

1 DEPARTMENT OF REAL ESTATE .  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

DEC - 8 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-10495 SF  
13 FRIEDKIN REALTY MANAGEMENT )  
14 GROUP, INC., CHRISTOPHER JASON ) STIPULATION AND  
WESTCOTT, and TERENCE LEWIS TOM, ) AGREEMENT  
15 Respondents. )  
16 )

17 It is hereby stipulated by and between Respondent TERENCE LEWIS TOM only  
18 (hereinafter "Respondent"), acting on his own behalf, and the Complainant, acting by and  
19 through John Van Driel, Counsel for the Department of Real Estate, as follows for the purpose  
20 of settling and disposing of the Accusation filed on August 8, 2008, in this matter ("the  
21 Accusation"):

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

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

4 3. On or about August 13, 2008, Respondent filed a Notice of Defense pursuant to Section  
5 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the  
6 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
7 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he  
8 will thereby waive his right to require the Real Estate Commissioner or the Acting  
9 Commissioner (the Commissioner) to prove the allegations in the Accusation at a contested  
10 hearing held in accordance with the provisions of the APA and that he will waive other rights  
11 afforded to him in connection with the hearing such as the right to present evidence in defense  
12 of the allegations in the Accusation and the right to cross-examine witnesses.  
13

14 4. This stipulation is based on the factual allegations contained in the Accusation.  
15 Respondent admits the violations alleged in the Accusation, and acknowledges that the factual  
16 allegations of the Accusation will serve as a prima facie basis for the "Determination of Issues"  
17 and "Order" set forth below. The Commissioner shall not be required to provide further  
18 evidence to prove such allegations.  
19

20 5. This Stipulation and Respondent's decision not to contest the Accusation are made for  
21 the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this  
22 proceeding.  
23

24 6. It is understood by the parties that the Commissioner may adopt the Stipulation and  
25 Agreement as his or her decision in this matter thereby imposing the penalty and sanctions on  
26 the real estate licenses and license rights of Respondent as set forth in the below "Order". In the  
27

1 event that the Commissioner in his or her discretion does not adopt the Stipulation and  
2 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing  
3 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by  
4 any admission or waiver made herein.

5 7. This Stipulation and Agreement shall not constitute an estoppel, merger or bar to  
6 any further administrative or civil proceedings by the Department of Real Estate with respect to  
7 any matters which were not specifically alleged to be causes for accusation in this proceeding.  
8

9 DETERMINATION OF ISSUES

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

14 I

15 The acts and omissions of Respondent described in the Accusation are grounds for the  
16 suspension or revocation of the licenses and license rights of Respondent under the provisions  
17 of sections 10159.2 and 10177(d) of the Business & Professions Code (the Code).  
18

19 ORDER

20 I

21 1. The real estate broker license and license rights of Respondent are hereby revoked,  
22 however, a restricted real estate broker license shall be issued to Respondent pursuant to Section  
23 10156.6 of the Code, if Respondent makes application therefore and pays to the Department of  
24 Real Estate the appropriate fee for said license within ninety (90) days from the effective date of  
25 this Decision.  
26  
27

1           The restricted license issued to Respondent shall be subject to all of the provisions of  
2 Section 10156.7 of the Code and to the following limitations, conditions, and restrictions  
3 imposed under authority of Section 10156.6 of the Code:

4           1) The restricted license issued to Respondent may be suspended prior to hearing by  
5 Order of the Real Estate Commissioner in the event of Respondent's conviction or  
6 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or  
7 capacity to act as a real estate licensee.

8           2) The restricted license issued to Respondent may be suspended prior to hearing by  
9 Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that  
10 Respondent has violated provisions of the California Real Estate Law, the Subdivided  
11 Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to  
12 the restricted license.

13           3) Respondent shall not be eligible to apply for the issuance of an unrestricted real  
14 estate license, nor the removal of any of the conditions of the restricted license, until two (2)  
15 years have elapsed from the effective date of this Decision.

