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DEPT. OF REAL ESTATE

By *AL Johnson*

JUDITH A. BURANDAY, Counsel (SBN 278115)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Tel: (213) 576-6982
Direct: (213) 443-9263
E-mail: Judith.Buranday@dre.ca.gov
Attorney for Complainant

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)	<u>FIRST AMENDED</u>
JAY T. KISTER, individually and as former Designated)	<u>ACCUSATION</u>
Officer of Sun Pacific Mortgage & Real Estate,)	
)	
Respondents.)	
)	

This First Amended Accusation amends the Accusation filed on October 3, 2024. 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). As designated officer of BLCC, SCHOFF is responsible for
8 the supervision of the activities conducted on behalf of BLCC by its officers, agents, real estate
9 licensees, and employees pursuant to Section 10159.2 of the Code.

10 f. On or about May 24, 20216, the Department filed an Accusation against
11 SCHOFF, TDE CAPITAL INC. (sometimes referred to as “TDECI”), and Demetre D. Booker,
12 Jr. in Case No. H-04798 SD. On or about December 2, 2016, the Commissioner issued a
13 Decision and Order adopting the parties’ executed Stipulation and Agreement, effective
14 December 28, 2016, to suspend the licenses of SCHOFF and TDECI, provided however, the
15 suspension would be stayed upon the payment of a monetary penalty.

16 (TDE CAPITAL INC)

17 4.

18 a. Respondent TDECI, now called United Legacy, LLC, is not presently
19 licensed as a real estate broker with Department of Real Estate. TDECI’s broker license
20 (license ID 01811734) with the Department expired on October 30, 2023. Pursuant to Code
21 section 10103, the Department retains jurisdiction over the lapsed license.

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

24 c. From October 31, 2019, through October 31, 2023, SCHOFF was the
25 designated officer of TDECI. As designated officer of TDECI, SCHOFF was responsible for
26 the supervision of the activities conducted on behalf of TDECI by its officers, agents, real
27 estate licensees, and employees pursuant to Section 10159.2 of the Code.

1 d. TDECI held an MLO license endorsement with the Department from
2 September 27, 2018, through September 21, 2021 (NMLS ID 1789029). SCHOFF was
3 authorized to conduct business under his Department issued MLO license endorsement and
4 represent TDECI.

5 (SUN PACIFIC MORTGAGE & REAL ESTATE)

6 5.

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

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

13 c. SPMRE currently holds an MLO license endorsement with the Department
14 with NMLS ID 360993.

15 (JAY KISTER)

16 6.

17 a. Respondent JAY KISTER (sometimes referred to as "KISTER") is presently
18 licensed and/or has license rights under the Code as a real estate broker with Department
19 license ID 01327105.

20 b. KISTER currently holds an MLO license endorsement with the Department
21 with NMLS ID 315357.

22 c. KISTER was the designated officer of SPMRE until November 29, 2021.
23 As designated officer of SPMRE, KISTER is responsible for the supervision of the activities
24 conducted on behalf of SPMRE by its officers, agents, real estate licensees, and employees
25 pursuant to Section 10159.2 of the Code.

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1 CAUSE FOR ACCUSATION

2 7.

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

9 8.

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

16 9.

17 SCHOFF and TDECI defrauded an elderly mortgage borrower, by making
18 substantial misrepresentations and false promises to influence, persuade, or induce the
19 borrower into refinancing their mortgage loans for Respondents’ own use, gain, or benefit.

20 10.

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

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(FIRST REVERSE MORTGAGE APPLICATION)

11.

On or about July 2021, K.G.¹, a 75-year-old California resident reached out to United Legacy LLC dba American Mortgage Bank, formerly TDE Capital Inc², for a reverse mortgage on her primary residence located at ***** Waverly Drive, Menifee, in California. United Legacy LLC is owned and operated by SCHOFF as President and Mike Amini (“Amini”) as the Secretary. Amini is not licensed by the Department as a real estate broker nor endorsed as a mortgage loan originator.

12.

On or about July 26, 2021, and July 28, 2021, K.G. received an email from a relationship manager at TDECI regarding the next steps for the reverse mortgage. Amini would handle K.G.’s reverse mortgage. At this time, K.G. had approximately 49% of equity in her home at Waverly Drive and met the age requirements to qualify for an FHA insured reverse mortgage. K.G.’s mortgage loan balance at the time was approximately \$226,534.00 and the value of her home was approximately \$460,000.00. K.G.’s reverse mortgage application was submitted to Finance of America LLC (“FOA”) and was assigned the loan number 2200017510.

13.

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

14.

