

FILED

JUN 14 2007

DEPARTMENT OF REAL ESTATE

By A. Feely

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789  
5  
6  
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-9495 SF  
13 GROSS MORTGAGE CORPORATION and ) STIPULATION AND AGREEMENT  
14 LEONARD ABURN GROSS, )  
15 Respondents. )

16  
17 It is hereby stipulated by and between Respondents  
18 GROSS MORTGAGE CORPORATION, a corporation and LEONARD ABURN  
19 GROSS (hereinafter "Respondents"), individually, and by and  
20 through Barry Gross, counsel for Respondents, and the  
21 Complainant, acting by and through Michael B. Rich, Counsel for  
22 the Department of Real Estate, as follows for the purpose of  
23 settling and disposing of the Accusation filed on January 14,  
24 2006, in this matter (hereinafter "the Accusation"):

25 1. All issues which were to be contested and all  
26 evidence which was to be presented by Complainant and  
27 Respondents at a formal hearing on the Accusation, which

H-9495 SF

GROSS MORTGAGE CORP.  
LEONARD ABURN GROSS

1 hearing was to be held in accordance with the provisions of the  
2 Administrative Procedure Act (APA), shall instead and in place  
3 thereof be submitted solely on the basis of the provisions of  
4 this Stipulation and Agreement.

5           2. Respondents have received, read and understands  
6 the Statement to Respondent, the Discovery Provisions of the  
7 APA and the Accusation filed by the Department of Real Estate  
8 in this proceeding.

9           3. On January 23, 2006, Respondents filed a Notice of  
10 Defense pursuant to Section 11505 of the Government Code for  
11 the purpose of requesting a hearing on the allegations in the  
12 Accusation. Respondents hereby freely and voluntarily withdraw  
13 said Notice of Defense. Respondents acknowledges that  
14 Respondents understand that by withdrawing said Notice of  
15 Defense Respondents will thereby waive Respondents' right to  
16 require the Commissioner to prove the allegations in the  
17 Accusation at a contested hearing held in accordance with the  
18 provisions of the APA and that Respondents will waive other  
19 rights afforded to Respondents in connection with the hearing  
20 such as the right to present evidence in defense of the  
21 allegations in the Accusation and the right to cross-examine  
22 witnesses.

23           4. Respondents, pursuant to the limitations set forth  
24 below, hereby admit that the factual allegations in the  
25 Accusation pertaining to Respondents are true and correct and  
26 stipulates and agrees that the Real Estate Commissioner shall  
27 not be required to provide further evidence of such

1 allegations.

2           5. It is understood by the parties that the Real  
3 Estate Commissioner may adopt the Stipulation and Agreement as  
4 his decision in this matter, thereby imposing the penalty and  
5 sanctions on Respondents' real estate licenses and license  
6 rights as set forth in the "Order" below. In the event that  
7 the Commissioner in his discretion does not adopt the  
8 Stipulation and Agreement, it shall be void and of no effect,  
9 and Respondents shall retain the right to a hearing and  
10 proceeding on the Accusation under all the provisions of the  
11 APA and shall not be bound by any admission or waiver made  
12 herein.

13           6. This Stipulation and Agreement shall not  
14 constitute an estoppel, merger or bar to any further  
15 administrative or civil proceedings by the Department of Real  
16 Estate with respect to any matters which were not specifically  
17 alleged to be causes for accusation in this proceeding.

18           7. Respondents understand that by agreeing to this  
19 Stipulation and Agreement in Settlement, Respondents jointly and  
20 severally agree to pay, pursuant to Section 10148 of the Business  
21 and Professions Code, the cost of the audit that led to this  
22 disciplinary action. The amount of said costs is \$6,704.50.

