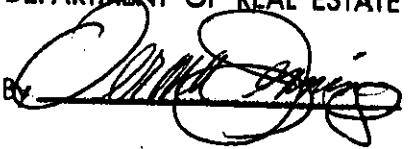


1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013
4 (213) 576-6982
5 (213) 576-6907

FILED
JUL - 3 2008
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12) DRE No. H-31989 LA
13 CALIFORNIA EMPIRE FINANCIAL)
14 GROUP, INC., dba California Empire) OAH No. L-2005070731
15 Escrow Services, California Empire)
16 Property Management, California Empire)
17 Mortgage and Realty Services, Coldwell)
18 Banker-Empire, Empire Bancorp,)
19 Bancorp Commercial Group, California)
20 Empire Mortgage, and California)
21 Empire Realty; and)
22 RICK E. CLIGNETT, individually)
23 and as designated broker-officer)
24 of California Empire Financial Group,)
25 Inc.,)
26 Respondents.)
27)

STIPULATION AND AGREEMENT

23 It is hereby stipulated by and between CALIFORNIA
24 EMPIRE FINANCIAL GROUP, INC., dba California Empire Escrow
25 Services, California Empire Property Management, California
26 Empire Mortgage and Realty Services, Coldwell Banker-Empire,
27 Empire Bancorp, Bancorp Commercial Group, California Empire

1 Mortgage, and California Empire Realty (hereinafter "CALIFORNIA
2 EMPIRE"), acting by and through current designated broker-
3 officer Alan Sargent, and RICK E. CLIGNETT, individually and as
4 former designated broker-officer of CALIFORNIA EMPIRE FINANCIAL
5 GROUP, INC. (sometimes referred to herein as "Respondent
6 CLIGNETT"), both represented by Min Stephen Cho, Esq., and the
7 Complainant, acting by and through Martha J. Rosett, Counsel
8 for the Department of Real Estate, as follows for the purpose
9 of settling and disposing of the Accusation filed on June 7,
10 2005 in this matter:

11 1. All issues which were to be contested and all
12 evidence which was to be presented by Complainant and
13 Respondents at a formal hearing on the Accusation, which
14 hearing was to be held in accordance with the provisions of the
15 Administrative Procedure Act (APA), shall instead and in place
16 thereof be submitted solely on the basis of the provisions of
17 this Stipulation and Agreement.

18 2. Respondents have received, read and understand
19 the Statement to Respondent, the Discovery Provisions of the
20 APA and the Accusation filed by the Department of Real Estate
21 in this proceeding.

22 3. On June 28, 2005, Respondents filed Notices of
23 Defense pursuant to Section 11506 of the Government Code for
24 the purpose of requesting a hearing on the allegations in the
25 Accusation. In order to effectuate this settlement,
26 Respondents hereby freely and voluntarily withdraw said Notices
27 of Defense. Respondents acknowledge that they understand that

1 by withdrawing said Notices of Defense, they will thereby waive
2 their rights to require the Commissioner to prove the
3 allegations in the Accusation at a contested hearing held in
4 accordance with the provisions of the APA and that they will
5 waive other rights afforded to them in connection with the
6 hearing such as the right to present evidence in defense of the
7 allegations in the Accusation and the right to cross-examine
8 witnesses.

9 4. Respondents, pursuant to the limitations set
10 forth below, although not admitting or denying the truth of the
11 allegations, will not contest the factual allegations contained
12 in the Accusation filed in this proceeding and the Real Estate
13 Commissioner shall not be required to provide further evidence
14 of such allegations.

15 5. It is understood by the parties that the Real
16 Estate Commissioner may adopt the Stipulation and Agreement as
17 his Decision in this matter, thereby imposing the penalty and
18 sanctions on Respondents' real estate licenses and license
19 rights as set forth in the below "Order". In the event that
20 the Commissioner in his discretion does not adopt the
21 Stipulation and Agreement, it shall be void and of no effect,
22 and Respondents shall retain the right to a hearing and
23 proceeding on the Accusation under all the provisions of the
24 APA and shall not be bound by any stipulation or waiver made
25 herein.

