

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

**FILED**  
NOV 15 2007

DEPARTMENT OF REAL ESTATE  
By *L. Frost*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 SONOMA MANAGEMENT, INC., dba ) NO. H-9820 SF  
13 BROADWAY REALTY, and ) STIPULATION AND AGREEMENT  
14 ROBERT MARK BERNARD, )  
15 Respondents. )

16 It is hereby stipulated by and between Respondent  
17 SONOMA MANAGEMENT, INC., a corporation, doing business under  
18 the fictitious name of BROADWAY REALTY (hereinafter "Respondent  
19 SONOMA"), by and through Catherine King, counsel for Respondent  
20 SONOMA, and ROBERT MARK BERNARD (hereinafter "Respondent  
21 BERNARD"), by and through Thomas C. Lasken, counsel for  
22 Respondent BERNARD, and the Complainant, acting by and through  
23 Michael B. Rich, Counsel for the Department of Real Estate, as  
24 follows for the purpose of settling and disposing of the  
25 Accusation filed on December 20, 2006, in this matter  
26 (hereinafter "the Accusation"):  
27 ///

1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and  
3 Respondents at a formal hearing on the Accusation, which  
4 hearing was to be held in accordance with the provisions of the  
5 Administrative Procedure Act (APA), shall instead and in place  
6 thereof be submitted solely on the basis of the provisions of  
7 this Stipulation and Agreement.

8           2. Respondents have received, read and understand the  
9 Statement to Respondent, the Discovery Provisions of the APA  
10 and the Accusation filed by the Department of Real Estate in  
11 this proceeding.

12           3. On January 3, 2007, Respondent BERNARD filed a  
13 Notice of Defense and on January 10, 2007, Respondent SONOMA  
14 filed a Notice of Defense pursuant to Section 11505 of the  
15 Government Code for the purpose of requesting a hearing on the  
16 allegations in the Accusation. Respondents hereby freely and  
17 voluntarily withdraw their respective Notices of Defense.  
18 Respondents acknowledge that Respondents understand that by  
19 withdrawing said Notices of Defense Respondents will thereby  
20 waive Respondents' right to require the Commissioner to prove  
21 the allegations in the Accusation at a contested hearing held  
22 in accordance with the provisions of the APA and that  
23 Respondents will waive other rights afforded to Respondents in  
24 connection with the hearing such as the right to present  
25 evidence in defense of the allegations in the Accusation and  
26 the right to cross-examine witnesses.

27           4. Respondents, pursuant to the limitations set forth

1 below, hereby admit that the factual allegations in the  
2 Accusation pertaining to Respondents are true and correct and  
3 stipulates and agrees that the Real Estate Commissioner shall  
4 not be required to provide further evidence of such  
5 allegations.

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

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

22           7. Respondents understand that by agreeing to this  
23 Stipulation and Agreement in Settlement, Respondents jointly and  
24 severally agree to pay, pursuant to Section 10148 of the  
25 Business and Professions Code (hereinafter "the Code"), the cost  
26 of the audit that led to this disciplinary action. The amount  
27 of said costs is \$3,598.33.

1 8. Respondents have received, read, and understand  
2 the "Notice Concerning Costs of Audits". Respondents further  
3 understand that by agreeing to this Stipulation and Agreement in  
4 Settlement, the findings set forth below in the DETERMINATION OF  
5 ISSUES become final, and that the Commissioner may charge  
6 Respondent for the costs of a subsequent audit conducted  
7 pursuant to Section 10148 of the Code. The maximum costs of  
8 said audit will not exceed \$3,598.33.

9 DETERMINATION OF ISSUES

10 By reason of the foregoing stipulations, admissions  
11 and waivers and solely for the purpose of settlement of the  
12 pending Accusation without hearing, it is stipulated and agreed  
13 that the following Determination of Issues shall be made:

14 I

15 The acts and omissions of Respondent SONOMA  
16 MANAGEMENT, INC. and Respondent ROBERT MARK BERNARD described in  
17 the First Cause of Action of the Accusation are grounds for the  
18 suspension or revocation of the licenses and license rights of  
19 Respondents under the provisions of Sections 2831, 2831.1,  
20 2831.2, 2832, 2832.1, and 2835 of Chapter 6, Title 10,  
21 California Code of Regulations (hereinafter "Regulations") and  
22 Section 10145 and Section 10148 of the Code in conjunction with  
23 Section 10177(d) of the Code.