23           8. Respondents have received, read, and understand  
24 the "Notice Concerning Costs of Audits". Respondents further  
25 understand that by agreeing to this Stipulation and Agreement in  
26 Settlement, the findings set forth below in the DETERMINATION OF  
27 ISSUES become final, and that the Commissioner may charge

1 Respondent for the costs of any subsequent audit conducted  
2 pursuant to Section 10148 of the Business and Professions Code  
3 to determine if the violations have been corrected. The maximum  
4 costs of said audit will not exceed \$6,704.50.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations, admissions  
7 and waivers and solely for the purpose of settlement of the  
8 pending Accusation without hearing, it is stipulated and agreed  
9 that the following Determination of Issues shall be made:

10 I

11 The acts and omissions of Respondent GROSS MORTGAGE  
12 CORPORATION and Respondent LEONARD ABURN GROSS described in the  
13 First Cause of Action of the Accusation are grounds for the  
14 suspension or revocation of the licenses and license rights of  
15 Respondent: under the provisions of Section 10145 of the Code  
16 and Section 2832 of Chapter 6, Title 10, California Code of  
17 Regulations (hereinafter "Regulations") in conjunction with  
18 Section 10177(d) of the Code; under Section 2831 of the  
19 Regulations in conjunction with Section 10177(d) of the Code;  
20 under Section 2831.1 of the Regulations in conjunction with  
21 Section 10177(d) of the Code; under Section 10148 of the Code in  
22 conjunction with Section 10177(d) of the Code; and, Section  
23 10238(j)(1) of the Code in conjunction with Section 10177(d)  
24 of the Code.

25 II

26 The acts and omissions of Respondent LEONARD ABURN  
27 GROSS described in the Second Cause of Action of the Accusation

1 are grounds for the suspension or revocation of the licenses and  
2 license rights of Respondent under Section 10159.2 of the Code  
3 in conjunction with Section 10177(d) of the Code and Section  
4 10177(h) of the Code.

5 ORDER

6 I

7 A. All licenses and licensing rights of Respondent  
8 GROSS MORTGAGE CORPORATION under the Real Estate Law are  
9 suspended for a period of sixty (60) days from the effective  
10 date of the Decision herein; provided, however:

11 1. If Respondent GROSS MORTGAGE CORPORATION  
12 petitions, thirty (30) days of the sixty (60) day suspension (or  
13 a portion thereof) shall be stayed upon the condition that:

14 (a) Respondent pays a monetary penalty pursuant to  
15 Section 10175.2 of the Code at the rate of \$100.00 for each day  
16 of the suspension for a total monetary penalty of \$3,000.00.

17 (b) Said payment shall be in the form of a cashier's  
18 check or certified check made payable to the Recovery Account of  
19 the Real Estate Fund. Said check must be received by the  
20 Department prior to the effective date of the Decision in this  
21 matter.

22 (c) If Respondent fails to pay the monetary penalty  
23 in accordance with the terms and conditions of the Decision, the  
24 Commissioner may, without a hearing, vacate and set aside the  
25 stay order, and order the immediate execution of all or any part  
26 of the stayed suspension.

27 (d) No final subsequent determination be made, after

1 hearing or upon stipulation, that cause for disciplinary action  
2 against Respondent occurred within two (2) years of the  
3 effective date of the Decision herein. Should such a  
4 determination be made, the Commissioner may, in his or her  
5 discretion, vacate and set aside the stay order, and order the  
6 execution of all or any part of the stayed suspension, in which  
7 event the Respondent shall not be entitled to any repayment nor  
8 credit, prorated or otherwise, for money paid to the Department  
9 under the terms of this Decision.

10 (e) If Respondent pays the monetary penalty and if no  
11 further cause for disciplinary action against the real estate  
12 license of Respondent occurs within two (2) years from the  
13 effective date of the Decision herein, then the stay hereby  
14 granted shall become permanent.

15 2. Thirty (30) days of said sixty (60) day suspension  
16 shall be stayed upon condition that:

17 (a) No final subsequent determination be made, after  
18 hearing or upon stipulation, that cause for disciplinary action  
19 against Respondent occurred within two (2) years of the  
20 effective date of the Decision herein.

21 (b) Should such a determination be made, the  
22 Commissioner may, in his or her discretion, vacate and set aside  
23 the stay order, and order the execution of all or any part of  
24 the stayed suspension, in which event the Respondent shall not  
25 be entitled to any repayment nor credit, prorated or otherwise,  
26 for money paid to the Department under the terms of this  
27 Decision.

1 (c) If no order vacating the stay is issued, and if no  
2 further cause for disciplinary action against the real estate  
3 license of Respondent occurs within two (2) years from the  
4 effective date of the Decision, then the stay hereby granted  
5 shall become permanent.

