

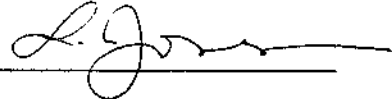
**FILED**

**December 24, 2012**

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P.O. Box 187007  
5 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

6 Telephone: (916) 227-0789  
7 (916) 227-0781 (Direct)

By 

8 Fax: (916) 227-9458

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of

13 AMERICAL FINANCIAL GROUP INC.  
14 and SCOTT DOUGLAS COOPER,

15 Respondents.

No. H-5933 SAC

ACCUSATION

16 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of  
17 the State of California, for cause of Accusation against AMERICAL FINANCIAL GROUP INC.  
18 and SCOTT DOUGLAS COOPER (Respondents), are informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of  
22 the State of California, makes this Accusation in her official capacity.

23 2

24 Respondents are presently licensed and/or have license rights under the Real  
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

26 ///

27 ///

1 3

2 At all times mentioned, Respondent AMERICAL FINANCIAL GROUP INC.  
3 (AMERICAL) was and is licensed by the State of California Department of Real Estate  
4 (Department) as a real estate broker corporation.

5 4

6 At all times mentioned after January 21, 2011, AMERICAL was and is licensed  
7 and/or has license rights under the Code as a mortgage loan originator.

8 5

9 At all times mentioned, Respondent SCOTT DOUGLAS COOPER (COOPER)  
10 was and is licensed by the Department individually. At all time after February 24, 2011,  
11 COOPER was and is licensed as the designated broker officer of AMERICAL. As said  
12 designated officer-broker, COOPER was and now is responsible pursuant to Section 10159.2 of  
13 the Code for the supervision of the activities of the officers, agents, real estate licensees and  
14 employees of AMERICAL for which a license is required.

15 6

16 At all times mentioned after January 21, 2011, COOPER was and is licensed  
17 and/or has license rights under the Code as a mortgage loan originator.

18 7

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

25 8

26 At all times mentioned, Teri Tate was and is licensed by the Department as a real  
27 estate salesperson. From on or about January 5, 2009, through October 2, 2012, Tate was

1 licensed under the employ of real estate broker Nikki Blakely. From on or about October 3,  
2 2012, to present, Tate was and is licensed under the employ of AMERICAL. At no time was  
3 Tate licensed as a real estate broker.

4 9

5 At all times mentioned, Tate was and is licensed and/or has license rights under  
6 the Code as a mortgage loan originator. From on or about January 5, 2009, through October 2,  
7 2012, Tate's mortgage loan originator endorsement was authorized to represent Nikki Blakely.  
8 From on or about October 3, 2012 to present, Tate's mortgage loan originator endorsement was  
9 authorized to represent AMERICAL.

10 10

11 At all times mentioned, Respondents engaged in the business of, acted in the  
12 capacity of, advertised, or assumed to act as a real estate broker, in the State of California, within  
13 the meaning of:

14 Section 10131(d) of the Code, including the operation and conduct of a mortgage  
15 loan brokerage and/or loan modification business with the public wherein Respondents solicited  
16 lenders and borrowers for or negotiated loans or collected payments and/or performed services  
17 for borrowers or lenders or note owners in connection with loans secured directly or collaterally  
18 by liens on real property for or in expectation of compensation; and,

19 Section 10131(a) of the Code, including the operation and conduct of a real estate  
20 resale brokerage with the public wherein, on behalf of others, for compensation or in expectation  
21 of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited  
22 prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the  
23 purchase and resale of real property

24 11

25 On or about June 1, 2012, and continuing intermittently through July 1, 2012, an  
26 audit was conducted of the records of AMERICAL. The auditor herein examined the records for  
27 the period of January 1, 2011, through May 31, 2012.

1 FIRST CAUSE OF ACTION

2 12

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

5 13

6 Between on or about January 1, 2011 and October 1, 2012, AMERICAL and  
7 COOPER employed and compensated Tate, while Tate's license was not associated under  
8 AMERICAL's license, to perform the acts and conduct the real estate activities described in  
9 Paragraph 10 and Section 10166.03(c) of the Code, including but not limited to the activities  
10 described in Paragraph 14.

