

FILED

JAN 31 2011

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
DAVID VINCENT CHAMBERS and)	H-10945 SF
WESTONE MORTGAGE)	
CORPORATION,)	
)	
Respondents.)	

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 December 8, 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.

This Decision revokes a real estate licenses and/or license rights on grounds of violation of Sections 2725 (Broker Supervision), 2832 (Trust Fund Handling), 2834 (Trust Account Withdrawals), 2835 (Commingling of Trust Funds) and 2970 (Advance Fee Materials) of Title 10 of the California Code of Regulations (hereafter "the Regulations"), and Sections 10085 (Advance Fee Agreements and Materials), 10145 (Handling of Trust Funds), 10146 (Advance Fees to be Deposited in Trust Account), 10148 (Retention of Records), 10159.2 (responsibility of corporate officer in charge), 10176(e) (Grounds for Revocation or Suspension - Commingling of Trust Funds), 10177(d) (willful disregard/violation of real estate law) and 10177(h) (Broker Supervision) of the California Business and Professions Code (hereafter "the Code").

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

1

On June 17, 2010, 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, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondents' last known mailing addresses on file with the Department on June 22, 2010.

On December 8, 2010, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent DAVID VINCENT CHAMBERS is presently licensed and/or has license rights under the Code as a real estate broker.

3

Respondent WESTONE MORTGAGE CORPORATION is presently licensed and/or has license rights under the Code as a corporate real estate broker.

4

On or about October 1, 2009, an audit was conducted at Respondents' main office located at 100 Cortona Way #130, Brentwood, California, where the auditor examined the records for the period of July 1, 2008, through September 30, 2009 (the audit period).

While acting as real estate brokers and within the audit period, Respondents accepted or received funds in trust from or on behalf of lenders, investors, borrowers and others in connection with mortgage activities, and deposited or caused to be deposited those funds into a bank account maintained by Respondents, including: Bank of America, Slatten Ranch, P. O. Box 37176, San Francisco, California 94137-0176, Account No. 26989-01411, entitled "WestOne Mortgage Corporation Bills Acct" (Bank Account #1), and thereafter from time-to-time made disbursement of said trust funds.

In the course of their broker activities, in connection with the collection and disbursement of trust funds:

- (a) Respondents failed to submit advance fee materials to the Department at least ten (10) calendar days before their usage in violation of Section 10085 of the Code and Section 2970 of the Regulations.

- (b) After collecting a \$30,000 advance fee from High Cheese LLC, Respondents failed to deposit those funds into a trust account. Instead, the advance fees were deposited into Bank Account #1 and commingled with broker funds. Such acts violated Sections 10145, 10146, and 10176(e) of the Code, and Sections 2832 and 2835 of the Regulations.
- (c) Respondents failed to have a licensed individual as a signatory on Bank Account #1. Such act or omission violates Section 2834 of the Regulations.
- (d) Respondents failed to make all documents related to licensed activity available to the Department in violation of Section 10148 of the Code.

5

Respondent CHAMBERS was responsible, as the designated broker/officer for Respondent WESTONE, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent CHAMBERS failed to exercise reasonable supervision and control over the property mortgage loan brokering activities of Respondent WESTONE. In particular, Respondent CHAMBERS permitted, ratified and/or caused the conduct described herein, 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.

DETERMINATION OF ISSUES

1

Respondents WESTONE and CHAMBERS are in violation of Sections 10085, 10145, 10146, 10148 and 10176(e) of the Code, and Sections 2832, 2834, 2835 and 2970 of the Regulations.

2

Respondent CHAMBERS is in violation of Section 10159.2 of the Code and Section 2725 of the Regulations.

3

Cause of disciplinary action against Respondents WESTONE and CHAMBERS exists with reference to the facts set out in Finding 4, above, pursuant to Business and Professions Code Sections 10176(e) and 10177(d).

4

Cause of disciplinary actions against Respondent CHAMBERS exists with reference to the facts set out in Finding 5, above, pursuant to Business and Professions Code Section 10177(h).

5

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

ORDER

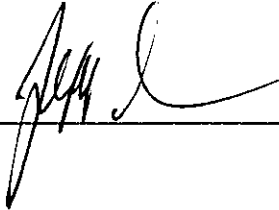
All licenses and licensing rights of Respondents DAVID VINCENT CHAMBERS and WESTONE MORTGAGE CORPORATION under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

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

FEB 22 2011

DATED: 1-26-2011

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

DEC - 8 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11
12 In the Matter of the Accusation of)
13 DAVID VINCENT CHAMBERS and) H-10945 SF
14 WESTONE MORTGAGE)
15 CORPORATION,) DEFAULT ORDER
16 Respondents.)

17 Respondents, DAVID VINCENT CHAMBERS and WESTONE MORTGAGE
18 CORPORATION, having failed to file a Notice of Defense within the time required by Section
19 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be
20 entered on the record in this matter.

21 IT IS SO ORDERED December 8, 2010.

22 JEFF DAVI
23 Real Estate Commissioner

24
25 By:

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

1 JOHN W. BARRON, Counsel (SBN 171246)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 (916) 227-0792 (direct)

FILED

JUN 22 2010

DEPARTMENT OF REAL ESTATE

By H. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

DAVID VINCENT CHAMBERS and
WESTONE MORTGAGE CORPORATION,

Respondents.