24 II

25 The acts and omissions of Respondent BERNARD described  
26 in the Second Cause of Action of the Accusation are grounds for  
27 the suspension or revocation of the licenses and license rights

1 of Respondent under Section 10159.2 of the Code in conjunction  
2 with Section 10177(d) of the Code and under Section 10177(h) of  
3 the Code.

4 ORDER

5 I

6 A. All licenses and licensing rights of Respondent  
7 SONOMA MANAGEMENT, INC. under the Real Estate Law are suspended  
8 until such time as Respondent provides proof satisfactory to the  
9 Commissioner that Respondent has cured the trust fund shortages  
10 alleged in the Accusation.

11 B. All licenses and licensing rights of Respondent  
12 SONOMA MANAGEMENT, INC. under the Real Estate Law are suspended  
13 for a period of sixty (60) days from the effective date of the  
14 Decision herein; provided, however:

15 1. If Respondent SONOMA petitions, thirty (30) days  
16 of the sixty (60) day suspension shall be stayed upon the  
17 condition that:

18 (a) Respondent SONOMA pays a monetary penalty  
19 pursuant to Section 10175.2 of the Code at the rate of \$100.00  
20 for each day of the suspension for a total monetary penalty of  
21 \$3,000.00.

22 (b) Said payment shall be in the form of a cashier's  
23 check or certified check made payable to the Recovery Account of  
24 the Real Estate Fund. Said check must be received by the  
25 Department prior to the effective date of the Decision in this  
26 matter.

27 (c) If Respondent SONOMA fails to pay the monetary

1 penalty in accordance with the terms and conditions of the  
2 Decision, the Commissioner may, without a hearing, vacate and  
3 set aside the stay order, and order the immediate execution of  
4 all or any part of the stayed suspension.

5 (d) No final subsequent determination be made, after  
6 hearing or upon stipulation, that cause for disciplinary action  
7 against Respondent SONOMA occurred within two (2) years of the  
8 effective date of the Decision herein. Should such a  
9 determination be made, the Commissioner may, in his discretion,  
10 vacate and set aside the stay order, and order the execution of  
11 all or any part of the stayed suspension, in which event the  
12 Respondent shall not be entitled to any repayment nor credit,  
13 prorated or otherwise, for money paid to the Department under  
14 the terms of this Decision.

15 (e) If Respondent SONOMA pays the monetary penalty  
16 and if no further cause for disciplinary action against the real  
17 estate license of Respondent occurs within two (2) years from  
18 the effective date of the Decision herein, then the stay hereby  
19 granted shall become permanent.

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

22 (a) No final subsequent determination be made, after  
23 hearing or upon stipulation, that cause for disciplinary action  
24 against Respondent SONOMA occurred within two (2) years of the  
25 effective date of the Decision herein.

26 (b) Should such a determination be made, the  
27 Commissioner may, in his discretion, vacate and set aside the

1 stay order, and order the execution of all or any part of the  
2 stayed suspension, in which event the Respondent shall not be  
3 entitled to any repayment nor credit, prorated or otherwise, for  
4 money paid to the Department under the terms of this Decision.

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

10 C. Respondent SONOMA shall, jointly and severally  
11 with Respondent BERNARD, within sixty (60) days of receiving an  
12 invoice therefor from the Commissioner, pay the Commissioner's  
13 costs in the amount of \$3,598.33 of the audit conducted pursuant  
14 to Section 10148 of the Business and Professions Code that  
15 resulted in the determination that Respondent committed the  
16 violations described in Paragraph I of the Determination of  
17 Issues, above. If Respondent fails to pay such cost within the  
18 sixty (60) days, the Commissioner may in his discretion suspend  
19 all license and licensing rights of Respondent under the Real  
20 Estate Law until payment is made in full or until Respondent  
21 enters into an agreement satisfactory to the Commissioner to  
22 provide for payment. Upon payment in full, any suspension  
23 provided in this paragraph shall be stayed.

