

1 JOHN W. BARRON, Counsel (SBN 171246)
2 Department of Real Estate
3 P. O. Box 187007
Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789 (main)
5 (916) 227-0792 (direct)

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DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12) No. H-11141 SF
13 CANYON PACIFIC PROPERTY)
MANAGEMENT COMPANY, INC.) ACCUSATION
14 and THOMAS O. SCRIPPS, III,)
15 Respondents.)

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17 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of
18 the State of California, for cause of Accusation against CANYON PACIFIC PROPERTY
19 MANAGEMENT COMPANY, INC., individually and doing business as "Canyon Pacific
20 Management" (hereafter "CANYON"), and THOMAS O. SCRIPPS, III, (hereafter "SCRIPPS"),
21 (hereafter collectively "Respondents"), is informed and alleges as follows:

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23 The Complainant makes this Accusation in his official capacity.

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25 At all times relevant herein, CANYON was and is licensed by the Department of
26 Real Estate (hereafter "the Department") as a corporate real estate broker.

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2 At all times relevant herein, SCRIPPS was and is licensed by the Department as
3 a real estate broker.

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5 At all times relevant herein, SCRIPPS was and is licensed by the Department as
6 the designated broker/officer of CANYON. As the designated broker/officer, SCRIPPS was
7 responsible, pursuant to Section 10159.2 of the California Business and Professions Code
8 (hereafter "the Code"), for the supervision of the activities of the officers, agents, real estate
9 licensees and employees of CANYON for which a real estate license is required.

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11 At all times herein mentioned, Respondents engaged in the business of, acted in
12 the capacity of, advertised or assumed to act as a real estate broker within the State of California
13 within the meaning of Section 10131(b) of the Code (broker defined – property
14 management/collection of rent), including the operation and conduct of a property management
15 business with the public, wherein, on behalf of others, for compensation or in expectation of
16 compensation, Respondent leased or rented and offered to lease or rent, and solicited for
17 prospective tenants of real property or improvements thereon, and collected rents from real
18 property or improvements thereon.

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

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1 FIRST CAUSE OF ACTION

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3 Beginning October 6, 2010, and continuing intermittently through October 7,
4 2010, an audit was conducted at Respondents' main office located at 660 3rd Street, Suite 480,
5 San Francisco, California, where the auditor examined the records for the period of January 1,
6 2009, through September 30, 2010 (the audit period).

7 8

8 While acting as a real estate broker as described in Paragraph 5, above, and
9 within the audit period, Respondents accepted or received funds in trust (trust funds) from or on
10 behalf of tenants, property owners and others in connection with property management activities,
11 and deposited or caused to be deposited those funds into a bank account maintained by
12 Respondents, including, but not limited to:

13 Bank Account #1

14 First Bank
15 108 Springtowne Center
16 Vallejo, CA 94591

16 Account No.: XXXXXX0544

17 Account Name: Canyon Pacific Management
18 FBO Emery Bay North LLC – 5400 Christie Ave.
Expense Account Overdraft

19 Signatories: Thomas Scripps (REB)
20 Dennis D'Amore (unlicensed)
21 Lin Zhou (unlicensed)
(1 signature required)

22 Bank Account #2

23 First Bank
24 108 Springtowne Center
Vallejo, CA 94591

25 Account No.: XXXXXX3645

26 Account Name: Canyon Pacific Management
27 FBO Rocal Assoc LLC

1 Signatories: Thomas Scripps (REB)
2 Dennis D'Amore (unlicensed)
3 Lin Zhou (unlicensed)
(1 signature required)

4 Thereafter, Respondents from time-to-time made disbursement of said trust funds.

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6 The audit described in Paragraph 7, above, revealed that in the course of the
7 activities described in Paragraph 5, above, Respondents performed, or failed to perform, the
8 following acts:

- 9 (a) Prior to September 28, 2010, Respondents failed to designate Bank Accounts
10 #1 and #2 as trust accounts and Respondents were not named as trustees of
11 those accounts. Such acts and/or omissions by Respondents violate Sections
12 10145 (trust fund handling) and 10146 (advance fee handling) of the Code,
13 and Section 2832 (trust fund handling) of the Regulations.
- 14 (b) Respondents allowed unlicensed employees to withdraw trust funds from
15 Bank Accounts #1 and #2. Respondents did not have fidelity bond coverage
16 equal to at least the maximum amount of the trust fund to which the
17 unlicensed employees had access at any time. Such acts and/or omissions
18 violate Section 2834 (trust account withdrawals) of the Regulations.

