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DEPARTMENT OF REAL ESTATE

By *L Kroeger*

1 RICHARD K. UNO, Counsel III (SBN 98275)
2 Department of Real Estate
3 P. O. Box 137007
4 Sacramento, CA 95813-7007

5 Telephone: (916) 263-8670
6 (916) 263-3767 (Fax)
7 (916) 263-8679 (Direct)

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 JAMES EDWARD KROETCH,)
14 Respondent.)

No. H-6713 SAC
ACCUSATION

15 The Complainant, CHIKA SUNQUIST, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against JAMES EDWARD KROETCH,
17 (Respondent), is informed and alleges as follows:

18 1

19 Complainant makes this Accusation against Respondent in her official capacity.

20 2

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

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1 FIRST CAUSE OF ACTION

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3 Complainant refers to Paragraphs 1 and 2 above, and incorporates the same,
4 herein, by reference.

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6 In response to Question 4 of the Broker Renewal Application, to wit: "Within the
7 six-year period prior to filing this application, have you been convicted of a misdemeanor or
8 felony? Convictions expunged under Penal Code Section 1203.4 must be disclosed. However,
9 you may omit traffic citations which do not constitute a misdemeanor or felony", Respondent
10 concealed and failed to disclose the conviction described in Paragraph, 5, below.

11 5

12 On or about January 5, 2016, in the Superior Court of the State of California,
13 County of Contra Costa, Case No. 01-1700332-1, Respondent was convicted of violating Section
14 311.11(a) of the California Penal Code (possession of child pornography), a misdemeanor and a
15 crime which bears a substantial relationship under Section 2910, Title 10, California Code of
16 Regulations, to the qualifications, functions, or duties of a real estate licensee. Respondent was
17 ordered to register as a sex offender pursuant to Section 290 of the California Penal Code.

18 6

19 The facts alleged in Paragraph 5, above, constitute cause under Section 10177(b)
20 (further grounds for disciplinary action- conviction of crime) and Section 490 (conviction of a
21 substantially related crime) of the Code for suspension or revocation of Respondent's license
22 under the Real Estate Law.

23 7

24 Respondent's failure to reveal in said application the conviction set forth in
25 Paragraph 5, above, constitutes the procurement of or attempt to procure a real estate license by
26 fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said
27 application, which failure is cause for suspension or revocation of Respondent's real estate

1 broker license pursuant to the provisions of Section 480(c) (false statement) and 10177(a)
2 (further grounds for disciplinary action-attempt to procure license through fraud, etc.) of the
3 Code.

4 SECOND CAUSE OF ACTION

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6 Complainant refers to Paragraphs 1 through 7, above, and incorporates the same
7 herein, by reference.

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9 On or about March 5, 2016, the State Bar Court, Case No. 16-C-14253, ordered
10 the Involuntary Inactive Enrollment of Respondent due to the conviction set forth above, in
11 Paragraph 5.

12 10

13 The facts alleged above, in Paragraphs 1 through 9, constitute grounds under
14 Section 10177(f) of the Code for suspension or revocation of all licenses and license rights of
15 Respondent under Part 1 of Division 4 of the Code.

16 THIRD CAUSE OF ACTION

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18 Complainant refers to Paragraphs 1 through 10, above, and incorporates the same.

19 12

20 At all times herein mentioned, Respondent engaged in the business of, acted in
21 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
22 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
23 property management business with the public wherein, on behalf of others, for compensation or
24 in expectation of compensation, Respondent leased or rented or offered to lease or rent, or
25 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or
26 negotiated the sale, purchase or exchanges of leases on real property, or on a business
27

1 opportunity, or collected rents from real property, or improvements thereon, or from business
2 opportunities.

3 13

4 Beginning on October 17, 2017, and continuing intermittently through October
5 30, 2017, an audit was conducted at Respondent's office located at 1 North Wood Drive, Suite
6 1, Orinda, California, and at the Department's district office located at 1515 Clay Street,
7 Oakland, California, where the auditor examined records for the period of July 1, 2016, through
8 September 30, 2017, (the audit period).

9 14

10 While acting as a real estate broker as described in Paragraph 12, above, and
11 within the audit period, Respondent accepted or received funds in trust (trust funds) from or on
12 behalf of property owners, lessees and others in connection with property management
13 activities, and deposited or caused to be deposited those funds into bank accounts maintained by
14 Respondent, at Bank of the West, P.O. Box 2830, Omaha, Nebraska 68103-2830, as described
15 below:

16

BANK ACCOUNT #1	
17 Account No.:	XXXXXX0534
18 Entitled:	James E. Kroetch

19

BANK ACCOUNT #2	
20 Account No.:	XXXXXX9136
21 Entitled:	Placerville 128 LLC

22 And at Wells Fargo Bank, P.O. Box 6995, Portland, Oregon 95228:

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BANK ACCOUNT #3	
24 Account No.:	XXXXXXXX9852

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1 Entitled:	2012 Cannon Owner LLC
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3 and thereafter from time-to-time made disbursement of said trust funds.

4 15

5 In the course of the activities described in Paragraph 12, in connection with the
6 collection and disbursement of trust funds, it was determined that:

7 (a) Respondent failed to designate Bank Account #1, Bank Account #2, and
8 Bank Account #3 as trust accounts as required by Section 2832 of the
9 Regulations and Section 10145 of the Code;

10 (b) Respondent failed to maintain accurate records of all funds received and
11 disbursed for Bank Account #2 and Bank Account #3, as required by Section
12 2831 of the Regulations;

13 (c) Respondent used a fictitious business name, "Medallion Servicing LLC"
14 without licensing it with the Department as required by Section 2731 of the
15 Regulations.

16 16

17 The acts and/or omissions described above constitute violations of Sections 2731
18 (fictitious business name), 2831 (control records) and 2832 (trust fund designation) of the
19 Regulations and of Section 10145 (trust fund handling) of the Code and are grounds for
20 discipline under Section 10177(d) (willful disregard of real estate laws) and 10177(g)
21 (negligence/incompetence licensee) of the Code.

22 17

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