

1 demonstrated to my satisfaction that grounds do not
2 presently exist to deny the issuance of an unrestricted real
3 estate broker license to Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement is granted and that an
6 unrestricted real estate broker license be issued to
7 Respondent, ROBERT BARRY MOORE, after Respondent satisfies
8 the following conditions within six months from the date of
9 this Order:

10 1. Submittal of a completed application and
11 payment of the fee for a real estate broker license.

12 2. Submittal of evidence satisfactory to the Real
13 Estate Commissioner that Respondent has, since his license
14 was revoked, taken and successfully completed the continuing
15 education requirements of Article 2.5 of Chapter 3 of the
16 Real Estate Law for renewal of a real estate license.

17 This Order shall become effective immediately.

18 DATED: November 20, 2000.

19
20 PAULA REDDISH ZINNEBANN
Real Estate Commissioner

21 *Paula Reddish Zinnemann*
22
23
24
25
26
27

DEPARTMENT OF REAL ESTATE

* * * * *

L-1997060401

Respondent .

In Love

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:	)	
	)	No. H-27198 LA
	)	
ROBERT BARRY MOORE,	)	L-1997060401
	)	
	)	
Respondent.	)	

PROPOSED DECISION

This matter came on regularly for hearing before W. F. Byrnes, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on June 24, 1998. V. Ahda Sands, Counsel, represented the complainant. The respondent was present and was represented by Gerald Masahiro Sato, Attorney at Law. Evidence was received, and the record was held open for briefing. Complainant's Brief (Exhibit 7) was received on July 15, 1998; Respondent's Brief (Exhibit A) was received on July 29, 1998; complainant's Reply to Respondent's Brief (Exhibit 8) was received on August 4, 1998; the matter was then submitted. The Administrative Law Judge finds the following facts:

I

Thomas McCrady made the Accusation in his official capacity as a Deputy Real Estate Commissioner.

II

Respondent Robert Barry Moore ("Moore") is presently licensed and has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code). Respondent was and now is licensed as a real estate broker since September, 1976, with no previous license discipline.

III

A. From January 1, 1993, to November 14, 1993, Huntington & Collins, Inc. ("HCI") was licensed as a corporate real estate broker. On November 14, 1993, the corporate license of HCI expired and was not renewed.

B. From July 24, 1993, to August 31, 1993, HCI was not properly licensed as a corporate real estate broker because it had no designated officer as required by the Business and Professions Code; however, HCI continued to perform acts requiring a license.

C. From September 1, 1993, to November 14, 1993, HC was licensed as a corporate real estate broker and preformed acts requiring a license by and through respondent Moore as the officer and broker responsible for supervising the activities requiring a real estate license conducted on behalf of HCI by HCI's officers and employees. After HCI's license expired on November 14, 1993, respondent Moore continued to act as the broker for HCI until June 15, 1994.

IV

THE HCI AUDIT

A. From September 1, 1993, to June 15, 1994, HCI and respondent Moore acted in the capacity of a real estate broker within the meaning of Business and Professions Code section 10131(b) by conducting property management activities.

B. In connection with their real estate broker activities, HCI and respondent Moore received and disbursed rental funds in trust, and deposited certain of those trust funds into Account No. 1602683, the "Huntington and Collins Trust Account" at Channel Island National Bank in Oxnard, California.

C. On October 5, 1995, the Department concluded its examination of HCI's books and records pertaining to its property management activities for the period January 1, 1993, to August 31, 1994, which examination revealed that, in connection with the above-described trust funds, HCI and respondent Moore violated the Business and Professions Code ("the Code") and Title 10, California Code of Regulations ("the Regulations") as follows:

(1) Paragraph 12(a) of the Accusation was unproven as to respondent Moore. There was a shortage of approximately \$10,608.97 in the trust account, but the evidence indicates a high likelihood that the shortage occurred before respondent Moore joined HCI.

(2) Failed to retain or provide records subpoenaed for the audit, in violation of section 10148 of the Code.

(3) Failed to renew HCI's corporate license and continued to do business under an expired license, in violation of section 10130 of the Code.

