

FILED

JUN 16 2010

DEPARTMENT OF REAL ESTATE

By *L. Frost*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
) DRE No. H-10736 SF
BILL MARTIN PARKER and,)
BT INVESTMENT AND LOAN, INC.,) OAH No. 2009080985
)
Respondents.)

DECISION AFTER RECONSIDERATION

On March 30, 2010, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on April 27, 2010.

An Order Staying the Effective Date was issued April 23, 2010, staying the effective date for ten (10) days until 12 o'clock noon on May 7, 2010. On May 6, 2010, an Order Extending the Stay was signed thereby extending the stay until May 17, 2010.

On April 20, 2010, Respondents petitioned for reconsideration of the Decision of March 30, 2010, and Respondents submitted argument in support of their petition for reconsideration on April 20, 2010, with a rebuttal argument filed on May 13, 2010. Written argument was submitted on behalf of Complainant on April 27, 2010.

On May 17, 2010, an Order Granting Reconsideration was filed granting reconsideration of the Decision of March 30, 2010 for the limited purpose of determining whether the disciplinary action imposed against Respondents should be reduced.

1 I have given careful consideration to the record in this case, including the written
2 argument offered by Respondents and Complainant. I have reconsidered the aforementioned
3 Decision, reaffirm my adoption of the Proposed Decision dated March 2, 2010, of the
4 Administrative Law Judge of the Office of Administrative Hearings, and it is hereby ordered that
5 the disciplinary action therein imposed against the real estate broker license and license rights of
6 BILL MARTIN PARKER and the corporate real estate broker license and license rights of BT
7 INVESTMENT AND LOAN, INC. shall read as follows:

8 ORDER

9 All real estate licenses and license rights of Respondent BILL MARTIN
10 PARKER under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
11 Code), including the individual real estate broker license issued to BILL MARTIN PARKER,
12 are revoked as rendered in the Decision of March 30, 2010.

13 All licenses and licensing rights of Respondent BT INVESTMENT AND LOAN, INC.,
14 under the Real Estate Law are revoked as rendered in the Decision of March 30, 2010.

15 This Decision shall become effective at 12 o'clock noon on JUL - 6 2010 .

16 IT IS SO ORDERED 6-16-2010

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18 JEFF DAVIS
19 Real Estate Commissioner
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MAY 17 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of
BILL MARTIN PARKER and
BT INVESTMENT AND LOAN, INC.
Respondent.

No. H-10736 SF

ORDER GRANTING RECONSIDERATION

On March 30, 2010, in Case No. H-10736 SF, a Decision was rendered in the above-entitled matter to become effective April 27, 2010.

On April 20, 2010, Respondents petitioned for reconsideration of the Order of March 30, 2010. An order staying the effective date was issued April 21, 2010, staying the effective date for a total period of 10 days until 12 o'clock noon on May 7, 2010. On May 6, 2010, an order extending the stay effective date was issued, staying the effective date for an additional period of 10 days until 12 o'clock noon on May 17, 2010.

Respondents submitted argument in support of their petition for reconsideration. Written argument has been submitted on behalf of Complainant.

I have given due consideration to the record in this case, including the written arguments offered by Respondent and Complainant. I find there is good cause to reconsider the Decision of March 30, 2010. Reconsideration is hereby granted.

IT IS SO ORDERED 5/13, 2010.

JEFF DAVI
Real Estate Commissioner

Barbara J. Bigby
BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

MAY - 6 2010

DEPARTMENT OF REAL ESTATE

By L. Henry

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-10736 SF
BILL MARTIN PARKER and,)	
BT INVESTMENT AND LOAN, INC.,)	
)	
Respondents.)	

ORDER EXTENDING STAY EFFECTIVE DATE

On March 30, 2010, a Decision revoking Respondents' real estate licenses was rendered in the above-entitled matter to become effective on April 27, 2010.

On April 20, 2010, Respondent requested a stay for the purpose of considering Respondent's April 20, 2010 Petition for Reconsideration of the Decision of March 30, 2010.

On April 23, 2010, an order staying the effective date of the Decision of March 30, 2010 was filed by the Department thereby staying the Commissioner's Decision until May 7, 2010.

Due to the Governor's Executive Order, S-13-09, the Department will be closed for business on May 7, 2010 and therefore additional time is needed to evaluate the Respondent's Petition for Reconsideration.

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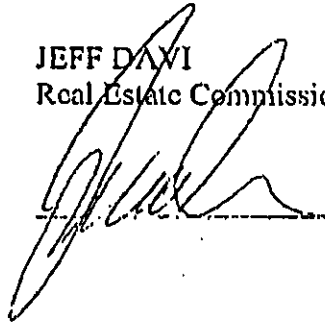
///

1 THEREFORE, IT IS HEREBY ORDERED that the effective date of the Real
2 Estate Commissioner's March 30, 2010 Decision is stayed for an additional period of ten (10)
3 days.