No. H-10945 SF
ACCUSATION

17 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of the
18 State of California, for cause of Accusation against DAVID VINCENT CHAMBERS (hereafter
19 "Respondent CHAMBERS") and WESTONE MORTGAGE CORPORATION (hereafter
20 "Respondent WESTONE"), (hereafter collectively "Respondents"), is informed and alleges as
21 follows:

1

The Complainant makes this Accusation in his official capacity.

2

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

3

Respondent WESTONE is presently licensed by the Department of Real Estate (hereafter "the Department") as a corporate real estate broker.

4

At all times herein mentioned, Respondent CHAMBERS was licensed by the Department as the designated broker/officer of Respondent WESTONE. As the designated broker/officer, Respondent CHAMBERS 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 Respondent WESTONE for which a real estate license is required.

5

At all times herein mentioned, Respondents 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 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.

6

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

///
///
///

1 FIRST CAUSE OF ACTION

2 7

3 On or about October 1, 2009, an audit was conducted at Respondents' main office
4 located at 100 Cortona Way, #130, Brentwood, California, where the auditor examined the
5 records for the period of July 1, 2008, through September 30, 2009 (the audit period).

6 8

7 While acting as a real estate broker as described in Paragraph 5, above, and within
8 the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf
9 of lenders, investors, borrowers and others in connection with mortgage activities, and deposited
10 or caused to be deposited those funds into a bank account maintained by Respondents, including:
11 Bank of America, Slatten Ranch, P.O. Box 37176, San Francisco, California 94137-0176,
12 Account No. 26989-01411, entitled "WestOne Mortgage Corporation Bills Acct" (Bank Account
13 #1), and thereafter from time-to-time made disbursement of said trust funds.

14 9

15 In the course of the activities described in Paragraph 8, above, in connection with
16 the collection and disbursement of trust funds:

- 17 (a) Respondents failed to submit advance fee materials to the Department at least
18 ten (10) calendar days before their usage in violation of Section 10085 of the
19 Code and Section 2970 of Title 10 of the California Code of Regulations
20 (hereafter "the Regulations").
- 21 (b) After collecting a \$30,000 advance fee from High Cheese LLC, Respondents
22 failed to deposit those funds into a trust account. Instead, the advance fees
23 were deposited into Bank Account #1 and commingled with broker funds.
24 Such acts violated Sections 10145, 10146, and 10176(e) of the Code, and
25 Sections 2832 and 2835 of the Regulations.
- 26 (c) Respondents failed to have a licensed individual as a signatory on Bank
27 Account #1. Such act or omission violates Section 2834 of the Regulations.

1 (d) Respondents failed to make all documents related to licensed activity available
2 to the Department in violation of Section 10148 of the Code.

3 10

4 The acts and/or omissions of Respondents as alleged above violate Sections 2725
5 (Broker Supervision), 2832 (Trust Fund Handling), 2834 (Trust Account Withdrawals), 2835
6 (Commingling of Trust Funds) and 2970 (Advance Fee Materials) of the Regulations, and
7 Sections 10085 (Advance Fee Agreements and Materials), 10145 (Handling of Trust Funds),
8 10146 (Advance Fees to be Deposited in Trust Account), 10148 (Retention of Records) and
9 10176(e) (Grounds for Revocation or Suspension – Commingling of Trust Funds) of the Code,
10 and are grounds for discipline under Section 10177(d) (Willful Disregard/Violation of Real
11 Estate Law) of the Code.

12 11

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

15 SECOND CAUSE OF ACTION

16 12

17 Complainant refers to Paragraphs 1 through 11, above, and incorporates them
18 herein by reference.

19 13

20 At all times herein mentioned, Respondent CHAMBERS was responsible, as the
21 designated broker officer for Respondent WESTONE, for the supervision and control of the
22 activities conducted on behalf of the corporation by its officers and employees. Respondent
23 CHAMBERS failed to exercise reasonable supervision and control over the property mortgage
24 loan brokering activities of Respondent WESTONE. In particular, Respondent CHAMBERS
25 permitted, ratified and/or caused the conduct described in the First Cause of Action, above, to
26 occur, and failed to take reasonable steps, including, but not limited to, the handling of trust


27 ///

1 funds, supervision of employees and the implementation of policies, rules, procedures and
2 systems to ensure the compliance of the corporation with the Real Estate Law and the
3 Regulations.

4 14

5 The acts and/or omissions of Respondent CHAMBERS set forth in Paragraph 13,
6 above, violate Section 10159.2 of the Code (Responsibility of Corporate Officer in Charge) and
7 Section 2725 of the Regulations (Broker Supervision), and constitute grounds for disciplinary
8 action under Section 10177(h) of the Code (Further Grounds for Disciplinary Action –
9 Supervision Responsibility of Broker).

10 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
11 of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary
12 action against all licenses and license rights of Respondents under the Code, and for such other
13 and further relief as may be proper under applicable provisions of law.

14
15
16 
E. J. HABERER, II
Deputy Real Estate Commissioner

17 Dated at Oakland, California,
18 this 17th day of June, 2010.