(4) Allowed the trust account to be an interest-bearing account not authorized by the owners of the trust funds, and the interest did not go to those owners, in violation of section 10145 of the Code.

(5) Failed to maintain adequate formal trust fund receipts and disbursement journals, in violation of section 2831 of the Regulations.

(6) Failed to maintain adequate separate records for each beneficiary or transaction, in violation of section 2831.1 of the Regulations.

(7) Failed to perform a monthly reconciliation of the records of the receipt and disposition of all trust funds received, and the balance of all separate beneficiary and transaction records, in violation of section 2831.2 of the Regulations.

(8) Allowed unlicensed, unbonded persons to be signatories on the trust account when there was no fidelity bond or written authorization from respondent Moore, in violation of section 2834 of the Regulations.

(9) Failed to first obtain a license from the Department before using the fictitious name "Huntington and Collins" (the licensed dba was "Huntington Property Services"), in violation of section 2731 of the Regulations.

V

The conduct, acts, and omissions of respondent Moore constitute failure on his part to exercise the reasonable supervision and control over the licensed activities of HCI required by section 10159.2 of the Code, and the failure of respondent Moore to renew HCI's license while it continued to conduct activities requiring a license constitutes negligence or incompetence.

VI

THE MOORE AUDIT

A. After he left the employ of HCI on June 15, 1994, respondent Moore resumed his former practice as an individual real estate broker, including doing property management on his own. In connection with those activities, respondent Moore received and disbursed rental funds in trust, and deposited certain of those trust funds into Account No. 1714757, the "Barry Moore Management Trust Account" at First National Bank in Ventura, California.

B. On October 5, 1995, the Department concluded its examination of respondent Moore's books and records pertaining to his individual real estate broker activities for the period January, 1995, to August 31, 1995, which examination revealed that respondent Moore violated the Code and the Regulations, as follows:

(1) Failed to perform a monthly reconciliation of the records of the receipt and disposition of all trust funds received and the balance of all separate beneficiary or transaction records, and to keep a record of such reconciliation, in violation of section 2831.2 of the Regulations (however, the trust account was in balance).

(2) Failed to first obtain a license from the Department before using the fictitious name "Moore Management," in violation of section 2731 of the Regulations.

VII

A. Respondent was naïve and inexperienced in property management when he was hired by HCI in 1993, where he walked into a chaotic situation and inherited all of its problems including a trust account that was historically out of balance. The accounting software failed and could not be resuscitated; he got new software, and tried very hard to reconstruct the incomplete records. He came to realize what a bad situation he was in, and got out of it.

B. In his own business, after he left HCI, respondent's records were kept meticulously, but for the two relatively minor omissions described in Finding VI.

* * * * *

Pursuant to the foregoing findings of fact, the following is the legal basis for the decision:

I

Cause exists for license discipline against respondent pursuant to Business and Professions Code section 10177(d), by reason of Findings IV and VI.

II

Cause exists for license discipline against respondent pursuant to Business and Professions Code sections 10177(g) and 10177(h), by reason of Finding V.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent Robert Barry Moore under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this

Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one (1) year has elapsed from the effective date of this Decision.

4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

6. Pursuant to Section 10148 of the Business and Professions Code, respondent shall pay the Commissioner's reasonable cost for an audit to determine if respondent has corrected the trust fund violations found in Finding VI. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall

include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: 9-3-98


W. F. BYRNES
Administrative Law Judge
Office of Administrative Hearings

WFB:btm

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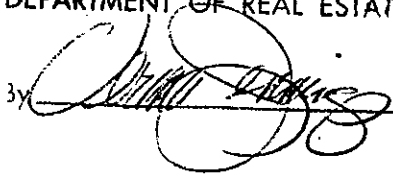
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
FEB 27 1998
DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of)
)
 ROBERT BARRY MOORE,)
)
 Respondent.)

Case No. H-27198 LA
OAH No. L-1997060401

3y 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **June 24, 1998**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

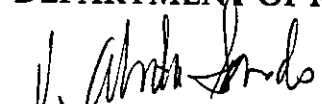
The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: February 27, 1998.

