

1 basis for disciplinary action in this matter is Respondent's
2 operation of a real estate brokerage business with only nominal
3 supervision by a real estate broker. Prior to obtaining an
4 unrestricted real estate salesperson license, Respondent must
5 demonstrate in a supervised setting that the events that led to
6 the disciplinary action in this matter will not recur. In
7 addition, Respondent has no experience acting in a fiduciary
8 capacity since the effective date of the Decision in this matter.
9 Consequently, Respondent is not able to present any evidence of
10 correction of practices that led to the disciplinary action in
11 this matter. Respondent, therefore, has not demonstrated
12 compliance with Section 2911(j), Title 10, California Code of
13 Regulations. In view of the conduct that led to the disciplinary
14 action in this matter, additional time in a supervised setting is
15 required to establish that Respondent is rehabilitated.

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

19 NOW, THEREFORE, IT IS ORDERED that Respondent's
20 petition for reinstatement of Respondent's real estate
21 salesperson license is denied.

22 A restricted real estate salesperson license shall be
23 issued to Respondent pursuant to Section 10156.5 of the Business
24 and Professions Code, if Respondent satisfies the following
25 conditions within nine (9) months from the date of this Order:

26 1. Submittal of a completed application and payment
27 of the fee for a real estate salesperson license.

1 2. Submittal of evidence of having, since the most
2 recent issuance of an original or renewal real estate license,
3 taken and successfully completed the continuing education
4 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
5 for renewal of a real estate license.

6 The restricted license issued to Respondent shall be
7 subject to all of the provisions of Section 10156.7 of the
8 Business and Professions Code and to the following limitations,
9 conditions, and restrictions imposed under authority of Section
10 10156.6 of that Code.

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

16 2. The restricted license issued to Respondent may
17 be suspended prior to hearing by Order of the Real Estate
18 Commissioner on evidence satisfactory to the Commissioner that
19 Respondent has violated provisions of the California Real
20 Estate Law, the Subdivided Lands Law, Regulations of the Real
21 Estate Commissioner or conditions attaching to the restricted
22 license.

23 3. Respondent shall submit with any application for
24 license under an employing broker, or any application for
25 transfer to a new employing broker, a statement signed by the
26 prospective employing broker on a form approved by the Department
27 of Real Estate which shall certify:

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

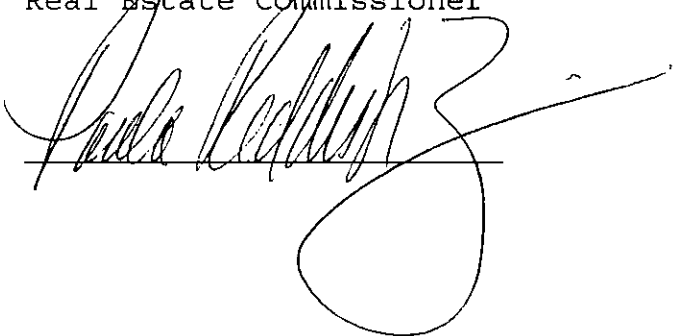
b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

4. 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.

This Order shall be effective at 12 o'clock noon on December 3, 2003.

DATED: Dr. Peter 23, 2003

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED
JAN 13 2000

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
GREG SCOTT SCHMIDT and)	NO. H-3429 SAC
STEVEN J. BREDY,)	OAH NO. N-1999060122
Respondents.)	

ORDER DENYING RECONSIDERATION
AS TO RESPONDENT STEVEN J. BREDY

On November 24, 1999, a Decision was rendered in the above-entitled matter. The Decision is to become effective January 14, 2000.

On December 13, 1999, Respondent STEVEN J. BREDY petitioned for reconsideration of the Decision of November 24, 1999.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of November 24, 1999, and reconsideration is hereby denied.

IT IS HEREBY ORDERED January 13, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

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FILED
DEC 14 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Conteras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of))	
GREG SCOTT SCHMIDT and,))	NO. H-3429 SAC
STEVEN J. BREDY,))	
Respondents.))	OAH NO. N-1999060122

ORDER STAYING EFFECTIVE DATE

On November 2, 1999, a Decision was rendered as to Respondent STEVEN J. BREDY in the above-entitled matter to become effective December 15, 1999. On December 13, 1999, Respondent STEVEN J. BREDY petitioned for reconsideration of the Decision of November 2, 1999.

