

**FILED**

**OCT 3 2024**

**DEPT. OF REAL ESTATE**

By: 

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation Against	)	No. H-05840 SD
	)	
TOMAS E. SCHOFF, individually and as	)	
Designated Officer of TDE Capital Inc,	)	
TDE CAPITAL INC. dba American Mortgage Bank,	)	
SUN PACIFIC MORTGAGE & REAL ESTATE, and	)	
JAY T. KISTER, individually and as former Designated	)	<u>ACCUSATION</u>
Officer of Sun Pacific Mortgage & Real Estate,	)	
	)	
Respondents.	)	
	)	

The Complainant, Ruth Corral, a Supervising Special Investigator of the State of California, for cause of Accusation against TOMAS E. SCHOFF, TDE CAPITAL INC, SUN PACIFIC MORTGAGE & REAL ESTATE, and JAY T. KISTER (sometimes referred to as "Respondents") alleges as follows:

1.

The Complainant, Ruth Corral, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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2.

All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, of the California Code of Regulations.

LICENSE HISTORY

(TOMAS E. SCHOFF)

3.

a. Respondent TOMAS E. SCHOFF (sometimes referred to as "SCHOFF") is presently licensed and/or has license rights under the Code as a real estate broker with Department of Real Estate ("Department") license ID 01452614.

b. SCHOFF currently holds an individual Mortgage Loan Originator ("MLO") license endorsement with the Department with Nationwide Multistate Licensing System & Registry ("NMLS") ID 1426561.

c. From September 27, 2018, through September 21, 2021, SCHOFF was authorized to conduct business under his Department-issued MLO license endorsement and represent United Legacy, LLC (NMLS ID 1789029). United Legacy, LLC is not currently MLO endorsed by the Department, however, from April 12, 2021, through the present, it has been MLO licensed by the California Department of Financial Protection and Innovation ("DFPI"). United Legacy, LLC was previously named "TDE Capital Inc." TDE Capital Inc was previously licensed by the Department as a real estate broker and MLO endorsed from September 27, 2018, through September 21, 2021.

d. From March 18, 2022, through the present, SCHOFF has been authorized to conduct business under his Department issued MLO license endorsement and represent Elevated Processing Inc. (NMLS ID 2294568). Elevated Processing Inc. ("EPI") currently holds a broker license with the Department (Lic. ID 02164024). SCHOFF is the designated officer of EPI. As designated officer of EPI, SCHOFF is responsible for the supervision of the

1 activities conducted on behalf of EPI by its officers, agents, real estate licensees, and  
2 employees pursuant to Section 10159.2 of the Code.

3 e. From January 23, 2024, to the present, SCHOFF has been authorized to  
4 conduct business under his Department issued MLO license endorsement and represent Black  
5 Label Commercial Corp (NMLS ID 2548949). SCHOFF is the designated officer for Black  
6 Label Commercial Corp (“BLCC”) who currently holds a real estate broker license with the  
7 Department (Lic. ID 02163075).

8 (TDE CAPITAL INC)

9 4.

10 a. Respondent TDE Capital Inc (sometimes referred to as “TDECI”), now called  
11 United Legacy, LLC, is not presently licensed as a real estate broker with Department of Real  
12 Estate. TDECI’s broker license (license ID 01811734) with the Department expired on October  
13 30, 2023. Pursuant to Code section 10103, the Department retains jurisdiction over the lapsed  
14 license.

15 b. TDECI maintained the fictitious business names “American Mortgage Bank,”  
16 “American Dream Homes,” and “ADH Foreclosure Prevention Center” until October 31, 2021.

17 c. From October 31, 2019, through October 31, 2023, SCHOFF was the  
18 designated officer of TDE Capital Inc.

19 d. TDECI held an MLO license endorsement with the Department from  
20 September 27, 2018, through September 21, 2021 (NMLS ID 1789029).

21 (SUN PACIFIC MORTGAGE & REAL ESTATE)

22 5.

23 a. Respondent SUN PACIFIC MORTGAGE & REAL ESTATE (sometimes  
24 referred to as “SPMRE”) is presently licensed and/or has license rights under the Code as a real  
25 estate broker with Department license ID 01464899. SPMRE’s license is set to expire on  
26 November 17, 2024, unless renewed. SPMRE currently does not have a designated officer.  
27 From May 7, 2021, to November 29, 2021, SPMRE’s designated officer was Jay Kister.

1 b. SPMRE is registered with the Department as a private money broker.

2 (JAY KISTER)

3 6.

4 a. Respondent JAY KISTER (sometimes referred to as "KISTER") is presently  
5 licensed and/or has license rights under the Code as a real estate broker with Department  
6 license ID 01327105. KISTER was the designated officer of SPMRE until November 29, 2021.  
7 As designated officer of SPMRE, KISTER is responsible for the supervision of the activities  
8 conducted on behalf of SPMRE by its officers, agents, real estate licensees, and employees  
9 pursuant to Section 10159.2 of the Code.

