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SEP 10 1999

DEPARTMENT OF REAL ESTATE

By Juan Luna

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
NOBLE FIELDS,)
Respondent.)

No. H-7304 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 6, 1996, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on July 22, 1996, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On December 17, 1998, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 broker license be issued to Respondent if Respondent satisfies
11 the following conditions within nine months from the date of this
12 Order:

13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: August 12, 1999.

22 JOHN R. LIBERATOR
23 Acting Real Estate Commissioner

24 John R. Liberator
25
26
27

COPY

1 Department of Real Estate
185 Berry Street, Room 3400
2 San Francisco, CA 94107-1770
3 Telephone: (415) 904-5917
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JUL 1 1996

DEPARTMENT OF REAL ESTATE

By Montiel

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-7304 SF
12 NOBLE FIELDS,)
13) STIPULATION AND AGREEMENT
14 Respondent.) IN SETTLEMENT AND ORDER
AS TO ACCUSATION

15 It is hereby stipulated by and between NOBLE FIELDS
16 (Respondent), represented by Adam G. Slote, Attorney at Law, and
17 the Complainant, acting by and through Deidre L. Johnson,
18 Counsel for the Department of Real Estate, as follows for the
19 purpose of settling and disposing the Accusation filed on
20 December 15, 1995 in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedures Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement in Settlement.

1 2. Respondent has received, read and understands the
2 Statement to Respondent, and the Discovery Provisions of the APA
3 filed by the Department of Real Estate in this proceeding.

4 3. On December 18, 1995, Respondent filed her Notice of
5 Defense pursuant to Section 11505 of the Government Code for the
6 purpose of requesting a hearing on the allegations in the
7 Accusation. Respondent hereby freely and voluntarily withdraws
8 said Notice of Defense. Respondent acknowledges that she
9 understands that by withdrawing said Notice of Defense she will
10 thereby waive her right to require the Commissioner to prove the
11 allegations in the Accusation at a contested hearing held in
12 accordance with the provisions of the APA, and that she will waive
13 other rights afforded to her in connection with the hearing such
14 as the right to present evidence in defense of the allegations in
15 the Accusation and the right to cross-examine witnesses.

16 4. Respondent, pursuant to the limitations set forth
17 below, hereby admits that the factual allegations in Paragraphs I
18 through IV of the Accusation filed in this proceeding are true and
19 correct and the Real Estate Commissioner shall not be required to
20 provide further evidence of such allegations.

21 5. Without admitting the truth of the allegations
22 contained in Paragraphs V through XV of the Accusation, Respondent
23 stipulates that she will not interpose a defense thereto.
24 Respondent stipulates that the Department may issue findings and
25 determinations of issues that the acts and/or omissions of
26 Respondent as stipulated above constitute grounds for disciplinary
27

1 action as set forth herein. A true copy of the Accusation is
2 attached hereto as Annex A and incorporated herein by reference.

3 6. No additional documentary, testimonial, or other
4 evidence, except that which is necessary to establish
5 Complainant's jurisdiction, shall be required to be presented by
6 Complainant at any hearing in this proceeding in order to prove
7 the Accusation as above stipulated.

8 7. Respondent hereby waives the right to petition for
9 or claim entitlement to continuing education credit based on the
10 equivalency of any activity, presentation, development,
11 authorship, research, instruction, unapproved program, or other
12 matter in order to comply with the continuing education condition
13 provided for in this agreement.

14 8. Respondent enters into this stipulation for purposes
15 of this Accusation only, and the execution of this stipulation
16 shall not be construed to be an admission of liability except as
17 may pertain to the grounds for the stipulation, and shall not be
18 construed to be an admission for any purpose whatsoever, pursuant
19 to the provisions of California Evidence Code Section 1152.

20 9. It is understood by the parties that the Real Estate
21 Commissioner may adopt the Stipulation and Agreement in Settlement
22 as his decision in this matter thereby imposing the penalty and
23 sanctions on Respondent's real estate license and license rights
24 as set forth in the below "Order". In the event that the
25 Commissioner in his discretion does not adopt the Stipulation and
26 Agreement in Settlement, it shall be void and of no effect, and
27 Respondent shall retain the right to a hearing and proceeding on

1 the Accusation under all the provisions of the APA and shall not
2 be bound by any admission or waiver made herein.

