

FILED

JUL - 8 2009

DEPARTMENT OF REAL ESTATE

By H. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

CALIFORNIA HOME LOAN SOLUTIONS INC.  
and ERIC L. WAITE,

Respondents.

No. H-3948 SD

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on June 25, 2009, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent CALIFORNIA HOME LOAN SOLUTIONS INC. (hereinafter "Respondent") express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On April 21, 2009, Joseph Aiu made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified and regular mail, to Respondent last known mailing address on file with the Department on April 23, 2009 and April 30, 2009.

On June 25, 2009, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

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

3

At all times mentioned, Respondent was licensed by the State of California Department of Real Estate (hereinafter "the Department") as a real estate broker corporation.

4

At all times mentioned, Eric L. Waite (hereinafter "Waite") was licensed by the Department as an individual real estate broker, and as the designated broker officer of CHLS. As said designated officer-broker, Waite 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 CHLS for which a license is required.

5

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

6

In acting as a real estate broker, as described in Paragraph 5, CHLS accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lenders or investors, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by Respondent.

7

The aforesaid trust funds accepted or received by CHLS were deposited or caused to be deposited by CHLS into one or more bank accounts (hereinafter "trust funds accounts") maintained by Respondent for the handling of trust funds, including but not limited to the following:

///

///

///

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
California Home Loan Solutions Account No. (hereinafter Account #1)	Wells Fargo Bank 2701 Vista Way Oceanside, CA 92054

8

In connection with the receipt and disbursement of trust funds, Respondent CHLS:

(a) Failed to deposit trust funds into Account #1 in the name of CHLS as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Commissioner's Regulations (Title 10 of the Code of Regulations) (hereinafter "the Regulations").

(b) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations.

(c) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations.

9

In connection with the mortgage loan brokerage business described in Paragraph 5, CHLS violated and/or willfully failed to comply with Section 10240 of the Code, in that CHLS:

(a) Failed to cause to be delivered to the borrowers the written Disclosure Statement required by Section 10241 of the Code;

(b) Failed to obtain the signature of the borrowers on any Written Disclosure Statement; and/or

(c) Failed to retain on file for a period of three years a true and correct copy of any Written Disclosure Statement signed by the borrowers.

10

In course of the activities described in Paragraph 5, CHLS:

(a) Employed real estate salespersons, including but not limited to Jaqueline Rizzatti, Michael Castonguay, and Jason Cariano a to engage in activities requiring a real estate salesperson license without first entering into the broker-salesperson relationship agreement with such salespersons in conformance with Section 2726 of the Regulations.

(b) Failed to immediately notify the Commissioner in writing that two salespersons, Michael Castonguay and Jason Coriano, were employed by CHLS as required by Section 10161.8 of the Code and Section 2752 of the Regulations.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent exists pursuant to Section 10145 of the Code and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code.

2

Cause for disciplinary action against Respondent exists pursuant to Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code.

3

Cause for disciplinary action against Respondent exists pursuant to Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code.

4

Cause for disciplinary action against Respondent exists pursuant to Section 10240 of the Code in conjunction with Section 10177(d) of the Code.

5

Cause for disciplinary action against Respondent exists pursuant to Section 2726 of the Regulations in conjunction with Section 10177(d) of the Code.

6

Cause for disciplinary action against Respondent exists pursuant to Section 10161.8 of the Code and Section 2752 of the Regulations in conjunction with Section 10177(d) of the Code.

7

The standard of proof applied was clear and convincing proof to a reasonable certainty.

///

ORDER

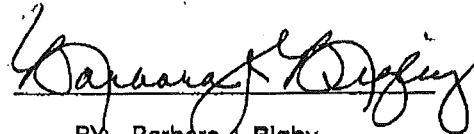
All licenses and licensing rights of Respondent CALIFORNIA HOME LOAN SOLUTIONS INC. under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on

JUL 30 2009

DATED: 7-7-09

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

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

4 Telephone: (916) 227-0789

FILED

JUN 25 2009

DEPARTMENT OF REAL ESTATE

By: [Signature]

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

11 \* \* \*

12 In the Matter of the Accusation of

13 CALIFORNIA HOME LOAN SOLUTIONS, INC.,  
14 AND ERIC L. WAITE,

15 Respondents.

No. H-3948 SD

DEFAULT ORDER

16  
17 Respondent, CALIFORNIA HOME LOAN SOLUTIONS, INC., having failed to  
18 file a Notice of Defense within the time required by Section 11506 of the Government Code, is  
19 now in default. It is, therefore, ordered that a default be entered on the record in this matter.

