

1 Voluntary Lic Surrender: Salesperson
2 Revised 2/1/00
3 ACC Filed

FILED

AUG - 6 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12
13 MICHAEL JOHN QUERARD,

14
15 Respondent.

No. H-10622 SF

16 ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

17 On March 10, 2009, an Accusation was filed in this matter against Respondent
18 MICHAEL JOHN QUERARD.

19 On July 8, 2009, Respondent petitioned the Commissioner to voluntarily
20 surrender his real estate broker license pursuant to Section 10100.2 of the Business and
21 Professions Code.

22 IT IS HEREBY ORDERED that Respondent MICHAEL JOHN QUERARD's
23 petition for voluntary surrender of his real estate broker license is accepted as of the effective
24 date of this Order as set forth below, based upon the understanding and agreement expressed in
25 Respondent's Declaration dated July 8, 2009 (attached as Exhibit "A" hereto). Respondent's
26 license certificate and pocket card shall be sent to the below listed address so that they reach the
27 Department on or before the effective date of this Order:

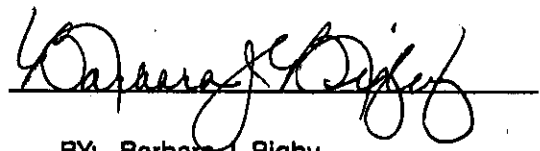
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DEPARTMENT OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on **AUG 27 2009**

DATED: 7-31-09

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
MICHAEL J. QUERARD
Respondent.

No. H-10622 SF

DECLARATION

My name is MICHAEL J. QUERARD and that I currently have license rights with respect to MY licensed as a real estate broker. I am not represented by counsel 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 issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

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1 I understand that by so voluntarily surrendering my
 2 license, that I can only be relicensed as a real estate broker
 3 or as a real estate salesperson in accordance with the
 4 provisions of Section 11522 of the Government Code. I also
 5 understand that by so voluntarily surrendering my license, I
 6 agree to the following:

7 The filing of this Declaration shall be deemed as my
 8 petition for voluntary surrender. It shall also be deemed to be
 9 an understanding and agreement by me that, I waive all rights I
 10 have to require the Commissioner to prove the allegations
 11 contained in the Accusation filed in this matter at a hearing
 12 held in accordance with the provisions of the Administrative
 13 Procedures Act (Government Code Sections 11400 et seq.), and
 14 that I also waive other rights afforded to me in connection with
 15 the hearing such as the right to discovery, the right to present
 16 evidence in defense of the allegations in the Accusation and the
 17 right to cross examine witnesses. I further agree that upon
 18 acceptance by the Commissioner, as evidenced by an appropriate
 19 order, all affidavits and all relevant evidence obtained by the
 20 Department in this matter prior to the Commissioner's
 21 acceptance, and all allegations contained in the Accusation
 22 filed in the Department Case No. H-10622 SF, may be considered
 23 by the Department to be true and correct for the ^{sole} purpose of
 24 deciding whether or not to grant reinstatement of my license
 25 pursuant to Government Code Section 11522.

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1 ///

2 I declare under penalty of perjury under the laws of
3 the State of California that the above is true and correct, and
4 that I freely and voluntarily surrender my license and all
5 license rights attached thereto.

6 DATED: July 8, 2009

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MICHAEL J. QUERARD
Respondent

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1 DAVID B. SEALS, Counsel (SBN 69378)
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

MAR 10 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) No. H-10622 SF
12)
13 MICHAEL JOHN QUERARD,) ACCUSATION
14)
15 Respondent.)

16 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
17 State of California, for cause of Accusation against Respondent MICHAEL JOHN QUERARD
18 (hereinafter "Respondent"), is informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in his official capacity.

21 2

22 At all times herein mentioned, Respondent was and now is licensed and/or has
23 license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
24 Code) (herein "the Code") as a real estate broker and as the Designated Officer for Nathan York
25 Ltd., a licensed corporate real estate broker.

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2 In or about July 2006, Respondent asked Byron Wiegand (hereinafter
3 "Wiegand"), a real estate broker from whom he had previously borrowed money, to loan him an
4 additional \$50,000 to be secured by a 3rd deed of trust on real property in Marin County, CA.
5 Respondent originally met Wiegand at a Robert Allen Investment Seminar where Respondent
6 was a presenter.