26 6. The Order or any subsequent Order of the Real
27 Estate Commissioner made pursuant to this Stipulation and

1 Agreement shall not constitute an estoppel, merger or bar to
2 any further administrative proceedings by the Department of
3 Real Estate with respect to any matters which were not
4 specifically alleged to be causes for accusation in this
5 proceeding.

6 7. This Stipulation and Respondents' decision not to
7 contest the Accusation are made for the purpose of reaching an
8 agreed disposition of this proceeding, and are expressly
9 limited to this proceeding and any other proceeding or case in
10 which the Department of Real Estate ("Department"), or another
11 licensing agency of this state, another state or if the federal
12 government is involved and otherwise shall not be admissible in
13 any other criminal or civil proceedings.

14 8. Respondents understand that by agreeing to this
15 Stipulation and Agreement, Respondent CALIFORNIA EMPIRE agrees
16 to be liable for payment, pursuant to Section 10148 of the
17 Business and Professions Code, for the cost of the audit which
18 led to this disciplinary action. The amount of said cost is
19 \$14,071.68.

20 9. Respondents have received, read and understand
21 the "Notice Concerning Costs of Audits". Respondents further
22 understand that by agreeing to this Stipulation and Agreement,
23 the findings set forth below in the Determination of Issues
24 become final, and that the Commissioner may charge Respondents
25 for the cost of any subsequent audit conducted pursuant to
26 Section 10148 of the Business and Professions Code to determine

27

1 if the violations have been corrected. The maximum cost of
2 said audit will not exceed \$14,071.68.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and waivers
5 and solely for the purpose of settlement of the pending
6 Accusation without a hearing, it is stipulated and agreed that
7 the following Determination of Issues shall be made:

8 1. The conduct, acts or omissions of Respondent
9 CALIFORNIA EMPIRE FINANCIAL GROUP, INC., as set forth in the
10 Accusation, constitute cause to suspend or revoke the real
11 estate license and license rights of Respondent CALIFORNIA
12 EMPIRE FINANCIAL GROUP, INC. under the provisions of Business
13 and Professions Code ("Code") Sections 10176(e), 10176(i),
14 10177(d) and 10177(g) for violation of Code Section 10145 in
15 conjunction with Title 10, Chapter 6 of the California Code of
16 Regulations, Regulations 2832.1, 2831.1, 2831.2, 2832, 2834,
17 2835, 2950(d) and 2951.

18 2. The conduct, acts or omissions of Respondent RICK
19 E. CLIGNETT, as set forth in the Accusation, constitute cause
20 to suspend or revoke the real estate license and license rights
21 of Respondent CLIGNETT under the provisions of Code Sections
22 10176(e), 10176(i), 10177(d), 10177(g) and 10177(h) for
23 violation of Code Section 10145 in conjunction with Title 10,
24 Chapter 6 of the California Code of Regulations, Regulations
25 2832.1, 2831.1, 2831.2, 2832, 2834, 2835, 2950(d) and 2951.

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27 ///

1 ORDER

2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3 I.

4 All licenses and licensing rights of Respondent
5 CALIFORNIA EMPIRE FINANCIAL GROUP, INC. under the Real Estate
6 Law are revoked; provided, however, restricted real estate
7 broker license shall be issued to Respondent CALIFORNIA EMPIRE
8 pursuant to Section 10156.5 of the Business and Professions
9 Code if Respondent makes application therefor and pay to the
10 Department of Real Estate the appropriate fee for the
11 restricted license within 90 days from the effective date of
12 this Decision. The restricted license issued to Respondent
13 CALIFORNIA EMPIRE shall be subject to all of the provisions of
14 Section 10156.7 of the Business and Professions Code and to the
15 following limitations, conditions and restrictions imposed
16 under authority of Section 10156.6 of that Code:

17 1. The restricted licenses issued to Respondent
18 CALIFORNIA EMPIRE may be suspended prior to hearing by Order of
19 the Real Estate Commissioner in the event of Respondent
20 CALIFORNIA EMPIRE's, or the designated broker-officer of
21 Respondent CALIFORNIA EMPIRE's, conviction or plea of nolo
22 contendere to a crime which is substantially related to
23 Respondent's fitness or capacity as a real estate licensee.