6 C. Respondent shall, jointly and severally with  
7 Respondent LEONARD ABURN GROSS, within sixty (60) days of  
8 receiving an invoice therefor from the Commissioner, pay the  
9 Commissioner's costs in the amount of \$6,704.50 of the audit  
10 conducted pursuant to Section 10148 of the Business and  
11 Professions Code that resulted in the determination that  
12 Respondent committed the violations described in Paragraph I of  
13 the Determination of Issues, above. If Respondent fails to pay  
14 such cost within the sixty (60) days, the Commissioner may in  
15 his or her discretion indefinitely suspend all license and  
16 licensing rights of Respondent under the Real Estate Law until  
17 payment is made in full or until Respondent enters into an  
18 agreement satisfactory to the Commissioner to provide for  
19 payment. Upon payment in full, any indefinite suspension  
20 provided in this paragraph shall be stayed.

21 D. Respondent shall, jointly and severally with  
22 Respondent LEONARD ABURN GROSS, pay the Commissioner's costs,  
23 not to exceed \$6,704.50 of any audit conducted pursuant to  
24 Section 10148 of the Business and Professions Code to determine  
25 if Respondent has corrected the violations described in  
26 Paragraph I of the Determination of Issues, above. In  
27 calculating the amount of the Commissioner's reasonable cost,

1 the Commissioner may use the estimated average hourly salary for  
2 all persons performing audits of real estate brokers, and shall  
3 include an allocation for travel time to and from the auditor's  
4 place of work. Respondent shall pay such cost within sixty (60)  
5 days of receiving an invoice therefor from the Commissioner  
6 detailing the activities performed during the audit and the  
7 amount of time spent performing those activities. If Respondent  
8 fails to pay such cost within the sixty (60) days, the  
9 Commissioner may in his or her discretion indefinitely suspend  
10 all license and licensing rights of Respondent under the Real  
11 Estate Law until payment is made in full or until Respondent  
12 enters into an agreement satisfactory to the Commissioner to  
13 provide for payment. Upon payment in full, the indefinite  
14 suspension provided in this paragraph shall be stayed.

15 II

16 All licenses and licensing rights of Respondent  
17 LEONARD ABURN GROSS under the Real Estate Law are indefinitely  
18 suspended until such time as Respondent provides proof  
19 satisfactory to the Commissioner that Respondent has, within one  
20 hundred twenty (120) days prior to the effective date of the  
21 Decision herein or any date after said effective date, taken and  
22 successfully completed the trust fund accounting and handling  
23 course specified in paragraph (3), subdivision (a) of Section  
24 10170.5 of the Business and Professions Code. Upon satisfaction  
25 of this condition, the indefinite suspension provided in this  
26 paragraph shall be stayed.

27 B. All licenses and licensing rights of Respondent

1 LEONARD ABURN GROSS under the Real Estate Law are suspended for  
2 a period of sixty (60) days from the effective date of the  
3 Decision herein; provided, however:

4 1. If Respondent petitions, thirty (30) days of said  
5 sixty (60) day suspension (or a portion thereof) shall be stayed  
6 upon condition that:

7 (a) Respondent pays a monetary penalty pursuant to  
8 Section 10175.2 of the Code at the rate of \$100.00 for each day  
9 of the suspension for a total monetary penalty of \$3,000.00.

10 (b) Said payment shall be in the form of a cashier's  
11 check or certified check made payable to the Recovery Account of  
12 the Real Estate Fund. Said check must be received by the  
13 Department prior to the effective date of the Decision in this  
14 matter.

15 (c) If Respondent fails to pay the monetary penalty  
16 in accordance with the terms and conditions of the Decision, the  
17 Commissioner may, without a hearing, vacate and set aside the  
18 stay order, and order the immediate execution of all or any part  
19 of the stayed suspension.

20 (d) No final subsequent determination be made, after  
21 hearing or upon stipulation, that cause for disciplinary action  
22 against Respondent occurred within two (2) years of the  
23 effective date of the Decision herein. Should such a  
24 determination be made, the Commissioner may, in his or her  
25 discretion, vacate and set aside the stay order, and order the  
26 execution of all or any part of the stayed suspension, in which  
27 event the Respondent shall not be entitled to any repayment nor

1 credit, prorated or otherwise, for money paid to the Department  
2 under the terms of this Decision.