16           2. The restricted real estate broker license issued to Respondent shall be suspended for a  
17 period of sixty (60) days from the issuance of that license; provided, however:

18           A. Thirty (30) days of said suspension shall be stayed for two (2) years upon the following  
19 terms and conditions:

20           1) Respondent shall obey all laws, rules and regulations governing the rights, duties and  
21 responsibilities of a real estate licensee in the State of California; and

22           2) That no final subsequent determination be made, after hearing or upon stipulation,  
23 that cause for disciplinary action occurred within two (2) years from the effective date of this  
24  
25  
26  
27

1 Decision. Should such a determination be made, the Commissioner may, in his or her  
2 discretion, vacate and set aside the stay order and reimpose all or a portion of the suspension  
3 stayed pursuant to this paragraph 2A. Should no such determination be made, the stay so  
4 imposed herein shall become permanent.

5 B. The remaining thirty (30) days of said 60-day suspension shall be stayed upon the  
6 condition that Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at a  
7 rate of \$50.00 for each day of the suspension for a total monetary penalty of \$1,500.00, and  
8 upon the following additional terms and conditions:  
9

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

13 2) No further cause for disciplinary action against the Real Estate license of Respondent  
14 occurs within two (2) years from the effective date of the decision in this matter.  
15

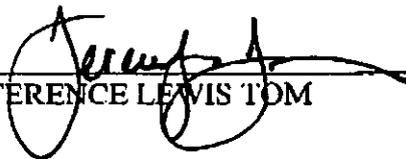
16 3) If Respondent fails to pay the monetary penalty in accordance with the terms and  
17 conditions of the Decision, the Commissioner may, without a hearing, vacate and set aside the  
18 stay order, and order the immediate execution of all or any part of the stayed suspension.  
19

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



1 11509, and 11513 of the Government Code), and I willingly and voluntarily waive those rights,  
 2 including the right to require the Commissioner to prove the allegations in the Accusation at a  
 3 hearing at which I would have the right to cross-examine witnesses against me and to present  
 4 evidence in defense and mitigation of the charges.

5  
 6 November 7, 2011  
 7 DATED

8   
 9 TERENCE LEWIS TOM

10 \* \* \*

11 The foregoing Stipulation and Agreement is hereby adopted by as my Decision in this  
 12 matter as to Respondent TERENCE LEWIS TOM and shall become effective at 12 o'clock noon  
 13 on December 28, 2011

14 IT IS SO ORDERED

15 11/28/2011

16 BARBARA J. BIGBY  
 17 Acting Real Estate Commissioner

18   
 19 By WAYNE S. BELL  
 20 Chief Counsel  
 21  
 22  
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 25  
 26  
 27

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11 In the Matter of the Accusation of )  
12 ) NO. H-10495 SF  
13 FRIEDKIN REALTY MANAGEMENT )  
14 GROUP, INC., CHRISTOPHER JASON ) STIPULATION AND  
15 WESTCOTT, and TERRENCE LEWIS TOM, ) AGREEMENT  
16 Respondents. )

17 It is hereby stipulated by and between Respondent FRIEDKIN REALTY  
18 MANAGEMENT GROUP, INC. only (hereinafter "Respondent"), acting by and through its  
19 attorney, John Dahlberg, and the Complainant, acting by and through John Van Driel, Counsel  
20 for the Department of Real Estate, as follows for the purpose of settling and disposing of the  
21 Accusation filed on August 8, 2008, in this matter ("the Accusation"):

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

No. H-10495SF

FRIEDKIN REALTY MANAGEMENT GROUP, INC

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

4                   3.    On August 13, 2008, Respondent filed a Notice of Defense pursuant to  
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the  
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice  
7 of Defense insofar as a hearing is required in this case if the Notice of Defense is withdrawn.  
8 Respondent acknowledges that Respondent understands that by withdrawing said Notice of  
9 Defense Respondent will thereby waive Respondent's right to require the Real Estate  
10 Commissioner or the Acting Commissioner (the Commissioner) to prove the allegations in the  
11 Accusation at a contested hearing held in accordance with the provisions of the APA and that  
12 Respondent will waive other rights afforded to Respondent in connection with the hearing such  
13 as the right to present evidence in defense of the allegations in the Accusation and the right to  
14 cross-examine witnesses.  
15