24 D. Respondent SONOMA shall, jointly and severally  
25 with Respondent BERNARD, pay the Commissioner's costs, not to  
26 exceed \$3,598.33 of a subsequent audit conducted pursuant to  
27 Section 10148 of the Business and Professions Code. In

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

16 II

17 A. All licenses and licensing rights of Respondent  
18 ROBERT MARK BERNARD under the Real Estate Law are suspended  
19 until such time as Respondent provides proof satisfactory to the  
20 Commissioner that Respondent has cured the trust fund shortages  
21 alleged in the Accusation.

22 B. All licenses and licensing rights of Respondent  
23 ROBERT MARK BERNARD under the Real Estate Law are suspended  
24 until such time as Respondent provides proof satisfactory to the  
25 Commissioner that Respondent has, within one hundred twenty  
26 (120) days prior to the effective date of the Decision herein or  
27 any date after said effective date, taken and successfully



1 completed the trust fund accounting and handling course  
2 specified in paragraph (3), subdivision (a) of Section 10170.5  
3 of the Business and Professions Code. Upon satisfaction of this  
4 condition, the suspension provided in this paragraph shall be  
5 stayed.

6 C. All licenses and licensing rights of Respondent  
7 ROBERT MARK BERNARD under the Real Estate Law are suspended for  
8 a period of sixty (60) days from the effective date of the  
9 Decision herein; provided, however:

10 1. If Respondent BERNARD petitions, thirty (30) days  
11 of said sixty (60) day suspension shall be stayed upon condition  
12 that:

13 (a) Respondent BERNARD pays a monetary penalty  
14 pursuant to Section 10175.2 of the Code at the rate of \$100.00  
15 for each day of the suspension for a total monetary penalty of  
16 \$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 BERNARD fails to pay the monetary  
23 penalty in accordance with the terms and conditions of the  
24 Decision, the Commissioner may, without a hearing, vacate and  
25 set aside the stay order, and order the immediate execution of  
26 all or any part 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 BERNARD 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 discretion,  
5 vacate and set aside the stay order, and order the execution of  
6 all or any part of the stayed suspension, in which event the  
7 Respondent shall not be entitled to any repayment nor credit,  
8 prorated or otherwise, for money paid to the Department under  
9 the terms of this Decision.

10 (e) If Respondent BERNARD pays the monetary penalty  
11 and if no further cause for disciplinary action against the real  
12 estate license of Respondent occurs within two (2) years from  
13 the 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 BERNARD 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 discretion, vacate and set aside the  
23 stay order, and order the execution of all or any part of the  
24 stayed suspension, in which event the Respondent BERNARD shall  
25 not be entitled to any repayment nor credit, prorated or  
26 otherwise, for money paid to the Department under the terms of  
27 this 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 BERNARD occurs within two (2) years from  
4 the effective date of the Decision, then the stay hereby granted  
5 shall become permanent.

6           D. Respondent shall BERNARD, jointly and severally  
7 with Respondent SONOMA, within sixty (60) days of receiving an  
8 invoice therefor from the Commissioner, pay the Commissioner's  
9 costs in the amount of \$3,598.33 of the audit conducted pursuant  
10 to Section 10148 of the Business and Professions Code that  
11 resulted in the determination that Respondent committed the  
12 violations described in Paragraph I of the Determination of  
13 Issues, above. If Respondent fails to pay such cost within the  
14 sixty (60) days, the Commissioner may in his discretion suspend  
15 all license and licensing rights of Respondent under the Real  
16 Estate Law until payment is made in full or until Respondent  
17 enters into an agreement satisfactory to the Commissioner to  
18 provide for payment. Upon payment in full, any suspension  
19 provided in this paragraph shall be stayed.

20           E. Respondent BERNARD shall, jointly and severally  
21 with Respondent SONOMA, pay the Commissioner's costs, not to  
22 exceed \$3,598.33 of an audit conducted pursuant to Section 10148  
23 of the Business and Professions Code. In calculating the amount  
24 of the Commissioner's reasonable cost, the Commissioner may use  
25 the estimated average hourly salary for all persons performing  
26 audits of real estate brokers, and shall include an allocation  
27 for travel time to and from the auditor's place of work.

1 Respondent shall pay such cost within sixty (60) days of  
2 receiving an invoice therefor from the Commissioner detailing  
3 the activities performed during the audit and the amount of time  
4 spent performing those activities. If Respondent fails to pay  
5 such cost within the sixty (60) days, the Commissioner may in  
6 his discretion suspend all license and licensing rights of  
7 Respondent under the Real Estate Law until payment is made in  
8 full or until Respondent enters into an agreement satisfactory  
9 to the Commissioner to provide for payment. Upon payment in  
10 full, the suspension provided in this paragraph shall be stayed.

