

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
4 320 West Fourth Street, Suite 350
5 Los Angeles, California 90013-1105

6 (213) 576-6911

FILED
JAN - 8 2007
DEPARTMENT OF REAL ESTATE

By *K. Mac Lennan*

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) NO. H-32316 LA
11)
12 TRUST DEED SERVICES INC.; and)
13 SANDRA LEE CROUCH, individually) STIPULATION
14 and as designated officer of) AND
15 Trust Deed Services Inc.,) AGREEMENT
16)
17)
18 Respondents.)
19)

20 It is hereby stipulated by and between Respondents
21 TRUST DEED SERVICES INC., a corporate real estate broker, and
22 SANDRA LEE CROUCH, individually and as designated officer of
23 Trust Deed Services Inc. (sometimes collectively referred to as
24 "Respondents"), and the Complainant, acting by and through
25 Elliott Mac Lennan, Counsel for the Department of Real Estate, as
26 follows for the purpose of settling and disposing of the
27 Accusation ("Accusation") filed on August 28, 2006, in this
matter:

1. All issues which were to be contested and all
evidence which was to be presented by Complainant and Respondents

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

10 3. Respondents timely filed a Notice of Defense
11 pursuant to Section 11506 of the Government Code for the purpose
12 of requesting a hearing on the allegations in the Accusation.
13 Respondents hereby freely and voluntarily withdraw said Notice of
14 Defense. Respondents acknowledge that they understand that by
15 withdrawing said Notice of Defense they thereby waive their right
16 to require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that they will waive other rights
19 afforded to them in connection with the hearing such as the right
20 to present evidence in their defense the right to cross-examine
21 witnesses.
22

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation. In the interest of
25 expedience and economy, Respondents choose not to contest these
26 allegations, but to remain silent and understand that, as a
27

1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

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

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

25 7. The Order or any subsequent Order of the Real
26 Estate Commissioner made pursuant to this Stipulation shall not
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1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for Accusation in this proceeding but do
5 constitute a bar, estoppel and merger as to any allegations
6 actually contained in the Accusations against Respondents herein.

7 8. Respondents understand that by agreeing to this
8 Stipulation, Respondents agree to pay, pursuant to Business and
9 Professions Code Section 10148, the cost of audit which led to
10 this disciplinary action. The amount of said cost for the audit
11 is \$9,582.24. (Audit Reports LA 040273 [August 29, 2005] and LA
12 020162 and 020297 LA [April 22, 2003]).

13 9. Respondents have received, read, and understand the
14 "Notice Concerning Costs of Subsequent Audit". Respondents
15 further understand that by agreeing to this Stipulation, the
16 findings set forth below in the Determination of Issues become
17 final, and the Commissioner may charge Respondents for the cost
18 of any subsequent audit conducted pursuant to Business and
19 Professions Code Section 10148 to determine if the violations
20 have been corrected. The maximum cost of the subsequent audit
21 will not exceed \$9,582.24.
22

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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
3

I.

4
5 The conduct, acts or omissions of TRUST DEED SERVICES
6 INC., as described in Paragraph 4, above, is in violation of
7 Sections 10145, 10232, 10238 and 10241(i) of the Business and
8 Professions Code ("Code") and Sections 2831, 2831.1, 2831.2,
9 2832.1, 2840, 2846.5, 2846.8, 2950(d), 2950(g) and 2951 of Title
10 10, Chapter 6 of the California Code of Regulations
11 ("Regulations") and is a basis for the suspension or revocation
12 of Respondent's license and license rights as a violation of the
13 Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).
14

II.

15
16 The conduct, acts or omissions of SANDRA LEE CROUCH, as
17 described in Paragraph 4, constitutes a failure to keep Trust
18 Deed Services Inc. in compliance with the Real Estate Law during
19 the time that he was the officer designated by a corporate broker
20 licensee in violation of Section 10159.2 of the Code. This
21 conduct is a basis for the suspension or revocation of
22 Respondent's license pursuant to Code Sections 10177(d), 10177(g)
23 and 10177(h).
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

TRUST DEED SERVICES INC. and SANDRA LEE CROUCH under the Real Estate Law are suspended for a period of sixty days from the effective date of this Decision; provided, however, that if Respondents request, the initial thirty days of said suspension (or a portion thereof) shall be stayed upon condition that:

A 1. Respondents each pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code of \$3,000 (at the rate of \$100 per day for each day of the suspension) for a monetary penalty of \$3,000 each or \$6,000 in total.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate licenses of Respondents occurs within two (2) years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event the Respondents

1 shall not be entitled to any repayment nor credit, prorated or
2 otherwise, for money paid to the Department under the terms of
3 this Decision.

