

1 STEPHANIE K. SESE, Counsel
2 (SBN 225003)
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0868(Direct)
7 -or- (916) 227-0789 (Main Office)
8 -or- (916) 227-9458 (Fax)

FILED

FEB 25 2013

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

12 * * *

13 In the Matter of the Accusation of)
14 SOUTH HALL INVESTORS INC,) NO. H-5960 SAC
15 NORMAN TIMMINS THOMPSON, and)
16 SERGIO MARTIN ARREGUIN,) ACCUSATION
17 Respondents.)

18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
19 of the State of California, for cause of Accusation against SOUTH HALL INVESTORS INC,
20 NORMAN TIMMINS THOMPSON, and SERGIO MARTIN ARREGUIN (hereinafter
21 "Respondents"), is informed and alleges as follows:

22 PRELIMINARY ALLEGATIONS

23 1

24 The Complainant makes this Accusation in her official capacity.

25 2

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

3

At all times herein mentioned, Respondent SOUTH HALL INVESTORS INC (hereinafter "SH") was and is licensed by the Department of Real Estate (hereinafter the "Department") as a real estate broker corporation.

4

At all times herein mentioned, Respondent NORMAN TIMMINS THOMPSON (hereinafter "THOMPSON") was and is licensed by the Department individually as a real estate broker, and as the designated officer broker of SH. As said designated broker-officer, THOMPSON was at all times responsible pursuant to Sections 10159.2 and 10177(h) of the Code, and Section 2725 of Chapter 6, Title 10, California Code of Regulations (hereinafter the "Regulations") for the supervision and control of the activities of the officers, agents, real estate licensees, and employees of SH and of the activities of the corporation for which a real estate license is required.

5

At all times herein mentioned, Respondent SERGIO MARTIN ARREGUIN (hereinafter "ARREGUIN") was and is licensed by the Department as a real estate salesperson (hereinafter "RES") in the employ of SH.

6

At all times herein mentioned, Michael Soares (hereinafter "Soares") was and is licensed by the Department as a real estate broker in the employ of SH.

7

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

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

At all times herein mentioned, Respondents 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(a) of the Code, including the selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business opportunity, all for or in expectation of compensation.

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 8, inclusive, is incorporated by this reference as if fully set forth herein.

On or about July 31, 2012, Respondents and Rose Zahnn (hereinafter "Zahnn") contracted to sell Zahnn's residence at 380 Hawkcrest Circle, Sacramento, California (hereinafter "Hawkcrest"). Respondents and Zahnn entered into a dual buyer-seller agency agreement in that Respondents were permitted to represent more than one buyer or seller.

On or about August 3, 2012, Respondents listed the sale of Hawkcrest indicating an open house would be held on August 4, 2012. Offers were to be accepted until 3:00 p.m. on August 7, 2012. Sharon Moody (hereinafter "Moody") attended said open house and offered \$325,000.00 for the purchase of Hawkcrest.

On August 5, 2012, RES Cara Heagy (hereinafter "Heagy") offered \$353,500.00 for the purchase of Hawkcrest. Respondents acknowledged receipt of Heagy's offer on August 7, 2012.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

13

On August 6, 2012, Respondent ARREGUIN as the broker for the selling firm and Soares as the broker for the listing firm, entered into a dual buyer-seller agency agreement with Moody, and executed a \$325,000.00 purchase agreement for Hawkcrest.

14

On August 7, 2012, before 3:00 p.m., RES Phillip Todd (hereinafter "Todd") offered \$355,000.00 for the purchase of Hawkcrest. Respondents acknowledged receipt of Todd's offer on August 7, 2012.

15

On August 7, 2012, before 3:00 p.m., RES Cheryl States (hereinafter "States") offered \$303,000.00 for the purchase of Hawkcrest. Respondents acknowledged receipt of States' offer on August 7, 2012.

16

On August 7, 2012, before 3:00 p.m., RES Rickie Ann Kinley (hereinafter "Kinley") offered \$339,000.00 for the purchase of Hawkcrest. Respondents acknowledged receipt of KINLEY's offer on August 7, 2012.