16                   4.    This stipulation is based on the factual allegations contained in the  
17 Accusation. In the interest of expediency and economy, Respondent denies the violations alleged  
18 in the Accusation, but acknowledges that these factual statements will serve as a prima facie  
19 basis for the "Determination of Issues" and "Order" set forth below. The Commissioner shall not  
20 be required to provide further evidence to prove such allegations.  
21

22                   5.    This Stipulation and Respondent's decision not to contest the Accusation  
23 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
24 limited to this proceeding. In order to resolve this matter, the parties agree to enter in to this  
25 Stipulation and Agreement.  
26  
27



1 (Division 4 of the Code) are suspended for a period of thirty (30) days from the effective date of  
2 the Decision herein, however, provided:

3 1. Thirty (30) days of the suspension shall be stayed upon the condition that:

4 (a) No final subsequent determination is made, after hearing or upon  
5 stipulation, that cause for disciplinary action against Respondent occurred within two (2) years  
6 of the effective date of the Order herein. Should such a determination be made, the  
7 Commissioner may, in his or her discretion, vacate and set aside the stay order, and order the  
8 execution of all or any part of the stayed suspension.

9  
10 (b) If no order vacating the stay is issued, and if no further cause for  
11 disciplinary action against the real estate license of Respondent occurs within two (2) years from  
12 the effective date of the Order herein, then the stay hereby granted shall become permanent.

13 B. Pursuant to section 10148 of the Code, Respondent shall pay the Commissioner's  
14 reasonable cost for the audit which led to this disciplinary action, which is \$8,186.00. In  
15 calculating the amount of the Commissioner's reasonable cost, the Commissioner has used the  
16 estimated average hourly salary for all persons performing audits of real estate brokers, and has  
17 included an allocation for travel time to and from the auditor's place of work.

18  
19 Respondent shall pay such cost within 60 days of receiving an invoice from the  
20 Commissioner detailing the activities performed during the audit and the amount of time spent  
21 performing those activities.

22  
23 The Commissioner may suspend the license of Respondent, after a hearing is  
24 held in accordance with Section 11500, et seq., of the Government Code which sustains that  
25 decision, if payment is not timely made as provided for above, or as provided for in a  
26 subsequent agreement between the Respondent and the Commissioner. The suspension shall  
27

1 remain in effect until payment is made in full or until Respondent enters into an agreement  
2 satisfactory to the Commissioner to provide for payment, or until a decision providing  
3 otherwise is adopted following a hearing held pursuant to this condition.

4 Pursuant to Section 10148 of the Business and Professions Code, Respondent  
5 shall pay the Commissioner's reasonable cost for a subsequent audit to determine if Respondent  
6 is now in compliance with the Real Estate Law and Title 10, California Code of Regulations  
7 (the Regulations). The cost of the subsequent, or follow-up, audit shall not exceed \$8,186.00.  
8  
9 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use  
10 the estimated average hourly salary for all persons performing audits of real estate brokers, and  
11 shall include an allocation for travel time to and from the auditor's place of work.

12 Respondent shall pay for the cost of the subsequent audit within 60 days of  
13 receiving an invoice from the Commissioner detailing the activities performed during the audit  
14 and the amount of time spent performing those activities.

15 The Commissioner may suspend the license of Respondent, after a hearing is  
16 held in accordance with Section 11500, et seq., of the Government Code which sustains that  
17 decision, if payment is not timely made as provided for above, or as provided for in a  
18 subsequent agreement between the Respondent and the Commissioner. The suspension shall  
19 remain in effect until payment is made in full or until Respondent enters into an agreement  
20 satisfactory to the Commissioner to provide for payment, or until a decision providing  
21 otherwise is adopted following a hearing held pursuant to this condition.

22 In lieu of a subsequent audit to determine if Respondent is now in compliance  
23 with the Real Estate Law, as authorized under section 10148 of the Code, Respondent may  
24 notify the Department within thirty (30) days of the effective date of the Order herein that it  
25  
26  
27

1 elects to exercise this option in lieu of the Department's subsequent audit, and, within one  
2 hundred twenty (120) days from the effective date of the Order herein, provide an opinion of a  
3 California Certified Public Accountant, in form and substance acceptable to the Commissioner,  
4 that all of the violations noted in the Department's Audit Report number OK070143, dated July  
5 2, 2008 (a copy of which is attached hereto and incorporated herein by reference), have been  
6 corrected, and that Respondent's trust fund handling and recordkeeping practices are now in  
7 compliance with the sections 10145 and 10176 of the Code, and with sections 2831, 2832, and  
8 2834 of the Regulations. Specifically, those violations, and the certification authorized under  
9 this provision, include the following:  
10