4 5. If Respondents pay the monetary penalty and if no
5 further cause for disciplinary action against the real estate
6 license of Respondent occurs within two (2) years from the
7 effective date of the Decision, the stay hereby granted shall
8 become permanent

9 B. The remaining thirty days of the sixty day
10 suspension shall be stayed for two (2) years upon the following
11 terms and conditions:

12 (a) Respondents shall obey all laws, rules and
13 regulations governing the rights, duties and responsibilities of
14 a real estate licensee in the State of California; and

15 (b) That no final subsequent determination be made
16 after hearing or upon stipulation, that cause for disciplinary
17 action occurred within two (2) years from the effective date of
18 this Decision. Should such a determination be made, the
19 Commissioner may, in his discretion, vacate and set aside the
20 stay order and reimpose all or a portion of the stayed
21 suspension. Should no such determination be made, the stay
22 imposed herein shall become permanent.
23

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II.

1
2 Pursuant to Section 10148 of the Business and
3 Professions Code, Respondents TRUST DEED SERVICES INC. and SANDRA
4 LEE CROUCH shall pay the Commissioner's reasonable cost for (a)
5 the audit which led to this disciplinary action (b) a subsequent
6 audit to determine if Respondents are now in compliance with the
7 Real Estate Law. The cost of the 2003 and 2005 audits which led
8 to this disciplinary action is \$9,582.24. In calculating the
9 amount of the Commissioner's reasonable cost, the Commissioner
10 may use the estimated average hourly salary for all persons
11 performing audits of real estate brokers, and shall include an
12 allocation for travel time to and from the auditor's place of
13 work. Said amount for the prior and subsequent audits shall not
14 exceed \$19,164.48.

15
16 Respondents shall pay such cost within 60 days of
17 receiving an invoice from the Commissioner detailing the
18 activities performed during the audit and the amount of time
19 spent performing those activities.

20 The Commissioner may suspend the license of Respondents
21 pending a hearing held in accordance with Section 11500, et seq.,
22 of the Government Code, if payment is not timely made as provided
23 for herein, or as provided for in a subsequent agreement between
24 the Respondent and the Commissioner. The suspension shall remain
25 in effect until payment is made in full or until Respondents
26 enter into an agreement satisfactory to the Commissioner to
27

1 provide for payment, or until a decision providing otherwise is
2 adopted following a hearing held pursuant to this condition.

3 III.

4 All licenses and licensing rights of Respondent SANDRA
5 LEE CROUCH are indefinitely suspended unless or until Respondent
6 provides proof satisfactory to the Commissioner, of having taken
7 and successfully completed the continuing education course on
8 trust fund accounting and handling specified in paragraph (3) of
9 subdivision (a) of Section 10170.5 of the Business and
10 Professions Code. Proof of satisfaction of this requirement
11 includes evidence that respondent has successfully completed the
12 trust fund account and handling continuing education course
13 within 120 days prior to the effective date of the Decision in
14 this matter.

15 IV.

16 Prior to the effective of the Decision herein,
17 Respondent shall provide evidence satisfactory to the
18 Commissioner that the trust fund deficits set forth in the
19 Accusation, have been cured, including the identification of the
20 source of funds used to cure the deficits.

21 V.

22 Respondent shall, within nine (9) months from the
23 effective date of this Decision, present evidence satisfactory to
24 the Real Estate Commissioner that Respondent has, since the most
25 recent issuance of an original or renewal real estate license,
26

27

1 taken and successfully completed the continuing education
 2 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
 3 for renewal of a real estate license. If Respondent fails to
 4 satisfy this condition, the Commissioner may order the suspension
 5 of his license until the Respondent presents such evidence. The
 6 Commissioner shall afford Respondent the opportunity for a
 7 hearing pursuant to the Administrative Procedure Act to present
 8 such evidence.

9 VI.

10 Respondent shall within six (6) months from the
 11 effective date of the Decision herein, take and pass the
 12 Professional Responsibility Examination administered by the
 13 Department including the payment of the appropriate examination
 14 fee. If Respondent fails to satisfy this condition, the
 15 Commissioner may order suspension of Respondent's license until
 16 Respondent passes the examination.

