

FILED

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

AUG 24 2009

4 Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

[Handwritten Signature]

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of
12 ALBERT JOHN ISOLA,
13 Respondent.

No. H-10591 SF

STIPULATION AND
AGREEMENT

14
15 It is hereby stipulated by and between ALBERT JOHN ISOLA (hereinafter
16 "Respondent"), and the Complainant, acting by and through Truly Sughrue, Counsel for the
17 Department of Real Estate, as follows for the purpose of settling and disposing the Accusation
18 filed on January 21, 2009 in this matter:

19
20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
22 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),
23 shall instead and in place thereof be submitted solely on the basis of the provisions of this
24 Stipulation and Agreement.
25

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

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

13 4. This stipulation is based on the factual allegations contained in the
14 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these
15 factual allegations, but to remain silent and understands that, as a result thereof, these factual
16 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set forth
17 below. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 such allegations.
19

20 5. This Stipulation and Respondent's decision not to contest the Accusation
21 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly
22 limited to this proceeding and any other proceeding or case in which the Department of Real
23 Estate (herein "the Department"), the state or federal government, an agency of this state, or an
24 agency of another state is involved.
25

26 6. Respondent understands that by agreeing to this Stipulation and Agreement,
27

1 Respondent agrees to pay, pursuant to Section 10148 of the California Business and Professions
2 Code, the cost of the audit which resulted in the determination that Respondent committed the
3 trust fund violation(s) found in Paragraph I, below, of the Determination of Issues. The amount
4 of said costs is \$4,519.84.

5 7. Respondent further understands that by agreeing to this Stipulation and
6 Agreement in Settlement, the findings set forth below in the Determination Of Issues become
7 final, and that the Commissioner may charge said Respondent for the costs of any audit
8 conducted pursuant to Section 10148 of the California Business and Professions Code to
9 determine if the violations have been corrected. The maximum costs of said audit shall not
10 exceed \$4,519.84.
11

12 8. It is understood by the parties that the Real Estate Commissioner may adopt
13 the Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
14 sanctions on the real estate licenses and license rights of Respondent as set forth in the below
15 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
16 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
17 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
18 any admission or waiver made herein.
19

20 9. The Order or any subsequent Order of the Real Estate Commissioner made
21 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any
22 further administrative or civil proceedings by the Department of Real Estate with respect to any
23 matters which were not specifically alleged to be causes for accusation in this proceeding.
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25 * * *

DETERMINATION OF ISSUES

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By reason of the foregoing stipulations and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

I

The acts and omissions of Respondent ALBERT JOHN ISOLA as described in the Second Cause of Action of the Accusation are grounds for the suspension or revocation of Respondent licenses and license rights under the following sections of the Code and Regulations:

(a) As to Paragraph 13 under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;

(b) As to Paragraph 14 under Section 2832(d) of the Regulations in conjunction with Section 10177(d) of the Code;

(c) As to Paragraph 17 under Section 10240 of the Code in conjunction with Section 10177(d) of the Code.

II

The acts and/or omissions of Respondent ALBERT JOHN ISOLA as described in the Third Cause of Action of the Accusation is cause for the suspension or revocation of Respondent's license and/or license rights under Section 10177(h) of the Code.

* * *

ORDER

All licenses and licensing rights of Respondent ALBERT JOHN ISOLA under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order;

1 provided, however, that:

- 2 1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent
3 petition pursuant to Section 10175.2 of the Business and Professions Code and pays a
4 monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate
5 of \$50 for each day of the suspension for a total monetary penalty of \$1,500.
- 6 a) Said payment shall be in the form of a cashier's check or certified check made payable to
7 the Recovery Account of the Real Estate Fund. Said check must be delivered to the
8 Department prior to the effective date of the Order in this matter.
- 9 b) No further cause for disciplinary action against the Real Estate licenses of said
10 Respondent occurs within two (2) years from the effective date of the decision in this
11 matter.
12
13
- 14 c) If Respondent fails to pay the monetary penalty as provided above prior to the effective
15 date of this Order, the stay of the suspension shall be vacated as to that Respondent and
16 the order of suspension shall be immediately executed, under this Order, in which event
17 the said Respondent shall not be entitled to any repayment nor credit, prorated or
18 otherwise, for the money paid to the Department under the terms of this Order.
- 19 d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation
20 and Agreement and if no further cause for disciplinary action against the real estate
21 license of said Respondent occurs within two (2) years from the effective date of this
22 Order, the entire stay hereby granted under this Order, as to said Respondent only, shall
23 become permanent.
24
- 25 2) The remaining thirty (30) days of said suspension shall be stayed for two (2) years upon the
26 following terms and conditions:
27