3 10. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation and
5 Agreement in Settlement shall not constitute an estoppel, merger
6 or bar to any further administrative or civil proceedings by the
7 Department of Real Estate with respect to any matters which were
8 not specifically alleged to be causes for accusation in this
9 proceeding.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations, admissions and
12 waivers and for the purpose of settlement of the pending
13 Accusation as to Respondent without a hearing, it is stipulated
14 and agreed that the following determination of issues shall be
15 made:

16 I

17 The acts and/or omissions of Respondent as set forth in
18 the Accusation violate Sections 3006, 3007.2, 3007.3, and 3012.2
19 of Title 10, California Code of Regulations (the Regulations), and
20 constitute grounds for the suspension or revocation of the real
21 estate license(s) and license rights of Respondent under the
22 provisions of Section 10177(d) of the California Business and
23 Professions Code (the Code).

24 ORDER

25
26 A. All real estate license(s) and license rights of
27 Respondent NOBLE FIELDS are hereby revoked.

1 B. A restricted real estate broker license shall be
2 issued to Respondent pursuant to Section 10156.6 of the Code if
3 Respondent makes application therefor and pays to the Department
4 the appropriate fee for said license within ninety (90) days of
5 the effective date of the decision.

6 C. The restricted license issued to Respondent shall be
7 subject to all of the provisions of Section 10156.7 of the
8 Business and Professions Code and to the following limitations
9 imposed under authority of Section 10156.6 of the Code:

10 (1) The restricted license may be suspended prior to
11 hearing by order of the Real Estate Commissioner
12 in the event of Respondent's conviction or plea of
13 nolo contendere to a crime which bears a
14 substantial relationship to Respondent's fitness
15 or capacity as a real estate licensee.

16 (2) The restricted license may be suspended prior to
17 hearing by Order of the Real estate Commissioner
18 on evidence satisfactory to the Commissioner that
19 Respondent has violated provisions of the
20 California Real Estate Law, the Subdivided Lands
21 Law, Regulations of the Real Estate Commissioner
22 or conditions attaching to the restricted license.

23 (3) Respondent shall not be eligible to apply for the
24 issuance of an unrestricted real estate license,
25 nor the removal of any of the conditions of the
26 restricted license, until one (1) year has elapsed
27 from the date of issuance of the restricted
license.

(4) Respondent shall, within nine (9) months from the
effective date of this decision, present evidence
satisfactory to the Real Estate Commissioner that
Respondent has, since the most recent issuance of
an original or renewal real estate license, taken
and successfully completed the continuing
education requirements of Article 2.5 of Chapter 3
of the Real Estate Law for renewal of a real
estate license. Respondent shall take and
complete the continuing education requirements
from a sponsor(s) approved by the Department other
than NobleFields School of Real Estate or any
sponsor in which Respondent has any ownership
interest or affiliation. Respondent shall not be

1 entitled to continuing education credit based on
2 equivalency for any matter. If Respondent fails
3 to satisfy this condition, the Commissioner may
4 order the suspension of the restricted license
5 until the Respondent presents such evidence. The
6 Commissioner shall afford Respondent the
7 opportunity for hearing pursuant to the
8 Administrative Procedure Act to present such
9 evidence.

10 (5) Respondent shall, within six (6) months from the
11 effective date of this Decision, take and pass the
12 Professional Responsibility Examination
13 administered by the Department including the
14 payment of the appropriate examination fee. If
15 Respondent fails to satisfy this condition, the
16 Commissioner may order suspension of the
17 restricted license until Respondent passes the
18 examination.

19 DATED: May 1, 1996

Deidre L. Johnson
20 DEIDRE L. JOHNSON
21 Counsel for the Complainant

22 * * *

23 I have read the Stipulation in Settlement and Agreement,
24 have discussed it with my counsel, and its terms are understood by
25 me and are agreeable and acceptable to me. I understand that I am
26 waiving rights given to me by the California Administrative
27 Procedure Act, and I willingly, intelligently and voluntarily
waive those rights, including the right of requiring the
Commissioner to prove the allegations in the Accusation at a
hearing at which I would have the right to cross-examine witnesses

1 against me and to present evidence in defense and mitigation of
2 the charges.