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

18 G. Respondent BERNARD shall, within nine (9) months  
19 from the effective date of this Decision, present evidence  
20 satisfactory to the Real Estate Commissioner that Respondent  
21 BERNARD has, since the most recent issuance of an original or  
22 renewal real estate license, taken and successfully completed  
23 the continuing education requirements of Article 2.5 of Chapter  
24 3 of the Real Estate Law for renewal of a real estate License.  
25 If Respondent BERNARD fails to satisfy this condition, the  
26 Commissioner may order the suspension of the Respondent's real  
27 estate broker license until Respondent presents such evidence.

1 The Commissioner shall afford Respondent the opportunity for a  
2 hearing pursuant to the Administrative Procedure Act to present  
3 such evidence.

4

5

6

July 26, 2007  
DATED

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

7

8

\* \* \*

9

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

20

SONOMA MANAGEMENT, INC.  
Respondent

21

22

8/14/07  
DATED

By Catherine King  
CATHERINE KING  
Designated Broker/Officer

23

24

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25

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1 Approved as to form and content by counsel for  
2 Respondent SONOMA MANAGEMENT, INC.

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\_\_\_\_\_  
DATED

\_\_\_\_\_  
CATHERINE KING  
Attorney for Respondent SONOMA  
MANAGEMENT, INC.

*July 20, 2007*  
\_\_\_\_\_  
DATED

*[Signature]*  
\_\_\_\_\_  
ROBERT MARK BERNARD  
Respondent

Approved as to form and content by counsel for  
Respondent ROBERT MARK BERNARD.

*July 15, 2007*  
\_\_\_\_\_  
DATED

*[Signature]*  
\_\_\_\_\_  
THOMAS C. LASKEN  
Attorney for Respondent ROBERT  
MARK BERNARD

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by me as my Decision in this matter as to Respondent  
SONOMA MANAGEMENT, INC. and Respondent ROBERT MARK BERNARD, and  
shall become effective at 12 o'clock noon on  
\_\_\_\_\_, 2007.

IT IS SO ORDERED \_\_\_\_\_, 2007.

JEFF DAVI  
Real Estate Commissioner

1 Approved as to form and content by counsel for  
2 Respondent SONOMA MANAGEMENT, INC.

3  
4 8/14/07

DATED

Catherine King  
CATHERINE KING  
Attorney for Respondent SONOMA  
MANAGEMENT, INC.

8 DATED

Robert Mark Bernard  
ROBERT MARK BERNARD  
Respondent

10 Approved as to form and content by counsel for  
11 Respondent ROBERT MARK BERNARD.

13 DATED

Thomas C. Lasken  
THOMAS C. LASKEN  
Attorney for Respondent ROBERT  
MARK BERNARD

\* \* \*

17 The foregoing Stipulation and Agreement is hereby  
18 adopted by me as my Decision in this matter as to Respondent  
19 SONOMA MANAGEMENT, INC. and Respondent ROBERT MARK BERNARD, and  
20 shall become effective at 12 o'clock noon on  
21 December 5, 2007.

22 IT IS SO ORDERED 10-3, 2007.

23 JEFF DAVI  
24 Real Estate Commissioner

25  
26 Jeff Davi  
27

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

FILED  
DEC 20 2006

DEPARTMENT OF REAL ESTATE

By S. El

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 SONOMA MANAGEMENT, INC., dba ) NO. H-9820 SF  
13 BROADWAY REALTY and ) ACCUSATION  
14 ROBERT MARK BERNARD, )  
15 Respondents. )

16 The Complainant, E. J. HABERER II, a Deputy Real Estate  
17 Commissioner of the State of California, for Causes of Accusation  
18 against SONOMA MANAGEMENT, INC., doing business under the  
19 fictitious name of BROADWAY REALTY, and ROBERT MARK BERNARD, is  
20 informed and alleges as follows:

21 FIRST CAUSE OF ACCUSATION

22 I

23 Respondents SONOMA MANAGEMENT, INC., (hereinafter  
24 referred to as "Respondent SONOMA") and ROBERT MARK BERNARD  
25 (hereinafter referred to as "Respondent BERNARD") are presently  
26 licensed and/or have license rights under the Real Estate Law,

27 ///



1 Part 1 of Division 4 of the California Business and Professions  
2 Code (hereafter the "Code").

3 II

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

7 III

8 At all times herein mentioned, Respondent SONOMA was  
9 and is licensed by the Department as a real estate broker  
10 corporation acting by and through Respondent BERNARD as its  
11 designated broker officer.

