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BUREAU OF REAL ESTATE

By *[Signature]*

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8 BEFORE THE BUREAU OF REAL ESTATE
 9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
 12) NO. H-6065 SAC
 13 MARK EDWARD CHRISCO,)
 14 Respondents.) ACCUSATION

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 16 The Complainant, TRICIA D. SOMMERS, acting in her official capacity as a
 17 Deputy Real Estate Commissioner of the State of California, for cause of Accusation against
 18 Respondent MARK EDWARD CHRISCO ("Respondent") is informed and allege as follows:

19 PRELIMINARY ALLEGATIONS

20 1.

21 At all time herein mentioned, Respondent was licensed and/or has license rights
 22 under Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code
 23 ("Code") as a real estate broker.

24 2.

25 At all times herein mentioned, Respondent engaged in the business of,
 26 acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of
 27 California on behalf of others, for compensation or in expectation of compensation within the

1 meaning of section 10131(a) of the Code, including the operation and conduct of a real estate
2 brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of
3 prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the
4 purchase, sale or exchange of real property or a business opportunity.

5 4.

6 At all times herein mentioned, Respondent's real estate broker services also
7 included negotiating with lenders on behalf of property owners to permit the sale of real property
8 for an amount less than the balance due on the loans secured by said property along with the
9 agreement that the Bank would forgive any remaining balance due on the promissory notes
10 and/or release their liens; a process commonly known as a short sale.

11 5.

12 Between about January 11, 2011 and about November 26, 2012, in the process of
13 providing short sale services as described above in Paragraph 4, Respondent demanded and
14 collected advance fees for services as a short sale negotiator from the following
15 owners/borrowers:

16

Owner/Borrower Name	Date Collected	Amount Collected
Powers (Phase I)	January 11, 2011	\$595.00
Lobban (Phase II)	January 25, 2011	\$495.00
Sanders (Phase I)	January 25, 2011	\$595.00
Powers (Phase II)	February 15, 2011	\$595.00
Brown (Phase I)	March 1, 2011	\$650.00
Walburn (Phase II)	March 1, 2011	\$595.00
Joiner (Phase I)	March 22, 2011	\$650.00
Sanders (Phase II)	April 5, 2011	\$595.00
Brown (Phase II)	April 12, 2011	\$650.00

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1	Lobban (Phase III)	May 10, 2011	\$495.00
2	Dietle (Phase I)	July 5, 2011	\$1,995.00
3	Walburn (Phase III)	October 11, 2011	\$595.00
4	Bagtas (Phase I)	February 14, 2012	\$750.00
5	Osborn (Phase II)	February 14, 2012	\$1,995.00
6	Bagtas (Phase II)	March 6, 2012	\$750.00
7	Miles (Phase I)	May 22, 2012	\$650.00
8	Bagtas (Phase III)	July 17, 2012	\$950.00
9	Sajadi (Phase I)	August 28, 2012	\$695.00
10	Mullan (Phase I)	September 28, 2012	\$595.00
11	Sajadi (Phase II)	October 16, 2012	\$695.00
12	Mullan (Phase II)	October 30, 2012	\$695.00
13	Sajadi (Phase III)	November 26, 2012	\$695.00

FIRST CAUSE OF ACTION
Unlawful Collection of Advance Fees

6.

Each and every allegation contained above in Paragraphs 1 through 5, inclusive, is incorporated by this reference as if fully set forth herein.

7.

In connection with the activities described above in Paragraphs 1 through 5, Respondent collected advance fees within the meaning of sections 10026 (advance fee definition) and 10131.2 (broker definition – advance fees) of the Code in exchange for purportedly providing short sale negotiation services.

8.

The acts or omissions of Respondent, as alleged above in Paragraph 7, violate

1 sections 10085.5 (advance fees collection) and 10085.6 (collection of advance fees prior to
2 performance of services) of the Code.

3 SECOND CAUSE OF ACTION
4 Failure to Submit Advance Fee Contract

5 9.

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

8 10.

9 In connection with the collection and handling of advance fees as alleged above in
10 Paragraph 5, Respondent failed to submit the advance fee contract and all materials used in
11 obtaining those advance fee agreements to the Bureau of Real Estate for approval prior to their
12 use in obtaining advance fees from owners/borrowers.

13 11.

14 The acts and/or omissions of Respondent, as alleged above in Paragraph 10
15 violate sections 10085.5, 10085.6 and 10177(d) in conjunction with section 10085 (submission
16 of advance fee agreements and materials) of the Code, and sections 2970 (submission of advance
17 fee agreements and materials) and 2972 (content requirements of verified accounting) of title 10,
18 chapter 6, California Code of Regulations (“the Regulations”).