3 (e) If Respondent pays the monetary penalty and if no  
4 further cause for disciplinary action against the real estate  
5 license of Respondent occurs within two (2) years from the  
6 effective date of the Decision herein, then the stay hereby  
7 granted shall become permanent.

8 2. Thirty (30) days of said sixty (60) day suspension  
9 shall be stayed upon condition that:

10 (a) No final subsequent determination be made, after  
11 hearing or upon stipulation, that cause for disciplinary action  
12 against Respondent occurred within two (2) years of the  
13 effective date of the Decision herein.

14 (b) Should such a determination be made, the  
15 Commissioner may, in his or her discretion, vacate and set aside  
16 the stay order, and order the execution of all or any part of  
17 the stayed suspension, in which event the Respondent shall not  
18 be entitled to any repayment nor credit, prorated or otherwise,  
19 for money paid to the Department under the terms of this  
20 Decision.

21 (c) If no order vacating the stay is issued, and if no  
22 further cause for disciplinary action against the real estate  
23 license of Respondent occurs within two (2) years from the  
24 effective date of the Decision, then the stay hereby granted  
25 shall become permanent.

26 C. Respondent shall, jointly and severally with  
27 Respondent GROSS MORTGAGE CORPORATION, within sixty (60) days of

1 receiving an invoice therefor from the Commissioner, pay the  
2 Commissioner's costs in the amount of \$6,704.50 of the audit  
3 conducted pursuant to Section 10148 of the Business and  
4 Professions Code that resulted in the determination that  
5 Respondent committed the violations described in Paragraph I of  
6 the Determination of Issues, above. If Respondent fails to pay  
7 such cost within the sixty (60) days, the Commissioner may in  
8 his or her discretion indefinitely suspend all license and  
9 licensing rights of Respondent under the Real Estate Law until  
10 payment is made in full or until Respondent enters into an  
11 agreement satisfactory to the Commissioner to provide for  
12 payment. Upon payment in full, any indefinite suspension  
13 provided in this paragraph shall be stayed.

14           D. Respondent shall, jointly and severally with  
15 Respondent GROSS MORTGAGE CORPORATION, pay the Commissioner's  
16 costs, not to exceed \$6,704.50 of any audit conducted pursuant  
17 to Section 10148 of the Business and Professions Code to  
18 determine if Respondent has corrected the violations described  
19 in Paragraph I of the Determination of Issues, above. In  
20 calculating the amount of the Commissioner's reasonable cost,  
21 the Commissioner may use the estimated average hourly salary for  
22 all persons performing audits of real estate brokers, and shall  
23 include an allocation for travel time to and from the auditor's  
24 place of work. Respondent shall pay such cost within sixty (60)  
25 days of receiving an invoice therefor from the Commissioner  
26 detailing the activities performed during the audit and the  
27 amount of time spent performing those activities. If Respondent

1 fails to pay such cost within the sixty (60) days, the  
2 Commissioner may in his or her discretion indefinitely suspend  
3 all license and licensing rights of Respondent under the Real  
4 Estate Law until payment is made in full or until Respondent  
5 enters into an agreement satisfactory to the Commissioner to  
6 provide for payment. Upon payment in full, the indefinite  
7 suspension provided in this paragraph shall be stayed.

8  
9  
10 April 10, 2007  
11 DATED

Michael B. Rich  
12 MICHAEL B. RICH, Counsel  
13 Department of Real Estate

14 \* \* \*

15 I have read the Stipulation and Agreement and its  
16 terms are understood by me and are agreeable and acceptable to  
17 me. I understand that I am waiving rights given to me by the  
18 California Administrative Procedure Act (including but not  
19 limited to Sections 11506, 11508, 11509, and 11513 of the  
20 Government Code), and I willingly, intelligently, and  
21 voluntarily waive those rights, including the right of requiring  
22 the Commissioner to prove the allegations in the Accusation at a  
23 hearing at which I would have the right to cross-examine  
24 witnesses against me and to present evidence in defense and  
25 mitigation of the charges.