20 IT IS SO ORDERED

June 19, 2009  
21 JEFF DAVI  
22 Real Estate Commissioner

23  
24 By:

[Signature]  
25 DOLORES WEEKS  
26 Regional Manager  
27

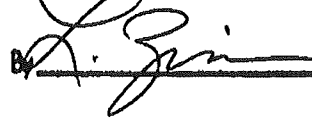
1 Department of Real Estate  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0781

FILED

JUN 25 2009

DEPARTMENT OF REAL ESTATE



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

10 \* \* \*

11 In the Matter of the Accusation of

12 CALIFORNIA HOME LOAN SOLUTIONS,  
13 INC., and ERIC L. WAITE, JR,

14 Respondents.

No. H-3948 SD

STIPULATION AND  
AGREEMENT

15  
16 It is hereby stipulated by and between ERIC L. WAITE, JR, (hereinafter  
17 "Respondent") represented by David Moore, and the Complainant, acting by and through  
18 Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of  
19 settling and disposing the Accusation filed on April 23, 2009 in this matter:

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

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

4                   3.       Respondent filed a Notice of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent  
7 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby  
8 waive his rights to require the Commissioner to prove the allegations in the Accusation at a  
9 contested hearing held in accordance with the provisions of the APA, and that he will waive  
10 other rights afforded to him in connection with the hearing such as the right to present evidence  
11 in defense of the allegations in the Accusation and the right to cross-examine witnesses.  
12

13                   4.       This stipulation is based on the factual allegations contained in the  
14 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these  
15 factual allegations, but to remain silent and understands that, as a result thereof, these factual  
16 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set  
17 forth below. The Real Estate Commissioner shall not be required to provide further evidence to  
18 prove such allegations.  
19

20                   5.       This Stipulation and Respondent's decision not to contest the Accusation  
21 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
22 limited to this proceeding and any other proceeding or case in which the Department of Real  
23 Estate (herein "the Department"), the state or federal government, an agency of this state, or an  
24 agency of another state is involved.  
25

26                   6.       Respondent understands that by agreeing to this Stipulation and  
27



1 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and  
2 Professions Code, the cost of the audit which resulted in the determination that Respondent  
3 committed the violation(s) found in Paragraph I, below, of the Determination of Issues. The  
4 amount of said costs is \$5,038.10.

5           7.       Respondent further understands that by agreeing to this Stipulation and  
6 Agreement in Settlement, the findings set forth below in the Determination of Issues become  
7 final, and that the Commissioner may charge said Respondent for the costs of any audit  
8 conducted pursuant to Section 10148 of the California Business and Professions Code to  
9 determine if the violations have been corrected. The maximum costs of said audit shall not  
10 exceed \$5,038.10.  
11

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

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

26                   \* \* \*

27                   DETERMINATION OF ISSUES

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

4 I

5 The acts and/or omissions of ERIC L. WAITE, JR., as described in the Second  
6 Cause of Action of the Accusation, are cause for the suspension or revocation of WAITE's  
7 license and/or license rights under Section 10177(h) of the Code.  
8

9 \* \* \*

10 ORDER

11 I

12 All licenses and licensing rights of ERIC L. WAITE, JR under the Real Estate  
13 Law are revoked; provided, however, a restricted real estate broker license shall be issued to  
14 Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent  
15 makes application therefore and pays to the Department of Real Estate the appropriate fee for the  
16 restricted license within 90 days from the effective date of this Decision. The restricted license  
17 issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business  
18 and Professions Code and to the following limitations, conditions and restrictions imposed under  
19 authority of Section 10156.6 of that Code:  
20  
21

22 1. The restricted license issued to Respondent may be suspended prior to  
23 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or  
24 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or  
25 capacity as a real estate licensee.  
26  
27

1                   2.     The restricted license issued to Respondent may be suspended prior to  
2 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner  
3 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands  
4 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted  
5 license.

6                   3.     Respondent shall not be eligible to apply for the issuance of an  
7 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions  
8 of a restricted license until two (2) years have elapsed from the effective date of this Decision.  
9

10                  4.     During the period of restriction, Respondent shall not serve as the  
11 designated officer of a real estate corporation, unless he is the owner of 100 percent of the stock  
12 of the corporation.

