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FILED

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DEPARTMENT OF REAL ESTATE
By R. M. M.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 NOTEWORLD CALIFORNIA, INC.)
14 and ELEN ADEL ZIEBELL,)
15 Respondents.)

NO. H-5763 SAC

ACCUSATION

16 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy Real
17 Estate Commissioner of the State of California, for cause of Accusation against NOTEWORLD
18 CALIFORNIA, INC. (hereinafter "NCI"), and ELEN ADEL ZIEBELL (hereinafter "ZIEBELL")
19 (collectively referred to herein as "Respondents"), is informed and alleges as follows:

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21 NCI is presently licensed by the Department of Real Estate (hereinafter "the
22 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
23 Business and Professions Code (hereafter "the Code"), as a real estate corporation and as a
24 mortgage loan originator, acting by and through ZIEBELL as its designated officer broker.

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26 At all times herein mentioned, NCI conducted business under its own licensed name
27 and the following fictitious business names registered with the Department: "Contract Service

Center", "Mortgage Processing Center", "Note World", "NoteWorld", "NoteWorld Mortgage Processing Center", "NoteWorld Servicing Center" and "South Plains Mortgage".

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ZIEBELL is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker and as a mortgage loan originator.

4

At all times herein mentioned, ZIEBELL was licensed by the Department as the designated officer broker of NCI. As the designated officer broker, ZIEBELL 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 NCI for which a real estate license is required.

5

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

6

At all times relevant herein, NCI engaged in the business of, acted in the capacity of, advertised, or assumed to act as a corporate real estate broker within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of Section 10131(d) of the Code, including the solicitation of borrowers or lenders for or negotiation of loans or collection of payments or performance of services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

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1 FIRST CAUSE OF ACTION

2 As Against NCI

3 Audit Period January 1, 2009 through January 31, 2010

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5 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is
6 incorporated by this reference as if fully set forth herein.

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8 Beginning on or about March 10, 2010, and continuing intermittently until April 15,
9 2010, an audit was conducted at NCI's main office location at 7079 Buzz Tail Road, El Dorado,
10 California, wherein the Auditor examined NCI's records for the period of January 1, 2009 through
11 January 31, 2010 (hereinafter "the audit period").

12 9

13 While acting as a corporate real estate broker as described in Paragraph 6, above, and
14 within the audit period, NCI accepted or received funds in trust (hereinafter "trust funds") from or
15 on behalf of borrowers, lenders, and/or others in connection with loans secured directly or
16 collaterally by liens on real property or on a business opportunity, for or in expectation of
17 compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust
18 funds.

19 10

20 The trust funds accepted or received by NCI as described in Paragraph 9, above, were
21 deposited or caused to be deposited by NCI into a trust account which was maintained by NCI for
22 the handling of trust funds, and thereafter from time-to-time NCI made disbursements of said trust
23 funds, identified as follows:

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TRUST ACCOUNT # 1	
Bank Name and Location:	Key Bank, P.O. Box 22114, Albany, NY 12201-2114
Account No.:	Last 4 Digits: 8635
Entitled:	"NoteWorld LLC, NoteWorld Servicing Center Client Trust Account"
Signatories:	Elen ZIEBELL (REB/DO) Gloria Greeley (Unlicensed) Kathryn Carr (Unlicensed) Amanda Hobbs (Unlicensed) Rachael Laufenberg (Unlicensed) Christine Pefley (Unlicensed) Juan Daniel Sarmiento (Unlicensed) Linda Remsberg (Unlicensed) Trish Tratos (Unlicensed) Winona Bishop (Unlicensed) Cynthia Fletcher (Unlicensed) JoAnn Kenyon (Unlicensed)
Withdrawal Requirements:	One signature.

11

In the course of the activities described in Paragraph 6, above, and within the audit period, NCI:

- (a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of January 31, 2010, was approximately \$146,285.33 less than the aggregate liability of Trust Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (hereafter "the Regulations");
- (b) failed to maintain accurate records of all trust funds received and disbursed, including but not limited to the correct daily balance, for Trust Account #1,

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1 in violation of Section 10145 of the Code and Section 2831 of the
2 Regulations;

3 (c) failed to reconcile the total of separate beneficiary records with a control
4 record on a monthly basis for Trust Account #1, in violation of Section 10145
5 of the Code and Section 2831.2 of the Regulations;

6 (d) caused, suffered or permitted money of others, trust funds, which were
7 received and held by NCI in Trust Account #1 to be commingled with NCI's
8 own money, in violation of Section 10176(e) of the Code and Section 2835 of
9 the Regulations; and,

10 (e) allowed eleven of its unlicensed employees, Gloria Greeley, Kathryn Carr,
11 Amanda Hobbs, Rachael Laufenberg, Christine Pefley, Juan Daniel
12 Sarmiento, Linda Remsberg, Trish Tratos, Winona Bishop, Cynthia Fletcher,
13 and JoAnn Kenyon, to appear as signatories on Trust Account #1, without
14 first obtaining fidelity bond coverage at least equal to the maximum amount
15 of the trust funds to which the employees had access at any time, in violation
16 of Section 10145 of the Code, and Section 2834 of the Regulations;

17 12

18 The acts and/or omissions of NCI as alleged in Paragraph 11, above, constitute
19 grounds for discipline of all licenses and license rights of NCI pursuant to Section 10176(e)
20 (Commingling of Funds) of the Code, and Sections 10177(d) (Willful Disregard/Violation of Real
21 Estate Law) and/or Section 10177(g) (Negligence/Incompetence in Performing Act Requiring
22 License) of the Code.

23 13

24 The acts and/or omissions of NCI as alleged in Paragraph 11, above, entitle the
25 Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement
26 for Cost of Audit for Trust Fund Handling Violation) of the Code.