3
4 DATED: 4-30-96

Noble Fields
NOBLE FIELDS
Respondent

6
7 APPROVED AS TO FORM:

8 DATED: 5-1-96

Adam G. SLOTE
ADAM G. SLOTE
Attorney for Respondent

10

11

* * *

12

DECISION AND ORDER

13

14

15

The foregoing Stipulation and Agreement in Settlement is
hereby adopted as my Decision and Order and shall become effective
at 12 o'clock noon on July 22nd, 1996.

16

IT IS SO ORDERED 6-6, 1996.

17

JIM ANTT, JR.
Real Estate Commissioner

18

19

20

21

22

23

24

25

26

27

Jim Antt Jr.

COPY

1 DEIDRE L. JOHNSON, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 3400
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4 Telephone: (415) 904-5917
5
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FILED
DEC 15 1995

DEPARTMENT OF REAL ESTATE

LaMonte

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-7304 SF
12 NOBLE FIELDS,) ACCUSATION
13 Respondent.)
14 _____)

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for causes of
17 Accusation against NOBLE FIELDS, is informed and alleges as
18 follows:

19 PRELIMINARY ALLEGATIONS

20 I

21 Respondent NOBLE FIELDS (hereafter Respondent), is
22 presently licensed and/or has license rights under the Real Estate
23 Law, Part 1 of Division 4 of the California Business and
24 Professions Code (hereafter the Code).

25 II

26 The Complainant, Les R. Bettencourt, a Deputy Real
27 Estate Commissioner of the State of California, makes this

1 Accusation against Respondent in his official capacity and not
2 otherwise.

3
4 III

5 At all times herein mentioned, Respondent was and is
6 licensed by the Department of Real Estate (hereafter the
7 Department) as a real estate broker, individually and doing
8 business under the fictitious business name of NOBLE FIELDS REALTY
9 & INVESTMENT CO. Whenever reference is made in an allegation in
10 this Accusation to an act or omission of "Respondent", such
11 allegation shall be deemed to mean that Respondent and/or the
12 officers, employees, and agents employed by or associated with
13 Respondent committed such act or omission while engaged in the
14 furtherance of the businesses or operations of Respondent and
15 while acting within the course and scope of the authority and
16 employment.

17
18 FIRST CAUSE OF ACTION

19 IV

20 Respondent, doing business under the fictitious business
21 name of NOBLE FIELDS REALTY & INVESTMENT CO., and/or NOBLEFIELDS
22 SCHOOL OF REAL ESTATE applied to the Department for, and received
23 Offering Approval Certificates permitting the offer by Respondent
24 of the continuing education courses identified below. The
25 Department issued approval for the following continuing education
26 course offerings, among others, pursuant to Section 10170.4 of the
27 Code and Sections 3006 and 3007 of Title 10, California Code of
Regulations (hereafter the Regulations):

- 1
- 2 (a) "Agency Relationships, Duties, Disclosures and
3 Confidences in a Real Estate Brokerage Practice"
4 **Correspondence** Course, category of Agency,
5 Dates approved/renewed:
6 (1) March 17, 1993 as Certificate No. 0722-1002.
7 (2) March 16, 1995 as Certificate No. 0722-1015.
- 8 (b) "Residential **Property Management**" **Correspondence**
9 course, category of Consumer Protection.
10 Dates approved/renewed:
11 (1) July 19, 1991 as Certificate No. 0722-7-23-0791-17.
12 (2) July 20, 1993 as Certificate No. 0722-1004.
13 (3) July 19, 1995 as Certificate No. 0722-1019.
- 14 (c) "The New **Ethics** and Professional Code as Adopted by the
15 Estate Commissioner's Regulation 2785" **Seminar**
16 course, category of Ethics.
17 Dates approved/renewed:
18 (1) May 12, 1992 as Certificate No. 0722-7-24-0592-16.
19 (2) May 12, 1994 as Certificate No. 0722 -1009
- 20 (d) "**Probate** and Estate Taxes Lesson III" **Seminar** course,
21 category of Consumer Protection,
22 Dates approved/renewed:
23 (1) June 26, 1991 as Certificate No. 0722-7-21-0691-09.
24 (2) June 26, 1993 as Certificate No. 0722 -1006.
25 (3) June 26, 1995 as Certificate No. 0722 -1018.