24 2. The restricted license issued to Respondent
25 CALIFORNIA EMPIRE may be suspended prior to hearing by Order of
26 the Commissioner on evidence satisfactory to the Commissioner
27 that Respondent CALIFORNIA EMPIRE or any of its officers,

1 directors or employees have violated provisions of the
2 California Real Estate Law, the Subdivided Lands Law,
3 Regulations of the Real Estate Commissioner or conditions
4 attaching to the restricted license.

5 3. Respondent CALIFORNIA EMPIRE shall not be
6 eligible to apply for the issuance of an unrestricted real
7 estate license nor for the removal of any of the conditions,
8 limitations or restrictions of a restricted license until three
9 (3) years have elapsed from the effective date of this
10 Decision.

11 4. Pursuant to Section 10148 of the Business and
12 Professions Code, Respondent CALIFORNIA EMPIRE shall be liable
13 for payment of the Commissioner's reasonable cost for: a) the
14 audit which led to this disciplinary action and, b) a
15 subsequent audit to determine if Respondent has corrected the
16 trust fund violations found in the Determination of Issues. In
17 calculating the amount of the Commissioner's reasonable cost,
18 the Commissioner may use the estimated average hourly salary
19 for all persons performing audits of real estate brokers, and
20 shall include an allocation for travel costs, including mileage
21 to and from the auditor's place of work and per diem.
22 Respondent shall pay such cost within 60 days of receiving an
23 invoice from the Commissioner detailing the activities
24 performed during the audit and the amount of time spent
25 performing those activities. The Commissioner may, in his
26 discretion, vacate and set aside the stay order if payment is
27 not timely made as provided herein, or as provided for in a

1 subsequent agreement between the Respondent and the
2 Commissioner. The vacation and the set aside of the stay shall
3 remain in effect until payment is made in full, or until
4 Respondent enters into an agreement satisfactory to the
5 Commissioner to provide for payment.

6 5. During the period of the restriction, Irene Van
7 Bommel shall not be a signatory on any trust account held by
8 Respondent CALIFORNIA EMPIRE.

9 6. During the period of the restriction, Respondent
10 CLIGNETT shall not be an officer, director or stockholder of
11 Respondent CALIFORNIA EMPIRE.

12 7. For the first six months after issuance of a
13 restricted broker license, Respondent CALIFORNIA EMPIRE shall
14 submit on a monthly basis copies of the reconciliations
15 performed pursuant to Regulation 2831.2 for all trust accounts.
16 After the first six months, Respondent CALIFORNIA EMPIRE shall
17 submit trust fund position statements on a quarterly basis for
18 all trust accounts during the entire duration of the restricted
19 license.

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21
22 DATED: Dec. 6, 2005

James R. Peel
JAMES R. PEEL
Counsel for Complainant

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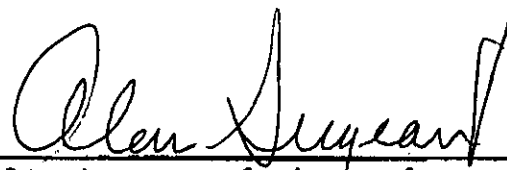
We have read the Stipulation and Agreement, have discussed it with our counsel, and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents may signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following fax number (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of their actual signatures as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

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DATED: 11-21-05



Alan Sargent, designated
Broker-officer, on behalf of
Respondent CALIFORNIA EMPIRE
FINANCIAL GROUP, INC.

DATED: 11-21-05



Min Stephen Cho, Esq.
Counsel for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on _____.


IT IS SO ORDERED _____.