17
 18
 19 DATED: 12-4-06

20 Elliott Mac Lennan
 ELLIOTT MAC LENNAN, Counsel for
 the Department of Real Estate

21 * * *

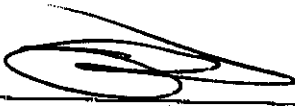
22 EXECUTION OF THE STIPULATION

23 We have read the Stipulation. Its terms are understood
 24 by us and are agreeable and acceptable to us. We understand that
 25 we are waiving rights given to us by the California
 26 Administrative Procedure Act (including but not limited to
 27


1 Sections 11506, 11508, 11509 and 11513 of the Government Code),
 2 and we willingly, intelligently and voluntarily waive those
 3 rights, including the right of requiring the Commissioner to
 4 prove the allegations in the Accusation at a hearing at which we
 5 would have the right to cross-examine witnesses against us and to
 6 present evidence in defense and mitigation of the charges.

7 Respondents can signify acceptance and approval of the
 8 terms and conditions of this Stipulation by faxing a copy of its
 9 signature page, as actually signed by Respondents, to the
 10 Department at the following telephone/fax number: Elliott Mac
 11 Lennan at (213) 576-6917. Respondents agree, acknowledge and
 12 understand that by electronically sending to the Department a fax
 13 copy of Respondents' actual signature as they appear on the
 14 Stipulation, that receipt of the faxed copy by the Department
 15 shall be as binding on Respondents as if the Department had
 16 received the original signed Stipulation.
 17

18
 19 DATED: 11-7-6


 TRUST DEED SERVICES INC., a
 corporate real estate broker,
 BY: SANDRA LEE CROUCH, D.O.,
 Respondent

22
 23
 24 DATED: 11-7-6


 SANDRA LEE CROUCH individually and
 as designated officer of Trust Deed
 Services Inc., Respondent

25
 26
 27

1 Sections 11506, 11508, 11509 and 11513 of the Government Code),
2 and we willingly, intelligently and voluntarily waive those
3 rights, including the right of requiring the Commissioner to
4 prove the allegations in the Accusation at a hearing at which we
5 would have the right to cross-examine witnesses against us and to
6 present evidence in defense and mitigation of the charges.

7 Respondents can signify acceptance and approval of the
8 terms and conditions of this Stipulation by faxing a copy of its
9 signature page, as actually signed by Respondents, to the
10 Department at the following telephone/fax number: Elliott Mac
11 Lennan at (213) 576-6917. Respondents agree, acknowledge and
12 understand that by electronically sending to the Department a fax
13 copy of Respondents' actual signature as they appear on the
14 Stipulation, that receipt of the faxed copy by the Department
15 shall be as binding on Respondents as if the Department had
16 received the original signed Stipulation.
17

18
19 DATED: _____

TRUST DEED SERVICES INC., a
corporate real estate broker,
BY: SANDRA LEE CROUCH, D.O.,
Respondent

20
21
22
23 DATED: _____

SANDRA LEE CROUCH individually and
as designated officer of Trust Deed
Services Inc., Respondent

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents TRUST DEED SERVICES INC.
and SANDRA LEE CROUCH, individually and as designated officer of
Trust Deed Services Inc. and shall become effective at 12 o'clock
noon on FEB - 8 2007

IT IS SO ORDERED 12-20, 2006.

JEFF DAVI
Real Estate Commissioner



Janice Waddell

1 ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
2 320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

3 Telephone: (213) 576-6911 (direct)
4 -or- (213) 576-6982 (office)

FILED
NOV 14 2005
DEPARTMENT OF REAL ESTATE

by K. M. Hederholt

5
6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-32316 LA
12 TRUST DEED SERVICES INC.; and)	<u>A C C U S A T I O N</u>
13 SANDRA LEE CROUCH, individually)	
14 and as designated officer of)	
Trust Deed Services Inc.,)	
15 Respondents.)	

16 The Complainant, Janice Waddell, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against TRUST DEED SERVICES INC., and SANDRA LEE CROUCH,
19 individually and as designated officer of Trust Deed Services
20 Inc., alleges as follows:
21

22 1.

23 The Complainant, Janice Waddell, acting in her official
24 capacity as a Deputy Real Estate Commissioner of the State of
25 California, makes this Accusation against TRUST DEED SERVICES
26 INC. ("TDSI") and SANDRA LEE CROUCH, individually as designated
27 officer of Trust Deed Services Inc. ("CROUCH").

2.

1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
4

5 3.

6 TDSI and CROUCH (sometimes hereinafter referred to as
7 Respondents) are presently licensed or have license rights under
8 the Real Estate Law (Part 1 of Division 4 of the Business and
9 Professions Code, hereinafter "Code").

