

FILED

DEC 27 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-10797 SF
)	
ANALY MORTGAGE CENTER, INC.,)	
PAUL ADAM SCHAEFER and)	
<u>DALE A. LE PERA,</u>)	
)	
Respondents.)	
)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On November 3, 2009, an Accusation was filed in this matter against Respondent DALE A. LE PERA.

On November 15, 2010, Respondent petitioned the Commissioner to voluntarily surrender his real estate salesperson license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent DALE A. LE PERA'S petition for voluntary surrender of his 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 November 15, 2010 (attached as Exhibit "A" hereto).

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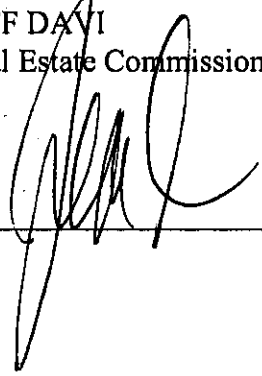
1 Respondent's license certificate and pocket card shall be sent to the below listed address so that
2 they reach the Department on or before the effective date of this Order:

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

7 This Order shall become effective at 12 o'clock noon
on JAN 18 2011

8 DATED: 12/20/2010

9 JEFF DAVI
10 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ANALY MORTGAGE CENTER, INC.,
PAUL ADAM SCHAEFER and
DALE A. LE PERA,

Respondents.

No. H-10797 SF
(As to Respondent
Dale A. Le Pera Only)

DECLARATION

Respondent DALE A. LE PERA is currently licensed as a real estate salesperson.
Attorney R. James Fisher is representing DALE A. LE PERA in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the
Administrative Procedures Act (Sections 11400 et seq., of the Government Code) DALE A.
LE PERA wishes to voluntarily surrender the real estate license(s) issued by the Department of
Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

DALE A. LE PERA understands that by so voluntarily surrendering the license(s)
that he can be re-licensed as a broker or as a salesperson only by petitioning for reinstatement
pursuant to Section 11522 of the Government Code. DALE A. LE PERA also understands that
by so voluntarily surrendering his license(s), he agrees to the following:

1. The filing of this Declaration shall be deemed as DALE A. LE PERA's petition
for voluntary surrender.



1 2. It shall also be deemed to be an understanding and agreement by DALE A. LE
2 PERA that, DALE A. LE PERA waives all rights he has to require the Commissioner to prove
3 the allegations contained in the Accusation filed in this matter at a hearing held in accordance
4 with the provisions of the Administrative Procedures Act (Government Code Sections 11400 et
5 seq.), and that DALE A. LE PERA also waives other rights afforded to him in connection with
6 the hearing such as the right to discovery, the right to present evidence in defense of the
7 allegations in the Accusation and the right to cross examine witnesses.

8 3. DALE A. LE PERA further agrees that upon acceptance by the Commissioner,
9 as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the
10 Department in this matter prior to the Commissioner's acceptance, and all allegations contained
11 in the Accusation filed in the Department Case No. H-10797 SF, may be considered by the
12 Department to be true and correct for the purpose of deciding whether or not to grant re-licensure
13 or reinstatement of DALE A. LE PERA's license pursuant to Government Code Section 11522.

14 4. DALE A. LE PERA declares under penalty of perjury under the laws of the
15 State of California that the above is true and correct and that he freely and voluntarily surrenders
16 his license and all license rights attached thereto.

17
18 11-15-2010

19 DATED



DALE A. LE PERA

Respondent

21
22 I have reviewed the Declaration as to form and content and have advised my
23 client accordingly.

24
25 11 / 15 / 10

26 DATED



R. JAMES FISHER

Attorney for Respondent

FILED

AUG 17 2010

DEPARTMENT OF REAL ESTATE

By K. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 ANALY MORTGAGE CENTER, INC.,)
 PAUL ADAM SCHAEFER and)
 DALE A. LE PERA)
 Respondents.)

NO. H-10797 SF

(As to Respondent
Analy Mortgage Center, Inc.
Only.)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 2, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits and (3) other evidence.