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GROSS MORTGAGE CORPORATION  
Respondent

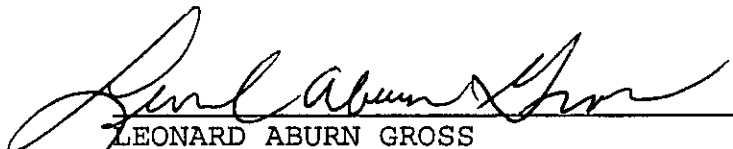
4/6/07

DATED

By:   
BARRY RANDALL GROSS, Chief  
Executive Officer and Designated  
Broker/Officer

4/6/07

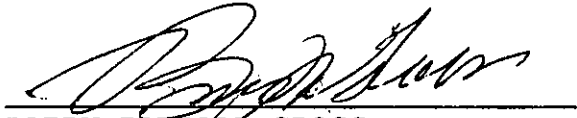
DATED

  
LEONARD ABURN GROSS  
Respondent

Approved as to form and content by counsel for  
Respondent.

4/6/07


DATED

  
BARRY RANDALL GROSS  
Attorney for Respondents

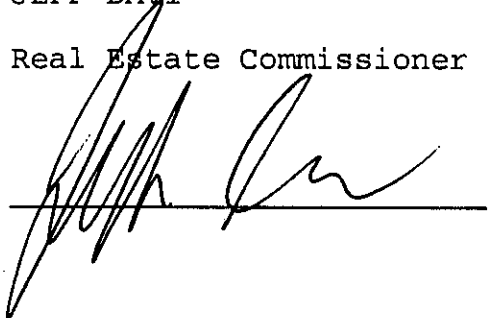
\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondent  
GROSS MORTGAGE CORPORATION and Respondent LEONARD ABURN GROSS  
shall become effective at 12 o'clock noon on

JUL 05, 2007.

IT IS SO ORDERED , 2007.

JEFF DAVI  
Real Estate Commissioner



1 MICHAEL B. RICH, Counsel  
State Bar No. 84257  
2 Department of Real Estate  
P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789  
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6  
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FILED  
JAN 14 2006

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
 ) NO. H-9495 SF  
12 GROSS MORTGAGE CORPORATION, and )  
LEONARD ABURN GROSS, )  
13 ) ACCUSATION  
Respondents. )  
14 )

15  
16 The Complainant, E. J. HABERER II, a Deputy Real Estate  
17 Commissioner of the State of California, for Causes of Accusation  
18 against GROSS MORTGAGE CORPORATION, and LEONARD ABURN GROSS, is  
19 informed and alleges as follows:

20 FIRST CAUSE OF ACTION

21 I

22 Respondents GROSS MORTGAGE CORPORATION (hereafter  
23 referred to as "Respondent GMC") and LEONARD ABURN GROSS  
24 (hereafter referred to as "Respondent GROSS") are presently  
25 licensed and/or have license rights under the Real Estate Law,  
26 Part 1 of Division 4 of the California Business and Professions  
27 Code (hereinafter "the Code").

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II

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity and not otherwise.

III

At all times herein mentioned, Respondent GMC was and is licensed by the Department of Real Estate (hereafter "the Department") as a real estate broker corporation and through Respondent GROSS as its designated broker officer.

IV

At all times herein mentioned, Respondent GROSS was and is licensed by the Department as a real estate broker, and individually as the designated broker officer of Respondent GMC. As said designated officer/broker, Respondent GROSS was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent GMC for which a license is required.

V

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

1 VI

2 At all times herein mentioned, Respondent GMC engaged  
3 in the business of, acted in the capacity of, advertised, or  
4 assumed to act as a real estate broker within the State of  
5 California, including the operation of and conduct of a mortgage  
6 loan brokerage business with the public wherein lenders and  
7 borrowers were solicited for loans secured directly or  
8 collaterally by liens on real property, wherein such loans were  
9 arranged, negotiated, processed, and consummated on behalf of  
10 others for compensation or in expectation of compensation, and  
11 wherein such loans were serviced and payments thereon were  
12 collected on behalf of others for compensation or in expectation  
13 of compensation.