4 The Decision of the Real Estate Commissioner of March 30, 2010, shall become
5 effective at 12 o'clock noon on May 17, 2010.

6 DATED: May 6, 2010.

7
8 JEFF DAVI
Real Estate Commissioner



9
10
11
12 CC: Bill Martin Parker
13 5950 Stone Ridge Drive
Pleasanton, CA 94588

14 Bill Martin Parker, D.O.
15 BT Investment and Loan, Inc
16 119 El Cerro Court
Danville, CA 94526

17 Richard C. Raines, Esq.
18 Law Offices of Gagen, McCoy, et al.
19 279 Front Street
Danville, CA 94526

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FILED

APR 23 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-10736 SF
BILL MARTIN PARKER and,)	
BT INVESTMENT AND LOAN, INC.,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On March 30, 2010, a Decision revoking Respondent's real estate licenses was rendered in the above-entitled matter to become effective on April 27, 2010.

On April 20, 2010, Respondent requested a stay for the purpose of considering Respondent's April 20, 2010 Petition for Reconsideration of the Decision of March 30, 2010.

IT IS HEREBY ORDERED that the effective date of the Real Estate Commissioner's March 30, 2010 Decision is stayed for a period of ten (10) days.

The Decision of the Real Estate Commissioner of March 30, 2010, shall become effective at 12 o'clock noon on May 7, 2010.

DATED: April 21, 2010.

JEFF DAX
Real Estate Commissioner

[Signature]

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CC: Bill Martin Parker
5950 Stone Ridge Drive
Pleasanton, CA 94588

Bill Martin Parker, D.O.
BT Investment and Loan, Inc
119 El Cerro Court
Danville, CA 94526

Richard C. Raines, Esq.
Law Offices of Gagen, McCoy, et al.
279 Front Street
Danville, CA 94526

FILED

APR - 7 2010

DEPARTMENT OF REAL ESTATE

By K Henry

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
BILL MARTIN PARKER and)
BT INVESTMENT AND LOAN, INC.,)
)
Respondents.)
_____)

NO. H-10736 SF
OAH NO. 2009080985

DECISION

The Proposed Decision dated March 2, 2010, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on

APR 27 2010

IT IS SO ORDERED _____

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

BILL MARTIN PARKER and
BT INVESTMENT AND LOAN, INC.

Respondents

Case No. H-10736 SF

OAH No. 2009080985

PROPOSED DECISION

Administrative Law Judge Steven C. Owyang, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on January 14, 2010.

Kenneth C. Espell, Real Estate Counsel, represented complainant E. J. Haberer II, Deputy Real Estate Commissioner, State of California.

Attorney Richard C. Raines of Gagen, McCoy, McMahon, Koss, Markowitz & Raines, represented respondents Bill Martin Parker and BT Investment and Loan, Inc.

At the opening of the hearing, complainant amended the accusation to delete the second sentence of paragraph 10. Additionally, complainant deleted the third cause of action in the accusation, constituting paragraphs 19 through 22, inclusive; this amendment was without prejudice to the complainant's ability to raise the cause of action in a future accusation. Additionally, respondents admitted the allegations set forth in accusation paragraphs 1 through 9, 11 through 18, 23, 25 and 26.

The record has held open to allow respondent to submit a letter from broker David Cobo. On January 25, 2010, Cobo's declaration was received in evidence as respondent's exhibit D. The matter was submitted on that date.

FACTUAL FINDINGS

1. Complainant E. J. Haberer II, Deputy Real Estate Commissioner, Department of Real Estate, issued the accusation in his official capacity.
2. Respondent Bill Martin Parker (Parker) is presently licensed under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code). Parker is a high school graduate. He obtained his real estate salesperson license in 1976 and his real estate broker license in 1981. He has not previously been subject to discipline by the department.

3. Respondent BT Investment and Loan, Inc. (BTIL) is presently licensed under the Real Estate Law and is licensed by the department as a corporate real estate broker.

4. At all times mentioned, Parker was the designated officer/broker of respondent BTIL. Pursuant to Business and Professions Code sections 10159.2 and 10177, subdivision (h), as the designated officer/broker of BTIL, Parker was at all times mentioned herein, responsible for the supervision of the activities of the officers, agents, real estate licensees and employees of BTIL.