17

On August 7, 2012, before 3:00 p.m., RES Sterling Royal (hereinafter "Royal") offered \$339,000.00 for the purchase of Hawkcrest. Respondents acknowledged receipt of Royal's offer on August 7, 2012.

18

At approximately 4:00 p.m. on August 7, 2012, Zahnn met with Respondents at SH. Respondents represented to Zahnn receipt of only two offers: \$303,000.00 from States, and \$325,000.00 from Moody, in violation of Sections 10176 (a), (b), (c), and (i) (the making of substantial misrepresentations; the making of a false promise likely to influence, persuade, or induce; the making of misrepresentations and/or false promises through real estate salespersons; fraud, and dishonest dealing), and/or 10177(d), (g), and (j) (willful disregard

1 of the Real Estate Law, negligence and/or incompetence, fraud, and dishonest dealing) of the
2 Code.

3 19

4 On August 7, 2012, Zahnn signed the \$325,000.00 purchase agreement
5 previously executed by Respondents and Moody. Respondents advised Royal, Kinley, Todd,
6 States, and Heagy of the rejection of their offers.

7 20

8 On or about September 12, 2012, Respondents were notified that the Hawkcrest
9 transaction was under investigation by the Department. Respondents then presented Zahnn
10 with a list of additional purchase offers of which she had no prior knowledge, and a declaration
11 prepared by Respondents representing that Zahnn's decision to sell Hawkcrest to Moody was not
12 solely based on sales price, in violation of Sections 10176(a), (c), and (i) (the making of
13 substantial misrepresentations, the making of misrepresentations through real estate salespersons,
14 fraud, and dishonest dealing), and/or 10177(d), (g), and (j) (willful disregard of the Real Estate
15 Law, negligence and/or incompetence, fraud, and dishonest dealing) of the Code.

16 21

17 On or about September 12, 2012, Respondents advised Moody that the sales
18 contract had to be terminated for the submission of higher offers. Moody cancelled the contract
19 based on Respondents' representations, though she remained qualified for the purchase of
20 Hawkerest.

21 22

22 On or about September 14, 2012, Respondents advised Zahnn that Moody could
23 no longer afford to purchase the property, in violation of Sections 10176(a), (c), and (i) (the
24 making of substantial misrepresentations, the making of misrepresentations through real estate
25 salespersons, fraud, and dishonest dealing), and/or 10177(d), (g), and (j) (willful disregard of the
26 Real Estate Law, negligence and/or incompetence, fraud, and dishonest dealing) of the Code.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

On November 15, 2012, Zahnn advised the Department that had she known of the additional offers made for the purchase of Hawkcrest, she would not have accepted the offer by Moody.

The facts alleged in the First Cause of Action are grounds for the suspension or revocation of Respondents' licenses and license rights under the following sections of the Code and Regulations:

- (1) As to Paragraph 18, under Sections 10176 (a), (b), (c), and (i), and/or 10177 (d), (g), and (j) of the Code;
- (2) As to Paragraph 20, under Sections 10176 (a), (c), and (i), and/or 10177 (d), (g), and (j) of the Code;
- (3) As to Paragraph 21, under Sections 10176 (a), (b), (c), and (i), and/or 10177 (d), (g), and (j) of the Code; and
- (4) As to Paragraph 22, under Sections 10176 (a), (c), and (i), and/or 10177 (d), (g), and (j) of the Code.

SECOND CAUSE OF ACTION

There is hereby incorporated in this Second Cause of Action all of the allegations contained in Paragraphs 1 through 24, inclusive, of the Accusation with the same force and effect as if set forth fully herein.

Respondent THOMPSON failed to exercise reasonable supervision over the acts of Respondents SH and ARREGUIN in such a manner as to allow the acts and events described above to occur.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

27

The acts and/or omissions of SH described in Paragraph 26 constitute failure on the part of THOMPSON, as designated broker-officer for SH, to exercise reasonable supervision and control over the licensed activities of SH required by Section 10159.2 of the Code.

28

The facts described above as to the Second Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent THOMPSON under Section 10177 (g) and/or Section 10177 (h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177 (d) of the Code.

COST RECOVERY

29

Section 10106 of the Code 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 the 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 licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.



TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this ____ day of February, 2013.