16 V

17 Approval of the above courses was conditioned upon
18 Respondent's compliance with, and Respondent represented to the
19 Department in connection with the Offering Approval Application
20 and supporting documents for each course, that she would comply
21 with Regulation Sections 3005 through 3012.2 and Code Sections
22 10170 through 10171.6, including the following:

- 23 (a) For the two named seminar courses, enrollees in the
24 courses would be physically present during at least 90% of the
25 offering time exclusive of the time allocated to the administering
26 of a final exam. Regulation §3006(b).

27

1 (b) The final examination for each course would comply
2 with the requirements of Regulation §3007.3 and would be designed
3 to evaluate a participant's attentiveness and comprehension of the
4 offering. Regulation §3006(c).

5 (c) Any proposed material change to an approved
6 offering would be submitted by the sponsor to the Department for
7 consideration and approval prior to use. Regulation §3007.2.

8 (d) Respondent would establish and participants would
9 observe the following final examination rules for each approved
10 offering:

11 (1) All participants would present one of the following
12 forms of identification immediately before or upon
13 completion of the final examination:

14 (i) A current California drivers license.

15 (ii) A current identification card described in
16 California Vehicle Code §13000.

17 (iii) Any identification of the participant issued
18 by a governmental agency or a recognized real
19 estate related trade organization within the
20 immediately preceding five years which bears a
21 photograph and description, signature and
22 identification number of the participant.

23 Regulation §3007.3(a)(1).

24 (2) The examination would be a closed-book examination
25 continuously monitored by the sponsor or the sponsor's
26 representative. The test administrator would not be
27 designated by the examinee. Regulation

1 §3007.3(a)(2), (13). The examination would be
2 preapproved by the Department. Regulation §3007.
3 (3) In taking the examination, the only written or
4 printed material to which an examinee would be permitted
5 to refer is the final examination itself and reference
6 material such as amortization tables and tax tables
7 provided by the sponsor with the prior approval of the
8 Department in its approval of the offering. Regulation
9 §3007.3(a)(6).
10 (4) The examination would not be passed out to
11 participants until completion of the instructional
12 portion of the course. Regulation §3007.3(a)(7).
13 (5) Examinees would not communicate with any person
14 except the test administrator during the final exam.
15 Regulation §3007.3(a)(9).
16 (6) All examination papers and materials would be
17 turned in to the test administrator before leaving the
18 examination room, and the exams would be graded for
19 passage or failure. Regulation §3007.3(a)(3) and (10).
20 (e) For the two named seminar courses, the time for
21 presentation of instruction materials prior to the examination as
22 approved by the Department for "The New Ethics and Professional
23 Code as Adopted by the Estate Commissioner's Regulation 2785"
24 would be 971 minutes, or sixteen hours, and that approved for
25 "Probate and Estate Taxes Lesson III" would be 665 minutes, or
26 nine hours. Regulation §3007(d)(3).
27

1 (f) For the two named correspondence courses, there
2 would be adequate study material to assure that each course cannot
3 be completed in less time than the number of hours for which it is
4 approved. The time for study of "Agency Relationships, Duties,
5 Disclosures and Confidences in a Real Estate Brokerage Practice"
6 as approved by the Department would be three hours, and that
7 approved for "Residential Property Management" would be seventeen
8 hours. Regulation §3006(h).

9 (g) No approval was issued by the Department for the
10 presentation of instruction of any of the seminar courses or the
11 correspondence courses in a videotape format or method of
12 presentation. No approval was issued by the Department for the
13 presentation of instruction of any of the seminar courses in a
14 correspondence format or method of presentation. Regulation
15 §3007(d)(12).

16 (h) For the correspondence course "Residential Property
17 Management" there would be six mini-quizzes and a text consisting
18 of 169 pages, preapproved by the Department, given to the
19 participant during the instructional portion of the course.

20 (i) For each course, Respondent would communicate to
21 the participant the Department's Disclaimer Statement as follows:

22 "This course is approved for Continuing Education credit
23 by the California Department of Real Estate. However,
24 this approval does not constitute an endorsement of the
views or opinions which are expressed by the course
sponsor, instructor, authors or lecturers."