10 LICENSE HISTORY

11 4.

12 A. At all time herein mentioned, CROUCH was licensed
13 by the Department as the designated officer of TDSI to qualify it
14 and to act for it as a real estate broker and, as provided by
15 Code Section 10159.2, was responsible for the supervision and
16 control of the activities conducted on behalf of TDSI by its
17 officers, managers and employees as necessary to secure full
18 compliance with the provisions of the Real Estate Law including
19 the supervision of the salespersons licensed to the corporation
20 in the performance of acts for which a real estate license is
21 required. TDSI's corporate real estate broker license was
22 originally issued on June 24, 1999.
23

24 B. CROUCH was originally licensed as a real estate
25 broker on May 18, 1977. CROUCH has been the designated officer
26 of TDSI since its inception on June 24, 1999.
27

5.

1
2 Whenever reference is made in an allegation in the
3 Accusation to an act or omission of TDSI, such allegation shall
4 be deemed to mean that the officers, directors, managers,
5 employees, agents and real estate licensees employed by or
6 associated with TDSI, including CROUCH, committed such act or
7 omission while engaged in the furtherance of TDSI's business or
8 operation and while acting within the course and scope of TDSI's
9 corporate authority, agency and employment.

10 6.

11 At all times herein mentioned in the City of Palm
12 Desert, California, TDSI engaged in the business as a real estate
13 broker as follows:

14 A. Code Section 10131(d) of the Code. TDSI operated a
15 mortgage loan and loan servicing brokerage; and,

16 B. Conducted broker-controlled escrows through its
17 escrow operation under the exemption set forth in California
18 Financial Code Section 17006(a)(4) for real estate brokers
19 performing escrows incidental to a real estate transaction where
20 the broker is a party and where the broker is performing acts for
21 which a real estate license is required.

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FIRST CAUSE OF ACCUSATION

(Audit Findings)

7.

On April 22, 2003, the Department completed an audit examination of the books and records of TDSI pertaining to its mortgage loan, loan servicing and broker-controlled escrow activities, requiring a real estate license as described in Paragraph 6. The audit examination covered a period of time beginning on August 1, 2002 to January 17, 2003. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 020162 & LA 020297 and the exhibits and workpapers attached to the audit report.

8.

At all times mentioned, in connection with the activities described in Paragraph 6, above, TDSI accepted or received funds in trust (trust funds) from or on behalf of borrowers, lenders and escrow holders, and thereafter made disposition of such funds. TDSI maintained the following trust accounts during the audit period into which were deposited certain of these funds at:

"Trust Deed Services Inc. - collection trust account
Account No. 05852-06521"
Bank of America
78-820 El Paseo Avenue
Palm Desert, CA 92260
("collection trust account")

1 "Trust Deed Services Inc. - escrow trust account
Account No. 05853-17661"
2 Bank of America
78-820 El Paseo Avenue
3 Palm Desert, CA 92260
("escrow trust account")

4
5 9.

6 In the course of activities described in Paragraphs 6
and 8 above, and during the examination period described in
7 Paragraph 7, it is alleged that TDSI:

8 (a) Permitted, allowed or caused the disbursement of
9 trust funds from the escrow trust account where the disbursement
10 of funds reduced the total of aggregate funds in escrow trust
11 account, to an amount which, on June 17, 2003, was \$6,274.96,
12 less than the existing aggregate trust fund liability of TDSI to
13 every principal who was an owner of said funds, without first
14 obtaining the prior written consent of the owners of said funds,
15 as required by Code Section 10145 and Regulations 2832.1,
16 2950(d), 2950(g) and 2951.

17
18 (b) Failed to maintain an adequate control record in
19 the form of a columnar record in chronological order of all trust
20 funds received, deposited and disbursed for both escrow and
21 collection trust accounts, as required by Code Section 10145 and
22 Regulation 2831 for both trust accounts and Regulations 2950(d)
23 and 2951 for the escrow trust account. The chronological control
24 record was incomplete, inaccurate and did not discover the
25 \$6,274.96 shortage. Additionally, the collection trust account
26 did not show when trust funds were received, nor the daily
27

1 balance after each transaction. Disbursement from the collection
2 trust account were not recorded in chronological sequence.

3 (c) Failed to maintain a separate record for each
4 beneficiary or transaction, thereby failing to account for all
5 trust funds received, deposited and disbursed for the collection
6 trust account, as required by Code Section 10145 and Regulation
7 2831.1. No separate trust fund beneficiary records were
8 maintained for beneficiaries Abramowitz, Petersen, Buffin,
9 Beringer, Levin and Herrera.