FINDINGS OF FACT

1

On October 30, 2009, E. J. Haberer II made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent ANALY MORTGAGE CENTER, INC. (AMC), and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on November 3, 2009.

On August 2, 2010, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent AMC's default was entered herein.

2

AMC is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (the Code) as a corporate real estate broker.

3

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public wherein, on behalf of others, for compensation.

4

Beginning January 20, 2009, and continuing intermittently through February 3, 2009, an audit was conducted of AMC's main office located at 396 City Center Drive in Rohnert Park, California, where the auditor examined records for the period of January 1, 2005 through June 30, 2008 (the audit period).

5

While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, AMC accepted or received funds in trust (trust funds) from or on behalf of lender, investors, borrowers and others in connection with the mortgage loan brokerage activities, deposited or caused to be deposited those funds into a bank account maintained by AMC at Westamerica Bank, 300 Rohnert Park Expressway, Rohnert Park, California, Account #406-11223-5, entitled "Analy Mortgage Center, Inc. dba AMC Financial Inc." (Account #1), and thereafter from time to time made disbursements of said trust funds.

6

In the course of the activities described in Paragraph 3, in connection with the collection and disbursement of trust funds, Respondents:

- (a) Failed to designate Account #1 as a trust account as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) Failed to identify from whom all trust funds were received on the record of all trust funds deposited into and disbursed from Account #1 as required by Section 2831 of the Regulations;
- (c) Failed to maintain separate records for Account #1 as required by Section 2831.1 of the Regulations;

- (d) Collected loan funds from investors to fund Loan AM6558 in the amount of \$546,506.67 and commingled these funds with broker funds in violation of Section 2835 of the Regulations;
- (e) Failed to notify the Department about multi-lender activity within 30 days of the first such transaction for loans #AM6558, #AM6579 and #AM0003 as required by Section 10238(a) of the Code;
- (f) Accepted loan funds from investors who failed to meet one or both of the qualifications of income or net worth for loans #AM0003, #AM5396 and #AM6558 in violation of Section 10238(f) of the Code;
- (g) Failed to provide prospective lenders with a Lender/Purchaser Disclosure Statement (LPDS) before accepting receipt of funds for loan #AM6579 from Cita Hetheria, Robert Hirsch, and Rober J. Weber as required by Section 10232.4 of the Code;
- (h) Failed to provide Mortgage Loan Disclosure Statements (MLDS) for Gregory N. Andre and Rene Buehl and provided incomplete MLDSs for Arthur Johnson, Jr., Roger Gadow, Dominic Montgomery and Brooke Brownback as required by Section 10240 of the Code;
- (i) Failed to submit a Threshold Notification within 30 days of arranging at least three loans totaling \$265,000.00, as required by Section 10232(e) and 10232.2(b) of the Code;
- (j) Failed to provide detailed draw schedules for loans #AM5396, #AM6558 and #AM6579; disbursements were not based on verification from an independent qualified person as required by Section 10238(h) of the Code;
- (k) Accepted loan funds not for a specific loan in violation of Section 10238(j) of the Code;
- (l) Failed to immediately notify the Department in writing, the termination of Stephen Debrunner, Patricia Louise Feige, Harold Hutchinson Hearfield, David Anthony Nephew, Richard Anthony Re, Paul Fredeerick Rest, Lynn Allen Taylor and Wendy M. Taylor, all real estate salespersons, as required by Section 10161.8(b) of the Code and
- (m) Failed to notify the Department about the closure of its main office located at 4795 Old Redwood Highway, Suite B, Santa Rosa, California 95403, as required by Section 2715 of the Regulations.

DETERMINATION OF ISSUES

1

The acts and/or omissions of AMC as alleged above violate Sections 2715, 2831, 2831.1, 2832 and 2835 of the Regulations and Sections 10161.8(b), 10176(e), 10232.2, 10232.4, 10238(a), (f), (h) and (j) of the Code and are grounds for discipline under Sections 10176(e) and 10177(d) of the Code.

2

The standard of proof applied was clear and convincing proof to a reasonable certainty.