DEPARTMENT OF REAL ESTATE

cc: Robert Barry Moore
Gerald M. Sato, Esq.
Sacto.
OAH

By:


V. AHDA SANDS, Counsel

GMD.
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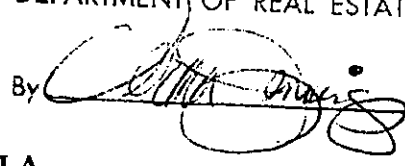
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
NOV - 5 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
 ROBERT BARRY MOORE,)
)
 Respondent.)

Case No. H-27198 LA
OAH No. L-1997060401

By 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **February 3, 1998**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

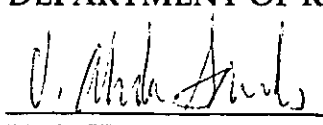
You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: November 5, 1997.

cc: Robert Barry Moore
Gerald M. Sato, Esq.
Sacto.
OAH

DEPARTMENT OF REAL ESTATE
By: 
V. AHDA SANDS, Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL - 3 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)

ROBERT BARRY MOORE,)

Respondent.)

Case No. H-27198 LA
OAH No. L-1997060401

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **October 23, 1997**, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: July 3, 1997.

cc: Robert Barry Moore
Sacto.
OAH

DEPARTMENT OF REAL ESTATE

V. Ahda Sands
V. AHDA SANDS, Counsel

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Har

FILED
MAY 12 1997
DEPARTMENT OF REAL ESTATE
By [Signature]

1 V. AHDA SANDS, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 897-3937
6
7
8

9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation of) NO. H-27198 LA
13 ROBERT BARRY MOORE,) ACCUSATION
14)
15)
16 Respondent.)

17 Complainant, Thomas Mc Crady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of
19 Accusation against ROBERT BARRY MOORE (herein "Respondent")
20 alleges as follows:

21 1

22 The term "the Regulations" as used herein refers to
23 provisions of Chapter 6, Title 10, California Code of
24 Regulations.

25 2

26 The Complainant, Thomas Mc Crady, acting in his
27 official capacity as a Deputy Real Estate Commissioner of the
State of California, makes this Accusation against Respondent.

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3

Respondent is presently licensed and has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (herein "the Code"). The term "the Code" as used herein refers to the California Business and Professions Code.

4

At all times mentioned herein, Respondent ROBERT BARRY MOORE (herein "MOORE"), was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a real estate broker.

5

From January 1, 1993 to November 14, 1993, Huntington and Collins Inc. was licensed as a corporate real estate broker. On November 14, 1993, the corporate license of Huntington and Collins Inc. expired and was not renewed.

6

From July 24, 1993 to August 31, 1993 was NOT properly licensed as a corporate real estate broker because it had no designated officer as required by the Business and Professions Code, however Huntington and Collins Inc. continued to perform acts requiring a license.

7

From September 1, 1993 to November 14, 1993, herein Huntington and Collins Inc. was licensed as a corporate real estate broker and performed acts requiring a license by and through MOORE as the officer and broker responsible pursuant to



1 the provisions of Section 10159.2(a) of the Code for supervising
2 the activities requiring a real estate license conducted on
3 behalf of Huntington and Collins Inc. by Huntington and Collins
4 Inc.'s officers and employees. After Huntington and Collins
5 Inc.'s license expired on November 14, 1993 MOORE continued to
6 act as the broker for Huntington and Collins Inc. until June 15,
7 1994.

8 8

9 All further references herein to "Respondent" includes
10 the parties identified in Paragraphs 4, 5 and 6, above, and also
11 includes the officers, directors, employees, agents and real
12 estate licensees employed by with said parties and who at all
13 times herein mentioned were engaged in the furtherance of the
14 business or operations of said parties and who were acting within
15 the course and scope of their authority and employment.