7 4

8 On Respondent's instruction, Wiegand wired \$50,000 to Cal Land Title on July
9 27, 2006 but only received an unsecured promissory note signed by the Respondent as President
10 of Q Property Investment, Inc., an unlicensed corporation owned by Respondent.

11 5

12 Wiegand was never repaid the \$50,000 discussed in Paragraphs 3 and 4 above.
13 In November 2007, Respondent filed for a personal bankruptcy under Chapter 7 but Wiegand
14 was not listed as a creditor because the promissory note was against Q Property Investment,
15 Inc., not the Respondent.

16 6

17 In July 2006, Respondent again solicited Wiegand to loan funds. However, on
18 this occasion Respondent was soliciting \$75,000 on behalf of another borrower, Lamont
19 Williams (hereinafter "Williams"), to be secured by a 3rd deed of trust on real property located
20 at 1246 Kendrick Road NE, Atlanta, Georgia (hereinafter the "Property").

21 7

22 Through telephone and email communications, Respondent told Wiegand that
23 the Property had been appraised at \$1.2 million.

24 8

25 Respondent never gave Wiegand a Mortgage Loan Disclosure Statement
26 (hereinafter the "MLDS") in violation of Section 10232.4 of the Code.

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In truth and in fact, Respondent was aware that Williams purchased the Property on July 16, 2006 at a purchase price of only \$742,000 with 100% financing. These were material facts that Wiegand needed to make an informed decision which should have been included in the MLDS and were in conflict with information given to him by the Respondent.

Respondent provided escrow instructions regarding the Williams transaction, as discussed in Paragraphs 6 through 9 above, among which was to pay origination points of \$4,500 to Hammerhead Financial, Inc., an unlicensed corporation owned by Respondent.

In late July 2006, escrow closed on the Williams loan with Wiegand in 4th position instead of 3rd. Hammerhead Financial, Inc. also received the fees discussed above in violation of Section 10130, 10137 or Section 2731(a), Title 10, California Code of Regulations (hereinafter the "Regulations").

Wiegand never received any payments from Williams or Respondent on the \$75,000 principal of the loan.

In or about January 2007, Respondent asked Wiegand to loan Wendy Green (hereinafter "Green"), a friend of Respondent's, \$10,000 for a few days. Wiegand received an unsecured promissory note in return.

Wiegand has not been paid by Green as of the date of the filing of this Accusation.

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondent under Section 10177(j) and Sections 10137 and

1 10232.4 of the Code and Section 2731(a) of the Regulations in conjunction with Section
2 10177(d) of the Code.

3 MATTERS IN AGGRIVATION

4 In or about March 2005, Respondent met Ann Gleisner (hereinafter "Gleisner")
5 at an investment training seminar where he was a presenter. Respondent suggested to Gleisner
6 that she borrow \$150,000 secured by her home. He told Gleisner that he would use the money
7 to fix one of his homes and pay her back within 9 months or when the property was sold.
8 Gleisner gave him the \$150,000 but received only an unsecured promissory note signed by
9 Respondent as President of Q Property Investment, Inc.

10 Gleisner has not received any repayment from Respondent but was listed as an
11 unsecured creditor in his Chapter 7 bankruptcy.

12 In or about August 2004 Respondent met Maryanne and Lew Culkin (hereinafter
13 the "Culkins") at a Robert Allen Creating Wealth Seminar. After the seminar they were able to
14 meet Respondent.

15 In or about June 2005, Respondent contacted the Culkins and suggested they
16 loan him or Hammerhead Financial, Inc. \$70,000 on an unsecured note due in December 2005.
17 Respondent paid them principle and interest in full in January 2006.

18 In or about November 2005 and January 2006, the Culkins again loaned
19 Respondent or Q Property Financial, Inc. \$60,000 due in May 2006 and Respondent or
20 Hammerhead Financial, Inc. \$50,000 due in November 2007, respectively. In both cases the
21 loans were unsecured and signed by Respondent as President of the appropriate corporation.

22 Respondent paid interest only through July 2006 on these latter two loans but
23 nothing further.

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

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7 

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

9 Dated at Oakland, California,
10 this 5th day of March, 2009.