12 IV

13 At all times herein mentioned, Respondent BERNARD was  
14 and is licensed by the Department as a real estate broker, and as  
15 the designated broker officer of Respondent SONOMA.

16 V

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

25 VI

26 At all times herein mentioned, Respondents engaged in  
27 the business of, acted in the capacity of, advertised, or assumed

1 to act as real estate brokers within the State of California,  
2 within the meaning of:

3 (a) Section 10131(a) of the Code, including the  
4 operation and conduct of a real estate resale  
5 brokerage with the public wherein, on behalf of  
6 others, for compensation or in expectation of  
7 compensation, Respondent sold or offered to sell,  
8 bought or offered to buy, solicited prospective  
9 sellers or purchases of, solicited or obtained  
10 listings of, and/or negotiated the purchase or  
11 sale of real property for or in expectation of  
12 compensation; and,

13 (b) Section 10131(b) of the Code, including the  
14 operation and conduct of a property management  
15 business with the public wherein, on behalf of  
16 others, for compensation or in expectation of  
17 compensation, Respondents leased or rented and  
18 offered to lease or rent and placed for rent, and  
19 solicited listings of places for rent, and  
20 solicited listings of places for rent, and  
21 solicited for prospective tenants of real property  
22 or improvements thereon, and collected rents from  
23 real property or improvements thereon.

24 VII

25 In so acting as a real estate broker as described in  
26 Paragraph VI, above, Respondent SONOMA accepted or received funds  
27 in trust (hereinafter "trust funds") from or on behalf of owners,

1 tenants and/or others in connection with the property management  
2 activities.

3 VIII

4 The aforesaid trust funds accepted or received by  
5 Respondent SONOMA were deposited or caused to be deposited by  
6 Respondent SONOMA into a bank account maintained by Respondent  
7 SONOMA for the handling of trust funds at Sonoma Valley Bank, 202  
8 West Napa Street, Sonoma, California, in Account No. 001601040,  
9 entitled "Sonoma Management Inc Trust Account" (hereinafter  
10 "Trust Account #1").

11 IX

12 Within the three year period next preceding to the  
13 filing of this Accusation, in connection with the collection and  
14 disbursement of trust funds, Respondent SONOMA failed to deposit  
15 and maintain the trust funds in a trust account or neutral escrow  
16 depository, or to deliver said funds into the hands of the owners  
17 of the funds, as required by Section 10145 of the Code, in such a  
18 manner that as of November 30, 2004, there was a trust fund  
19 shortage in the approximate sum of \$8,711.00 in Trust Account #1.

20 X

21 Within the three year period next preceding to the  
22 filing of this Accusation, in connection with the collection and  
23 disbursement of trust funds, as alleged above, Respondent SONOMA  
24 failed to obtain the prior written consents of the principals for  
25 the reduction of the aggregate balance of trust funds in Trust  
26 Account #1 to an amount less than the existing aggregate trust  
27 fund liability to the owners of said funds in conformance with

1 Chapter 6, Title 10, California Code of Regulations, Section  
2 2832.1 (hereinafter "Regulations").

3 XI

4 Within the three year period next preceding the filing  
5 of this Accusation, in connection with the receipt and  
6 disbursement of trust funds as above alleged, Respondent SONOMA:

7 (a) Failed to maintain a written control record of all  
8 trust funds received and disbursed containing all  
9 information required by Section 2831 of the  
10 Regulations, including but not limited to  
11 recordation of all deposits, from whom received,  
12 amount of deposit, check numbers and dates of  
13 disbursements, recordation of dates of receipt,  
14 and recordation of accurate dates of deposit of  
15 trust funds for Trust Account #1;