5. At all times mentioned, Parker and BTIL engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meanings of Business and Professions Code section 10131, subdivisions (d) and (e), including the operation and conduct of a mortgage loan brokerage business with the public wherein respondents solicited private money lenders and private borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by respondents on behalf of others and wherein promissory notes or interests therein were sold or purchased on behalf of another or others for compensation or in expectation of compensation.

6. Parker started doing business with Mark Taylor in 2002. Taylor purchased distressed properties, made improvements to them, and then resold the properties. In 2005, Parker began to broker private money loans to finance such projects with Taylor. Parker did not study the applicable department statutes and regulations or speak with knowledgeable real estate brokers about these transactions. Parker thought he knew how to conduct such transactions, based on his approximately 30 years in the real estate business, and especially his experience in the 1980's with relatively complex transactions.

7. In July 2006, Albert Phillips Wilcox (Wilcox) responded to a newspaper advertisement placed by BTIL offering investors a 12 percent rate of return for investor funds used to make loans brokered by BTIL. The loans were to be secured by deeds of trust recorded against real property.

The newspaper advertisement included BTIL's license number 01485821 but did not include BTIL's or Parker's names. It displayed a logo with the lower case letters "b" and "t" intertwined. The advertisement included the statements, "12% Interest," "Secured by Real Estate," "Interest Paid Monthly," "IRA, 401K Approved," "Local Real Estate," "Licensed Broker for 25 Years," "INVESTMENT & LOAN," a telephone number, and "Licensed by the California Department of Real Estate."

8. Between July and October 2006, Wilcox did three loans with Parker, all of which were paid as agreed. None of these loans involved Taylor.

9. Around November 1, 2006, Parker, on behalf of himself and BTIL, contacted Wilcox about providing funds for a loan that would be secured by certain pieces of real property in California. Parker told Wilcox his funds would be used to make a \$290,000 loan to Mark and Kathleen Taylor (collectively, Taylor). Parker further stated that the loan was to be secured by a first deed of trust recorded against Taylor's real property located at 4285 65th Street, Sacramento, California (65th Street loan) and a second deed of trust against Taylor's primary residence located at 1985 Grant Street, Brentwood, California (Grant Street property). At the time, Parker had been involved in about a dozen successful projects with Taylor (not involving Wilcox) and Parker and Wilcox had been involved in three successful transactions (not involving Taylor). Wilcox entered into the proposed transaction.

Sometime thereafter, Parker, on behalf of himself and BTIL, proposed that Wilcox provide funds for two additional loans to Taylor totaling \$350,000 that would be secured by a \$130,000 first deed of trust and a \$220,000 second deed of trust recorded against another Taylor property located at 703 Beatrice Street, Brentwood, California (Beatrice Street loan). In addition, the \$350,000 loan would be cross-collateralized and secured by an additional deed of trust recorded against Taylor's Grant Street property. Wilcox entered into the transactions proposed by Parker.

In connection with the Taylor transactions, Parker and BTIL failed to provide Wilcox with a Lender Disclosure Statement (DRE Form 851A) and failed to provide Wilcox with a Lender Disclosure Statement Multi-Property (Cross-Collateralization) Addendum (DRE Form 851D). By failing to provide the Disclosure Statement and Addendum, Parker and BTIL failed to provide Wilcox with information concerning the liens against the property, failed to disclose that three deeds of trust would be senior to the Wilcox deeds of trust, and failed to provide income and credit data on Taylor, all in violation of Business and Professions Code sections 10232 and 10232.4. These violations provide cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d).

One of the three senior deeds of trust was a deed of trust in favor of Parker's wife Tracy S. Daily recorded on June 16, 2006. At hearing, Parker provided no cogent explanation for his failure to disclose his wife's security interest which put her in a senior position to Wilcox. Parker acknowledged that he should have disclosed his wife's senior deed of trust as well other required disclosures.

Respondents' failure to disclose the deeds of trust senior to Wilcox violated Business and Professions Code sections 10176, subdivision (a) (substantial misrepresentation), and 10177, subdivision (o) (failure to disclose nature and extent of licensee's direct or indirect ownership interest). These violations provide cause to suspend or revoke all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d).

The evidence did not establish that respondents violated Business and Professions Code section 10176, subdivisions (c) (continued and flagrant course of misrepresentations or

false promises) or (i) (fraud or dishonest dealing). The evidence did not establish that Parker intended to defraud Wilcox. Up until this point Parker's transactions with Taylor had been successful and Parker's transactions with Wilcox had been successful. Being apparently oblivious to applicable disclosure and due diligence requirements, Parker may have been overly optimistic that Wilcox's involvement in the Taylor transaction would be profitable for all concerned. It is noted that Wilcox was not a witness at the hearing. His testimony might have shed more light on these alleged violations.