JEFF DAVI
Real Estate Commissioner

1 DATED: _____

2 Alan Sargent, designated
3 Broker-officer, on behalf of
4 Respondent CALIFORNIA EMPIRE
5 FINANCIAL GROUP, INC.

6 DATED: 11/21/05

7 
8 Min Stephen Cho, Esq.
9 Counsel for Respondents

10 * * *

11 The foregoing Stipulation and Agreement is hereby
12 adopted as my Decision in this matter and shall become
13 effective at 12 o'clock noon on July 24, 2006.

14 IT IS SO ORDERED 6-13-06

15 JEFF DAVI
16 Real Estate Commissioner
17 
18 _____

SACB
Hay

FILED
JUL - 3 2006

DEPARTMENT OF REAL ESTATE

By

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-31989 LA
<u>RICK E. CLIGNETT,</u>)	
)	
)	
)	
Respondent.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On June 7, 2005, an Accusation was filed in this matter against Respondent RICK E. CLIGNETT.

On November 18, 2005, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker licenses pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent RICK E. CLIGNETT's petition for voluntary surrender of his real estate broker licenses 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, 2005

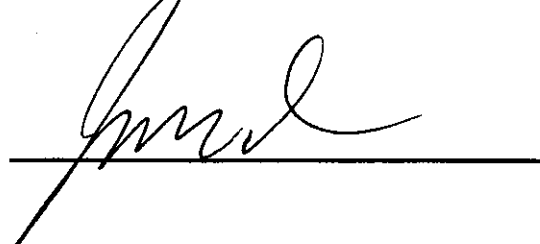
1 (attached as Exhibit "A" hereto). Respondent's license
2 certificates, pocket cards and any branch office license
3 certificates shall be sent to the below listed address so that
4 they reach the Department on or before the effective date of this
5 Order:

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

10 This Order shall become effective at 12 o'clock noon
11 on July 24, 2006.

12 DATED: 6-13-06

13 JEFF DAVI
14 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-31989 LA
RICK E. CLIGNETT,)	L-2005 070 731
)	
)	
Respondent.)	

DECLARATION

My name is RICK E. CLIGNETT and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am represented by Min Stephen Cho, Esq., Law Offices of Cho & Associates, in this matter.

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

1 I understand that by so voluntarily surrendering my
2 license, that it can only be reinstated in accordance with the
3 provisions of Section 11522 of the Government Code. I also
4 understand that by so voluntarily surrendering my license, I
5 agree to the following:

6 The filing of this Declaration shall be deemed as my
7 petition for voluntary surrender. It shall also be deemed to be
8 an understanding and agreement by me that, I waive all rights I
9 have to require the Commissioner to prove the allegations
10 contained in the Accusation filed in this matter at a hearing
11 held in accordance with the provisions of the Administrative
12 Procedure Act (Government Code Sections 11400 et seq.), and that
13 I also waive other rights afforded to me in connection with the
14 hearing such as the right to discovery, the right to present
15 evidence in defense of the allegations in the Accusation and the
16 right to cross-examine witnesses. I further agree that upon
17 acceptance by the Commissioner, as evidenced by an appropriate
18 order, all affidavits and all relevant evidence obtained by the
19 Department in this matter prior to the Commissioner's acceptance,
20 and all allegations contained in the Accusation filed in the
21 Department Case No. H-31989 LA, may be considered by the
22 Department to be true and correct for the purpose of deciding
23 whether or not to grant reinstatement of my license(s) pursuant
24 to Government Code Section 11522.

25 I agree that I will not be an officer, director, or
26 stockholder of California Empire Financial Group, Inc., or any
27 other licensed real estate broker corporation.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I freely and voluntarily surrender my license(s) and all license rights attached thereto.

6/6/06 RANCHO CUCAMONGA, CA
Date and Place


RICK E. CLIGNETT

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St., #350
4 Los Angeles, CA 90013

5 (213) 576-6982
6 (213) 576-6907

FILED
JUN - 7 2005
DEPARTMENT OF REAL ESTATE

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H-31989 LA
12 CALIFORNIA EMPIRE FINANCIAL)
13 GROUP, INC., dba California Empire)
14 Escrow Services, California Empire) A C C U S A T I O N
15 Property Management, California Empire)
16 Mortgage and Realty Services, Coldwell)
17 Banker-Empire, Empire Bancorp,)
18 Bancorp Commercial Group, California)
19 Empire Mortgage, and California)
20 Empire Realty; and)
21 RICK E. CLIGNETT, individually)
22 and as designated broker-officer)
23 of California Empire Financial Group,)
24 Inc.,)
25 Respondents.)