IT IS HEREBY ORDERED that the effective date of the Order of the Commissioner of November 2, 1999, is stayed for a period of thirty (30) days, as to STEVEN J. BREDY.

The Order of the Commissioner of November 2, 1999, shall become effective at 12 o'clock noon on January 14, 2000.

DATED: December 14, 1999.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

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FILED

DEC 3 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of))	
GREG SCOTT SCHMIDT and,))	NO. H-3429 SAC
STEVEN J. BREDY,))	
Respondents.))	OAH NO. N-1999060122

ORDER STAYING EFFECTIVE DATE

On November 2, 1999, a Decision was rendered as to Respondent GREG SCOTT SCHMIDT in the above-entitled matter to become effective December 15, 1999. On December 2, 1999, Respondent GREGG SCOTT SCHMIDT petitioned for reconsideration of the Decision of November 2, 1999.

IT IS HEREBY ORDERED that the effective date of the Order of the Commissioner of November 2, 1999, is stayed for a period of thirty (30) days.

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The Order of the Commissioner of November 2, 1999,
shall become effective at 12 o'clock noon on January 14, 2000.

DATED: December 3, 1999.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: *John R. Liberator*
JOHN R. LIBERATOR
Chief Deputy Commissioner

FILED
NOV 24 1999

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By *Jan Rumbold*

* * *

In the Matter of the Accusation of)
)
GREG SCOTT SCHMIDT AND)
STEVEN J. BREDY,)
)
Respondents.)
_____)

NO. H-3429 SAC
OAH NO. N-1999060122

DECISION

The Proposed Decision dated October 21, 1999, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon
on December 15, 1999.

IT IS SO ORDERED November 2, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GREG SCOTT SCHMIDT and

STEVEN J. BREDY

Respondents.

Case No. H- 3429 SAC

OAH No. N1999060122

PROPOSED DECISION

On September 9, 1999, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Thomas C. Lasken, Counsel, represented the complainant.

James Brunello, Attorney at Law, represented respondent Steven J. Bredy (Bredy).

Greg Scott Schmidt (Schmidt), respondent, appeared in his own behalf.

Evidence was received and the record remained open for the receipt of written closing arguments. Complainant's written closing argument was received on September 24, 1999, and was marked for identification as complainant's Exhibit 11. Respondent's written closing argument was received on September 24, 1999, and was marked for identification as respondent's Exhibit A. The record was closed and the matter was submitted on September 24, 1999.

FACTUAL FINDINGS

1. Charles W. Koenig (Koenig), Deputy Real Estate Commissioner, Department of Real Estate (Department), State of California, filed the Accusation against respondents. Koenig acted in his official capacity.

2. Schmidt is licensed as a real estate broker in the State of California with license number 00594424. It has been in full force and effect at all times relevant to this matter and will expire on January 4, 2000, unless renewed.

Effective June 12, 1984, in the action entitled "In the Matter of the Accusation of Greg Scott Schmidt ...", case number H-1954 SAC, Schmidt's real estate broker's license was revoked and he was issued a restricted broker's license with various terms and conditions for violations of the trust fund requirements.

3. Bredy is licensed as a real estate salesperson in the State of California with license number 01117509. It has been in full force and effect at all times relevant to this matter and will expire on November 15, 2000, unless renewed.

4. In early 1993, Schmidt's real estate broker's license included a doing business as The Hughes Company. Effective April 12, 1993, Schmidt added doing business as Hamilton Mortgage to his broker's license and became the real estate broker for Hamilton Mortgage and the employing broker for Bredy.

In a document entitled "Operation and Brokerage Agreement", dated July 20, 1993, Bredy doing business as Hamilton Mortgage and Schmidt agreed that Schmidt would act as the broker of record for Hamilton in exchange for \$100 for each loan closed during a month, to a maximum per month of \$600.