10. Parker and BTIL failed to provide Wilcox with an independent appraisal of the property and failed to obtain Wilcox's written waiver of his right to an appraisal. Parker and BTIL unilaterally and without Wilcox's written authorization provided Wilcox with closing purchase price information for properties sold in the area where the Taylor properties were located. These failures, individually and jointly, violated Business and Professions Code section 10232.5 (disclosure requirements) and constitute cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d).

11. Parker, as the designated officer/broker of BTIL, was required to exercise reasonable supervision and control over the activities of BTIL. These duties included, but were not limited to, insuring that required disclosures were provided to Wilcox. Parker failed to exercise reasonable supervision and control over the activities of BTIL when BTIL failed to provide these disclosures to Wilcox, in violation of Business and Professions Code section 10159.2. This failure constitutes cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivisions (d) and (h).

12. Taylor defaulted on the 65th Street loan and the Beatrice Street loan. Wilcox subsequently filed a complaint against Parker and BTIL that was received by the department on May 27, 2008. Wilcox identified himself as a 68-year-old retired airline pilot. He acknowledged that between July and October 2006, he made three loans brokered by Parker and BTIL in the amounts of \$119,000, \$34,000, and \$55,000 that were repaid as agreed. Wilcox alleged, however, that Parker had made various representations regarding the \$290,000 and \$350,000 loans to Taylor. Wilcox asserted that as a result of Parker's actions, "I lent \$640,000 with essentially no security. Mr. Parker had a duty to me to tell the truth about extent [sic] of the encumbrances on the properties he was seeking to arrange loans against and the extent of the fire damage sustained by the [4285 65th Street] Sacramento property. Mr. Parker breached his duty to me, and I have suffered significant financial losses as a result."

13. Parker characterized Wilcox as a knowledgeable and sophisticated investor who had previously participated in similar transactions. Wilcox's knowledge and sophistication as an investor do not excuse non-compliance with applicable laws and regulations.

14. During October 2008, the department conducted an audit of the business records and files of BTIL for the period July 1, 2007, through September 30, 2008. The audit results are contained in the department's audit report dated November 12, 2008, for Audit Number OK 07-0267. The audit discovered a number of violations of real estate law including, but not limited to, violations of Business and Professions Code sections 10232, subdivision (e), and 10232.2, subdivisions (b) and (c), which constitute cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d).

15. The audit of BTIL's books and records determined that as of May 22, 2007, BTIL had negotiated at least 10 non-exempt loans totaling \$1,766,000 and thus triggered the threshold reporting requirements of Business and Professions Code section 10232, subdivision (e). By failing, however, to timely file the department's Threshold Notification Report (DRE Form 853), BTIL did not comply with Business and Professions Code section 10232, subdivision (e), which constitutes cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d).

16. BTIL's lending activities required it to submit Quarterly Trust Fund Status Reports (DRE Form 855) with the department within 30 days after the end of a fiscal quarter. For the quarters June 30, 2007, and September 30, 2007, BTIL failed to file with the department a Quarterly Trust Fund Status Report as required under Business and Professions Code section 10232.25. In addition, despite ceasing lending related activities in June 2007, BTIL was required to file with the department a Mortgage Loan/Trust Deed Annual Report and an Annual Report of a Review of Trust Fund Financial Statements for fiscal year 2007 within 90 days of December 31, 2007, the close of BTIL's fiscal year. BTIL failed to submit the annual report within the time allotted for filing. BTIL's failure to file the aforementioned reports constitutes a violation of Business and Professions Code section 10232.25 and provides cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d).

17. Parker, as the designated officer/broker of BTIL, was required to exercise reasonable supervision and control over the activities of BTIL. Parker failed to exercise reasonable control over the activities of BTIL by failing to ensure BTIL's timely filing of required reports, in violation of Business and Professions Code section 10159.2. This constitutes cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivisions (d) and (h).

18. Parker's and BTIL's acts and omissions with regard to Wilcox in the Taylor transactions constituted negligence and incompetence by a real estate licensee, and provide cause under Business and Professions Code section 10177, subdivision (g), for suspension or revocation of all license and license rights of Parker and BTIL.

19. Parker stopped conducting any loan business in August 2007. He has no intention of ever again engaging in that aspect of the real estate business. He limits his practice to residential real estate transactions only.

20. Parker has worked in real estate in Contra Costa County for more than 30 years. His grandfather and his mother were also real estate brokers. Parker has trained some 400 individuals in real estate over the years. He is well known in the industry and community and believes his career would be over if he loses his broker license.