14 VII

15 In so acting as a mortgage loan broker, Respondent GMC  
16 accepted or received funds in trust (hereinafter "trust funds")  
17 from or on behalf of lenders or investors, borrowers, and others  
18 in connection with the solicitation, negotiation, processing,  
19 packaging, servicing and consummation of mortgage loans by  
20 Respondent GMC as alleged herein.

21 VIII

22 The aforesaid trust funds accepted or received by  
23 Respondent GMC were deposited or caused to be deposited by  
24 Respondent GMC into one or more bank accounts for the handling of  
25 trust funds The Mechanics Bank, 1999 Harrison Street, Oakland,  
26 California:

- 1 (a) Account No. 40732398, entitled "Gross Mortgage  
2 Corp. Trustee" (hereinafter "Trust Account #1);
- 3 (b) Account No. 39299775, entitled "Leonard A. Gross  
4 professional Corporation Trust Account"  
5 (hereinafter "Bank Account #1);
- 6 (c) Account No. 39285154, entitled "Gross Mortgage  
7 Corp. Trustee for Anton Richard Lubovich TTEE of  
8 the Anton R. Lubovich Trust" (hereinafter Trust  
9 Account #2);
- 10 (d) Account No. 39305449, entitled "Gross Mortgage  
11 Corp. Trustee for Ryona L. Gregory" (hereinafter  
12 "Trust Account #3");
- 13 (e) Account No. 39285375, entitled "Gross Mortgage  
14 Corp. Trustee for Mariana Cecilia Sander  
15 Trustee/Mariana Cecilia Sander Trust" (hereinafter  
16 "Trust Account #4");
- 17 (f) Account No. 120019759, entitled "Gross Mortgage  
18 Corp. Trustee" (hereinafter "Trust Account #5);
- 19 (g) Account No. 39338266, entitled "Gross Mortgage Corp  
20 TTEE Tovah E. Skiles" (hereinafter "Trust Account  
21 #6");
- 22 (h) Account No. 39333361, entitled "Gross Mortgage  
23 Corp. TTEE for Anda L. Bockis Family Trust"  
24 (hereinafter "Trust Account #7");
- 25 (i) Account No. 39284921, entitled "Gross Mortgage Corp  
26 TTEE for Helen K. Holt TTEE of the Helen K. Holt  
27 Rev Living Trust" (hereinafter "Trust Account #8");

1 (j) Account No. 39311767, entitled "Gross Mortgage Corp  
2 TTEE for Harriet Kantor" (hereinafter "Trust  
3 Account #9"); and,

4 (k) Account No. 396471100, entitled "Gross Mortgage  
5 Corp TTEE for Ranko Yamada" (hereinafter "Trust  
6 Account #10");

7 IX

8 Within the three year period next preceding to the  
9 filing of this Accusation, in connection with the collection and  
10 disbursement of trust funds, Respondent GMC failed to deposit and  
11 maintain all of the trust funds in a neutral escrow depository or  
12 into a trust fund account maintained by the broker in a bank or  
13 recognized depository in this state, or to deliver them into the  
14 hands of the owners of the funds, as required by Section 10145 of  
15 the Code and Section 2832, Chapter 6, Title 10, California Code  
16 of Regulations (hereinafter "Regulations"), when it deposited  
17 trust funds into Bank Account #1.

18 X

19 Within the three year period next preceding the filing  
20 of this Accusation, in connection with the receipt and  
21 disbursement of trust funds as above alleged, Respondent GMC:

22 (a) Failed to maintain a written control record of all  
23 trust funds received and disbursed containing all  
24 information required by Section 2831 of the  
25 Regulations, including but not limited to  
26 recordation of all deposits, from whom received,  
27 amount of deposit, check numbers and dates of

1 disbursements, recordation of dates of receipt, and  
2 recordation of accurate dates of deposit of trust  
3 funds for Bank Account #1 and Trust Account #1;

4 (b) Failed to keep a separate record for each  
5 beneficiary or transaction, accounting for all  
6 funds that have been deposited to the broker's  
7 trust account, containing all of the information  
8 required by Section 2831.1 of the Regulations,  
9 including, but not limited to an accurate daily  
10 balance after posting transactions for Bank Account  
11 #1; and,

12 (c) Failed to maintain canceled checks for Trust  
13 Account #1 as required by Section 10148 of the  
14 Code.