16 9

17 At all times herein mentioned, Respondent engaged in
18 the business of, acted in the capacity of, advertised or assumed
19 to act as a real estate broker in the State of California within
20 the meaning of Code Section 10131(b); whereby Respondent leased
21 or rented or offered to lease or rent, or placed for rent, or
22 solicited listings of places for rent, or solicited for
23 prospective tenants, or negotiated the sale, purchase or
24 exchanges of leases on real property, or on a business
25 opportunity, or collects rents from real property, or
26 improvements thereon, or from business opportunities for or in
27 expectation of compensation

In connection with the aforesaid real estate broker activities, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers and lenders and note owners and thereafter made disbursements of such funds. Respondent deposited certain of said funds into the following account (herein "said account"): Account No. 1602683 (hereinafter "Escrow T/A #1"), the "Huntington and Collins Trust Account", at the office of Channel Island National Bank in the City of Oxnard, California.

AUDIT VIOLATIONS RELATED TO MOORE

On October 5, 1995, the Department concluded its examination of Huntington and Collins Inc.'s books and records pertaining to the real estate broker activities described in Paragraph 9, above, for the period January 1, 1993 to August 31, 1994, which examination revealed violations of the Code and of the Regulations as set forth in the following paragraphs:

In connection with the trust funds referred to in Paragraph 10, above, Respondent MOORE acted in violation of the Code and the Regulations in that Respondent MOORE and Huntington and Collins Inc. did the following:

(a) disbursed or caused or allowed the disbursement of trust funds from the T/A #1, wherein the disbursement of said funds reduced the funds in said account to an amount which on June 30, 1994, was approximately \$10,608.97

1 less than the existing aggregate trust fund liability to all
2 owners of said funds, without first obtaining the prior written
3 consent of every principal who was an owner of said funds in
4 violation of Regulation Section 2832.1 and Code Section 10145.

5 (b) failed to retain or provide for inspection
6 various records subpoenaed for the audit in violation of Code
7 Section 10148.

8 (c) failed to renew HCI's corporate license and
9 continued to do property management business for or in
10 expectation of compensation under an expired license in violation
11 of Section 10130 of the Code. In addition, HCI performed acts
12 requiring a license for or in expectation of compensation during
13 a time when its license was expired and there was no
14 designated officer.

15 (d) allowed the trust account to be an interest
16 bearing account which was not authorized by the owners of the
17 trust funds and the interest earned from the trust fund did not
18 go to the owners of the funds in violation of Code Section 10145
19 and Regulation Section 2830.1.

20 (e) failed to maintain adequate formal trust
21 fund receipts and disbursement journals in violation of Section
22 2831 of the Regulations. Specifically, the Yardi control records
23 were not accurate.

24 (f) failed to maintain adequate separate records
25 for each beneficiary or transaction, accounting therein for said
26 account trust funds received, deposited, and disbursed,
27 conforming to the requirements of Section 2831.1 of the



1 Regulations. Specifically, the Yardi separate records for the
2 Trust Account were not accurate.

3 (g) violated Section 2831.2 of the Regulations
4 by failing to perform a monthly reconciliation of the records of
5 the receipt and disposition of all trust funds received, and the
6 balance of all separate beneficiary or transaction records.
7 Specifically, the broker failed to reconcile the balances in the
8 individual borrower accounts with the Yardi trust fund control
9 records and to keep a record of such reconciliation.

10 (h) allowed unlicensed, unbonded persons to be
11 signatories on the trust account when there was no fidelity bond
12 or written authorization from MOORE.

13 (i) failed to first obtain a license from the
14 Department before using the fictitious names "Huntington and
15 Collins and Huntington Property Services", in violation of
16 Regulation Section 2731.

17 13

18 The acts and omissions of Respondent MOORE described in
19 Paragraph 12, above, violated the Code and the Regulations as set
20 forth below:

21	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
22	12(a)	Sec. 10145	of the Code and
		Sec. 2832.1	of the Regulations;
23	12(b)	Sec. 10148	of the Code;
	12(c)	Sec. 10130	of the Code;
24	12(d)	Sec. 10145	of the Code;
		Sec. 2830.1	of the Regulations;
25	12(e)	Sec. 2831	of the Regulations;
	12(f)	Sec. 2831.1	of the Regulations;
26	12(g)	Sec. 2831.2	of the Regulations;
	12(h)	Sec. 2834	of the Regulations;
27	12(I)	Sec. 2731	of the Regulations.