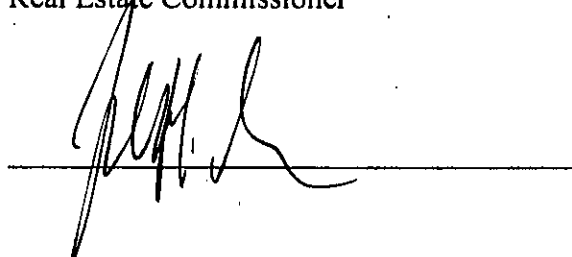
ORDER

All licenses and licensing rights of ANALY MORTGAGE CENTER, INC., under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon on
SEP - 7 2010

DATED: 8-12, 2010

JEFF DAVI
Real Estate Commissioner



1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

AUG - 2 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

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

11 * * *

12 In the Matter of the Accusation of

13 ANALY MORTGAGE CENTER, INC.,
14 PAUL ADAM SCHAEFER and
15 DALE A. LE PERA,

16 Respondents.

No. H-10797 SF

DEFAULT ORDER

(As to Respondent
Analy Mortgage Center, Inc.
Only.)

17 Respondent, ANALY MORTGAGE CENTER, INC., having failed to file a
18 Notice of Defense within the time required by Section 11506 of the Government Code, is now
19 in default. It is, therefore, ordered that a default be entered on the record in this matter.

20 IT IS SO ORDERED August 2, 2010.

21 JEFF DAVI
22 Real Estate Commissioner

23
24 By:

Charles W. Koenig
25 CHARLES W. KOENIG
26 Northern Regional Manager
27

FILED

JAN - 4 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

No. H-10797 SF

ANALY MORTGAGE CENTER, INC.,
PAUL ADAM SCHAEFER and
DALE A. LE PERA,

Respondents.

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On November 3, 2009, an Accusation was filed in this matter against Respondent PAUL ADAM SCHAEFER.

On November 24, 2009, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent PAUL ADAM SCHAEFER'S petition for voluntary surrender of his real estate broker 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 November 18, 2009 (attached as Exhibit "A" hereto).

///

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

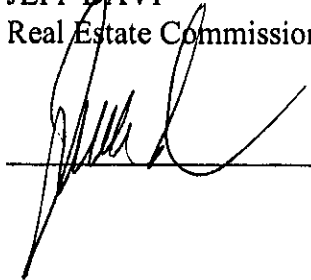
7 This Order shall become effective at 12 o'clock noon

8 JAN 25 2010

9 on _____

10 DATED: 12/29/09

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-10797 SF

ANALY MORTGAGE CENTER, INC.,
PAUL ADAM SCHAEFER and
DALE A. LE PERA,

Respondents.

DECLARATION

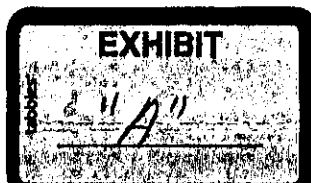
Respondent PAUL ADAM SCHAEFER, is currently licensed as a real estate broker.

Donald J. Black is representing PAUL ADAM SCHAEFER in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Business and Professions Code) PAUL ADAM SCHAEFER wishes to voluntarily surrender his real estate license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

PAUL ADAM SCHAEFER understands that by so voluntarily surrendering the license, that he can only be reinstated in accordance with the provisions of Section 11522 of the Government Code. PAUL ADAM SCHAEFER also understands that by so voluntarily surrendering his license, PAUL ADAM SCHAEFER agrees to the following:

The filing of this Declaration shall be deemed as PAUL ADAM SCHAEFER's petition for



1 voluntary surrender. It shall also be deemed to be an understanding and agreement by PAUL
 2 ADAM SCHAEFER that, PAUL ADAM SCHAEFER waives all rights he may have to require
 3 the Commissioner to prove the allegations contained in the Accusation filed in this matter at a
 4 hearing held in accordance with the provisions of the Administrative Procedures Act (Government
 5 Code Sections 11400 et seq.), and that PAUL ADAM SCHAEFER also waives other rights
 6 afforded to them in connection with the hearing such as the right to discovery, the right to present
 7 evidence in defense of the allegations in the Accusation and the right to cross examine witnesses.
 8 PAUL ADAM SCHAEFER further agrees that upon acceptance by the Commissioner, as
 9 evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the
 10 Department in this matter prior to the Commissioner's acceptance, and all allegations contained in
 11 the Accusation filed in the Department Case No. H-10797 SF, may be considered by the
 12 Department to be true and correct for the purpose of deciding whether or not to grant
 13 reinstatement of PAUL ADAM SCHAEFER's license pursuant to Government Code Section
 14 11522.