19 12.

20 The acts and/or omissions of Respondents as alleged above in Paragraphs 10 and
21 11, are grounds for the suspension or revocation of Respondent’s license and license rights under
22 sections 10177(d) and/or 10177(g) of the Code.

23 THIRD CAUSE OF ACTION
24 Audit Violations

25 13.

26 Each and every allegation contained above in Paragraphs 1 through 12, inclusive,
27 is incorporated by this reference as if fully set forth herein.

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4 Beginning March 19, 2013 ad continuing intermittently through May 16, 2013,
5 the Bureau conducted an audit at Respondent's main office located at 1140 Mangrove Ave.,
6 Chico CA, where the auditor examined records for the period of June 1, 2010 to February 28,
7 2013 ("the audit period").

15.

9 While doing business within the audit period, Respondent accepted or received
10 funds in trust ("trust funds") from or on behalf of prospective purchasers and others and
11 deposited or caused to be deposited those funds into the following bank account maintained by
12 Respondent:

BANK ACCOUNT # 1	
Bank Name and Location:	U.S. Bank 260 E. 2 nd St. Chico, CA 95928
Account No.:	X XXX XXXX 9505
Entitled:	MBSM Joint Venture dba Remax of Chico
Signatories:	Unknown
No. of Signatures Required:	Unknown

18 From time to time, Respondent made collections and disbursements from said account.

16.

20 In the course of the activities described above in Paragraph 15, in connection with
21 the collection and disbursement of trust funds, Respondent:

22 (a) caused, suffered or permitted the balance of funds in Bank Account #1 to
23 contain a shortage of \$4,420.00 without the prior written consent of each and every owner of
24 such funds in violation of section 10145 of the Code and section 2832.1 of the Regulations;

25 (b) failed to designate Bank Account #1 as a trust account in violation of section
26 10145 of the Code and section 2832 of the Regulations;

27 (c) failed to maintain separate records of all advance fees collected for Bank

1 Account #1 in violation of section 10145(g) of the Code and sections 2831.1 and 2831.2 of the
2 Regulations; and

3 (d) failed to reconcile at least once a month, the balance of all separate
4 beneficiary or transaction records with the record of all trust funds received and disbursed for
5 Bank Account #1 in violation section 10145 of the Code and section 2831.2 of the Regulations.

6 17.

7 The acts and/or omissions of Respondent, as alleged above in Paragraph 16
8 constitute grounds for the suspension or revocation of the license and license rights of
9 Respondent pursuant to the following provisions of the Code and Regulations:

10 As to Paragraph 16(a), under Section 10177(d) and/or 10177(g) of the Code, in
11 conjunction with section 10145 of the Code and section 2832.1 of the Regulations;

12 As to Paragraph 16(b), under Section 10177(d) and/or 10177(g) of the Code, in
13 conjunction with section 10145 of the Code and section 2832 of the Regulations;

14 As to Paragraph 16(c), under section 10177(d) and/or 10177(g) of the Code, in
15 conjunction with Section 10145(g) of the Code and sections 2831.1 and 2831.2 of the
16 Regulations; and

17 As to Paragraph 16(b), under section 10177(d) and/or 10177(g) of the Code, in
18 conjunction with section 10145 of the Code and section 2831.2 of the Regulations;

19 18.

20 The acts and/or omissions of Respondent as alleged above in Paragraph 17
21 entitle the Bureau to reimbursement of the costs of its audit pursuant to section 10148 of the
22 Code.

23 COST RECOVERY

24 19.

25 The Bureau will seek to recover costs of this suit pursuant to section 10106 of the
26 Code which provides, in pertinent part, that in any order issued in resolution of a disciplinary
27 proceeding before the Bureau, the commissioner may request the administrative law judge to

1 direct a licensee found to have committed a violation of this part to pay a sum not to exceed the
2 reasonable costs of the investigation and enforcement of the case.

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4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
5 of this Accusation and that upon proof thereof, a decision be rendered revoking the license and
6 license rights of Respondent under the Real Estate Law, for the costs of investigation and
7 enforcement as permitted by law, and for such other and further relief as may be proper under
8 other provisions of law.

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TRICIA D. SOMMERS
Deputy Real Estate Commissioner

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Dated at Sacramento, California,

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this 9th day of January, 2014.

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DISCOVERY DEMAND

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Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau hereby
18 makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure*
19 *Act*. Failure to provide Discovery to the Bureau may result in the exclusion of witnesses and
20 documents at the hearing or other sanctions that the Office of Administrative Hearings deems
21 appropriate.

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