11 1. Each bank account maintained by Respondent, in which funds belonging to  
12 any entity other than Respondent are deposited, shall be designated as a "trust account" in the  
13 name of Respondent, as a corporate real estate broker as trustee.  
14

15 2. Each real estate broker trust account, as described in item 1. above, shall be  
16 maintained in such manner that the liabilities in each account do not exceed the adjusted bank  
17 balance of that account at any time, unless the written consent of every principal who is an  
18 owner of the funds in the account is obtained by Respondent prior to each disbursement if such  
19 a disbursement will reduce the balance of funds in the account to an amount less than the  
20 existing aggregate trust fund liability of Respondent to all owners of the funds in the account.  
21

22 3. Non-trust funds shall not be commingled with trust funds in any real estate  
23 broker trust account, as described in item 1. above.

24 4. Withdrawals may be made from any real estate broker trust account maintained  
25 by Respondent only upon the signature of:  
26  
27

1 (1) an officer through whom the corporation is licensed pursuant to Section 10158 or 10211 of  
2 the Code; or (2) a salesperson licensed to Respondent; or (3) a person licensed as a California  
3 real estate broker who has entered into a written agreement pursuant to section 2726 of the  
4 Regulations with Respondent as a corporate real estate broker; or (4) an unlicensed employee of  
5 Respondent with fidelity bond coverage at least equal to the maximum amount of the trust funds  
6 to which the employee has access at any time, provided that specific authorization in writing is  
7 given by the officer through whom Respondent is licensed and that the officer is an authorized  
8 signatory of the trust fund account maintained by Respondent.  
9

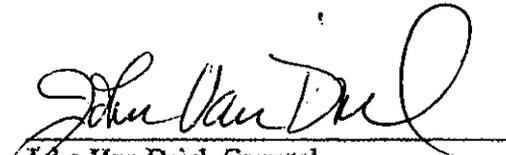
10 5. Respondent shall maintain a complete and accurate record of all trust funds  
11 received and disbursed for each bank account containing trust funds in accordance with sections  
12 2831, 2831.1, and 2831.2 of the Regulations.  
13

14 The Commissioner may suspend the license of Respondent pending a hearing  
15 held in accordance with Section 11500, et seq., of the Government Code, if Respondent elects  
16 the Certified Public Account certification option in lieu of the Department's subsequent audit,  
17 and the certification described above is not timely filed with the Department as provided for  
18 herein, or as provided for in a subsequent agreement between the Respondent and the  
19 Commissioner. The suspension shall remain in effect until such certification is filed or until  
20 Respondents enter into an agreement satisfactory to the Commissioner to provide for payment,  
21 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
22 condition.  
23

24 C. Respondent shall, within six (6) months from the effective date of this Order,  
25 submit proof satisfactory to the Commissioner that the officer through whom Respondent is  
26 licensed has taken and successfully completed the continuing education course on trust fund  
27

1 accounting and handling specified in subdivision (a) of Section 10170.5 of the Code. Proof of  
2 satisfaction of this requirement includes evidence that the designated officer has successfully  
3 completed the trust fund account and handling continuing education course within 120 days  
4 prior to the effective date of the Order herein. If Respondent fails to satisfy this condition, the  
5 Commissioner may order the further indefinite suspension of Respondent's corporate real estate  
6 broker license until Respondent satisfies this condition.