25 (j) Respondent would maintain a record of attendance of
26 each participant for a period of five years. The record would
27 include information, including the following.

- (1) Name, address and real estate license identification number of each participant.
- (2) Record of final examination grade.
- (3) Dates of offering, presentation and date course is completed.
- (4) Sign-in and sign-out attendance records indicating total clock hours of attendance and total time absent, if any. Regulation §§ 3012.(a)(2), (5), (8) and (11).

VI

In order to qualify for renewal of a real estate license, a licensee must prove successful completion of continuing education courses, or the equivalent, such as those identified above, during the preceding four-year period.

VII

On or about May 6, 1993, Rita Cole (Cole) telephoned NobleFields School of Real Estate and enrolled in a forty-five hour continuing education "package" program. She was informed that this was a correspondence program. Cole sent the fee of \$250 by mail as requested. On or about May 13, 1993, Cole received a package in the mail from the NobleFields School of Real Estate, including but not limited to the following:

- (a) a videotape presentation of correspondence study materials for at least the four courses named in Paragraph IV above.
- (b) a registration contract.
- (c) a blank final exam answer sheet.

1 (d) a completed exam answer sheet with the name Robert
2 L. Fischer on it.

3 (e) a set of questions regarding the four named
4 courses.

5 (f) written correspondence study materials for the four
6 courses named in Paragraph IV above.

7
8 VIII

9 On or about May 17, 1993, Cole completed the blank exam
10 answer sheet and mailed it back to NobleFields School of Real
11 Estate. On or about July 17, 1993, Cole received her course
12 completion certificates in the mail. The certificates state that
13 Cole had attended seminar programs for the above courses in San
14 Francisco, California, on May 3,4,5,6,7,and 10, 1993; that she had
15 met all attendance requirements; and that she had successfully
16 completed final examinations on May 4,6,7, and 10, 1993.

17 IX

18 Since the issuance of the Department's approvals of the
19 above courses, material changes in the offerings have been made by
20 Respondent as follows:

21 (a) For the two named seminar courses, Respondent did
22 not require the enrollee to be physically present at a live
23 seminar with an instructor as defined in Regulation 3005(i) during
24 at least 90% of the offering time, exclusive of the time allocated
25 to the administering of a final exam, in violation of Regulation
26 §3006(b).

27

1 (b) The final examination for the program package did
2 not comply with the requirements of Section 3007.3 of the
3 Regulations and was not designed to evaluate a participant's
4 attentiveness and comprehension of the offering, in that a
5 completed exam sheet with all the answers filled in was also
6 provided to the enrollee, in violation of Regulations §3006(c) and
7 §3007.3(a)(15).

8 (c) Respondent did not require the enrollee to present a
9 documentary form of identification immediately before or upon
10 completion of the final examination, in violation of Regulation
11 §3007.3(a)(1).

12 (d) Respondent did not require the enrollee to take a
13 closed-book examination continuously monitored by the sponsor or
14 the sponsor's representative. Respondent allowed or authorized
15 the examinee to designate herself as the test administrator with
16 no independent monitoring whatsoever, in violation of Regulation
17 §3007.3(a)(2), (13).

18 (e) The examination given to the enrollee was one joint
19 examination for all four courses. Respondent did not submit the
20 examination to the Department for approval prior to administering
21 it to the enrollee. The examinations for the above named courses
22 previously approved by the Department, and part of the sponsor's
23 Offering Approval Application and supporting documents for each
24 course, were not given to the enrollee, except for the "Probate"
25 course, in violation of Regulations §§3007, 3007.3(a)(6).

26 (f) In permitting the enrollee to take the examination
27 without attending a closed-book examination with a test

1 administrator at a monitored site, Respondent allowed the enrollee
2 to have access to written or printed materials other than the
3 final examination itself and reference material such as
4 amortization tables and tax tables provided by the sponsor with
5 the prior approval of the Department in its approval of the
6 offering for each course, in violation of Regulation
7 §3007.3(a)(6).

8 (g) Respondent authorized or allowed the examination to
9 be passed out or delivered to the enrollee at the beginning of,
10 and not only after completion of the instructional portion of each
11 course, in violation of Regulation §3007.3(a)(7).