10 CAUSE FOR ACCUSATION

11 7.

12 At all times relevant herein Respondents SCHOFF and TDECI were engaged in  
13 the business of, acted in the capacity of, advertised or assumed to act as a real estate broker,  
14 within the meaning of Code section 10131(d) by soliciting borrowers or lenders for or  
15 negotiating loans or collecting payments or performing services for borrowers or lenders or  
16 note owners in connection with loans secured directly or collaterally by liens on real property  
17 or on a business opportunity ("mortgage loan origination").

18 8.

19 Whenever reference is made in an allegation in this Accusation to an act or  
20 omission of Respondents, such allegation shall be deemed to include the officers, directors,  
21 employees, agents, independent contractors, and/or real estate licensees employed by or  
22 associated with Respondents, who committed such acts or omissions while engaged in the  
23 furtherance of the business or operations of Respondents and while acting within the course and  
24 scope of their authority and employment.

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1 9.

2 SCHOFF and TDECI defrauded an elderly mortgage borrower, by making  
3 substantial misrepresentations and false promises to influence, persuade, or induce the  
4 borrower into refinancing their mortgage loans for Respondent's own use, gain, or benefit.

5 10.

6 SCHOFF and TDECI induced the mortgage borrower to refinance her home  
7 several times, misrepresented the status of the loans, and failed to provide full disclosure of all  
8 material facts concerning the transactions. At the close of escrow SCHOFF and TDECI  
9 received compensation.

10 (FIRST REVERSE MORTGAGE APPLICATION)

11 11.

12 On or about July 2021, K.G.<sup>1</sup>, a 75-year-old California resident reached out to  
13 United Legacy LLC dba American Mortgage Bank, formerly TDE Capital Inc<sup>2</sup>, for a reverse  
14 mortgage on her primary residence located at \*\*\*\*\* Waverly Drive, Menifee, in California.  
15 United Legacy LLC is owned and operated by SCHOFF as President and Mike Amini  
16 ("Amini") as the Secretary. Amini is not licensed by the Department as a real estate broker nor  
17 endorsed as a mortgage loan originator.

18 12.

19 On or about July 26, 2021, and July 28, 2021, K.G. received an email from a  
20 relationship manager at TDECI regarding the next steps for the reverse mortgage. Amini would  
21 handle K.G.'s reverse mortgage. At this time, K.G. had approximately 49% of equity in her  
22 home at Waverly Drive and met the age requirements to qualify for an FHA insured reverse  
23 mortgage. K.G.'s mortgage loan balance at the time was approximately \$226,534.00 and the  
24 value of her home was approximately \$460,000.00. K.G.'s reverse mortgage application was  
25

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<sup>1</sup> Initials are used in place of individual's full name to protect their privacy.

27 <sup>2</sup> Any reference to TDE Capital Inc or "TDECI" will include acts and omissions of employees, agents, of United Legacy LLC dba American Mortgage Bank.

1 submitted to Finance of America LLC (“FOA”) and was assigned the loan number  
2 2200017510.

3 13.

4 On or about August 11, 2021, FOA pulled K.G.’s credit, although credit scoring  
5 is not a factor in qualifying for an FHA insured reverse mortgage. K.G.’s credit score was 599.

6 14.

7 On October 4, 2021, a relationship manager at TDECI informed K.G. that she  
8 would need to complete substantial credit repair in order to qualify for a reverse mortgage and  
9 that the payment for credit repair service is due up front and in full. In the meantime, TDECI  
10 convinced K.G. to refinance her mortgage while TDECI repaired her credit and processed her  
11 reverse mortgage. TDECI instructed K.G. to pay \$6,000.00 to for credit repair. K.G. issued a  
12 check to Fresh Start Credit for \$6,000.00.

13 15.

14 The reverse mortgage originated by Amini through TDECI in July 2021 never  
15 closed escrow for unknown reasons.

16 (FIRST MORTGAGE REFINANCE – PRIVATE MONEY LOAN)

17 16.

18 On or about October 7, 2021, SPMRE received K.G.’s mortgage loan  
19 application to refinance her home, which was signed by SCHOFF as the loan officer. The loan  
20 application indicated that SCHOFF was acting on behalf of TDECI.

21 17.

22 On or about October 20, 2021, SCHOFF, by and through TDECI, completed and  
23 submitted to SPMRE a mortgage loan application for K.G. which contained whited-out areas  
24 and handwritten corrections and/or additions. K.G. did not make any of the handwritten  
25 revisions. Based on the information provided in the mortgage loan application completed by  
26 SCHOFF, K.G.’s debt-to-income ratio was almost at 80%, meaning that 80% of K.G.’s gross  
27 income would go toward her mortgage payment.