13                  5.     Respondent shall, prior to and as a condition of the issuance of said  
14 restricted license, submit proof satisfactory to the Commissioner of having taken and completed  
15 the continuing education course on trust fund accounting and handling specified in Paragraph (3)  
16 of subdivision (a) of Section 10170.5 of the Business and Professions Code from an approved  
17 continuing education course provider. Said course may have been completed within one hundred  
18 and one hundred and twenty (120) days prior to the effective date of the order herein.  
19

20                  6.     Respondent shall, within nine (9) months from the effective date of this  
21 Order, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since  
22 the most recent issuance of an original or renewal real estate license, taken and successfully  
23 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate  
24 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the  
25 Commissioner may order the suspension of the restricted license until Respondent presents such  
26  
27


1 evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the  
2 Administrative Procedure Act to present such evidence.

3 6. Pursuant to Section 10148 of the Business and Professions Code,  
4 Respondent shall pay the sum of \$5,038.10 for the Commissioner's cost of the audit which led to  
5 this disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an  
6 invoice therefore from the Commissioner. The Commissioner may suspend the Respondent's  
7 license pending a hearing held in accordance with Section 11500, et seq., of the Government  
8 Code, if payment is not timely made as provided for herein, or as provided for in a subsequent  
9 agreement between the Respondent and the Commissioner. The suspension shall remain in  
10 effect until payment is made in full or until Respondent enters into an agreement satisfactory to  
11 the Commissioner to provide for payment, or until a decision providing otherwise is adopted  
12 following a hearing held pursuant to this condition.  
13  
14

15 7. Pursuant to Section 10148 of the Business and Professions Code,  
16 Respondent shall pay the Commissioner's reasonable cost, not to exceed \$5,038.10, for an audit  
17 to determine if Respondent has corrected the violation(s) found in Paragraph I of the  
18 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the  
19 Commissioner may use the estimated average hourly salary for all persons performing audits of  
20 real estate brokers, and shall include an allocation for travel time to and from the auditor's place  
21 of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore  
22 from the Commissioner detailing the activities performed during the audit and the amount of  
23 time spent performing those activities. The Commissioner may suspend Respondent's license  
24 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if  
25 payment is not timely made as provided for herein, or as provided for in a subsequent agreement  
26  
27

1 between Respondent and the Commissioner. The suspension shall remain in effect until payment  
2 is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to  
3 provide for payment, or until a decision providing otherwise is adopted following a hearing held  
4 pursuant to this condition.

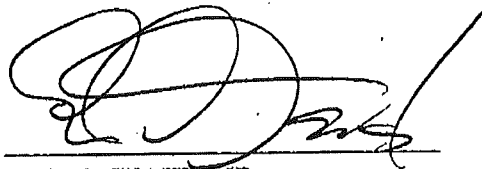
5  
6 26-May-09  
7 DATED

8   
9 TRULY SUGHRUE  
10 Counsel for Complainant

11 \* \* \*

12 I have read the Stipulation and Agreement, discussed it with my counsel, and its  
13 terms are understood by me and are agreeable and acceptable to me. I understand that I am  
14 waiving rights given to me by the California Administrative Procedure Act, and I willingly,  
15 intelligently and voluntarily waive those rights, including the right of requiring the  
16 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the  
17 right to cross-examine witnesses against me and to present evidence in defense and mitigation of  
18 the charges.

19  
20  
21 5.22.2009  
22 DATED

23   
24 ERIC L. WAITE, JR  
25 Respondent

26 \* \* \*

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

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5/22/2009

DATED

David Moore

DAVID MOORE  
Attorney for Respondent

\*\*\*

The foregoing Stipulation and Agreement is hereby adopted as my Decision and  
shall become effective at 12 o'clock noon on JUL 16 2009

IT IS SO ORDERED 6-23, 2009.

JEFF DAVIS  
Real estate Commissioner

Jeff Davis

1 TRULY SUGHRUE, Counsel  
2 SBN 223266  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6 Telephone: (916) 227-0781  
7  
8

FILED

APR 23 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

9 BEFORE THE  
10 DEPARTMENT OF REAL ESTATE  
11 STATE OF CALIFORNIA

12 \* \* \*

13 In the Matter of the Accusation of )  
14 CALIFORNIA HOME LOAN SOLUTIONS, ) NO. H-3948 SD.  
15 INC., and ERIC L. WAITE, JR. )  
16 Respondents. ) ACCUSATION

17  
18 The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the  
19 State of California, for causes of Accusation against CALIFORNIA HOME LOAN  
20 SOLUTIONS, INC. and ERIC L. WAITE, JR. (hereinafter "Respondents"), are informed and  
21 alleges as follows:

22 PRELIMINARY ALLEGATIONS

23 1

24 Respondents CALIFORNIA HOME LOAN SOLUTIONS, INC. and ERIC L.  
25 WAITE, JR. are presently licensed and/or have license rights under the Real Estate Law, Part 1  
26 of Division 4 of the California Business and Professions Code (hereinafter "the Code").