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

3 b) That no final subsequent determination be made, after hearing or upon stipulation, that
4 cause for disciplinary action occurred within two (2) years from the effective date of this
5 Order. Should such a determination be made, the Commissioner may, in his discretion,
6 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
7 Should no such determination be made, the stay imposed herein shall become permanent.

8
9 3) Respondent shall, within six (6) months from the effective date of this Decision, take and
10 pass the Professional Responsibility Examination administered by the Department including
11 the payment of the appropriate examination fee. If Respondent fails to satisfy this condition,
12 the Commissioner may order suspension of the license until Respondent passes the
13 examination.
14

15 4) Respondent shall, prior to the effective date of this Decision, submit proof satisfactory to the
16 Commissioner of having taken and successfully completed the continuing education course
17 on trust fund accounting and handling specified in subdivision (a) of Section 10170.5 of the
18 Business and Professions Code. Proof of satisfaction of this requirement includes evidence
19 that Respondent has successfully completed the trust fund account and handling continuing
20 education course within 120 days prior to the effective date of the Decision in this matter. If
21 Respondent fails to satisfy this condition, the Commissioner may order the suspension of
22 Respondent's license until Respondent presents proof that she has successfully completed the
23 trust fund course.
24

25 5) Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the
26 sum of \$4,519.84 for the Commissioner's cost of the audit which led to this disciplinary
27

1 action. Respondent shall pay such cost within forty-five (45) days of receiving an invoice
 2 therefor from the Commissioner. The Commissioner may suspend Respondent's license
 3 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if
 4 payment is not timely made as provided for herein, or as provided for in a subsequent
 5 agreement between the Respondent and the Commissioner. The suspension shall remain in
 6 effect until payment is made in full or until Respondent enters into an agreement satisfactory
 7 to the Commissioner to provide for payment, or until a decision providing otherwise is
 8 adopted following a hearing held pursuant to this condition.
 9

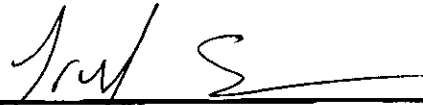
10 6) Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the
 11 Commissioner's reasonable cost, not to exceed \$4,519.84, for an audit to determine if
 12 Respondents have corrected the trust fund violation(s) found in Paragraph I of the
 13 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost,
 14 the Commissioner may use the estimated average hourly salary for all persons performing
 15 audits of real estate brokers, and shall include an allocation for travel time to and from the
 16 auditor's place of work. Respondent shall pay such cost within forty-five (45) days of
 17 receiving an invoice therefor from the Commissioner detailing the activities performed
 18 during the audit and the amount of time spent performing those activities. The
 19 Commissioner may suspend Respondent's license pending a hearing held in accordance with
 20 Section 11500, et seq., of the Government Code, if payment is not timely made as provided for
 21 herein, or as provided for in a subsequent agreement between Respondent and the
 22 Commissioner. The suspension shall remain in effect until payment is made in full or until
 23 Respondent enters into an agreement satisfactory to the Commissioner to provide for
 24 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
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to this condition.

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16 July -09

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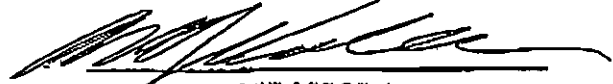


TRULY SUGHRUE
Counsel for Complainant

I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

7/15/09

DATED

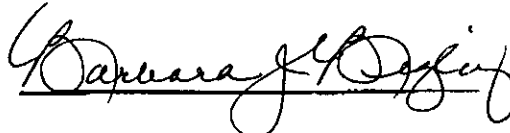


ALBERT JOHN ISOLA
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on SEP 14 2009

IT IS SO ORDERED 7/31, 2009.