26 The Complainant, Maria Suarez, a Deputy Real Estate
27 Commissioner, for cause of Accusation against CALIFORNIA EMPIRE
FINANCIAL GROUP, INC., dba California Empire Escrow Services,
California Empire Property Management, California Empire
Mortgage and Realty Services, Coldwell Banker-Empire, Empire
Bancorp, Bancorp Commercial Group, California Empire Mortgage,
and California Empire Realty (hereinafter "CALIFORNIA EMPIRE");

1 and RICK E. CLIGNETT, individually and as designated broker-
2 officer of CALIFORNIA EMPIRE; is informed and alleges as follows:

3 1.

4 The Complainant, Maria Suarez, a Deputy Real Estate
5 Commissioner of the State of California, makes this Accusation in
6 her official capacity.

7 2.

8 Respondent CALIFORNIA EMPIRE is presently licensed and
9 at all times relevant herein was licensed under the Real Estate
10 Law, Part 1 of Division 4 of the California Business and
11 Professions Code (hereinafter "Code") as a corporate real estate
12 broker. Respondent CALIFORNIA EMPIRE has been licensed by the
13 Department of Real Estate of the State of California (hereinafter
14 "Department") as a corporate real estate broker since on or
15 before May 4, 1990. Between April 14, 1994 and March 30, 2005,
16 Respondent CALIFORNIA EMPIRE was authorized to act by and through
17 Respondent RICK E. CLIGNETT as the designated officer and broker
18 responsible, pursuant to the provisions of Code Section 10159.2
19 for the supervision and control of the activities conducted on
20 behalf of CALIFORNIA EMPIRE by CALIFORNIA EMPIRE's officers and
21 employees. On or about March 30, 2005, Respondent CLIGNETT
22 cancelled his status as designated officer of CALIFORNIA EMPIRE.
23 Since that time, Alan J. Sergeant has served as the designated
24 officer broker of CALIFORNIA EMPIRE.

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3.

1
2 Respondent RICK E. CLIGNETT, aka Roderick E. Clignett
3 and aka Roderick Ernst Clignett (hereinafter "CLIGNETT"), is
4 licensed and at all times relevant herein was licensed under the
5 Code as a real estate broker. Respondent CLIGNETT has been
6 licensed by the Department as a real estate broker since on or
7 before April 9, 1992. Between April 14, 1994 and March 30, 2005,
8 Respondent CLIGNETT was the broker-officer of Respondent
9 CALIFORNIA EMPIRE responsible pursuant to the provisions of Code
10 Section 10159.2 for the supervision and control of the activities
11 conducted on behalf of CALIFORNIA EMPIRE by CALIFORNIA EMPIRE's
12 officers and employees.

13
14 4.

15 At all times material herein, Respondents engaged in
16 the business of, acted in the capacity of, advertised or assumed
17 to act as real estate brokers in the State of California within
18 the meaning of Code Sections 10131(a), 10131(b) and 10131(d), for
19 another or others in expectation of compensation. Said activity
20 included representing buyers and sellers of real property, owners
21 of rental property, borrowers and lenders of loans secured by
22 real property, and performing escrow activities in relation to
23 those purchases and sales pursuant to the exemption set forth in
24 Financial Code Section 17006(a)(4).

25 5.

26 All further references to "Respondents" include
27

1 Respondent CALIFORNIA EMPIRE and Respondent CLIGNETT, and also
2 include the employees, agents and real estate licensees employed
3 by or associated with each Respondent, who at all times material
4 herein were engaged in the furtherance of the business or
5 operations of said parties and who were acting within the course
6 and scope of their authority, agency or employment.