21. Parker currently works for Prudential California Real Estate, under broker David Cobo. In a declaration signed under penalty of perjury on January 19, 2010, after the hearing in this matter, Cobo stated that: he is a real estate broker licensed by the State of California and is currently the Designated Broker Officer for Mason-McDuffie Real Estate Inc. dba Prudential California Real Estate; he has known Parker in a professional capacity for 10 years and has found Parker to be honest, forthright and professional; he has read the accusation as amended and other documents in this case; he understands that at issue is whether Parker's license should be restricted; if Parker's broker license were to be restricted, he would be pleased for Parker to remain with Prudential California in his present capacity and Cobo would still act as his responsible managing broker; and, he is confident that Parker is and will be a credit to the real estate profession.

Cobo's declaration does not indicate that Parker had previously informed him about the accusation. The declaration does not disclose whether Cobo has specific knowledge of the incidents alleged in the accusation. Cobo was not a witness at the hearing in this matter.

22. Respondents submitted 14 letters dated from 1987 through 2009 from clients expressing their appreciation for Parker's professionalism, knowledge, compassion, excellent service, and honesty. None of the letters reflects knowledge of the accusation against respondents or the incidents set forth in the accusation.

LEGAL CONCLUSIONS

1. Respondents failed to provide the required Disclosure Statement and Addendum, failed to provide Wilcox with information concerning liens, failed to disclose that three deeds of trust would be senior to the Wilcox deeds of trust, and failed to provide income and credit data on Taylor, all in violation of Business and Professions Code sections 10232 and 10232.4. These violations provide cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d) (willful disregard or violation). (Factual Finding 9.)

2. Respondents' failure to disclose the deeds of trust, including the deed of trust held by Parker's wife, senior to Wilcox violated Business and Professions Code sections 10176, subdivision (a) (substantial misrepresentation), and 10177, subdivision (o) (failure to disclose nature and extent of licensee's direct or indirect ownership interest). These

violations provide cause to suspend or revoke all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d). (Factual Finding 9.)

3. The evidence did not establish that respondents violated Business and Professions Code section 10176, subdivisions (c) (continued and flagrant course of misrepresentations or false promises) or (i) (fraud or dishonest dealing). (Factual Finding 9.)

4. Parker and BTIL failed to provide Wilcox with an independent appraisal of the property and failed to obtain Wilcox's written waiver of his right to an appraisal. Parker and BTIL unilaterally and without Wilcox's written authorization provided Wilcox with closing purchase price information for properties sold in the area where the Taylor properties were located. These failures, individually and jointly, violated Business and Professions Code section 10232.5 (disclosure requirements) and constitute cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivision (d). (Factual Finding 10.)

5. Parker failed to exercise reasonable supervision and control over the activities of BTIL, in violation of Business and Professions Code section 10159.2. This failure constitutes cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivisions (d) and (h) (reasonable supervision). (Factual Findings 11 and 17.)

6. The department's audit discovered a number of violations of real estate law including, but not limited to, violations of Business and Professions Code sections 10232, subdivision (e) (notification to department), and 10232.2, subdivisions (b) and (c) (statements and reports), which constitute cause for suspension or revocation of all licenses and license rights of Parker and BTIL under Business and Professions Code section 10177, subdivisions (d) and (h). (Factual Findings 14, 15, 16, 17.) No violation of Business and Professions Code section 10232.2, subdivision (d) (commissioner to adopt regulations), was shown.

7. Respondents' acts and omissions with regard to Wilcox in the Taylor transactions constituted negligence and incompetence by a real estate licensee, and provide cause under Business and Professions Code section 10177, subdivision (g), for suspension or revocation of all license and license rights of Parker and BTIL. (Factual Finding 18.)

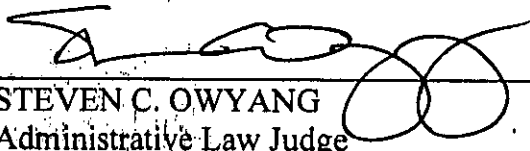
8. Parker is sincerely remorseful for his conduct and lack of attention to the requirements of the Real Estate Law. He no longer engages in the kinds of transactions involved in his violations. He has the confidence of his broker David Cobo (although it was not clear when Parker first informed Cobo of the accusation) and of past clients. These are to be commended. Nevertheless, respondents engaged in multiple violations of applicable law and Parker's conduct, in particular his failure to disclose his wife's senior security interest to Wilcox, raises serious concern. It would be contrary to the public interest to allow respondents to retain their real estate licenses at this time, even on a restricted basis.

Respondents are instead referred to Government Code section 11522, which provides a means by which to petition for license reinstatement.