1 Each of the foregoing violations separately constitutes
2 cause for the suspension or revocation of all licenses and
3 license rights of Respondent MOORE pursuant to the provisions of
4 Section 10177(d) of the Code.

5 /

6 SECOND CAUSE OF ACCUSATION

7 LACK OF SUPERVISION AND NEGLIGENCE

8 14

9 The conduct, acts and omissions of Respondent MOORE as
10 described in Paragraph 13, above, independently and collectively
11 constitutes failure on the part of MOORE, as the officer
12 designated by a corporate broker licensee to exercise the
13 reasonable supervision and control over the licensed activities
14 of Huntington and Collins required by Section 10159.2 of the Code
15 and is cause for the suspension or revocation of all real estate
16 licenses and license rights of MOORE pursuant to the provisions
17 of Section 10177(h) of the Code. Further, the failure of MOORE to
18 renew the license of Huntington and Collins while it continued to
19 conduct activities requiring a license constitutes negligence or
20 incompetence and is cause to suspend or revoke the license of
21 MOORE pursuant to Section 10177(g) of the Code.

22 THIRD CAUSE OF ACCUSATION

23 AUDIT VIOLATIONS RELATED TO MOORE

24 15

25 On October 6, 1995, the Department concluded its
26 examination of Respondent MOORE'S books and records pertaining to
27 the real estate broker activities described in Paragraph 9,



1 above, for the period January, 1995 to August 31, 1995, which
2 examination revealed violations of the Code and of the
3 Regulations as set forth in the following paragraphs:

4 16

5 In connection with the aforesaid real estate broker
6 activities, Respondent accepted or received funds in trust
7 (hereinafter "trust funds") from or on behalf of borrowers and
8 lenders and note owners and thereafter made disbursements of such
9 funds. Respondent deposited certain of said funds into the
10 following account (herein "said account"): Account No. 1714757
11 the "Barry Moore Management Trust Account", at the office of
12 First National Bank in the City of Ventura, California.

13 17

14 In connection with the trust funds referred to in
15 Paragraph 16, above, Respondent MOORE acted in violation of the
16 Code and the Regulations in that Respondent MOORE:

17 (a) Violated Section 2831.2 and 2951 of the
18 Regulations by failing to perform a monthly reconciliation of the
19 records of the receipt and disposition of all trust funds
20 received, and the balance of all separate beneficiary or
21 transaction records. Specifically, the broker failed to reconcile
22 the balances in the individual borrower accounts with the trust
23 fund control records and to keep a record of such reconciliation.

24 (b) Failed to first obtain a license from the
25 Department before using the fictitious names "MOORE Management",
26 in violation of Regulation Section 2731.

27 18

1 The acts and omissions of Respondent MOORE described in
2 Paragraph 17, above, violated the Code and the Regulations as set
3 forth below:

4	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
5	17(a)	Sec. 2831.2	of the Regulations.
5	17(b)	Sec. 2731	of the Regulations.

6
7 Each of the foregoing violations separately constitutes
8 cause for the suspension or revocation of all licenses and
9 license rights of Respondent MOORE pursuant to the provisions of
10 Section 10177(d) of the Code.

11 WHEREFORE, Complainant prays that a hearing be
12 conducted on the allegations of this Accusation and that upon
13 proof thereof a decision be rendered imposing disciplinary action
14 against all licenses and license rights of Respondent ROBERT
15 BARRY MOORE under the Real Estate Law (Part 1 of Division 4 of
16 the Business and Professions Code) and for such other and further
17 relief as may be proper under other applicable provisions of law.
18 Dated at Los Angeles, California
19 this 12th day of May, 1997.

20 THOMAS McCRADY
21 _____
22 Deputy Real Estate Commissioner

23
24
25
26 cc: Robert Barry Moore
27 Sacto.
 LK
 VAS