15 PAUL ADAM SCHAEFER declares under penalty of perjury under the laws of the State
 16 of California that the above is true and correct and the he freely and voluntarily surrenders his
 17 license and all license rights attached thereto.

18 PAUL ADAM SCHAEFER, Respondent


19
 20 Dated: 11/18/09

21 
 22 PAUL ADAM SCHAEFER, Broker

23 * * *

24 I have reviewed the Declaration as to form and content and have advised my client
 25 accordingly.

26 Dated: 11/20/09

27 
 28 DONALD E. BLACK, Attorney for Respondents

1 RICHARD K. UNO, Counsel (SBN 98275)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-2380
6
7

FILED

NOV - 3 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
)	NO. H-10797 SF
12 ANALY MORTGAGE CENTER, INC.,)	
13 PAUL ADAM SCHAEFER and)	<u>ACCUSATION</u>
14 DALE A. LE PERA)	
)	
15 Respondents.)	

16 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of
17 the State of California, for Accusation against Respondents ANALY MORTGAGE CENTER,
18 INC., (AMC), PAUL ADAM SCHAEFER, (SCHAEFER) and DALE A. LE PERA,
19 (LE PERA) is informed and alleges as follows:

20 1

21 The Complainant makes this Accusation against Respondents in his official
22 capacity.

23 2

24 SCHAEFER is presently licensed and/or has license rights under the Real Estate
25 Law, Part 1 of Division 4 of the California Business and Professions Code (the Code) as a real
26 estate broker.

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LE PERA is presently licensed and/or has license rights under the Code as a real estate sales person.

4

AMC is presently licensed by the Department of Real Estate (the Department) as a corporate real estate broker.

5

At all times herein mentioned, SCHAEFER was licensed by the Department as the designated broker/officer of AMC. As the designated broker/officer, SCHAEFER was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of AMC for which a real estate license is required.

6

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged negotiated, processed, and consummated such loans.

7

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

///

1 FIRST CAUSE OF ACTION

2 8

3 Beginning January 20, 2009, and continuing intermittently through February 3,
4 2009, an audit was conducted of AMC's main office located at 396 City Center Drive, Rohnert
5 Park, California, where the auditor examined records for the period of January 1, 2005 through
6 June 30, 2008 (the audit period).

7 9

8 While acting as a real estate broker as described in Paragraph 6, above, and
9 within the audit period, AMC accepted or received funds in trust (trust funds) from or on behalf
10 of lender, investors, borrowers and others in connection with the mortgage loan brokerage
11 activities, deposited or caused to be deposited those funds into a bank account maintained by
12 AMC at Westamerica Bank, 300 Rohnert Park Expressway, Rohnert Park, California, Account
13 # 406-11223-5, entitled "Analy Mortgage Center, Inc. dba AMC Financial, Inc." (Account #1),
14 and thereafter from time to time made disbursements of said trust funds.

15 10

16 In the course of the activities described in Paragraph 9, in connection with the
17 collection and disbursement of trust funds, Respondents:

- 18 (a) Failed to designate Account #1 as a trust account as required by Section
19 2832 of Chapter 6, Title 10, California Code of Regulations
20 (Regulations);
- 21 (b) Failed to identify from whom all trust funds were received on the record
22 of all trust funds deposited into and disbursed from Account #1 as
23 required by Section 2831 of the Regulations;
- 24 (c) Failed to maintain separate records for Account #1 as required by Section
25 2831.1 of the Regulations;

