investigation and instructed Landin to ignore the letter and to "throw it away." In addition, at that time HALVORSON requested that Landin execute a Mortgage Loan Disclosure Statement for Landin's 2008 loan mentioned above. HALVORSON's contact with Landin constitutes a deliberate attempt to interfere with the Department's investigation and is cause for suspension or revocation of all licenses and license rights of Respondent HALVORSON under Sections 10176 (i) (Fraud or dishonest dealing) or 10177(j) (Other conduct which is fraud or dishonest dealing).

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Respondent DRAIN, as the designated officer/broker of Respondent 1ST WEST was required to exercise reasonable supervision and control over the activities of Respondent 1ST WEST and HALVORSON. Respondent DRAIN permitted and/or otherwise ratified the aforementioned acts and otherwise failed to exercise reasonable supervision and control over the activities of Respondent 1ST WEST and HALVORSON. DRAIN's failures, and each of them, violate Section 10159.2 of the Code (The officer designated by the corporate broker license . . . shall be responsible for the supervision and control of the activities conducted on behalf of the corporation) and therefore, constitutes cause for suspension or revocation of all licenses and license rights of Respondent DRAIN under Section 10177(d) of the Code.

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2 The acts and omissions of 1ST WEST, DRAIN and/or HALVORSON as
3 described in Paragraphs 1 through 12, above, jointly and severally, are grounds for suspension
4 or revocation of all licenses and license rights of 1ST WEST, DRAIN and/or HALVORSON
5 under Section 10176 (i) (Fraud or dishonest dealing) or 10177(j) (Other conduct which is fraud
6 or dishonest dealing) of the Code, or in the alternative, Section 10177(g) of the Code
7 (Negligence or incompetence in performing licensed acts).

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
9 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondents 1ST WEST REALTY SERVICE
11 CORP, FORREST LYNN DRAIN, and RICHARD ERLING HALVORSON under the Real
12 Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and
13 further relief as may be proper under other applicable provisions of law.

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16 
17 LUKE MARTIN
Deputy Real Estate Commissioner

18 Dated at Fresno, California
19 this 13th day of Sept, 2010.
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