10 (d) Failed to perform a monthly reconciliation of the
11 balance of all separate beneficiary or transaction records
12 maintained pursuant to Regulation 2831.1 with the record of all
13 trust funds received for both escrow and collection trust
14 accounts and disbursed by collection trust account, as required
15 by Code Section 10145 and Regulation 2831.2, for both trust
16 accounts and Regulations 2950(d) and 2951.

17 (e) (1) Met the criteria as a threshold broker, as
18 described in Code Section 10232(a)(1)(A). TDSI negotiated more
19 than ten (10) loans within twelve months in aggregate amount of
20 more than one million dollars. TDSI negotiated twelve (12) loans
21 in aggregate amount of \$1,015,950 between June 2002 and June
22 2003, in violation of Code Section 10232.

23 (e) (2) Met the criteria as a threshold broker, as
24 described in Code Section 10232(a)(2). TDSI made collections of
25 payments on mortgage loans in aggregate amount of \$250,000.
26
27

1 During 2001 and 2002, TDSI collected loan payments of \$306,810.36
2 and \$413,819.80 respectively from its loan service activity, in
3 violation of Code Section 10232.

4 (e) (3) TDSI failed to notify the Department or provide
5 the Department with timely or accurate Quarterly and Annual Trust
6 Fund Status Reports, in violation of Code Section 10232(e) and
7 Regulation 2846.5.

8 (f) Failed to provide the Department with Quarterly
9 Trust Fund Status Reports, in violation of Code Section 10232.25
10 and Regulation 2846.8.

11 (g) TDSI failed to submit a notice to the Department
12 within thirty (30) days of TDSI's first multi-lender notes
13 secured directly by an interest in the same real property on June
14 28, 2002 for the William & Flora Stewart - Ardis Willis loan and
15 on October 8, 2002, for the Michael Santin-Martin Stenzler loans.
16 TDSI made or arranged its first multi-lender loan transactions
17 hereof yet failed to notify the Department thereof, as required
18 by Code Section 10238(a).

19 (h) received undisclosed compensation in the form of an
20 earning credit agreement with the Bank Of America. Bank service
21 charges were deducted from the earning credit from the collection
22 trust account. The earnings credit arrangement was not disclosed
23 by TDSI to the borrowers or lenders or beneficiaries of the
24 collection trust account, in violation of Code Section 10176(g).
25
26
27

1 (i) Failed to provide a California Mortgage Loan
2 Disclosure Statement, also known as a Borrower Disclosure
3 Statement, containing the Department's license information and
4 telephone number for borrowers William & Flora Stewart, Harvey
5 Schwartz, and William Buffin, as required by Code Section
6 10241(i) and Regulation 2840.

7 10.

8 The conduct of Respondent TDSI, described in Paragraph
9 9, violated the Code and the Regulations as set forth below:

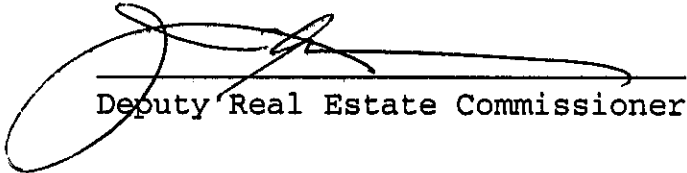
10	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11	9(a)	Code Section 10145 and
12		Regulation 2832.1, 2950(d),
13		2950(g) and 2951
14	9(b)	Code Section 10145 and
15		Regulation 2831 for the both
16		trust accounts and Regulations
17		2950(d) (g) and 2951 for the
18		escrow trust account
19	9(c)	Code Section 10145 and
20		Regulation 2831.1
21	9(d)	Code Section 10145 and
22		Regulation 2831.2 for the both
23		trust accounts and Regulations
24		2950(d) and 2951 for the
25		escrow trust account
26	9(e)(1) - (3)	Code Section 10232 and
27		Regulation 2846.5
	9(f)	Code Section 10232.25 and
		Regulation 2846.8

1 and is cause for the suspension or revocation of the real estate
2 license and license rights of CROUCH pursuant to the provisions
3 of Code Sections 10177(d), 10177(g)) and/or 10177(h).