ORDER

All licenses and licensing rights of respondents Bill Martin Parker and BT Investment and Loan Inc. are revoked.

DATED: March 2, 2010



STEVEN C. OWYANG
Administrative Law Judge
Office of Administrative Hearings

FILED

JUL 22 2009

DEPARTMENT OF REAL ESTATE

By R. Henry

1 KENNETH C. ESPELL, Counsel (SBN 178757)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0868 (Direct)

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) H-10736 SF
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16 The Complainant, E. J. HABERER II, in his official capacity as a Deputy Real
17 Estate Commissioner of the State of California, for cause of Accusation against Respondents
18 BILL MARTIN PARKER ("PARKER") and BT INVESTMENT AND LOAN, INC., ("BTIL"),
19 is informed and alleges as follows:

20 THE RESPONDENTS

21 1

22 Respondent PARKER is presently licensed and/or has license rights under the
23 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the
24 Code") as a real estate broker.

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Respondent BTIL is presently licensed and/or has license rights under the Real Estate Law and is licensed by the Department of Real Estate (hereafter "the Department") as a corporate real estate broker.

3

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

4

At all times herein mentioned, Respondent PARKER was and is the designated officer/broker of Respondent BTIL. Pursuant to Sections 10159.2 and 10177(h) of the Code, as the designated officer/broker of Respondent BTIL, Respondent PARKER was at all times mentioned herein, responsible for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent BTIL.

5

At all times mentioned, Respondents PARKER and BTIL engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Sections 10131(d) and 10131(e) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited private money lenders and private borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by Respondent on behalf of others and wherein promissory notes or interests therein were sold or purchased on behalf of another or others for compensation or in expectation of compensation.

1 FIRST CAUSE OF ACTION

2 The Wilcox Transactions

3 6

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

6 7

7 On or about July 2006, Albert Phillips Wilcox (hereinafter "Wilcox") responded
8 to a newspaper advertisement placed by Respondent BTIL offering investors a 12 percent rate of
9 return for investor funds used to make loans brokered by Respondent BTIL. The loans were to
10 be secured by deeds of trust recorded against real property.

11 8

12 On or about November 1, 2006, Respondent PARKER on behalf of himself and
13 Respondent BTIL contacted Wilcox about providing funds for a loan that would be secured by
14 certain pieces of real property situated within the State of California. Respondent PARKER told
15 Wilcox his funds would be used to make a \$290,000 loan to Mark and Kathleen Taylor
16 ("Taylor"). Respondent PARKER further stated that the loan was to be secured by a first deed of
17 trust recorded against Taylor's real property located at 4285 65th Street, Sacramento, California
18 ("65th Street Loan") and a second deed of trust against Taylor's primary residence located at
19 1985 Grant Street, ("Grant Street Property") Brentwood, California.

20 9

21 Further, on or about November 1, 2006, Respondent PARKER, on behalf of
22 himself and Respondent BTIL, proposed that Wilcox provide funds for two additional loans to
23 Taylor totaling \$350,000 which would be secured by a \$130,000 first deed of trust and a
24 \$220,000 second deed of trust recorded against another Taylor property located at 703 Beatrice
25 Street, Brentwood, California ("Beatrice Street loan"). In addition, the \$350,000 loan would be
26 cross-collateralized and secured by an additional deed of trust recorded against Taylor's Grant
27 Street Property.

1
2 At sometime after May 2007, Taylor defaulted on the 65th Street loan and the
3 Beatrice Street loan. At the time of these defaults, Wilcox first learned that Respondents
4 PARKER and BTIL had failed to disclose at least three (3) deeds of trust which were senior to
5 the Wilcox encumbrances and therefore misrepresented the true state of the security interest that
6 Wilcox would receive in connection with the funds loaned to Taylor. The three senior deeds of
7 trust included a deed of trust in favor of American Home Mortgage Acceptance recorded on
8 December 2, 2005; a deed of trust in favor of a Mark Reutlinger recorded on March 30, 2006;
9 and a deed of trust in favor of Tracy S. Daily, Respondent PARKER's wife, recorded June 16,
10 2006. Respondents PARKER and/or BTIL's failure to disclose the deeds of trust senior to
11 Wilcox constitutes violations of Sections 10176(a), 10176(c), 10176(i), and 10177(o) of the
12 Code which constitutes cause for suspension or revocation of all licenses and license rights of
13 Respondents PARKER and BTIL under Section 10177(d) of the Code.