On October 4, 2021, a relationship manager at TDECI informed K.G. that she would need to complete substantial credit repair in order to qualify for a reverse mortgage and that the payment for credit repair service is due up front and in full. In the meantime, TDECI

¹ Initials are used in place of individual’s full name to protect their privacy.

² 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 convinced K.G. to refinance her mortgage while TDECI repaired her credit and processed her
2 reverse mortgage. TDECI instructed K.G. to pay \$6,000.00 to for credit repair. K.G. issued a
3 check to Fresh Start Credit for \$6,000.00.

4 15.

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

7 (FIRST MORTGAGE REFINANCE – PRIVATE MONEY LOAN)

8 16.

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

12 17.

13 On or about October 20, 2021, SCHOFF, by and through TDECI, completed and
14 submitted to SPMRE a mortgage loan application for K.G. which contained whited-out areas
15 and handwritten corrections and/or additions. K.G. did not make any of the handwritten
16 revisions. Based on the information provided in the mortgage loan application completed by
17 SCHOFF, K.G.'s debt-to-income ratio was almost at 80%.

18 18.

19 On or about October 28, 2021, escrow closed on K.G.'s refinance of her home
20 through a private money lender arranged by SPMRE (Escrow Order number 4904-6697825).
21 K.G.'s mortgage loan amount went from \$226,534.00 to \$325,000.00. The loan terms include
22 10% interest only payments and an 11-month short-term repayment plan. TDECI received a
23 commission of \$12,865.00 and SPMRE received a commission of \$11,375.00 for a total
24 amount of points and fees of \$24,240, which exceeds 6% of the total loan amount.

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1 19.

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

5 (SECOND MORTGAGE REFINANCE – CHANGE LENDING LLC)

6 20.

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

12 21.

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

17 22.

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

20 23.

21 On or about June 6, 2022, escrow closed on the refinance loan with Change
22 Lending LLC. K.G.'s new mortgage balance was \$380,000.00 with a 30-year fixed rate of
23 7.8% interest. TDECI received a commission of \$7,812 and SCHOFF's other company,
24 Elevated Processing Inc. received a processing fee of \$1,495.00.

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1 (SECOND REVERSE MORTGAGE APPLICATION)

2 24.

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

7 25.

8 On or about March 10, 2022, Jacob Hasum Smith ("Smith") who is authorized
9 to originate mortgage loans through TDECI, originated a new reverse mortgage application for
10 K.G. with loan number 2200021959. FOA pulled K.G.'s credit again. K.G.'s credit score was
11 714.

12 26.

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

16 27.

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

21 28.

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

1 THIRD REFINANCE MORTGAGE – EBERLANA

2 29.

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

6 30.

7 On or about August 30, 2022, SCHOFF provided K.G. with a Note and Deed of
8 Trust to sign. The lender was Eberlana LLC. The managing member of Eberlana LLC is "The
9 Tomas and Jodie Schoff Family Trust Dated August 1, 2021." SCHOFF is the agent for service
10 of process. The loan amount was \$9,825.00 with a 24% interest rate and a 36% default rate that
11 contained a 10-day default clause with a right to foreclose. The loan with Eberlana LLC was
12 due and payable on December 31, 2022. Of the \$9,825.00 loan, Eberlana LLC charged K.G.
13 \$650.00 for an appraisal fee, \$755 for a document preparation fee, \$1,495 for a processing fee,
14 and \$1,088 for a loan origination fee.

15 31.

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

20 32.

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

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1 VIOLATIONS

2 (SUBSTANTIAL MISREPRESENTATION)

3 33.

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

7 (FALSE PROMISES LIKELY TO INDUCE)

8 34.

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

13 (FRAUD OR DISHONEST DEALING)

14 35.

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

19 (COVERED LOANS)

20 36.

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

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1 (UNLAWFUL COMPENSATION)

2 37.

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

8 (WILLFUL DISREGARD OF THE REAL ESTATE LAW)

9 38.

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

14 (NEGLIGENCE AND/OR INCOMPETENCE)

15 39.

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

19 (WRITTEN DISCLOSURE STATEMENTS)

20 40.

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

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(FAILURE TO SUPERVISE)

41.

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

INVESTIGATION AND ENFORCEMENT COSTS

42.

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses, endorsements, and/or license rights of Respondents TOMAS E. SCHOFF, TDE CAPITAL INC, SUN PACIFIC MORTGAGE & REAL ESTATE, and JAY T. KISTER under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.

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1 Dated at Sacramento, California this 3rd day of December, 2024.

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Ruth Corral
Supervising Special Investigator

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

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