Bredy operated Hamilton Mortgage, which functioned as a real estate loan brokerage, soliciting borrowers and lenders for real estate loans. In the course of those operations, Bredy took loan applications from borrowers, ordered credit checks and arranged property appraisals, then, based upon lenders' criteria, forwarded the loan application packages to potential lenders. He dealt with both institutional lenders and private lenders. The borrowers paid for the appraisals and credit reports by writing a check to each entity, rather than paying Hamilton Mortgage and Hamilton Mortgage then paying for the appraisals and credit reports. Bredy was paid his fees for arranging the loans direct from the escrow company when the loans closed.

In addition to arranging mortgage loans, Bredy doing business as Hamilton Mortgage serviced some of the loans funded by private lenders. In so doing, Bredy collected the mortgage payments from borrowers, deposited the money into a business bank account, paid the lenders their money and paid himself his fee.

In addition, from that same bank account, Bredy paid some of his expenses. Schmidt was not a signatory on that bank account, it is not designated as a trust account and it is not in the name of the broker as trustee. Neither Bredy nor Schmidt maintained a trust account for Hamilton Mortgage. Bredy commingled his funds with those of lenders in the business bank account and failed to maintain a separate beneficiary record for the bank account.

5. Within the three-year period immediately preceding the filing of this Accusation in connection with the operation of the mortgage loan brokerage known as Hamilton Mortgage, Bredy performed acts which require a real estate broker license without holding such a license. Although Schmidt was nominally the broker for the business, he failed to exercise reasonable supervision over the activities of Bredy and allowed Bredy to function as though he were a licensed real estate broker. Schmidt allowed Bredy to operate under his real estate broker license in exchange for a payment ranging from \$100 to \$600 per month. Schmidt allowed Bredy to keep 100 per cent of the commissions earned from the operation of the mortgage broker business. Schmidt was unaware that Bredy collected mortgage payments for some of the private lenders, deposited the money into a bank account then paid the lenders their share and paid himself a service fee. In addition, Schmidt only reviewed some of the loan files for loans originated by Bredy.

6. Within the three-year period immediately preceding the filing of this Accusation in connection with the operation of the mortgage loan brokerage known as Hamilton Mortgage, Bredy received compensation for performing acts which require a real estate license from various individuals other than Schmidt, his employing real estate broker. Schmidt allowed Bredy to receive such compensation from someone other than Schmidt for the performance of acts for which a real estate license was required. Bredy was paid his loan origination fee or commission direct from escrow when the loan closed and took his own loan servicing fee direct from the payment by the borrower.

7. Within the three-year period immediately preceding the filing of this Accusation in connection with the operation of the mortgage loan brokerage known as Hamilton Mortgage, Schmidt failed to review prior to the closure of the transactions involved instruments prepared by Bredy which had a material effect upon a party's rights or obligations. Schmidt reviewed only some of the files for the loans originated by Bredy. In addition, Schmidt failed to regularly visit the office of Hamilton Mortgage and failed to actively supervise the operations of Bredy.

8. In and about January of 1998, Schmidt permitted Bredy to commingle Bredy's own money with the money of others which was received and held by Bredy in trust.

9. Within the three-year period immediately preceding the filing of this Accusation in connection with the operation of the mortgage loan brokerage known as Hamilton Mortgage, Bredy commingled his own money with the money of others which was received and held by Bredy in trust.

10. Within the three-year period immediately preceding the filing of this Accusation in connection with the operation of the mortgage loan brokerage known as Hamilton Mortgage, Bredy accepted trust funds from others on behalf of his broker Schmidt and failed to deliver the trust funds to Schmidt, or into a neutral escrow depository or into a trust account maintained by Schmidt.

11. There was no evidence that Bredy attempted to convert the funds of any of the borrowers or lenders to his own purposes and no evidence that any borrower or lender suffered any monetary loss or harm due to the actions of either Bredy or Schmidt.

Bredy doing business as Hamilton Mortgage now maintains a bank trust funds account into which all trust funds are deposited and from which they are distributed. The present real estate broker's name is on the bank trust funds account. The bank trust funds account is reconciled before any funds are paid to lenders and the broker pays Bredy. The present broker reviews and initials the loan documents.

12. Bredy has been licensed as a real estate salesperson since approximately 1982 without any prior license discipline. Bredy has a business degree from Sacramento State University. He has the required experience and has taken the necessary courses for a real estate broker license but has not taken the test. He hopes to take that test before Christmas.