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- (d) Collected loan funds from investors to fund Loan AM6558 in the amount of \$546,506.67 and commingled these funds with broker funds in violation of Section 2835 of the Regulations;
- (e) Failed to notify the Department about multi-lender activity within 30 days of the first such transaction for loans #AM6558, #AM6579 and #AM0003 as required by Section 10238(a) of the Code;
- (f) Accepted loan funds from investors who failed to meet one or both of the qualifications of income or net worth for loans #AM0003, #AM5396 and #AM6558 in violation of Section 10238(f) of the Code;
- (g) Failed to provide prospective lenders with a Lender/Purchaser Disclosure Statement (LPDS) before accepting receipt of funds for loan #AM6579 from Cita Hetheria, Robert Hirsch, and Robert J. Weber as required by Section 10232.4 of the Code;
- (h) Failed to provide Mortgage Loan Disclosure Statements (MLDS) for Gregory N. Andre and Renē Buehl and provided incomplete MLDSs for Arthur Johnson, Jr., Roger Gadow, Dominic Montgomery and Brooke Brownback as required by Section 10240 of the Code;
- (i) Failed to submit a Threshold Notification within 30 days of arranging at least three loans totaling \$265,000.00, as required by Section 10232(e) and 10232.2(b) of the Code;
- (j) Failed to provide detailed draw schedules for loans #AM5396, #AM6558 and #AM6579; disbursements were not based on verification from an independent qualified person as required by Section 10238(h) of the Code;
- (k) Accepted loan funds not for a specific loan in violation of Section 10238(j) of the Code;

1 (l) Failed to immediately notify the Department in writing, the termination of
2 Stephen Debrunner, Patricia Louise Feige, Harold Hutchinson Hearfield,
3 David Anthony Nephew, Richard Anthony Re, Paul Frederick Rest, Lynn
4 Allen Taylor and Wendy M. Taylor, all real estate salespersons, as
5 required by Section 10161.8(b) of the Code and

6 (m) Failed to notify the Department about the closure of its main office
7 located at 4795 Old Redwood Highway, Suite B, Santa Rosa, California
8 95403, as required by Section 2715 of the Regulations.

9 11

10 The acts and/or omissions of AMC as alleged above violate Sections 2715, 2831,
11 2831.1, 2832 and 2835 of the Regulations and Sections 10161.8(b), 10176(e), 10232.2, 10232.4,
12 10238(a), (f), (h) and (j) of the Code.

13 12

14 The acts and/or omissions of AMC as alleged above are grounds for discipline
15 under Sections 10176(e) and 10177(d) of the Code.

16 SECOND CAUSE OF ACTION

17 13

18 Complainant refers to Paragraphs 1 through 12, above, and incorporates them
19 herein by reference.

20 14

21 AMC received funds from investor Gail Treviso (Treviso), in the amount of
22 \$75,000 for a \$386,382 construction to borrower Michael Page (Page).

23 15

24 The above reference loan No. #AM5396, closed on May 6, 2005.

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Treviso learned in November 2007, that all of the funds for Loan #AM5396 were disbursed to Page per LE PERA'S instructions, even though no construction had occurred.

17

None of investor's funds in Loan #AM5396 have been returned.

18

The acts and/or omissions of AMC and LE PERA described in Paragraphs 12 through 16, above, are grounds for discipline under Sections 10176(a), (i) and 10177(d) of the Code.

THIRD CAUSE OF ACTION

19

Complainant refers to Paragraphs 1 through 18, above, and incorporates them herein by reference.

20

At all times herein above mentioned, SCHAEFER was responsible, as the designated broker officer of AMC, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. SCHAEFER failed to exercise reasonable supervision and control over the property management brokering activities of AMC. In particular, SCHAEFER permitted, ratified and/or caused the conduct described in the First and Second Causes of Action, above, to occur, and failed to take reasonable steps, including but not limited to the handling of trust funds, supervision of employees, and the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

21

The above acts and/or omissions of SCHAEFER constitute grounds for disciplinary action under the provisions of Section 10177 (d) and (h) and violate Section 10159.2 of the Code and Section 2725 of the Regulations.

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 Respondents 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 provisions of law.

6
7 

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

10 Dated at Oakland, California,
11 this 30th day of October, 2009.