7  
8  
9 11-5-11  
DATED

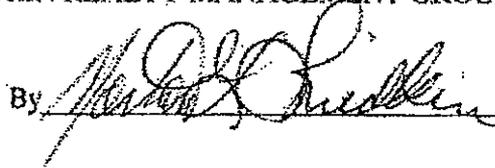
  
John Van Driel, Counsel  
Department of Real Estate

12 \*\*\*

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

22  
23 FRIEDKIN REALTY MANAGEMENT GROUP, INC

24 5 November, 2011  
25 DATED

By 

1 Approved as to form and content by counsel for Respondent.

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DECLINED TO SIGN JWD 11-5-11

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DATED

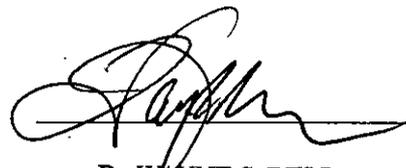
\_\_\_\_\_  
JOHN DAHLBERG  
Attorney for Respondent

\*\*\*

The foregoing Stipulation and Agreement is hereby adopted by as my Decision in  
this matter as to Respondent FRIEDKIN REALTY MANAGEMENT GROUP, INC. and shall  
become effective at 12 o'clock noon on ~~December~~ 28, 2011

IT IS SO ORDERED 11/28/2011

BARBARA J. BIGBY  
Acting Real Estate Commissioner

  
\_\_\_\_\_

By WAYNE S. BELL  
Chief Counsel

FILED

JUN - 8 2010

DEPARTMENT OF REAL ESTATE

By [Signature]

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of )  
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 FRIEDKIN REALTY MANAGEMENT )  
 GROUP INC., )  
 CHRISTOPHER JASON WESTCOTT, )  
 And TERRENCE LEWIS TOM, )  
 Respondents. )

NO. H-10495 SF

DISMISSAL

The Accusation herein filed on August 8, 2008 is DISMISSED as to Respondent  
CHRISTOPHER JASON WESTCOTT, only.

IT IS SO ORDERED 6/3/10

JEFF DAVI  
Real Estate Commissioner

[Signature]

BY: Barbara J. Bigby  
Chief Deputy Commissioner

1 JOHN VAN DRIEL, Counsel (SBN 84056)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0792 (Direct)

FILED

AUG - 8 2008

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-10495 SF

12 FRIEDKIN REALTY )

ACCUSATION

13 MANAGEMENT GROUP INC., )

14 CHRISTOPHER JASON WESTCOTT, and )

15 TERENCE LEWIS TOM, )

Respondents. )

16 The Complainant, E.J. Haberer, Jr., a Deputy Real  
17 Estate Commissioner of the State of California, for cause of  
18 Accusation against FRIEDIN REALTY MANAGEMENT GROUP, INC.  
19 (FRIEDIN), CHRISTOPHER JASON WESTCOTT (WESTCOTT), and TERENCE  
20 LEWIS TOM (TOM) (collectively referred to as Respondents), is  
21 informed and alleges as follows:

22 1

23 The Complainant makes this Accusation against  
24 Respondents in his official capacity.

25 ///

26 ///

27 ///

1  
2 Respondents are presently licensed and/or have license  
3 rights under the Real Estate Law, Part 1 of Division 4 of the  
4 Business and Professions Code (the Code). FRIEDIN is licensed  
5 as a real estate corporation; WESTCOTT is licensed as a real  
6 estate broker, and has acted as the designated officer of  
7 FRIEDIN since July 1, 2007; and TOM is licensed as a real estate  
8 broker and acted as FRIEDIN's designated officer from June 1,  
9 2004 through June 30, 2007.

10  
11 At all times herein mentioned, Respondents engaged in  
12 the business of and acted in the capacity of a real estate  
13 broker in the State of California within the meaning of Sections  
14 10131(b) of the Code by operating a property management business  
15 wherein Respondents leased or rented or offered to lease or rent  
16 real property, or solicited listings of places for rent, for or  
17 in expectation of compensation.

18  
19 From January through July 2008, an audit was done by  
20 the Department on FRIEDIN's books and records. The following  
21 facts were ascertained by the audit for the period of June 1,  
22 2005 through November 30, 2007:

23 A. Respondents maintained approximately 46 bank  
24 accounts, which they used to handle trust funds. The following  
25 6 bank accounts were examined on a sample basis. The first 5  
26 are maintained at Comerica Bank in Walnut Creek, CA. The 6<sup>th</sup>  
27 account is held at First Republic Bank in San Francisco, CA.

1 (1) Account #1891546630 designated as either "General  
2 Western Highland Co." or "FRIEDIN Realty  
3 Management Group Inc." (Bank #1).

4 (2) Account #1891545814 designated as either "General  
5 Western Highland Co." or "FRIEDIN Realty  
6 Management Group Inc." (Bank #2).

