

FILED

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BUREAU OF REAL ESTATE

By M. Roberts

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9 BEFORE THE BUREAU OF REAL ESTATE  
10 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of )  
12 ) NO. H-3076 FR  
13 STERLING PACIFIC LENDING, INC., )  
14 and JOSHUA CHRISTOPHER FISCHER, ) ACCUSATION  
15 Respondents. )

16 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the  
17 State of California, for Accusation against Respondents STERLING PACIFIC LENDING, INC.  
18 (SPL) and JOSHUA CHRISTOPHER FISCHER (FISCHER), sometimes collectively referred to  
19 as Respondents, is informed and alleges as follows:

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21 The Complainant makes this Accusation against Respondents in her official  
22 capacity.

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24 At all times herein mentioned, SPL was and is presently licensed and/or has  
25 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and  
26 Professions Code (the Code) by the Bureau of Real Estate (the Bureau) as a corporate real estate  
27 broker.

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FISCHER is presently licensed and/or has license rights under the Code as a real estate broker.

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At all times herein mentioned, FISCHER was licensed by the Bureau as the designated broker/officer of SPL. As the designated broker/officer, FISCHER was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of SPL for which a real estate license is required.

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

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

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 6, above, and incorporates the same herein.

Beginning August 10, 2015, and continuing intermittently through October 20, 2015, an audit was conducted of Respondents' mortgage loan business at SPL's main office located at 1205 Freedom Blvd., Ste. 2, Watsonville, California, and at the Oakland District Office of the Bureau of Real Estate at 1515 Clay Street, Suite 702, Oakland, California, where the auditor examined records for the period of January 1, 2014, through July 31, 2015 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, SPL accepted or received funds in trust from investors and others in connection with those activities, and deposited or caused to be deposited those funds into bank accounts maintained by SPL, at Santa Cruz County Bank, 595 Auto Center Drive, Watsonville, CA 95076, as described below:

TRUST ACCOUNT #1	
Account No.:	XXXXX5838
Entitled:	Sterling Pacific Lending Inc dba Sterling Pacific Financial Servicing Trust Account

TRUST ACCOUNT #2	
Account No.:	XXXXX5820
Entitled:	Sterling Pacific Lending Inc dba Sterling Pacific Financial Escrow Trust Account

TRUST ACCOUNT #3	
Account No.:	XXXXX5846
Entitled:	Sterling Pacific Lending Inc dba Sterling Pacific Financial Construction Trust Account

and thereafter from time-to-time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

(a) SPL solicited individuals for investments, which are set forth below, which were used to fund loans. For the single investor loans, Nos. B15066602 and B1506016, SPL failed to name the lender as beneficiary on the deed of trust as required by Section 2841.5 of the Regulations and Section 10234(a) of the Code;

(b) For the multi-investor loans, Nos. B14120003, B1504002, B1406005 and B1405003, SPL failed to record interests of the individual investors, as required by Section 10238(g) of the Code;

(c) For all six loans, set forth below, SPL failed to record deeds of trust prior to the release of funds as required by Section 10234(a) of the Code:

Loan #	Borrower	Investor(s)
B15066602	Arnold B. & Coleen B.	Westate Acquisitions, LLC
B1506016	Kenneth M. & Muriel M.	Gilbert K.
B14120003	Julian J. & Gladys A.	Ronald M., Gilbert K., Thomas W. S., James B & Westate
B1504002	Bryan M. & Tammy M.	Ted C., Rober J., David B., Nancy S. B, Stanley O. N. & Yosemite View Lodge, LLC
B1406005	Soquel Technologies, LLC	Sal L. & Dawn L.
B1405003	Verde Agribusiness, LLC	Marvin G. L & Westate

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Loan #	Loan Amt.	Date Funded	Date Recorded	Date of Prom. Note	Date Exec/Assgn of DOT
B1506002	\$150,000	06/19/15	06/19/15	06/11/15	07/08/15
B1506016	\$100,000	06/30/15	06/30/15	06/04/15	07/08/15
B1512003	\$266,000	01/09/15	01/09/15	12/15/14	02/27/15
B1504002	\$200,000	04/17/15	04/17/15	04/01/15	05/05/15
B1406005	\$125,000	08/15/14	08/15/14	08/01/14	10/03/14
B1405003	\$850,000	08/29/14	08/29/14	08/01/14	08/29/14

(d) For Loans No. B1504002 and B1405003, SPL calculated the loan to value ratio incorrectly, in violation of Sections 10238(h)(1) and 10238(h)(2) of the Code. The loan to value calculations by SPL for these loans did not fall within the exceptions set for in Section 10238(h)(2) of the Code;

(e) For Loan No. B1504002, SPL failed to provide an independent appraisal or a written broker evaluation of fair market value of real property securing the note(s) as required by Section 10238(h)(3) of the Code;

(f) SPL accepted funds from Sal L. and Dawn L. without a specific loan amount, in violation of Section 10238(j) of the Code;

(g) SPL failed to provide Lender Purchaser Disclosure Statements (LPDS) to Paul V. M. on Loan No. B14120003, as required by Section 10238(l) of the Code;

(h) SPL failed to obtain information from any of the lenders for the six loans set forth above, OR complete the Investor Questionnaire, as required by Section 10232.45 of the Code;

(i) SPL failed to deliver the Mortgage Loan Disclosure Statements (MLDS) to any of the borrowers on the six loans set forth above, as required by Section 10240 of the Code.

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The acts and/or omissions of SPL as alleged above violate Sections 2726, 2731, 2841.5 of the Regulations and Sections 10232.45, 10234(a), 10238(g), 10238 (h)(1), 10238(h)(2), 10238(h)(3), 10238 (l) and 10240 of the Code and are grounds for disciplinary action under Section 10177 (d) (willful disregard/violation of Real Estate Law) and 10177 (g) (negligence/incompetence of real estate licensee) of the Code.

SECOND CAUSE OF ACTION

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Complainant refers to Paragraphs 1 though 11, above, and incorporates them herein by reference.

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At all times herein above mentioned, FISCHER was responsible, as the designated broker/officer of SPL, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. FISCHER failed to exercise reasonable supervision and control over the property management brokering activities of SPL. In particular, FISCHER permitted, ratified and/or caused the conduct described above, to occur, and failed to take reasonable steps, including but not limited to the handling of trust funds, supervision of employees, and the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

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The above acts and/or omissions of FISCHER violate Section 10159.2 of the Code and Section 2725 of the Regulation and are grounds for disciplinary action under Sections 10177 (d) and 10177 (g) of the Code.

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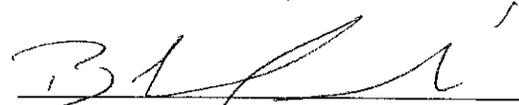
Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the department, the Commissioner may request the

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1 administrative law judge to direct a licensee found to have committed a violation of this part to  
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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

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BREND A SMITH  
Supervising Special Investigator

Dated at Fresno, California,  
this 3 day of February, 2017.