19 10

20 The acts and/or omissions as alleged in Paragraph 9, above, are grounds for
21 discipline under Sections 10177(d) (willful disregard/violation of Real Estate Law) and 10177(g)
22 (negligence or incompetence) of the Code.

23 SECOND CAUSE OF ACTION

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25 On or about 2009 and 2010, CANYON employed and compensated non-licensed
26 employees for performing licensed activity, including, but not limited to, the following:

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- 1 a. Carl David's (hereafter "David") real estate salesperson license expired on
2 May 31, 2010. In addition, his expired license was revoked by the
3 Department on August 20, 2010, in Case No. H-10915 SF. After the
4 expiration and revocation of his license, David continued to manage
5 property located at 6400 Christie Avenue, Emeryville, California, on
6 behalf of CANYON;
- 7 b. Stephen Blakely Westrate (hereafter "Westrate"), who was not licensed by
8 the Department until September 9, 2010, entered into multiple Residential
9 Tenancy Agreements on behalf of CANYON prior to being licensed;
- 10 c. Herbert Paul Rucker's (hereafter "Rucker") real estate salesperson license
11 expired on January 13, 2009. After that date, Rucker continued to enter
12 into Residential Tenancy Agreements on behalf of CANYON.

13 12

14 The acts and/or omissions as alleged in Paragraph 11, above, violate Section
15 10137 (employment/compensation of unlicensed persons) of the Code, and are grounds for
16 discipline under Sections 10177(d) and 10177(g) of the Code.

17 THIRD CAUSE OF ACTION

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19 CANYON failed to notify the Department of its employment of David and
20 Rucker.

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22 The acts and/or omissions as alleged in Paragraph 13, above, violate Section
23 10161.8 (notification to Department of real estate salesperson employment) of the Code, and are
24 grounds for discipline under Sections 10177(d) and 10177(g) of the Code.

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1 FOURTH CAUSE OF ACTION

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3 CANYON did not have a written broker-salesperson relationship agreement with
4 Rucker.

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6 CANYON did not have a written broker-salesperson relationship agreement with
7 David prior to August 1, 2010.

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9 The acts and/or omissions as alleged in Paragraphs 15 and 16, above, violate
10 Section 2726 (written broker-salesperson agreement requirements) of the Regulations, and are
11 grounds for discipline under Sections 10177(d) and 10177(g) of the Code.

12 FIFTH CAUSE OF ACTION

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14 CANYON failed to provide the original real estate salesperson license certificate
15 of Patricia Keefer when requested by the Department.

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17 The acts and/or omissions as alleged in Paragraph 18 above, violate Section
18 10160 (possession/inspection of salesperson license) of the Code and Section 2753 (retention of
19 real estate salesperson license by broker) of the Regulations, and are grounds for discipline under
20 Sections 10177(d) and 10177(g) of the Code.

21 SIXTH CAUSE OF ACTION

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

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26 At all times relevant herein, SCRIPPS was responsible, as the designated
27 broker/officer for CANYON, for the supervision and control of the activities conducted on

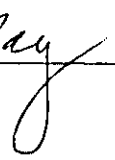
1 behalf of the corporation by its officers and employees. SCRIPPS failed to exercise reasonable
2 supervision and control over the property mortgage loan brokering activities of CANYON. In
3 particular, SCRIPPS permitted, ratified and/or caused the conduct described in the First and
4 Second Causes of Action, above, to occur, and failed to take reasonable steps, including, but not
5 limited to, the supervision of employees and the implementation of policies, rules, procedures
6 and systems to ensure the compliance of the corporation with the Real Estate Law and the
7 Regulations.

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9 The acts and/or omissions of SCRIPPS as set forth in Paragraph 21, above,
10 violate Sections 10159.2 (responsibilities of corporate officer in charge) of the Code and Section
11 2725 (broker supervision of salespersons) of the Regulations, and constitute grounds for
12 disciplinary action under Sections 10177(d), 10177(g) and 10177(h) (reasonable supervision
13 requirements for broker) of the Code.

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

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19 
20 E. J. HABERER, II
21 Deputy Real Estate Commissioner

22 Dated at Oakland, California,
23 this 19th day of May, 2011.
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