13. In 1981, Schmidt graduated from Sacramento State University with a degree in real estate and land use planning. He received his real estate salesperson's license in 1979 and his real estate broker's license in 1981. He graduated from law school some years later. He met Bredy when he started work for Capitol City Mortgage in 1986. Bredy taught him how to set up and package loans so they would meet the requirements of institutional lenders. In the early 1990's when Bredy asked, Schmidt agreed to become the broker for Hamilton Mortgage. They put their agreement into writing and signed the agreement.

14. Neither Schmidt nor Bredy was forthcoming or fully credible in his explanation of Schmidt's failure to review pending loan files and Bredy's failure to provide all pending loan files to Schmidt for review. Both were clearly shading the truth in their respective explanations about the matter.

LEGAL CONCLUSIONS

1. The borrowers were the principals and the real estate broker Schmidt was their agent and fiduciary regarding the loans, Wyatt v. Union Mortgage Co., 24 Cal.3d 773, 782 (1979):

"A mortgage loan broker is customarily retained by a borrower to act as the borrower's agent in negotiating an acceptable loan. All persons engaged in this business in California are required to obtain real estate licenses. ... The law imposes on a real estate agent 'the same obligation of undivided service and loyalty that it imposes on a trustee in favor of his beneficiary.'"

Pursuant to Business and Professions Code section 10132, a real estate salesperson must be licensed as such, plus employed and supervised by a licensed real estate broker in order to perform acts requiring a real estate license.

Pursuant to Business and Professions Code section 10177(h), an employing real estate broker must exercise reasonable supervision over the acts requiring a real estate license of his or her salespersons. Title 10, California Administrative Code, section 2725 defines and elaborates upon what constitutes the exercise of reasonable supervision, as follows:

“Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:

- (a) Transactions requiring a real estate license.
- (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.
- (c) Filing, storage and maintenance of such documents.
- (d) The handling of trust funds.
- (g) Regular and consistent reports of licensed activities of salespersons.”

2. Cause for discipline of respondent Schmidt’s real estate broker’s license was established for violation of Business and Professions Code sections 10137, as found in Findings 4, 5 and 6.

3. Cause for discipline of respondent Schmidt’s real estate broker’s license was established for violation of Business and Professions Code sections 10177(h), as found in Findings 4, 5, 6 and 7.

4. Cause for discipline of respondent Schmidt’s real estate broker’s license was established for violation of Business and Professions Code sections 10176(e), as found in Findings 4, 5 and 8.

5. Cause for discipline of respondent Bredy’s real estate salesperson’s license was established for violation of Business and Professions Code section 10177(d) in conjunction with section 10130, as found in Findings 4, 5 and 6.

6. Cause for discipline of respondent Bredy’s real estate salesperson’s license was established for violation of Business and Professions Code sections 10137, as found in Findings 4, 5 and 6.

7. Cause for discipline of respondent Bredy’s real estate salesperson’s license was established for violation of Business and Professions Code section 10176(e) and 10177(d) in conjunction with section 10145(c), as found in Findings 4, 5 and 9.

8. Cause for discipline of respondent Bredy's real estate salesperson's license was established for violation of Business and Professions Code sections 10177(d) in conjunction with section 10145(c), as found in Findings 4, 5 and 10.

ORDER

1. All real estate licenses and licensing rights of Greg Scott Schmidt, including real estate broker's license number 00594424, are revoked pursuant to Legal Conclusions number 2, 3 and 4, separately and for all of them. Provided, however, that a restricted real estate broker's license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. 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. Any restricted real estate license issued to respondent pursuant to this Decision shall be suspended for a period of 90 days from the date of issuance of said restricted license.
- b. 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.
- c. 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.
- d. Respondent 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.
- e. Respondent shall, within nine months from the effective date of this 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.