12 (h) In permitting the enrollee to take the examination
13 without attending a closed-book examination with a test
14 administrator at a monitored site, Respondent allowed the enrollee
15 to communicate with persons other than the test administrator
16 during the final exam, in violation of Regulation §3007.3(a)(9).

17 (i) In permitting the enrollee to take the examination
18 without attending a closed-book examination with a test
19 administrator at a monitored site, Respondent allowed the enrollee
20 to keep examination papers and materials instead of turning them
21 in to a test administrator before leaving an examination room, in
22 violation of Regulation §3007.3(a)(10).

23 (j) The presentation of the course materials for each
24 course included combined presentation for all four named courses
25 in one six-hour videotape, and supplemental written course
26 outlines and materials. Respondent did not obtain the approval of
27 the Department for the presentation of instruction of any of the

1 seminar courses or the correspondence courses, singly or combined,
2 in a videotape format or method of presentation. Respondent did
3 not obtain approval for the presentation of instruction of the
4 seminar courses in a correspondence format or method presentation,
5 and the presentation and materials were in violation of Regulation
6 §3007(d)(5) and (12).

7 (k) The represented time for the combined course of
8 forty-five hours was not approved by the Department, in violation
9 of Regulation §3007.2.

10 (l) For the two named seminar courses, the actual time
11 for presentation of instruction materials prior to the examination
12 was substantially shorter than the number of hours for which each
13 was approved by the Department in violation of Regulation §3007.2.

14 (m) For the two named correspondence courses, there was
15 inadequate study material to assure that each course could not be
16 completed in less time than the number of hours for which each was
17 approved in violation of Regulation §3006(h).

18 (n) For the correspondence course "Residential Property
19 Management" the enrollee did not receive and was not administered
20 any of the approved six mini-quizzes, and did not receive the
21 approved text during the instructional portion of the course.

22 (o) Respondent failed to communicate or cause the
23 communication of the Department's Disclaimer Statement to the
24 enrollee, either verbally or in writing, as represented in the
25 Offering Approval Application and supporting documents for each
26 course.

27

(p) Respondent failed to maintain a record of attendance of each participant for a period of five years containing the information required by Regulation §3012.2(a)(2), (5), (8) and (11), in that, following reasonable notice and request from the Department on or about September 17, 1993, Respondent failed to produce to the Department the attendance records for the above courses for the months of April, May and June of 1993, in violation of Regulation §3012.2(c).

(q) The completion certificates issued and signed by Respondent were issued to the enrollee with false or incorrect dates of attendance at seminar sessions in a city to which the enrollee did not travel, and on dates that the enrollee did not attend; and the certificates were issued to the enrollee without regard to passage or failure of the exam, and were issued more than fifteen days after the enrollee completed the offerings, in violation of Regulation §3007.3(a)(3) and §3012.2(b).

(r). Respondent did not submit notices to the Department of material changes to the approved courses, as set forth in subsections (a) through (q) above, prior to their use, in violation of Regulation §3007.2.

X

Respondent's acts and/or omissions as alleged in Paragraphs VII, VIII and IX above, and the specific violations of the Regulations set out in those paragraphs, constitute grounds for disciplinary action pursuant to Section 10177(d) of the Code. Said acts and/or omissions constitute fraud or dishonest dealing,

1 and constitute grounds for disciplinary action pursuant to Section
2 10177(j) of the Code.

3
4 SECOND CAUSE OF ACTION

5 XI

6 All of the allegations of Paragraphs I through VI of the
7 Preliminary Allegations and First Cause of Action are incorporated
8 herein as though fully set forth at this point.

9 XII

10 In or about April of 1994, Linde M. Butler (Butler)
11 telephoned NobleFields School of Real Estate and enrolled in a
12 forty-five hour continuing education "package" program. She was
13 informed that this was a correspondence program. On or about
14 April 18, 1994, Butler sent the fee of \$250 by mail as requested.
15 Butler thereafter received a package in the mail from the
16 NobleFields School of Real Estate, including but not limited to
17 the following:

18 (a) written correspondence study materials for at least
19 the four courses named in Paragraph IV above.

20 (b) a registration contract.

21 (c) blank mini-exam sheets.

22 (d) other materials.