7 FIRST CAUSE OF ACCUSATION
8 (Audit Violations)

9 6.

10 During the period between February 1, 2004 and
11 January 31, 2005, in connection with the aforesaid real estate
12 sales, property management, loan and escrow activities,
13 Respondents accepted or received funds, including funds in trust
14 (hereinafter "trust funds") from or on behalf of actual and
15 prospective purchasers and owners of residential properties,
16 owners and tenants of rental property, lenders and borrowers on
17 loans secured by real property, and related escrows, and made
18 deposits and/or disbursements of such funds. From time to time
19 herein mentioned, said trust funds were deposited into accounts
20 maintained by Respondents at Citizen Business Bank, located at
21 701 N. Haven Ave., Suite 100, Ontario, CA, identified as follows:

22 1. Account No. 243138515, entitled "California Empire
23 Financial Group Inc. dba Coldwell Banker Empire Realty Trust
24 Account" (hereinafter referred to as "Trust Account 1"). During
25 the audit period, Respondent CLIGNETT, Darolyn Clignett (RES),
26 Irene Van Bommel (RES) and Michael Beam (not licensed) were
27

1 signatories on this account. One signature was required per
2 check. Trust Account 1 was used to handle deposit and
3 disbursement of funds received in connection with real estate
4 sales activity.

5 2. Account No. 243143306, entitled "California Empire
6 Financial Group Inc dba California Empire Property Management
7 Trust Account" (hereinafter referred to as "Trust Account 2").
8 During the audit period, Respondent CLIGNETT, Darolyn Clignett
9 (RES), and Irene Van Bommel (RES) were signatories on this
10 account. One signature is required per check. Trust Account 2
11 was used to handle deposit and disbursement of funds received in
12 connection with property management activity.

13 3. Account No. 24138469, entitled "California Empire
14 Financial Group Inc dba California Empire Escrow Services Trust
15 Account" (hereinafter referred to as "Trust Account 3").
16 Respondent CLIGNETT, Darolyn Clignett (RES), Irene Van Bommel
17 (RES), and Michael Beam (Unlicensed) were signatories on the
18 account. One signature was required per check. Trust Account 3
19 was used to handle deposit and disbursement of funds received in
20 connection with escrow activity.

22 4. Account Number 24314354, entitled "California
23 Empire FIN GRP INC dba Empire Bancorp" (hereinafter referred to
24 as "Operating Account 1").

25 5. Account Number 243138477, entitled "California
26 Empire FIN GRP INC dba Empire Mortgage" (hereinafter referred to
27

1 as "Operating Account 2").

2 7.

3 On or about April 29, 2005, the Department completed
4 its examination of Respondent CALIFORNIA EMPIRE's books and
5 records pertaining to the real estate activities described in
6 Paragraphs 4 and 6 above, covering a period from approximately
7 February 1, 2004 through January 31, 2005. The primary purpose
8 of the examination was to determine Respondent's compliance with
9 the Real Estate Law. The examination, Audit Nos. LA 040194 (real
10 estate sales), LA 040195 (property management), LA 040196
11 (mortgage loan), and LA 040197 (broker escrow), revealed
12 violations of the Code, and of Title 10, Chapter 6, California
13 Code of Regulations (hereinafter "Regulations"), as set forth
14 below and as more specifically set forth in the Audit Reports and
15 Exhibits attached thereto.

16 8.

17
18 In the course of activities described in Paragraphs 4
19 and 6 above, and during the examination period described in
20 Paragraph 7, Respondents acted in violation of the Code and the
21 Regulations in that:

22 a) As of January 31, 2005, Trust Account 3 had a
23 shortage of \$1,023,628.62. The shortage was caused by the
24 following:

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1	Negative bal. of escrow accts.	\$ 2,661.50
2	Bank charges	\$ 2.56
3	Funds trans. to operating accts.	\$ 468,391.63
4	Funds pd. for unrelated trans.	\$ 344,766.86
5	Debited by bank in error	\$ 106,534.22
6	Unidentified shortage	<u>\$ 101,271.85</u>
7	Total Shortage (1/31/05)	\$1,023,628.62
8	Bank Credit	<u>70.00</u>
9	Net Shortage (1/31/05)	\$1,023,558.62

10 Respondents caused, permitted and/or allowed the
11 withdrawal or disbursement of trust funds from this account
12 without the prior written consent of every principal who then was
13 an owner of funds in the account, thereby reducing the balance of
14 funds in the said account to an amount less than the existing
15 aggregate trust fund liability of the broker to all the owners of
16 said trust funds, in violation of Code Section 10145 and
17 Regulation 2832.1.