JEFF DAVI
Real estate Commissioner



BY: Barbara J. Bigby,
Chief Deputy Commissioner

FILED

FEB 27 2009

DEPARTMENT OF REAL ESTATE

By K. Marx

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

TRACY LEE CARSON,

Respondent.

No. H-10591 SF

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On January 21, 2009, an Accusation was filed in this matter against Respondent TRACY LEE CARSON.

On February 4, 2009, Respondent petitioned the Commissioner to voluntarily surrender her real estate salesperson license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent TRACY LEE CARSON'S petition for voluntary surrender of her real estate salesperson license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated January 30, 2009 (attached as Exhibit "A" hereto).

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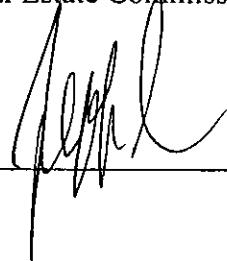
1 Respondent's license certificate and pocket card shall be sent to the below listed address so that
2 they reach the Department on or before the effective date of this Order:

3
4 DEPARTMENT OF REAL ESTATE
5 Attn: Licensing Flag Section
6 P. O. Box 187000
7 Sacramento, CA 95818-7000

8 This Order shall become effective at 12 o'clock noon on
9 **MAR 20 2009**

10 DATED: 2/26/09

11 JEFF DAVI
12 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H- 10591 SF

ALBERT JOHN ISOLA and TRACY LEE
CARSON,

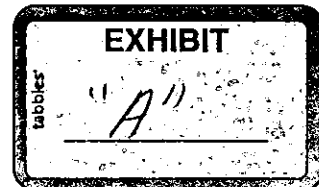
Respondent.

DECLARATION

My name is TRACY LEE CARSON and I am currently licensed as a real estate salesperson and/or have license rights with respect to said license. I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code) I wish to voluntarily surrender my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my license(s), that I may be relicensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to



1 Section 11522 of the Government Code. I also understand that by so voluntarily surrendering my
2 license(s), I agree to the following:

3 The filing of this Declaration shall be deemed as my petition for voluntary
4 surrender. It shall also be deemed to be an understanding and agreement by me that I waive all
5 rights I have to require the Commissioner to prove the allegations contained in the Accusation
6 filed in this matter at a hearing held in accordance with the provisions of the Administrative
7 Procedure Act (Government Code Sections 11400 et seq.), and that I also waive other rights
8 afforded to me in connection with the hearing such as the right to discovery, the right to present
9 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.
10 I further agree that upon acceptance by the Commissioner, as evidenced by an appropriate order,
11 all affidavits and all relevant evidence obtained by the Department in this matter prior to the
12 Commissioner's acceptance, and all allegations contained in the Accusation filed in the
13 Department Case No. H-10591 SF, may be considered by the Department to be true and correct
14 for the purpose of deciding whether to grant relicensure or reinstatement pursuant to
15 Government Code Section 11522.

16 I declare under penalty of perjury under the laws of the State of California that the
17 above is true and correct and that I freely and voluntarily surrender all my license(s) and license
18 rights under the Real Estate Law.

19 1/30/09 Hayward CA
20 Date and Place


TRACY LEE CARSON

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED

JAN 21 2009

DEPARTMENT OF REAL ESTATE

By H. Max

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) No. H-10591 SF
13 ALBERT JOHN ISOLA and)
14 TRACY LEE CARSON) ACCUSATION
15 Respondents.)

16 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of
17 the State of California, for cause of Accusation against ALBERT JOHN ISOLA, and
18 TRACY LEE CARSON, (hereinafter "Respondents"), are informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
22 State of California, makes this Accusation in his official capacity.

23 2

24 Respondents are presently licensed and/or have license rights under the Real
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code").