1 18.

2 On or about October 28, 2021, escrow closed on K.G.'s refinance of her home  
3 through a private money lender arranged by SPMRE (Escrow Order number 4904-6697825).  
4 K.G.'s mortgage loan amount went from \$226,534.00 to \$325,000.00. The loan terms include  
5 10% interest only payments and an 11-month short-term repayment plan. TDECI received a  
6 commission of \$12,865.00 and SPMRE received a commission of \$11,375.00 for a total  
7 amount of points and fees of \$24,240, which exceeds 6% of the total loan amount.

8 19.

9 According to SPMRE's transaction file for K.G.'s private money loan,  
10 SPMRE's file lacked the following disclosures: (1) Fair Lending Notice; (2) Lender Purchaser  
11 Disclosure Statement; (3) Investor Questionnaire; and (4) Investor Qualification Statement.

12 (SECOND MORTGAGE REFINANCE – CHANGE LENDING LLC)

13 20.

14 On or about March 30, 2022, while FOA processed K.G.'s reverse mortgage  
15 loan application, SCHOFF, as a loan officer of TDECI, originated a second mortgage loan for  
16 K.G. with lender Change Lending LLC. K.G. understood that she needed to proceed with  
17 another refinance in order to pay off the private money loan since K.G. could not afford to  
18 make the monthly mortgage payments while her reverse mortgage was processing.

19 21.

20 On or about April 7, 2022, TDECI instructed K.G. to sign a Notice of Intent to  
21 Proceed disclosure indicating K.G. intended on pursuing the refinance loan with Change  
22 Lending LLC. The disclosure form was issued by SCHOFF and contained both his Department  
23 license ID and NMLS ID number.

24 22.

25 On or about April 12, 2022, Change Lending LLC obtained the appraisal of  
26 K.G.'s home with a value of \$515,000.00.

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23.

On or about June 6, 2022, escrow closed on the refinance loan with Change Lending LLC. K.G.'s new mortgage balance was \$380,000.00 with a 30-year fixed rate of 7.8% interest. TDECI received a commission of \$7,812 and SCHOFF's other company, Elevated Processing Inc. received a processing fee of \$1,495.00.

(SECOND REVERSE MORTGAGE APPLICATION)

24.

On or about December 31, 2021, UL instructed K.G. to complete reverse mortgage counseling before TDECI could continue to process her reverse mortgage application. On or about January 12, 2022, K.G. completed the independent reverse mortgage counseling.

25.

On or about March 10, 2022, Jacob Hasum Smith ("Smith") who is authorized to originate mortgage loans through TDECI, originated a new reverse mortgage application for K.G. with loan number 2200021959. FOA pulled K.G.'s credit again. K.G.'s credit score was 714.

26.

On or about June 15, 2022, Smith completed another reverse mortgage application (loan number 2200024465) for K.G. K.G. received a disclosure informing her that her credit score dropped below 700.

27.

On or about July 29, 2022, K.G. met with Amini in person to discuss K.G.'s reverse mortgage application and the delay in processing. During that meeting, Amini explained to K.G. that he is the Vice President of TDECI and that SCHOFF is the President and owner of TDECI.

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28.

On or about August 16, 2022, Amini suggested to K.G. that K.G. should list her home for sale with Tasha Nicole Amini (“T. Amini”), Amini’s wife. T. Amini is a real estate salesperson (Lic. ID 01785828) employed under SCHOFF’s company, BLCC. Amini attempted to convince K.G. to sell her home and reside in a mobile home with affordable mortgage payments. K.G. declined Amini’s offer and was hopeful the reverse mortgage would close soon.

THIRD REFINANCE MORTGAGE – EBERLANA

29.

K.G. struggled to make the mortgage payments to Change Lending LLC. Amini arranged a private money loan wherein SCHOFF would lend K.G. money to cover K.G.’s August and September 2022 mortgage payments to Change Lending LLC.

30.

On or about August 30, 2022, SCHOFF provided K.G. with a Note and Deed of Trust to sign. The lender was Eberlana LLC. The managing member of Eberlana LLC is “The Tomas and Jodie Schoff Family Trust Dated August 1, 2021.” SCHOFF is the agent for service of process. The loan amount was \$9,825.00 with a 24% interest rate and a 36% default rate that contained a 10-day default clause with a right to foreclose. The loan with Eberlana LLC was due and payable on December 31, 2022. Of the \$9,825.00 loan, Eberlana LLC charged K.G. \$650.00 for an appraisal fee, \$755 for a document preparation fee, \$1,495 for a processing fee, and \$1,088 for a loan origination fee.

31.

K.G.’s reverse mortgage loan never closed escrow. Due to the several refinance loans and the Eberlana loan, K.G. no longer had sufficient equity in her home to qualify for a reverse mortgage. K.G. is barely able to make the mortgage payments and pay for her living expenses.