4 WHEREFORE, complainant prays that a hearing be
5 conducted on the allegations of this Accusation and, that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and licensing rights of Respondents
8 TRUST DEED SERVICES INC. and SANDRA LEE CROUCH, individually and
9 as designated officer of Trust Deed Services Inc. under the Real
10 Estate Law (Part 1 of Division 4 of the Business and Professions
11 Code) and for such other and further relief as may be proper
12 under other applicable provisions of law.

13
14 Dated at Los Angeles, California
15 this

16 *10 August 2005*

17
18 
19 Deputy Real Estate Commissioner

20
21
22
23
24 cc: Trust Deed Services Inc.
25 c/o Sandra Lee Crouch D.O.
26 Janice Waddell
27 Sacto
Audits - Lisa Kwong

*Sacto
2/19*

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
AUG 28 2008
DEPARTMENT OF REAL ESTATE

By *K. Mederhoff*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 TRUST DEED SERVICES INC.; and)
13 SANDRA LEE CROUCH, individually)
14 and as designated officer of)
15 Trust Deed Services Inc.,)

No. H-32316 LA

FIRST AMENDED

ACCUSATION

15 Respondents.)

16 The Accusation filed on December 19, 2005, is amended
17 in its entirety as follows:

18 The Complainant, Janice Waddell, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against TRUST DEED SERVICES INC., and SANDRA LEE CROUCH,
21 individually and as designated officer of Trust Deed Services
22 Inc., alleges as follows:
23

24 1.

25 The Complainant, Janice Waddell, acting in her official
26 capacity as a Deputy Real Estate Commissioner of the State of
27 California, makes this Accusation against TRUST DEED SERVICES

1 INC. ("TDS") and SANDRA LEE CROUCH, individually as designated
2 officer of Trust Deed Services Inc. ("CROUCH").

3 2.

4 All references to the "Code" are to the California
5 Business and Professions Code and all references to "Regulations"
6 are to Title 10, Chapter 6, California Code of Regulations.

7 3.

8 TDS and CROUCH (sometimes hereinafter referred to as
9 Respondents) are presently licensed or have license rights under
10 the Real Estate Law (Part 1 of Division 4 of the Business and
11 Professions Code, hereinafter "Code").

12 LICENSE HISTORY

13 4.

14 A. At all time herein mentioned, CROUCH was licensed
15 by the Department as the designated officer of TDS to qualify it
16 and to act for it as a real estate broker and, as provided by
17 Code Section 10159.2, was responsible for the supervision and
18 control of the activities conducted on behalf of TDS by its
19 officers, managers and employees as necessary to secure full
20 compliance with the provisions of the Real Estate Law including
21 the supervision of the salespersons licensed to the corporation
22 in the performance of acts for which a real estate license is
23 required. TDS's corporate real estate broker license was
24 originally issued on June 24, 1999.
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1 B. CROUCH was originally licensed as a real estate
2 broker on May 18, 1977. CROUCH has been the designated officer
3 of TDS since its inception on June 24, 1999.

4 5.

5 Whenever reference is made in an allegation in the
6 Accusation to an act or omission of TDS, such allegation shall be
7 deemed to mean that the officers, directors, managers, employees,
8 agents and real estate licensees employed by or associated with
9 TDS, including CROUCH, committed such act or omission while
10 engaged in the furtherance of TDS's business or operation and
11 while acting within the course and scope of TDS's corporate
12 authority, agency and employment.

13 6.

14 At all times herein mentioned in the City of Palm
15 Desert, California, TDS engaged in the business as a real estate
16 broker as follows:

17 A. Code Section 10131(d) of the Code. TDS operated a
18 mortgage loan and loan servicing brokerage; and,

19 B. Conducted broker-controlled escrows through its
20 escrow operation under the exemption set forth in California
21 Financial Code Section 17006(a)(4) for real estate brokers
22 performing escrows incidental to a real estate transaction where
23 the broker is a party and where the broker is performing acts for
24 which a real estate license is required.
25

26 ///

FIRST CAUSE OF ACCUSATION

(Audit Findings - 2003)

7.

On April 22, 2003, the Department completed an audit examination of the books and records of TDS pertaining to its mortgage loan, loan servicing and broker-controlled escrow activities, requiring a real estate license as described in Paragraph 6. The audit examination covered a period of time beginning on August 1, 2002 to January 17, 2003. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 020162 & LA 020297 and the exhibits and workpapers attached to the audit report.

8.