15 XI

16 At all times herein mentioned Respondent GMC was and  
17 now is a real estate broker:

18 (a) Meeting the "threshold" criteria of Section  
19 10232(a) and (b) of the Code; and,

20 (b) Meeting the "multilender" criteria of Section 10238  
21 of the Code, in that at all times mentioned herein  
22 Respondent was subject to the criteria of Section  
23 10238(j)(1) of the Code with respect to notes or  
24 interests sold pursuant to Section 10238 of the  
25 Code.

26 ///

27 ///

1 XII

2 In so acting as a mortgage loan broker and agent as set  
3 forth in Paragraph XI, above, Respondent GMC, in violation of  
4 Section 10238(j)(1), accepted loan funds or other consideration  
5 from prospective lenders or investors, or directly or indirectly  
6 caused such funds or consideration to be deposited in an escrow  
7 or trust account prior to the creation or existence of a specific  
8 loan or note secured by a deed of trust that Respondent owned,  
9 was authorized to negotiate, or was unconditionally obligated to  
10 buy, including, but not limited to the following:

- 11 1.) Loan #1355 - Real Property; 39986 Bass Drive, Bass Lake,  
12 California.  
13 Investor; Tovah Skiles  
14 Trust Account #6 - Account Balance 8/10/04, \$25,056.80  
15 Loan Application dated 10/1/04  
16 Trust Account #6 - Loan Disbursement 11/15/04, \$25,000.00
- 17 2.) Loan #1346 - Real Property; 1312 - 53rd Avenue, Oakland,  
18 California.  
19 Investor: Anda L. Bockis Family Trust  
20 Trust Account #7 - Account Balance 2/23/04, \$40,087.39  
21 Loan Application dated 6/2004  
22 Trust Account #7 - Loan Disbursement 9/9/04, \$40,000.00
- 23 3.) Loan #1346 - Real Property; 1312 - 53rd Avenue, Oakland,  
24 California.  
25 Investor: Helen K. Holt, Trustee Helen K. Holt Rev Living  
26 Trust  
27 Trust Account #8 - Account Balance 3/8/04, \$74,481.72



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2832 of the Regulations in conjunction with  
Section 10177(d) of the Code;

- (b) As to Respondent GMC as alleged in Paragraph X(a), under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) As to Respondent GMC as alleged in Paragraph X(b), under Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As to Respondent GMC as alleged in Paragraph X(c), under Section 10148 of the Code in conjunction with Section 10177(d) of the Code; and,
- (e) As to Respondent GMC as alleged in Paragraph XII, under Section 10238(j)(1) of the Code in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

XIV

There is hereby incorporated in this Second, separate and distinct Cause of Action, all of the allegations contained in Paragraphs I through XIII, inclusive, of the First Cause of Action with the same force and effect as if herein fully set forth.

XV

At all times above mentioned, Respondent GROSS was responsible, as the designated broker officer of Respondent GMC, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent GROSS failed to exercise reasonable supervision and

1 control over the mortgage brokering activities of Respondent GMC.  
2 In particular, Respondent GROSS permitted, ratified and/or caused  
3 the conduct described in the First Cause of Action, above, to  
4 occur, and failed to take reasonable steps, including but not  
5 limited to the handling of trust funds, supervision of employees,  
6 and the implementation of policies, rules, procedures, and  
7 systems to ensure the compliance of the corporation with the Real  
8 Estate Law.

9 XIV

10 The above acts and/or omissions of Respondent GROSS  
11 constitute grounds for disciplinary action under the provisions  
12 of Section 10177(h) of the Code and/or Section 10159.2 of the  
13 Code in conjunction with Section 10177(d) of the Code.

14 WHEREFORE, Complainant prays that a hearing be  
15 conducted on the allegations of this Accusation and that upon  
16 proof thereof a decision be rendered imposing disciplinary action  
17 against all license(s) and license rights of Respondent under the  
18 Real Estate Law (Part 1 of Division 4 of the Business and  
19 Professions Code), and for such other and further relief as may  
20 be proper under other provisions of law.

21  
22   
23 E. J. HABERER II  
Deputy Real Estate Commissioner

24 Dated at Oakland,  
25 this 9th day of January, 2006.  
26  
27