- f. Respondent shall, within six 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.
- g. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

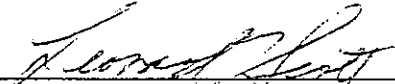
2. All real estate licenses and licensing rights of Steven J. Bredy, including real estate salesperson's license number 01117509, are revoked pursuant to Legal Conclusions number 5, 6, 7 and 8, separately and for all of them. Provided, however, that a restricted real estate salesperson's license shall be issued to respondent 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 90 days from the effective date of this Decision. 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. Any restricted real estate license issued to respondent pursuant to this Decision shall be suspended for a period of 180 days from the date of issuance of said restricted license.
- b. 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.
- c. 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.

- d. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license not 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.
- e. 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 Department of Real Estate which shall certify:
- (I) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
- (II) 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.
- f. Respondent shall, within nine months from the effective date of this 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.
- g. Respondent shall, within six 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.

- h. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

Dated: October 21, 1999



LEONARD L. SCOTT
Administrative Law Judge
Office of Administrative Hearings

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

AUG 3 1999

DEPARTMENT OF REAL ESTATE

By Kathleen Cantres

In the Matter of the Accusation of

GREG SCOTT SCHMIDT, and
STEVEN J. BREDY,

Case No. H-3429 SAC

OAH No. N-1999060122

Respondent

FIRST CONTINUED
NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
The Office of Administrative Hearings, 560 J Street,
Suites 340/360, Sacramento, California 95814

on September 9, 1999 and September 10, 1999, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of
hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten
(10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You
are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent
yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the
Department may take disciplinary action against you based upon any express admission or other evidence including
affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses
testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the
production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who
does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The
interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: August 3, 1999

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

FILED

JUN 29 1999

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

GREG SCOTT SCHMIDT, and
STEVEN J. BREDY,

}

Case No. H-3429 SAC

OAH No. N-1999060122

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

The Office of Administrative Hearings, 560 J Street,

Suites 340/360, Sacramento, California 95814

on August 3, 1999, and August 4, 1999, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: June 24, 1999

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

1 THOMAS C. LASKEN, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED

FEB 17 1999

DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 GREG SCOTT SCHMIDT, and)
13 STEVEN J. BREDY,)
14 Respondents.)

NO. H-3429 SAC

ACCUSATION

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against GREG SCOTT SCHMIDT (hereinafter "Respondent SCHMIDT") and
18 STEVEN J. BREDY (hereinafter "Respondent BREDY"), is informed and
19 alleges as follows:

20 FIRST CAUSE OF ACCUSATION

21 I

22 The Complainant, Charles W. Koenig, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 against Respondents in his official capacity.

25 II

26 Respondents SCHMIDT and BREDY are licensed and/or have
27 license rights under the Real Estate Law (Part 1 of Division 4 of

1 the Business and Professions Code) (hereinafter "the Code") as
2 follows:

3 Respondent SCHMIDT - at all times herein mentioned as a
4 real estate broker.

5 Respondent BREDY - at all times herein mentioned as a
6 real estate salesperson.

7 III

8 Whenever reference is made in an allegation in this
9 Accusation to an act or omission of "Respondents", such
10 allegations shall be deemed to mean the act or omission of each of
11 the Respondents named in the caption hereof, acting individually,
12 jointly, and severally.

13 IV

14 Within the three-year period immediately preceding the
15 filing of this Accusation, Respondents engaged in the business of,
16 acted in the capacity of, advertised, or assumed to act as real
17 estate brokers within the State of California within the meaning
18 of Section 10131(d) of the Code, including the operation and
19 conduct of a mortgage loan brokerage business with the public
20 wherein lenders and borrowers were solicited for loans secured
21 directly or collaterally by liens on real property, wherein such
22 loans were arranged, negotiated, processed, and consummated on
23 behalf of others for compensation or in expectation of
24 compensation, and wherein such loans were serviced and payments
25 thereon were collected on behalf of others.