23 XIII

24 On or about May 3, 1994, Butler attended a final
25 examination at the office of NobleFields School of Real Estate in
26 San Francisco. At that time and place, Butler took an exam for
27 about fifteen minutes alone in a small room with no representative

1 of the sponsor in attendance. On completion of the exam, Butler
2 turned the exam in to a representative, and received certificates
3 for the above courses without the exams having been graded.
4 Butler was instructed to fill in fictitious dates of seminar
5 attendance that preceded the exam date. The certificates state
6 that Butler had attended seminar programs for the above courses in
7 San Francisco, California, on April 20,21,26,27,28,29 and 30,
8 1994; that she had met all attendance requirements; and that she
9 had successfully completed final examinations on various dates in
10 May of 1994.

11

XIV

12 Since the issuance of the Department's approvals of the
13 above courses, material changes in the offerings have been made by
14 Respondent as follows:

15 (a) For the two named seminar courses, Respondent did
16 not require the enrollee to be physically present at a live
17 seminar with an instructor as defined in Regulation 3005(i) during
18 at least 90% of the offering time, exclusive of the time allocated
19 to the administering of a final exam, in violation of Regulation
20 §3006(b).

21 (b) Respondent did not require the enrollee to take a
22 closed-book examination continuously monitored by the sponsor or
23 the sponsor's representative. Respondent allowed or authorized
24 the examinee to designate herself as the test administrator with
25 no independent monitoring whatsoever, in violation of Regulation
26 §3007.3(a)(2) and (13).

27

1 (c) The examination given to the enrollee was one joint
2 examination for all four courses. Respondent did not submit the
3 examination to the Department for approval prior to administering
4 it to the enrollee. The examinations for the above courses
5 previously approved by the Department, and part of the sponsor's
6 Offering Approval Application and supporting documents for each
7 course, were not given to the enrollee, in violation of
8 Regulations §§3007, 3007.3(a)(6).

9 (d) The presentation of the course materials for each
10 course included combined presentation for all four courses in one
11 written correspondence course of outlines and materials.
12 Respondent did not obtain the approval of the Department for the
13 presentation of instruction of any of the seminar courses in a
14 correspondence format or method of presentation, and the
15 presentation and materials were in violation of Regulation
16 §§3007(d)(5) and (12).

17 (e) The represented time for the combined course of
18 forty-five hours was not approved by the Department, in violation
19 of Regulation §3007.2.

20 (f) For the two named seminar courses, the actual time
21 for presentation of instruction materials prior to the examination
22 was substantially shorter than the number of hours for which each
23 was approved by the Department in violation of Regulation §3007.2.

24 (g) For the two named correspondence courses, there was
25 inadequate study material to assure that each course could not be
26 completed in less time than the number of hours for which it was
27 approved in violation of Regulation §3006(h).

1 (h) The completion certificates issued and signed by
2 Respondent were issued to the enrollee with false or incorrect
3 dates of attendance at seminar sessions on dates that the enrollee
4 did not attend; and the certificates were issued to the enrollee
5 without regard to passage or failure of the exam, in violation of
6 Regulations §3007.3(a)(3) and §3012.2(b).

7 (i) Respondent did not submit notices to the Department
8 of material changes to the approved courses, as set forth in
9 subsections (a) through (h) above, prior to their use, in
10 violation of Regulation §3007.2.

11 XV

12 Respondent's acts and/or omissions as alleged in
13 Paragraphs XII, XIII and XIV above, and the specific violations of
14 the Regulations set forth in those paragraphs, constitute grounds
15 for disciplinary action pursuant to Section 10177(d) of the Code.
16 Said acts and/or omissions constitute fraud or dishonest dealing,
17 and constitute grounds for disciplinary action pursuant to Section
18 10177(j) of the Code.

19 WHEREFORE, Complainant prays that a hearing be conducted
20 on the allegations of this Accusation and that upon proof thereof
21 a decision be rendered imposing disciplinary action against all
22 licenses and license rights of Respondent under the Real Estate

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1 Law (Part 1 of Division 4 of the Business and Professions Code),
2 and for such other and further relief as may be proper under other
3 provisions of law.
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6 LES R. BETTENCOURT
7 Deputy Real Estate Commissioner

8 Dated at San Francisco, California,
9 this 15 day of December, 1995.
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