14
15 In connection with the Taylor transactions, Respondents PARKER and/or BTIL
16 failed to provide Wilcox with a Lender Disclosure Statement (DRE Form 851A) and failed to
17 provide Wilcox with a Lender Disclosure Statement Multi-Property (Cross-Collateralization)
18 Addendum (DRE Form 851D). By failing to provide the Disclosure Statement and Addendum,
19 Respondents PARKER and BTIL failed to provide Wilcox with information concerning the liens
20 against the property; failed to disclose that three deeds of trust would be senior to the Wilcox's
21 deeds of trust and failed to provide income and credit data on Taylor; all in violation of Sections
22 10232.4 and 10232 of the Code which constitutes cause for suspension or revocation of all
23 licenses and license rights of Respondents PARKER and BTIL under Section 10177(d) of the
24 Code.

25
26 In addition, Respondents PARKER and BTIL failed to provide Wilcox with an
27 independent appraisal of the property or, in the alternative, failed to obtain Wilcox's written

1 waiver of his right to an appraisal. Respondents PARKER and BTIL unilaterally and without
2 Wilcox's written authorization provided Wilcox with closing purchase price information for
3 properties sold in the area where the Taylor properties were located. Each of the failures
4 identified in Paragraphs 11 and 12, above, individually and jointly, violates Section 10232.5 of
5 the Code which constitutes cause for suspension or revocation of all licenses and license rights of
6 Respondents PARKER and BTIL under Section 10177(d) of the Code.

7 13

8 Further, Respondent PARKER, as the designated officer/broker of Respondent
9 BTIL was required to exercise reasonable supervision and control over the activities of
10 Respondent BTIL. These duties included, but were not limited to, insuring that the disclosures
11 identified in Paragraphs 11 and 12, above, were provided to Wilcox. Respondent PARKER
12 failed to exercise reasonable supervision and control over the activities of Respondent BTIL
13 when Respondent BTIL failed to provide the aforementioned disclosure to Wilcox; all in
14 violation of Section 10159.2 of the Code which constitutes cause for suspension or revocation of
15 all licenses and license rights of Respondents PARKER and BTIL under Section 10177(d) and
16 (h) of the Code.

17 SECOND CAUSE OF ACTION

18 Failure to Abide by Real Estate Threshold Reporting Requirements

19 14

20 Each and every allegation in Paragraphs 1 through 5, inclusive, above are
21 incorporated by this reference as if fully set forth herein.

22 15

23 During the period October 20, 2008 and October 29, 2008, the Department of
24 Real Estate conducted an audit of the business records and files of Respondent BTIL for the
25 audit period July 1, 2007 through September 30, 2008. The audit results are contained in the
26 Department's audit report dated November 12, 2008 for Audit Number OK 07-0267. The audit
27 discovered a number of violations of real estate law including, but not limited to, violations of

1 Sections 10232(e), 10232.2(b); 10232.2 (c) and 10232.25(d) of the Code and is cause for
2 suspension or revocation of all licenses and license rights of Respondents PARKER and BTIL
3 under Section 10177(d) of the Code.

4 16

5 The audit of the Respondent BTIL's books and records determined that as of May
6 22, 2007, Respondent BTIL had negotiated at least 10 non-exempt loans totaling \$1,766,000 and
7 thus triggered the threshold reporting requirements of Section 10232(e) of the Code. However,
8 by failing to timely file the Department's "Threshold Notification Report" (DRE Form 853)
9 Respondent BTIL did not comply with Section 10232(e) of the Code which constitutes cause for
10 suspension or revocation of all licenses and license rights of Respondents PARKER and BTIL
11 under Section 10177(d) of the Code.

12 17

13 In addition, by virtue of its lending activities that triggered the threshold reporting
14 requirements of the Department, Respondent BTIL was also required to submit Quarterly Trust
15 Fund Status Reports (DRE Form 855) with the Department within 30 days after the end of a
16 fiscal quarter. For the quarters June 30, 2007 and September 30, 2007, Respondent BTIL failed
17 to file with the Department a Quarterly Trust Fund Status Report as required under Section
18 10232.25 of the Code. In addition, despite ceasing lending related activities in June 2007,
19 Respondent BTIL was required to file with the Department a Mortgage Loan/Trust Deed Annual
20 Report and an Annual Report of a Review of Trust Fund Financial Statements for fiscal year
21 2007 within 90 days of December 31, 2007, the close of Respondent BTIL's fiscal year.
22 Respondent BTIL failed to submit the annual report within the time allotted for filing.
23 Respondent BTIL's failure to file the aforementioned reports constitute a violation of Section
24 10232.25 of the Code and is cause for suspension or revocation of all licenses and license rights
25 of Respondents PARKER and BTIL under Section 10177(d) of the Code.