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32.

According to FOA’s records, FOA sent multiple status requests to TDECI that went unanswered. Unbeknownst to K.G., on May 16, 2022, Smith sent an email to FOA stating that the borrower wished to cancel loan number 2200021959. On October 17, 2022, FOA closed K.G.’s reverse mortgage application with loan number 2200024465 for incompleteness. According to FOA, there was no indication in the files that an appraisal was ever ordered for either of the reverse loan applications.

VIOLATIONS

(SUBSTANTIAL MISREPRESENTATION)

33.

The conduct, acts and/or omissions of Respondents SCHOFF and TDECI, as described above, constitute cause for the suspension or revocation of the license and license rights of Respondents under Code section 10176(a), for making substantial misrepresentations.

(FALSE PROMISES LIKELY TO INDUCE)

34.

The conduct, acts and/or omissions of Respondents SCHOFF and TDECI, as described above, constitute cause for the suspension or revocation of the license and license rights of Respondents under Code section 10176(b), for making false promises of a character likely to influence, persuade, or induce.

(FRAUD OR DISHONEST DEALING)

35.

The conduct, acts and/or omissions of Respondents SCHOFF and TDECI, as described above, constitute cause for the suspension or revocation of the license and license rights of Respondents under Code sections 10176(i) and 10177(j), for fraud or dishonest dealing.

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(COVERED LOANS)

36.

The conduct, acts and/or omissions of Respondent SPMRE, as described above in Paragraphs 16 through 19, constitute cause for the suspension or revocation of the license and license rights of Respondent under Financial Code sections 4970, 4973, and 4975 for charging points and fees exceeding 6% of the total loan amount on a covered loan.

(UNLAWFUL COMPENSATION)

37.

The conduct, acts and/or omissions of Respondent SPMRE, as described above in Paragraphs 16 through 19, constitute cause for the suspension or revocation of the license and license rights of Respondent under Code section 10137 for compensating United Legacy LLC, formerly TDECI, a commission fee of \$12,865 while SPMRE was only licensed by the Department and TDECI was not licensed or MLO endorsed by the Department.

(WILLFUL DISREGARD OF THE REAL ESTATE LAW)

38.

The conduct, acts and/or omissions of Respondents, as described above, constitute cause for the suspension or revocation of the license and license rights of Respondents under Code section 10177(d), for Respondents' willful disregard of the Real Estate Law.

(NEGLIGENCE AND/OR INCOMPETENCE)

39.

The conduct, acts and/or omissions of Respondents, as described above, constitute cause for the suspension or revocation of the license and license rights of Respondents under Code section 10177(g) for Respondents' negligence and/or incompetence.

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1 (WRITTEN DISCLOSURE STATEMENTS)

2 40.

3 The conduct, acts and/or omissions of Respondent SPMRE, as described in  
4 Paragraphs 16 through 19 above, constitute cause for the suspension or revocation of the  
5 license and license rights of Respondent under Health and Safety Code section 35830 for  
6 failing to provide the appropriate Fair Lending Notice and disclosures to the borrower.

7 (FAILURE TO SUPERVISE)

8 41.

9 Based on the conduct, acts and/or omissions of Respondent SCHOFF and  
10 KISTER, as described above, Respondents did not exercise adequate supervision over the  
11 activities conducted on behalf of Respondents TDE CAPITAL INC and SUN PACIFIC  
12 MORTGAGE & REAL ESTATE by its officers and employees to ensure compliance with the  
13 Real Estate Laws and Regulations in violation of Code sections 10177(h) and 10159.2.  
14 Respondent failed to establish and/or implement policies, rules, procedures and system to  
15 review, oversee, inspect and manage transactions requiring a real estate license in violation of  
16 Regulations section 2725.

17 INVESTIGATION AND ENFORCEMENT COSTS

18 42.

19 Code section 10106 provides, in pertinent part, that in any order issued in  
20 resolution of a disciplinary proceeding before the Department, the Commissioner may request  
21 the administrative law judge to direct a licensee found to have committed a violation of this  
22 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the  
23 case.

24 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
25 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
26 action against all the licenses and/or license rights of Respondents TOMAS E. SCHOFF, TDE  
27 CAPITAL INC, SUN PACIFIC MORTGAGE & REAL ESTATE, and JAY T. KISTER under

1 the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the  
2 cost of the audit, and for such other and further relief as may be proper under other applicable  
3 provisions of law.

4  
5 Dated at Sacramento, California this 2nd day of October, 2024.

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for

9 Ruth Corral  
10 Supervising Special Investigator

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24 cc: TOMAS E. SCHOFF  
25 TDE CAPITAL INC  
26 SUN PACIFIC MORTGAGE & REAL ESTATE  
27 JAY T. KISTER  
Ruth Corral  
Sacto.