At all times mentioned, in connection with the activities described in Paragraph 6, above, TDS accepted or received funds in trust (trust funds) from or on behalf of borrowers, lenders and escrow holders, and thereafter made disposition of such funds. TDS maintained the following trust accounts during the audit period into which were deposited certain of these funds at:

"Trust Deed Services Inc. - collection trust account
Account No. 05852-06521"
Bank of America
78-820 El Paseo Avenue
Palm Desert, CA 92260
("collection trust account")

1 "Trust Deed Services Inc. - escrow trust account
2 Account No. 05853-17661"
3 Bank of America
4 78-820 El Paseo Avenue
5 Palm Desert, CA 92260
6 ("escrow trust account")

7 9.

8 In the course of activities described in Paragraphs 6
9 and 8 above, and during the examination period described in
10 Paragraph 7, it is alleged that TDS:

11 (a) Permitted, allowed or caused the disbursement of
12 trust funds from the escrow trust account where the disbursement
13 of funds reduced the total of aggregate funds in escrow trust
14 account, to an amount which, on June 17, 2003, was \$6,274.96,
15 less than the existing aggregate trust fund liability of TDS to
16 every principal who was an owner of said funds, without first
17 obtaining the prior written consent of the owners of said funds,
18 as required by Code Section 10145 and Regulations 2832.1,
19 2950(d), 2950(g) and 2951.

20 (b) Failed to maintain an adequate control record in
21 the form of a columnar record in chronological order of all trust
22 funds received, deposited and disbursed for both escrow and
23 collection trust accounts, as required by Code Section 10145 and
24 Regulation 2831 for both trust accounts and Regulations 2950(d)
25 and 2951 for the escrow trust account. The chronological control
26 record was incomplete, inaccurate and did not discover the
27 \$6,274.96 shortage. Additionally, the collection trust account

1 did not show when trust funds were received, nor the daily
2 balance after each transaction. Disbursement from the collection
3 trust account were not recorded in chronological sequence.

4 (c) Failed to maintain a separate record for each
5 beneficiary or transaction, thereby failing to account for all
6 trust funds received, deposited and disbursed for the collection
7 trust account, as required by Code Section 10145 and Regulation
8 2831.1. No separate trust fund beneficiary records were
9 maintained for beneficiaries Abramowitz, Petersen, Buffin,
10 Beringer, Levin and Herrera.

11 (d) Failed to perform a monthly reconciliation of the
12 balance of all separate beneficiary or transaction records
13 maintained pursuant to Regulation 2831.1 with the record of all
14 trust funds received for both escrow and collection trust
15 accounts and disbursed by collection trust account, as required
16 by Code Section 10145 and Regulation 2831.2, for both trust
17 accounts and Regulations 2950(d) and 2951.

18 (e) (1) Met the criteria as a threshold broker, as
19 described in Code Section 10232(a)(1)(A). TDS negotiated more
20 than ten (10) loans within twelve months in aggregate amount of
21 more than one million dollars. TDS negotiated twelve (12) loans
22 in aggregate amount of \$1,015,950 between June 2002 and June
23 2003, in violation of Code Section 10232.

24 (e) (2) Met the criteria as a threshold broker, as
25 described in Code Section 10232(a)(2). TDS made collections of
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1 payments on mortgage loans in aggregate amount of \$250,000.

2 During 2001 and 2002, TDS collected loan payments of \$306,810.36
3 and \$413,819.80 respectively from its loan service activity, in
4 violation of Code Section 10232.

5 (e) (3) TDS failed to notify the Department or provide
6 the Department with timely or accurate Quarterly and Annual Trust
7 Fund Status Reports, in violation of Code Section 10232(e) and
8 Regulation 2846.5.

9 (f) Failed to provide the Department with Quarterly
10 Trust Fund Status Reports, in violation of Code Section 10232.25
11 and Regulation 2846.8.

12 (g) TDS failed to submit a notice to the Department
13 within thirty (30) days of TDS's first multi-lender notes secured
14 directly by an interest in the same real property on June 28,
15 2002 for the William & Flora Stewart - Ardis Willis loan and on
16 October 8, 2002, for the Michael Santin-Martin Stenzler loans.
17 TDS made or arranged its first multi-lender loan transactions
18 hereof yet failed to notify the Department thereof, as required
19 by Code Section 10238(a).

20
21 (h) received undisclosed compensation in the form of an
22 earning credit agreement with the Bank of America. Bank service
23 charges were deducted from the earning credit from the collection
24 trust account. The earnings credit arrangement was not disclosed
25 by TDS to the borrowers or lenders or beneficiaries of the
26 collection trust account, in violation of Code Section 10176(g).
27

1 (i) Failed to provide a California Mortgage Loan
2 Disclosure Statement, also known as a Borrower Disclosure
3 Statement, containing the Department's license information and
4 telephone number for borrowers William & Flora Stewart, Harvey
5 Schwartz, and William Buffin, as required by Code Section
6 10241(i) and Regulation 2840.