11 14

12 Between on or about January 1, 2011 and on or about October 1, 2012, in the  
13 course of the employment and activities described in Paragraph 13, Tate, an independent loan  
14 processor using the business name Integrity Loan Processing, engaged in loan processing and/or  
15 underwriter services on behalf of AMERICAL , including but not necessarily limited to:

16

<b>Borrower</b>
Victoria Green-Comfort
Richard Lamar Johnson
Daniel James Rasonsky

17  
18  
19

20 15

21 In acting as described in Paragraphs 12 through 14, AMERICAL and COOPER  
22 violated and/or willfully disregarded the provisions of Sections 10166.02(b), 10166.03(c) and  
23 10137 of the Code.

24 ///

25 ///

26 ///

27 ///

The facts described above as to the First Cause of Accusation constitute cause to suspend or revoke all licenses and license rights of Respondent AMERICAL and COOPER pursuant to the provisions of Sections 10137 of the Code in conjunction with Sections 10177(d) and 10166.051 of the Code.

## SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 16, inclusive, is incorporated by this reference as if fully set forth herein.

In connection with the operation and conduct of the activities and transactions described in Paragraph 10, AMERICAL and COOPER:

(a) Failed to retain the real estate salesperson license certificates at its main office as required by Section 10160 of the Code and Section 2753 of the Regulations. Said salespersons include, but are not limited to, Larry Elwyn Jones;

(b) Employed real estate salespersons, including but not limited to Renee Anderson, 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;

(c) Used the fictitious business names of "Pacific West Realty" without obtaining a license bearing said fictitious business name in violation of Section 2731 of the Regulations and Section 10159.5 of the Code;

(d) Failed to disclose COOPERS' mortgage loan license endorsement identification number on his business card in violation of Section 2773 of the Regulations and Section 10140.6 of the Code; and

///

///

1 (e) Failed to provide employment sponsorship information to the Nationwide  
2 Mortgage Licensing System and Registry within five (5) days of the commencement of  
3 employment of broker-associate Steven Kriske in violation of Section 2758.5 of the Regulations.

4 19

5 The facts alleged in the Second Cause of Action are grounds for the suspension  
6 or revocation of Respondent's licenses and license rights under the following sections of the  
7 Code and Regulations:

8 (1) As to Paragraphs 18(a) under Section 10177(d) of the Code in  
9 conjunction with Section 10160 of the Code and Section 2753 of the Regulations;

10 (2) As to Paragraph 18(b), under Section 10177(d) of the Code in  
11 conjunction with Section 2726 of the Regulations;

12 (3) As to Paragraphs 18(c) under Section 10177(d) of the Code in  
13 conjunction with Section 10159.5 of the Code and Section 2731 of the Regulations;

14 (4) As to Paragraphs 18(d) under Section 10177(d) of the Code in  
15 conjunction with Section 10140.6 of the Code and Section 2773 of the Regulations; and

16 (5) As to Paragraph 18(e), under Section 10177(d) of the Code in conjunction  
17 with Section 2758.5 of the Regulations.

18 THIRD CAUSE OF ACTION

19 20

20 Each and every allegation in Paragraphs 1 through 19, inclusive, is incorporated  
21 by this reference as if fully set forth herein.

22 21

23 COOPER failed to exercise reasonable supervision over the acts of AMERICAL  
24 in such a manner as to allow the acts and events described above to occur.

25 22

26 The acts and/or omissions of COOPER described in Paragraph 21 constitute  
27 failure on the part of COOPER, as designated broker-officer for AMERICAL, to exercise

1 reasonable supervision and control over the licensed activities of AMERICAL required by  
2 Section 10159.2 of the Code.

3 23

4 The facts described above as to the Third Cause of Action constitute cause for the  
5 suspension or revocation of the licenses and license rights of COOPER under Section 10177(g)  
6 and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with  
7 Section 10177(d) of the Code.

8 COST RECOVERY

9 24

10 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
11 resolution of a disciplinary proceeding before the Department, the Commissioner may request the  
12 Administrative Law Judge to direct a licensee found to have committed a violation of this part to  
13 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

14 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
15 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
16 action against all licenses and license rights of Respondent under the Code, for the cost of  
17 investigation and enforcement as permitted by law, and for such other and further relief as may  
18 be proper under the provisions of law.

19   
20 TRICIA SOMMERS  
21 Deputy Real Estate Commissioner

22 Dated at Sacramento, California,  
23 this 13<sup>th</sup> day of December, 2012

24 DISCOVERY DEMAND

25 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of  
26 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the  
27 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate  
may result in the exclusion of witnesses and documents at the hearing or other sanctions that the  
Office of Administrative Hearings deems appropriate.