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1
2 Respondent PARKER, as the designated officer/broker of Respondent BTIL was
3 required to exercise reasonable supervision and control over the activities of Respondent BTIL.
4 Respondent PARKER failed to exercise reasonable supervision and control over the activities of
5 Respondent BTIL by failing to insure Respondent BTIL's timely filing with the Department the
6 reports enumerated in Paragraphs 17 and 18, above; all in violation of Section 10159.2 of the
7 Code which constitutes cause for suspension or revocation of all licenses and license rights of
8 Respondents PARKER and BTIL under Section 10177(d) and (h) of the Code.

9 THIRD CAUSE OF ACTION

10 The El Cerrito Property

11
12 Each and every allegation in Paragraphs 1 through 5, inclusive above, are
13 incorporated by this reference as if fully set forth herein.

14
15 On or about April 2007, Joseph Dagna III and his partner (hereinafter "Dagna")
16 purchased a dilapidated home located at 6453 Hagen Blvd., El Cerrito, California (the "El
17 Cerrito Property") with the intent of remodeling the home and selling it for a profit. Dagna
18 obtained financing for the purchase through Respondents PARKER and BTIL. The loans were
19 secured by First, Second and Third Deeds of Trust recorded against the El Cerrito Property. In
20 addition Respondent PARKER held a Fourth Deed of Trust recorded against the El Cerrito
21 Property. The Dagna loans were cross-collateralized by another property owned by Dagna.

22
23 During the period October 20, 2008 and October 29, 2008, the Department of
24 Real Estate conducted an audit of the business records and files of Respondent BTIL for the
25 audit period July 1, 2007 through September 30, 2008. The audit results are contained in the
26 Department's audit report dated November 12, 2008 for Audit Number OK 07-0267. In
27 connection with the loans on the El Cerrito Property, the audit discovered that Respondents

1 PARKER and BTIL violated real estate law by failing to provide Dagna with Lender Purchaser
2 Disclosure Statements for the loans brokered by Respondents PARKER and BTIL and failed to
3 provide a Lender Purchaser Disclosure Statement (DRE Form 851A) and a Lender Purchaser
4 Disclosure Statement Multi-Property (Cross-Collateralization) Addendum (DRE Form RE 851D)
5 for the additional security interest in the other Dagna property; all in violation of the disclosure
6 requirements of Section 10232.4 of the Code which constitutes cause to suspend or revoke all
7 licenses and license rights of Respondents PARKER and BTIL under Section 10177(d) and (h)
8 of the Code.

9 22

10 Respondent PARKER, as the designated officer/broker of Respondent BTIL was
11 required to exercise reasonable supervision and control over the activities of Respondent BTIL.
12 Respondent PARKER failed to exercise reasonable supervision and control over the activities of
13 Respondent BTIL by failing to insure Respondent BTIL's timely filing with the Department the
14 reports enumerated in Paragraphs 20 and 21, above; all in violation of Section 10159.2 of the
15 Code which constitutes cause for suspension or revocation of all licenses and license rights of
16 Respondents PARKER and BTIL under Section 10177(d) and (h) of the Code.

17 FOURTH CAUSE OF ACTION

18 Fraud and/or Dishonest Dealing

19 23

20 Each and every allegation in Paragraphs 1 through 22, inclusive above, are
21 incorporated by this reference as if fully set forth herein.

22 24

23 The acts and omissions of Respondent PARKER and BTIL described in
24 paragraphs 6 through 22, above, constitutes fraud and/or dishonest dealing, and constitute cause
25 to suspend or revoke all licenses and license rights of Respondents pursuant to the provisions of
26 Sections 10176(a), 10176(c), 10176(i) and/or 10177(j) of the Code.

27 ///

1 FIFTH CAUSE OF ACTION

2 Negligence and/or Incompetence

3 25

4 Each and every allegation in Paragraphs 1 through 22, inclusive above, are
5 incorporated by this reference as if fully set forth herein.

6 26

7 The acts and omissions of Respondents PARKER and BTIL described in
8 paragraphs 6 through 22, above, in the alternative, constitute negligence or incompetence in
9 performing acts requiring a real estate license, and is cause under Section 10177(g) of the Code
10 for suspension or revocation of all licenses and license rights of Respondents PARKER and
11 BTIL.

12 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
13 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
14 action against all licenses and license rights of Respondents BILL MARTIN PARKER and BT
15 INVESTMENT AND LOAN, INC., under the Real Estate Law (Part 1 of Division 4 of the
16 Business and Professions Code), and for such other and further relief as may be proper under the
17 provisions of law.

18
19 
20 E. J. HABERER II
Deputy Real Estate Commissioner

21 Dated at Oakland, California,
22 this 16th day of July, 2009.