16 (b) Failed to keep an accurate separate record for each  
17 beneficiary or transaction, accounting for all  
18 funds that have been deposited to the broker's  
19 trust account, containing all of the information  
20 required by Section 2831.1 of the Regulations for  
21 Trust Account #1;

22 (c) Failed to reconcile the balance of separate  
23 beneficiary or transaction records with the  
24 control records of trust funds received and  
25 disbursed at least once a month, and/or failed  
26 to maintain a record of such reconciliations  
27 as required by Section 2831.2 of the Regulations

1 for Trust Account #1;

2 (d) Failed to deposit client funds not immediately  
3 placed in the hands of the broker's principal or a  
4 neutral escrow depository, into a designated trust  
5 account in the name of the broker within three  
6 business days of receipt in violation of Section  
7 2832 of the Regulations;

8 (e) Deposited broker funds in excess of \$200.00 into  
9 Trust Account #1 and commingled trust funds with  
10 Respondent's own money or property in violation of  
11 Section 2835 of the Regulations and Section  
12 10176(e) of the Code; and,

13 (f) Failed to maintain copies of all canceled checks in  
14 violation of Section 10148 of the Code.

15 XII

16 The acts and/or omissions of Respondents as  
17 alleged above constitute grounds for disciplinary action under  
18 the following provisions:

19 (a) As alleged in Paragraph IX, under Section 10145 of  
20 the Code in conjunction with Section 10177(d)  
21 of the Code;

22 (b) As alleged in Paragraph X, under Section 2832.1  
23 of the Regulations in conjunction with Section  
24 10177(d) of the Code;

25 (c) As alleged in Paragraph XI(a), under Section 2831  
26 of the Regulations in conjunction with Section  
27 10177(d) of the Code;

- 1 (d) As alleged in Paragraph XI(b), under Section  
2 2831.1 of the Regulations in conjunction with  
3 Section 10177(d) of the Code;
- 4 (e) As alleged in Paragraph XI(c), under Section  
5 2831.2 of the Regulations in conjunction with  
6 Section 10177(d) of the Code;
- 7 (f) As alleged in Paragraph XI(d), under Section 2832  
8 of the Regulations in conjunction with Section  
9 10177(d) of the Code; and,
- 10 (g) As alleged in Paragraph XI(e), under Section 2835  
11 of the Regulations in conjunction with Section  
12 10177(d) of the Code and/or Section 10176(e);
- 13 (h) As alleged in Paragraph XI(f), under Section 10148  
14 of the Code in conjunction with Section 10177(d)  
15 of the Code.

16 SECOND CAUSE OF ACCUSATION

17 XIII

18 There is hereby incorporated in this Second, separate  
19 and distinct Cause of Accusation, all of the allegations  
20 contained in Paragraphs I through XII, inclusive, of the First  
21 Cause of Accusation with the same force and effect as if herein  
22 fully set forth.

23 XIV

24 At all times above mentioned, Respondent BERNARD was  
25 responsible, as the designated broker/officer of Respondent  
26 SONOMA, for the supervision and control of the activities  
27

1 conducted on behalf of the corporation by its officers and  
2 employees. Respondent BERNARD failed to exercise reasonable  
3 supervision and control over the property management and  
4 employment activities of Respondent SONOMA. In particular,  
5 Respondent BERNARD permitted, ratified and/or caused the conduct  
6 described in the First Cause of Accusation above to occur, and  
7 failed to take reasonable steps, including but not limited to the  
8 handling of trust funds, maintaining of trust account records,  
9 and the implementation of policies, rules, procedures, and  
10 systems to ensure the compliance of Respondent SONOMA with the  
11 Real Estate Law.

12 XV

13 The above acts and/or omissions of Respondent BERNARD  
14 constitute grounds for suspension or revocation of his real  
15 estate broker license under the provisions of Section 10177(h) of  
16 the Code and/or Section 10159.2(a) of the Code in conjunction  
17 with Section 10177(d) of the Code.

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1                   WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof a decision be rendered imposing disciplinary action  
4 against all license(s) and license rights of Respondents under  
5 the Real Estate Law (Part 1 of Division 4 of the Business and  
6 Professions Code), and for such other and further relief as may  
7 be proper under other provisions of law.

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10 E. J. HABERER II  
11 Deputy Real Estate Commissioner

12 Dated at Oakland,  
13 this 30th day of November, 2006.