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1 ANNETTE E. FERRANTE, Counsel (SBN 258842)
2 Bureau of Real Estate
3 PO Box 137007
4 Sacramento, CA 95813-7007
5 Telephone: (916) 263-8672
6 or (916) 263-8675 (Direct)

FILED

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BUREAU OF REAL ESTATE

By *R. Gust*

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of
12 MARK DANIEL HECKERT,
13 Respondent.

No. H-6039 SAC
ACCUSATION

15 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy
16 Real Estate Commissioner of the State of California, for cause of Accusation against
17 Respondent MARK DANIEL HECKERT (hereinafter "Respondent"), is informed and alleges
18 as follows:
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21 Respondent is presently licensed and/or has license rights under the Real Estate
22 Law (Part 1 of Division 4 of the California¹ Business and Professions Code) (hereinafter
23 "Code") as a real estate broker.

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25 At all times relevant herein, Respondent was and is the designated broker officer
26 for Tahoe Realty Today Inc., a real estate broker corporation.

27 ¹ All references are to California Codes and Regulations, unless otherwise stated.

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On or about May 4, 2011, in the Superior Court of the State of California, County of El Dorado, case number S11CRM0368, Respondent was convicted upon a plea of guilty to violating Section 23152(a) of the Vehicle Code (DUI), a misdemeanor, and a crime which bears a substantial relationship under Section 2910, Title 10 of the Code of Regulations (hereinafter "the Regulations"), to the qualifications, functions, or duties of a real estate licensee.

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On or about October 7, 2011, Respondent made application to the Bureau for the renewal of his real estate broker license.

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In response to Question 4 of Respondent's real estate broker license renewal application described in paragraph 4, above, to wit: "WITHIN THE SIX-YEAR PERIOD PRIOR TO FILING THIS APPLICATION, HAVE YOU BEEN CONVICTED OF A MISDEMEANOR OR FELONY? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY", Respondent concealed and failed to disclose the conviction identified in paragraph 3, above.

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On or about June 5, 2012, in the Superior Court of the State of California, County of El Dorado, case no. S12CRM0434, a complaint was filed alleging Respondent committed acts in violation of Vehicle Code Sections 23152(a) (DUI), and 23152(b) (DUI, BAC of 0.08% or higher), both misdemeanors.

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On or about June 12, 2012, in the Superior Court of the State of California, County of El Dorado, case no. S12CRF0163, a complaint was filed alleging Respondent

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1 committed acts in violation of Health and Safety Code Section 11370.1(a) (possession of
2 controlled substance with firearm), a felony, and Section 11550(a) (under influence of a
3 controlled substance), a misdemeanor.

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5 On or about July 26, 2012, Respondent made application for the renewal of his
6 designated officer license pertaining to corporation Tahoe Realty Today Inc.

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8 In response to Question 4 of Respondent's officer renewal application identified
9 in paragraph 8, above, to wit: "WITHIN THE SIX-YEAR PERIOD PRIOR TO FILING THIS
10 APPLICATION, HAVE YOU BEEN CONVICTED OF A MISDEMEANOR OR FELONY?
11 CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE
12 DISCLOSED. HOWEVER, YOU MAY OMIT TRAFFIC CITATIONS WHICH DO NOT
13 CONSTITUTE A MISDEMEANOR OR FELONY", Respondent concealed and failed to
14 disclose the conviction identified in paragraph 3, above.

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16 In response to Question 5 of Respondent's officer renewal application identified
17 in paragraph 8, above, to wit: "ARE THERE CRIMINAL CHARGES PENDING AGAINST
18 YOU AT THIS TIME?", Respondent concealed and failed to disclose the pending criminal
19 charges identified in paragraphs 6 and 7, above.

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21 On or about October 19, 2012, in the Superior Court of the State of California,
22 County of El Dorado, case number S12CRM0434, Respondent was convicted upon a plea of no
23 contest to violating Section 23152(a) of the Vehicle Code (DUI), while admitting one prior
24 conviction for the same, a misdemeanor, and a crime which bears a substantial relationship
25 under Section 2910, Title 10 of the Regulations, to the qualifications, functions, or duties of a
26 real estate licensee.

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On or about October 19, 2012, in the Superior Court of the State of California, County of El Dorado, case number S12CRF0163, Respondent was convicted upon a plea of no contest to violating Section 11350(a) of the Health and Safety Code (unlawful possession of controlled substance), a felony, and a crime which bears a substantial relationship under Section 2910, Title 10 of the Regulations, to the qualifications, functions, or duties of a real estate licensee.

Pursuant to Section 10186.2 of the Code, a licensee shall report in writing to the Bureau the bringing of an indictment or information charging a felony against the licensee, and the conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor, within thirty (30) days of the date of the bringing of the indictment or the charging of a felony, and the conviction. Respondent failed to report the felony charge alleging a violation of Health and Safety Code Section 11370.1(a) identified in paragraph 7, above, and the convictions identified in paragraphs 11 and 12, above, to the Bureau as required by Section 10186.2 of the Code. Such failures independently and collectively constitute grounds for the suspension or revocation of all licenses and license rights of Respondent pursuant to Section 10177(d) (willful disregard or violation of the Real Estate Law) of the Code.

Respondent's failure to reveal in his application for the renewal of his real estate broker license identified in paragraph 4, above, the conviction set forth in paragraph 3, above, constitutes the procurement of or attempt to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application, which failure is cause pursuant to the provisions of Section 10177(a) (Attempt to Procure

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1 License by Fraud/Misrepresentation/Deceit, or Making of False Statement Required to Be
2 Revealed in License Application) of the Code, for the suspension or revocation of all licenses
3 and license rights of Respondent under the Real Estate Law.

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5 Respondent's failure to reveal in his application for the renewal of his designated
6 officer license identified in paragraph 8, above, the conviction set forth in paragraph 3, above,
7 and the pending criminal charges identified in paragraphs 6 and 7, above, constitutes the
8 procurement of or attempt to procure a real estate license by fraud, misrepresentation, or deceit,
9 or by making a material misstatement of fact in an application, which failure is cause pursuant to
10 the provisions of Section 10177(a) (Attempt to Procure License by
11 Fraud/Misrepresentation/Deceit, or Making of False Statement Required to Be Revealed in
12 License Application) of the Code, for the suspension or revocation of all licenses and license
13 rights of Respondent under the Real Estate Law.

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15 Respondent's convictions identified in paragraphs 3, 11 and 12, above, constitute
16 cause under Sections 490 (Conviction of Crime) and 10177(b) (Conviction of Crime
17 Substantially Related to Qualifications, Functions or Duties of Real Estate Licensee) of the
18 Code for the suspension or revocation of all licenses and license rights of Respondent under the
19 Real Estate Law.

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

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