26 ///

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1 3

2 At all times mentioned, Respondent ALBERT JOHN ISOLA (hereinafter
3 "ISOLA") was and is licensed by the Department as a real estate broker.

4 4

5 At all times mentioned, Respondent TRACY LEE CARSON (hereinafter
6 "CARSON") was and is licensed by the Department as a real estate salesperson.

7 5

8 At all times mentioned, Respondents engaged in the business of, acted in the
9 capacity of, advertised or assumed to act as real estate brokers in the State of California within
10 the meaning of:

11 (a) Section 10131(a) of the Code, including the operation and conduct of a
12 real estate resale brokerage with the public wherein, on behalf of others, for compensation or in
13 expectation of compensation, Respondents sold and offered to sell; bought and offered to buy,
14 solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated
15 the purchase and resale of real property; and

16 (b) Section 10131(d) of the Code, including the operation and conduct of a
17 mortgage loan brokerage business with the public wherein Respondents solicited lenders and
18 borrowers for loans secured directly or collaterally by liens on real property or a business
19 opportunity, and wherein such loans were arranged, negotiated, processed, and consummated
20 by Respondents on behalf of others for compensation or in expectation of a compensation.

21 FIRST CAUSE OF ACTION

22 6

23 Each and every allegation in Paragraphs 1 through 5, inclusive, above, is
24 incorporated by this reference as if fully set forth herein.

25 7

26 Between approximately February 10, 2006 and February 28, 2006, CARSON,
27 acting as the agent of Antwoyne Carson solicited and obtained loans in the amount of \$467,200

1 and \$116,800 from Option One Mortgage Corporation to be secured by an encumbrance on the
2 property located at 32364 Payne Street, Hayward, California by representing, contrary to fact,
3 that Antwoyne Carson was employed by Data Realty, as an Escrow Coordinator earning
4 \$14,879 per month. In truth, Antwoyne Carson was unemployed.

5 8

6 Between approximately April 6, 2006 and May 16, 2006, CARSON, acting as
7 the agent of Michelle Childs solicited and obtained a loan in the amount of \$625,000 from
8 Option One Mortgage Corporation to be secured by an encumbrance on the property located at
9 15905 Via Del Sol, San Lorenzo, California by submitting unsupported and/or fabricated lease
10 agreements for a rental property located at 2282 D Street, Hayward in support of the loan
11 application.

12 9

13 On or about July 2006, CARSON, acting as the agent of Earnest Childs, Jr.
14 attempted to solicit and obtain a loan in the amount of \$565,000 from Option One Mortgage
15 Corporation to be secured by an encumbrance on the property located at 31983 Carroll Avenue,
16 Hayward, California by representing, contrary to fact, that Earnest Childs Jr. was employed by
17 Data Realty, as an Transactions Coordinator earning \$20,000 per month. In truth, Earnest
18 Childs Jr. was unemployed.

19 10

20 On or about August 2006, CARSON, acting as the agent of Latasha Childs
21 attempted to solicit and obtain a loan in the amount of \$605,000 from Option One Mortgage
22 Corporation to be secured by an encumbrance on the property located at 343 Westchester Street,
23 Hayward, California by representing, contrary to fact, that Latasha Childs was the sole account
24 holder for US Bank Account #15345386311. In truth, Latasha Childs was not the owner of
25 Account #15345386311.

26 ///

27 ///

1 11

2 The acts and omissions of Respondent CARSON described in the First Cause of
3 Action constitutes fraud and/or dishonest dealing, and constitutes cause to suspend or revoke all
4 licenses and license rights of CARSON pursuant to the provisions of Sections 10176(a),
5 10176(i), 10177(g), and/or 10177(j) of the Code.

6 SECOND CAUSE OF ACTION

7 12

8 Each and every allegation in Paragraphs 1 through 11, inclusive, above, is
9 incorporated by this reference as if fully set forth herein.

10 13

11 In connection with the real estate resale brokerage business described in
12 Paragraph 5(a), ISOLA failed to maintain a written control record of all trust funds received
13 and disbursed containing all information required by Section 2831 of the Commissioner's
14 Regulations (Title 10 of the Code of Regulations) (hereinafter "the Regulations").