7 (3) Account #1891555359 designated as either "Corona  
8 Springs LLC" or "FRIEDIN Realty Management Group  
9 Inc." (Bank #3).

10 (4) Account #1891546630 designated as either  
11 "Lakeside Village B Apts." or "FRIEDIN Realty  
12 Management Group Inc." (Bank #4).

13 (5) Account #1891546630 designated as "General  
14 Western Monticello Company"  
15 (Bank #5).

16 (6) Account #1891546630 designated as "North Park"  
17 (Bank #6).

18 B. (1) As of November 30, 2005, when the  
19 adjusted bank balance and the total balance of  
20 the beneficiary records in Bank #1 were compared,  
21 there was a \$350,000.00 trust fund shortage in  
22 Bank #1.

23 (2) As of November 30, 2005, when the adjusted  
24 bank balance and the total balance of the  
25 beneficiary records in Bank #3 were compared,  
26 there was a \$300,000.00 trust fund shortage in  
27 Bank #3.

1 (3) As of November 30, 2005, when the adjusted  
2 bank balance and the total balance of the  
3 beneficiary records in Bank #4 were compared,  
4 there was a \$200,000.00 trust fund shortage in  
5 Bank #4.

6 (4) As of November 30, 2005, when the adjusted  
7 bank balance and the total balance of the  
8 beneficiary records in Bank #5 were compared,  
9 there was a \$250,000.00 trust fund shortage in  
10 Bank #5.

11 C. The bank accounts Respondents used to hold trust  
12 funds were not designated as trust accounts in the name of the  
13 broker (FRIEDIN) as trustee.

14 D. Respondents failed to maintain adequate records of  
15 trust funds received and paid out, and separate beneficiary  
16 records, and failed to reconcile those two sets of records  
17 monthly.

18 E. Respondents allowed unlicensed and unbonded  
19 persons to be authorized signers on each of the 6 accounts  
20 referred to above.

21 5

22 Within the last three years, TOM and WESTCOTT failed  
23 to exercise reasonable supervision over the activities of  
24 FRIEDIN for which a real estate license is required. In  
25 particular, TOM and WESTCOTT permitted and/or ratified the  
26 conduct described in paragraph 4 above during their respective  
27 terms as the designated officer of FRIEDIN, and/or failed to

1 take reasonable steps to implement effective supervision that  
 2 would have prevented that conduct, including but not limited to  
 3 the establishment of policies, rules, and procedures to : (1)  
 4 oversee and manage the employment of personnel given signing  
 5 authority on corporate accounts which held trust funds; (2)  
 6 review, oversee, inspect and manage the handling of trust funds  
 7 and the maintenance of required trust account records ; and, (3)  
 8 ensure compliance by FRIEDIN with the Real Estate Law and Title  
 9 10, California Code of Regulations (the Regulations).

10 6

11 The acts and/or omissions of Respondents as alleged  
 12 above violate Sections of the Code (BCP) and Title 10,  
 13 California Code of Regulations (the Regulations or Reg.) and  
 14 constitute grounds for disciplinary action under the provisions  
 15 set out below:

16	<u>Paragraph</u>	<u>Respondent</u>	<u>Violation</u>	<u>Grounds for Discipline</u>
17	4 b.	FRIEDIN	BCP 10145(a) Reg. 2832, 2832.1	BCP 10177(d)
18				
19	4 c.	FRIEDIN	BCP 10145 Reg. 2832	BPC 10176(e) BPC 10177(d)
20				
21	4 d.	FRIEDIN	Reg. 2831, 2831.1 2831.2	BPC 10177(d)
22				
23	4 e.	FRIEDIN	Reg. 2834	BPC 10177(d)
24	5	WESTCOTT TOM	BPC 10159.2 BPC 10159.2	BPC 10177(d) BPC 10177(d)
25				
26	///			
27	///			

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  
4 action against all licenses and license rights of Respondents  
5 under the Real Estate Law (Part 1 of Division 4 of the Business  
6 and Professions Code), and for such other and further relief as  
7 may be proper under other provisions of law.

8  
9 

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

12 Dated at Oakland, California,  
13 this 4<sup>th</sup> day of August, 2008.