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SECOND CAUSE OF ACTION

As Against NCI

Audit Period December 31, 2010 through June 30, 2011

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Each and every allegation in Paragraphs 1 through 13, inclusive, above, is incorporated by this reference as if fully set forth herein.

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Beginning on or about September 19, 2011 and continuing intermittently until October 11, 2011, an audit was conducted at NCI's main office location at 7079 Buzz Tail Road, El Dorado, California, wherein the Auditor examined NCI's records for the period of December 31, 2010 through June 30, 2011 (hereinafter "the second audit period").

16

While acting as a corporate real estate broker as described in Paragraph 6, above, and within the second audit period, NCI accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers, lenders, and/or others in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

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The trust funds accepted or received by NCI as described in Paragraph 16, above, were deposited or caused to be deposited by NCI into a trust account which was maintained by NCI for the handling of trust funds, and thereafter from time-to-time NCI made disbursements of said trust funds, identified as follows:

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TRUST ACCOUNT # 2	
Bank Name and Location:	USbank, P.O. Box 1800, Saint Paul Minnesota 55101-0800
Account No.:	Last 4 Digits: 1055
Entitled:	"NoteWorld LLC, NoteWorld Servicing Center Seller Finance Trust"
Signatories:	Elen ZIEBELL (REB/DO) Gloria Greeley (Unlicensed) Rachael Laufenberg (Unlicensed) Christine Pefley (Unlicensed) Danielle Kiersztyn (Unlicensed) Linda Remsberg (Unlicensed) Pete Siems (Unlicensed)
Withdrawal Requirements:	One signature.

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In the course of the activities described in Paragraph 6, above, and within the second audit period, NCI:

- (a) caused, suffered, or permitted the balance of funds in Trust Account #2 to be reduced to an amount which, as of December 31, 2010, was approximately \$140,148.58 less than the aggregate liability of Trust Account #2 to all owners of such funds, without the prior written consent of each and every owner of such funds, and as of June 30, 2011, was approximately \$147,046.17 less than the aggregate liability of Trust Account #2 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (hereafter "the Regulations");
- (b) failed to maintain accurate records of all trust funds received and disbursed, including but not limited to the correct daily balance as of December 31, 2010

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1 and June 30, 2011, for Trust Account #2, in violation of Section 10145 of the
2 Code and Section 2831 of the Regulations;

3 (c) as of December 31, 2010 and June 30, 2011, failed to reconcile the total of
4 separate beneficiary records with a control record on at least a monthly basis
5 for Trust Account #2, in violation of Section 10145 of the Code and Section
6 2831.2 of the Regulations;

7 (d) as of December 31, 2010 and June 30, 2011, caused, suffered or permitted
8 money of others, trust funds, which were received and held by NCI in Trust
9 Account #2 to be commingled with NCI's own money (\$175,000), in
10 violation of Section 10176(e) of the Code and Section 2835 of the
11 Regulations;

12 (e) allowed six of its unlicensed employees, Gloria Greeley, Rachael Laufenberg,
13 Christine Pefley, Danielle Kiersztyn, Linda Remsberg, and Pete Siems, to
14 appear as signatories on Trust Account #2, without first obtaining fidelity
15 bond coverage at least equal to the maximum amount of the trust funds to
16 which the employees had access at any time, in violation of Section 10145 of
17 the Code, and Section 2834 of the Regulations; and

18 (f) failed to notify the Department of its Multi-Lender Transactions and that it
19 met Multi-Lender criteria by collecting payment due of \$125,000 or more in a
20 quarter for 2011, and failed to submit any Multi-Lender Reports to the
21 Department, in violation of Sections 10237, 10238(a), 10238(b) and
22 10238(k)(3) of the Code.

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24 The acts and/or omissions of NCI as alleged in Paragraph 18, above, constitute
25 grounds for discipline of all licenses and license rights of NCI pursuant to Section 10176(e)
26 (Commingling of Funds) of the Code, and Sections 10177(d) (Willful Disregard/Violation of Real
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1 Estate Law) and/or Section 10177(g) (Negligence/Incompetence in Performing Act Requiring
2 License) of the Code.

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4 The acts and/or omissions of NCI as alleged in Paragraph 18, above, entitle the
5 Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement
6 for Cost of Audit for Trust Fund Handling Violation) of the Code.

7 THIRD CAUSE OF ACTION
8 As Against ZIEBELL

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10 Each and every allegation in Paragraphs 1 through 20, inclusive, above, is
11 incorporated by this reference as if fully set forth herein.

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13 ZIEBELL, as the designated officer broker of NCI, was required to exercise
14 reasonable supervision and control over the activities of NCI and its employees pursuant to Section
15 10159.2 (Reasonable Supervision by Designated Officer) of the Code and Section 2725 of the
16 Regulations (Reasonable Supervision by Broker).

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18 ZIEBELL failed to exercise reasonable supervision over the acts and/or omissions of
19 NCI and its employees in such a manner as to allow the acts and/or omissions as described in
20 Paragraphs 11 and 18, above, to occur, which constitutes cause for the suspension or revocation of
21 the licenses and license rights of ZIEBELL under Sections 10177(d) (Willful Disregard/Violation of
22 Real Estate Law) and/or 10177(g) (Negligence/Incompetence in Performing Act Requiring License)
23 of the Code, and Sections 10177(h) (Failure to Exercise Reasonable Supervision) and 10159.2
24 (Reasonable Supervision by Designated Officer) of the Code.

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

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9 TRICIA D. SOMMERS
10 Deputy Real Estate Commissioner

11 Dated at Sacramento, California,
12 this 7th day of December, 2011.
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