27 ///

2

The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

3

At all times mentioned, Respondent CALIFORNIA HOME LOAN SOLUTIONS, INC. (hereinafter "CHLS") was licensed by the State of California Department of Real Estate (hereinafter "the Department") as a real estate broker corporation.

4

At all times mentioned, Respondent ERIC L. WAITE, JR. (hereinafter "WAITE") was licensed by the Department as an individual real estate broker, and as the designated broker officer of CHLS. As said designated officer-broker, WAITE 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 CHLS for which a license is required.

5

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

FIRST CAUSE OF ACTION

6

Each and every allegation in Paragraphs 1 through 5, inclusive, above are incorporated by this reference as if fully set forth herein.

///

///



In acting as a real estate broker, as described in Paragraph 5, CHLS accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lenders or investors, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by Respondents.

The aforesaid trust funds accepted or received by CHLS were deposited or caused to be deposited by CHLS into one or more bank accounts (hereinafter "trust funds accounts") maintained by Respondents for the handling of trust funds, including but not limited to the following:

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
California Home Loan Solutions Account No. (hereinafter Account #1)	Wells Fargo Bank 2701 Vista Way Oceanside, CA 92054

In connection with the receipt and disbursement of trust funds, Respondent CHLS:

(a) Failed to deposit trust funds into Account #1 in the name of CHLS as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Commissioner's Regulations (Title 10 of the Code of Regulations) (hereinafter "the Regulations").

(b) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations.

(c) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations.

In connection with the mortgage loan brokerage business described in Paragraph 5, CHLS violated and/or willfully failed to comply with Section 10240 of the Code, in that CHLS:

- (a) failed to cause to be delivered to the borrowers the written Disclosure Statement required by Section 10241 of the Code;
- (b) failed to obtain the signature of the borrowers on any Written Disclosure Statement; and/or
- (c) failed to retain on file for a period of three years a true and correct copy of any Written Disclosure Statement signed by the borrowers.

In course of the activities described in Paragraph 5, CHLS:

- (a) Employed real estate salespersons, including but not limited to Jaqueline Rizzatti, Michael Castonguay, and Jason Coriano to engage in activities requiring a real estate salesperson license without first entering into the broker-salesperson relationship agreement with such salespersons in conformance with Section 2726 of the Regulations.
- (b) Failed to immediately notify the Commissioner in writing that two salespersons, Michael Castonguay and Jason Coriano, were employed by CHLS as required by Section 10161.8 of the Code and Section 2752 of the Regulations.

The acts and/or omissions of Respondent CHLS as alleged above constitute grounds for disciplinary action under the following provisions:

- (a) As to Paragraph 9(a), under Section 10145 of the Code and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code.
- (b) As to Paragraph 9(b), under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code.

1 (c) As to Paragraph 9(c), under Section 2831.1 of the Regulations in  
2 conjunction with Section 10177(d) of the Code.

3 (d) As to Paragraph 10, under Section 10240 of the Code in conjunction with  
4 Section 10177(d) of the Code.

5 (e) As to Paragraph 11(a), under Section 2726 of the Regulations in  
6 conjunction with Section 10177(d) of the Code.

7 (f) As to Paragraph 11(b), under Section 10161.8 of the Code and Section  
8 2752 of the Regulations in conjunction with Section 10177(d) of the Code.

9 SECOND CAUSE OF ACTION

10 13

11 Each and every allegation in Paragraphs 1 through 12, inclusive, above, is  
12 incorporated by this reference as if fully set forth herein.

13 14

14 Respondent WAITE failed to exercise reasonable supervision over the acts of  
15 CHLS in such a manner as to allow the acts and events described above to occur.

16 15

17 The acts and/or omissions of WAITE described in Paragraph 14,  
18 constitute failure on the part of WAITE, as designated broker-officer for CHLS, to exercise  
19 reasonable supervision and control over the licensed activities of CHLS as required by Section  
20 10159.2 of the Code.  
21

22 16

23 The facts described in Paragraphs 14 through 15 constitute cause for the  
24 suspension or revocation of the licenses and license rights of Respondent WAITE under Section  
25 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction  
26 with Section 10177(d) of the Code.  
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