18
19 b) Respondents failed to maintain complete records of
20 earnest money deposits received from buyers and not placed in the
21 broker's trust account in two of the sampled sales transaction
22 files. Specifically, in the Michael Price sales transaction,
23 Respondents failed to record that they received \$1,500.00 on or
24 about December 17, 2004, which was not placed in the trust
25 account; and in the Joseph Debillo transaction, receipt of a
26 \$2,500.00 deposit not placed in the broker trust account was not
27

1 recorded. In addition, in three of the loan transactions, credit
2 report and/or appraisal fees were paid through escrow and were
3 not recorded. Specifically, this occurred in the Jackson, the
4 Marmolejo and the Fierro transactions. This was in violation of
5 Code Section 10145 and Regulation 2831.

6 c) Respondents failed to maintain complete separate
7 beneficiary trust fund records. In the examples listed in
8 Paragraph b) above, Respondents did not keep records of credit
9 report and appraisal fees received from escrow. Failure to
10 accurately maintain separate beneficiary records is in violation
11 of Code Section 10145 and Regulations 2831.1 and 2951 (for
12 escrows).

13 d) With regards to records of property management,
14 mortgage loan transactions, and escrow activities, Respondents
15 failed to maintain monthly reconciliations of records of all
16 trust funds received and disbursed with all separate beneficiary
17 records. This appears to be one of the causes of the shortage
18 described above in Paragraph a). (For example, Respondents did
19 not note or correct an erroneous bank debit of \$106,534.22 that
20 occurred on 9/23/03 until brought to their attention by the
21 auditor.) Failure to reconcile separate beneficiary records with
22 the control record is in violation of Code Section 10145 and
23 Regulations 2831.2, 2950(d) and 2951.

24 e) In some of the sampled transactions, Respondents
25 held earnest money deposits beyond the days authorized by the
26
27

1 principals in the purchase contracts, in violation of Code
2 Section 10145 and Regulation 2832.

3 f) An unlicensed individual, Michael Beam, was a
4 signatory on Trust Account 1 and Trust Account 3, without having
5 fidelity bond coverage at least equal to the maximum amount of
6 the trust funds to which he had access at any time, in violation
7 of Code Section 10145 and Regulation 2834.

8 g) Respondents kept more than \$200 of broker funds in
9 Trust Account 2, in violation of Code Sections 10145 and 10176(e)
10 and Regulations 2835 and 2951.

11 h) In at least three of the sampled escrow
12 transactions, credit report and appraisal fees received from
13 escrow were deposited in to the general operating account. In
14 some of the transactions, checks were issued from the general
15 operating account to pay appraisers and or credit reporting fees
16 (see Paragraph b) above). This commingling was in violation of
17 Code Sections 10145 and 10176(e) and Regulations 2835 and 2951.
18

19 i) During the audit period, Respondents transferred
20 funds from Trust Account 3 to the operating accounts in an
21 aggregate amount of approximately \$468,391.63, as of the audit
22 cut-off date. In addition, Respondents used trust funds
23 amounting to \$344,766.86 to pay off a loan unrelated to a
24 beneficiary transaction. This commingling and conversion of
25 trust funds is in violation of Code Sections 10145, 10176(e) and
26 Regulations 2835 and 2951.
27

1 j) Respondent CLIGNETT, as designated broker-officer
2 of CALIFORNIA EMPIRE, did not exercise control and supervision
3 over the activities of CALIFORNIA EMPIRE and the trust account
4 records during the period from February 1, 2004 through January
5 31, 2005, in violation of Code Section 10159.2 and Regulation
6 2725.