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V

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2 Commencing on or about July 20, 1993, Respondent SCHMIDT
3 employed Respondent BREDY, pro forma, as a real estate
4 salesperson. In fact, Respondent SCHMIDT permitted Respondent
5 BREDY to operate his own real estate brokerage business located in
6 or about Sacramento, California, ostensibly under Respondent
7 SCHMIDT's real estate broker license, using the fictitious
8 business name of "Hamilton Mortgage" licensed to Respondent
9 SCHMIDT. Respondent SCHMIDT failed to exercise reasonable
10 supervision over Respondent BREDY, and permitted Respondent BREDY
11 to operate the real estate brokerage business in or about
12 Sacramento, California, as if Respondent BREDY were a licensed
13 real estate broker, in return for the payment of \$100 to \$600 per
14 month by Respondent BREDY, while allowing Respondent BREDY to keep
15 100% of commissions earned by Respondent BREDY. Respondent
16 SCHMIDT's failure to reasonably supervise the activities of
17 Respondent BREDY for which a real estate license was required
18 includes, but is not limited to, the acts and omissions set forth
19 below.

20 VI

21 Within the three-year period immediately preceding the
22 filing of this Accusation, in connection with the mortgage loan
23 brokerage activities described in Paragraph IV above, Respondent
24 SCHMIDT permitted Respondent BREDY to accept compensation for
25 performing acts for which a real estate license is required from
26 someone other than Respondent BREDY's broker.

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VII

Within the three-year period immediately preceding the filing of this Accusation, in connection with the mortgage loan brokerage activities described in Paragraph IV above, Respondent SCHMIDT failed to review instruments having a material effect upon a party's rights or obligations prepared by Respondent BREDY prior to the closure of the transactions involved, and failed to regularly visit or actively supervise the operations of Respondent BREDY at the Hamilton Mortgage branch office in or about Sacramento, California.

VIII

In or about January, 1998, Respondent SCHMIDT permitted Respondent BREDY to commingle Respondent BREDY's own money or property with the money or property of others which was received and held by Respondent BREDY.

IX

The facts alleged above in this First Cause of Accusation constitute cause for the suspension or revocation of Respondent SCHMIDT's license and/or license rights under the following sections of the Code and Regulations:

- (1) As to Paragraphs V and VI, under Section 10137 of the Code;
- (2) As to Paragraphs V through VIII, under Section 10177(h) of the Code; and.
- (3) As to Paragraph VIII, under Section 10176(e) of the Code.

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SECOND CAUSE OF ACCUSATION

X

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

XI

Within the three-year period immediately preceding the filing of this Accusation, Respondent BREDY performed acts for which a real estate broker license is required without holding a real estate broker license issued by the Department.

XII

Within the three-year period immediately preceding the filing of this Accusation, Respondent BREDY accepted compensation for performing acts requiring a real estate license from persons other than the real estate broker under whom he was at the time employed.

XIII

Within the three-year period immediately preceding the filing of this Accusation, Respondent BREDY commingled Respondent BREDY's own money or property with the money or property of others which was received and held by Respondent BREDY.

XIV

Within the three-year period immediately preceding the filing of this Accusation, Respondent BREDY accepted trust funds from others on behalf of Respondent SCHMIDT and failed to deliver

1 said funds into the hands of the broker's principal, into a
2 neutral escrow depository, or into a trust account maintained by
3 Respondent SCHMIDT.

4 XV

5 The facts alleged above in this Second Cause of
6 Accusation are grounds for the suspension or revocation of
7 Respondent BREDY's license and/or license rights under the
8 following sections of the Code and Regulations:

- 9 (1) As to Paragraph XI, under Section 10177(d) of the
10 Code in conjunction with Section 10130 of the
11 Code;
- 12 (2) As to Paragraph XII, under Section 10137 of the
13 Code;
- 14 (3) As to Paragraph XIII, under Section 10176(e) of
15 the Code and under Section 10177(d) of the Code in
16 conjunction with Section 10145(c) of the Code;
17 and,
- 18 (4) As to Paragraph XIV, under Section 10177(d) of the
19 Code in conjunction with Section 10145(c) of the
20 Code.

21 PRIOR DISCIPLINARY ACTION

22
23 On or about May 24, 1984, in Case No. H-1954 SAC, the
24 Real Estate Commissioner revoked the real estate broker license of
25 Respondent SCHMIDT for violations of Sections 10145, 10176(e),
26 10177(d), and 10177(g) of the Code and of Section 2832.1 of
27 Title 10, California Code of Regulations.

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

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12 CHARLES W. KOENIG
13 Deputy Real Estate Commissioner

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15 Dated at Sacramento, California,
16 this 5th day of January 1999.