15 14

16 In a home sales transaction involving offerors, Armi J. Banaria and Brian C.
17 Banaria, ISOLA failed to place the offerors' check into a neutral escrow depository or the trust
18 fund account, or into the hands of the offeree not later than three business days following
19 acceptance of the offer in violation of Section 2832(d) the Regulations.

20 15

21 ISOLA operated his real estate business in San Leandro, California, under the
22 fictitious business name of "Texas Capital Bank, dba Direct Home Loans", without obtaining a
23 license bearing said fictitious business name as required by Section 2731 of the Regulations.

24 16

25 In connection with the mortgage loan brokerage business described in Paragraph
26 5(b), ISOLA failed to disclose in the Mortgage Loan Disclosure Statements all of the
27 information required by Section 10236.4 of the Code.

2 In connection with the mortgage loan brokerage business described in Paragraph
3 5(B), ISOLA violated and/or willfully failed to comply with Section 10240 of the Code, in that
4 ISOLA:

5 (a) failed to cause to be delivered to the borrowers the written Disclosure
6 Statement required by Section 10241 of the Code;

7 (b) failed to obtain the signature of the borrowers on any Written Disclosure
8 Statement; and/or

9 (c) failed to retain on file for a period of three years a true and correct copy
10 of any Written Disclosure Statement signed by the borrowers.

12 The acts and/or omissions of ISOLA as alleged in the Second Cause of Action
13 constitute grounds for disciplinary action under the following provisions:

14 (a) As to Paragraph 13 under Section 2831 of the Regulations in conjunction
15 with Section 10177(d) of the Code;

16 (b) As to Paragraph 14 under Section 2832(d) of the Regulations in
17 conjunction with Section 10177(d) of the Code;

18 (c) As to Paragraph 15 under Section 2731 of the Regulations and Section
19 10159.5 of the Code in conjunction with Section 10177(d) of the Code;

20 (d) As to Paragraph 16 under Section 10236.4 of the Code in conjunction
21 with Section 10177(d) of the Code; and

22 (e) As to Paragraph 17 under Section 10240 of the Code in conjunction with
23 Section 10177(d) of the Code.

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1 THIRD CAUSE OF ACTION

2 19

3 Each and every allegation in Paragraphs 1 through 18, inclusive, above, is
4 incorporated by this reference as if fully set forth herein.

5 20

6 At all times mentioned, ISOLA failed to exercise reasonable supervision over the
7 activities of his salespersons, and permitted, ratified and/or caused the conduct described above.
8 ISOLA failed to reasonably or adequately review, oversee, inspect and manage the salespersons
9 under his employ, and/or to establish reasonable policies, rules, procedures and systems for such
10 review, oversight, inspection and management.

11 21

12 The facts described above as to the Third Cause of Accusation constitute cause
13 for the suspension or revocation of the licenses and license rights of ISOLA under Section
14 10177(g) and/or Section 10177(h) of the Code.

15 PRIOR DISCIPLINE

16 22

17 Effective January 14, 1991, in Case No. H-6236 SF, the Real Estate
18 Commissioner disciplined the real estate broker license of Respondent ISOLA for violation of
19 Sections 10177(g) of the Code. The discipline imposed upon Respondent was a 5-day
20 suspension stayed upon terms and conditions.

21 23

22 Effective July 10, 1998, in Case No. H-7530 SF, the Real Estate Commissioner
23 revoked the real estate broker license of Respondent ISOLA for violation of Sections 490 and
24 10177(b) of the Code, but granted each Respondent the right to the issuance of a restricted real
25 estate broker license, subject to terms, conditions and restrictions pursuant to Sections 10156.6
26 and 10156.7 of the Code. ISOLA's restricted real estate broker's license was also suspended for
27 thirty (30) days.

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

6
7 

8 E. J. HABERER II
9 Deputy Real Estate Commissioner

9 Dated at Oakland, California,
10 this 15th day of January, 2009.