7 9.

8 The foregoing violations constitute cause for the
9 suspension or revocation of Respondent CALIFORNIA EMPIRE's and
10 Respondent CLIGNETT's real estate licenses and license rights
11 under the provisions of Code Sections 10177(d), 10176(e),
12 10176(i) and 10177(g).

13 10.

14 The violations set forth above constitute cause for the
15 suspension or revocation of Respondent CLIGNETT's real estate
16 license and/or license rights, as the broker-officer of
17 Respondent CALIFORNIA EMPIRE designated pursuant to Code Section
18 10159.2, for failing to supervise the activities of the
19 corporation, in violation of Code Sections 10177(h), 10177(d) and
20 10177(g).
21

22 SECOND CAUSE OF ACCUSATION
23 (Commingling and Conversion)

24 11.

25 Complainant hereby incorporates by this reference the
26 facts alleged above in Paragraphs 1 through 8 as if set forth
27 fully herein in this separate and independent cause of

1 accusation.

2 12.

3 On or about February 25, 2004, Respondents transferred
4 \$100,000.00 out of Trust Account 3 into Operating Account 1,
5 Empire Bancorp's operating account. On February 26, 2004,
6 \$75,460.90 was transferred from this operating account to
7 "Advantage Business Payroll", and the operating account balance
8 fell to \$76,845.82. On March 5, 2004, an additional \$100,000.00
9 was transferred from Trust Account 3 to Operating Account 1.

10 13.

11 On May 10, 2004, \$50,000.00 was transferred out of
12 Trust Account 3 into Operating Account 2, Empire Mortgage's
13 operating account. On December 21, 2004, \$100,000.00 was
14 transferred out of Trust Account 3 and into Operating Account 2.

15 14.

16 Prior to the period covered by the audit set forth in
17 the First Cause of Accusation, Respondent CALIFORNIA EMPIRE had a
18 trust account at Sun Country Bank, account number 243138477. On
19 or around October 17, 2003, the balance of this account,
20 \$118,391.63, was transferred into Operating Account 2. The Sun
21 Country Bank account was then closed.

22 15.

23 On or about September 2, 2003, Respondents used trust
24 funds amounting to \$344,766.86 to pay off loan number 43672047
25 with Washington Mutual Bank. There was no evidence presented
26
27

1 during the audit that this loan was otherwise related to one of
2 the specific beneficiaries of the trust accounts.

3 16.

4 As of April 29, 2005, and the completion of the audit
5 set forth in the First Cause of Accusation above, Respondents had
6 not transferred any of the funds described in Paragraphs 12
7 through 15 above, back into the trust accounts.

8 17.

9 Respondents' commingling and conversion of trust funds,
10 as described in Paragraphs 13 through 16 above, constitutes
11 grounds to suspend or revoke the licenses and license rights of
12 Respondent CLIGNETT and Respondent CALIFORNIA EMPIRE pursuant to
13 Code Sections 10176(e), 10176(i) and 10177(g).

14 18.

15 Respondent CLIGNETT's failure to supervise the
16 activities of Respondent CALIFORNIA EMPIRE to ensure compliance
17 with the real estate laws constitutes additional grounds to
18 suspend or revoke Respondent CLIGNETT's license and license
19 rights pursuant to Code Sections 10177(h) and 10177(g).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent
5 CALIFORNIA EMPIRE FINANCIAL GROUP, INC. and Respondent RICK E.
6 CLIGNETT under the Real Estate Law and for such other and further
7 relief as may be proper under applicable provisions of law.

8 Dated at Los Angeles, California
9 this 7th day of June, 2005.

11
12
13 
14 Deputy Real Estate Commissioner
15
16
17
18
19
20
21

22 cc: California Empire Financial Group, Inc.
23 Rick E. Clignett
24 Alan J. Sergeant
25 Sacto.
26 Maria Suarez
27 R. Jolly
L.A. Audits (Chan)