7 10.

8 The conduct of Respondent TDS, described in Paragraph
9 9, violated the Code and the Regulations as set forth below:

10 PARAGRAPH

PROVISIONS VIOLATED

11 9(a)

12 Code Section 10145 and
13 Regulation 2832.1, 2950(d),
14 2950(g) and 2951

15 9(b)

16 Code Section 10145 and
17 Regulation 2831 for the both
18 trust accounts and Regulations
19 2950(d) (g) and 2951 for the
20 escrow trust account

21 9(c)

22 Code Section 10145 and
23 Regulation 2831.1
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9(d) Code Section 10145 and
Regulation 2831.2 for the both
trust accounts and Regulations
2950(d) and 2951 for the
escrow trust account

9(e)(1) - (3) Code Section 10232 and
Regulation 2846.5

9(f) Code Section 10232.25 and
Regulation 2846.8

9(g) Code Section 10238(a)

9(h) Code Section 10176(g)

9(i) Code Section 10241(i) and
Regulation 2840

Each of the foregoing violations separately constitutes cause for
the suspension or revocation of the real estate license and
license rights of TDS under the provisions of Code Sections
10176(g), 10177(d) and/or 10177(g).

1 SECOND CAUSE OF ACCUSATION

2 (Audit Findings - 2005)

3 11.

4 On August 29, 2005, the Department completed an audit
5 examination of the books and records of TDS pertaining to its
6 threshold broker activities, requiring a real estate license as
7 described in Paragraph 6. The audit examination covered a period
8 of time beginning on January 1, 2003 to March 31, 2005. The
9 audit examination revealed violations of the Code and the
10 Regulations as set forth below, and more fully discussed in Audit
11 Report LA 040273 and the exhibits and workpapers attached to the
12 audit report.

13
14 12.

15 At all times mentioned, in connection with the
16 activities described in Paragraph 6, above, TDS accepted or
17 received funds in trust (trust funds) from or on behalf of
18 borrowers, lenders and escrow holders, and thereafter made
19 disposition of such funds. TDS maintained the following trust
20 accounts during the audit period into which were deposited
21 certain of these funds at:

22 "Trust Deed Services Inc. - collection trust account
23 Account No. 05858-06924"
24 Bank of America
25 78-820 El Paseo Avenue
26 Palm Desert, CA 92260

27 (New Collection Trust Account "T/A #1")

1 "Trust Deed Services Inc. - collection trust account
Account No. 05852-06521"
2 Bank of America
78-820 El Paseo Avenue
3 Palm Desert, CA 92260

4 (Old Collection Trust Account "T/A #2")
5

6 "Trust Deed Services Inc. - escrow trust account
7 Account No. 05853-04913"
Bank of America
8 78-820 El Paseo Avenue
Palm Desert, CA 92260

9 (New Escrow Trust Account "T/A #3")
10

11 "Trust Deed Services Inc. - escrow trust account
12 Account No. 05853-17661"
Bank of America
13 78-820 El Paseo Avenue
Palm Desert, CA 92260

14 (Old Escrow Trust Account "T/A #4")
15

16 13.

17 In the course of activities described in Paragraphs 6
18 and 12 above, and during the examination period described in
19 Paragraph 11, it is alleged that TDS:

20 (a) Permitted, allowed or caused the disbursement of
21 trust funds from the escrow trust account where the disbursement
22 of funds reduced the total of aggregate funds in the trust
23 accounts set forth below, to an amount which was less than the
24 existing aggregate trust fund liability of TDS to every principal
25 who was an owner of said funds, without first obtaining the prior
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1 written consent of the owners of said funds, as required by Code
2 Section 10145 and Regulations 2832.1

3 • T/A #1 \$6,924.15 (March 31, 2005)

4 • T/A #3 \$6,010.69

5 (b) Failed to maintain an adequate control record in
6 the form of a columnar record in chronological order of all trust
7 funds received, deposited and disbursed for T/A #2 and T/A #4, as
8 required by Code Section 10145 and Regulation 2831.

9 (c) Failed to maintain a separate record for each
10 beneficiary or transaction, thereby failing to account for all
11 trust funds received, deposited and disbursed for T/A #1 and T/A
12 #2, as required by Code Section 10145 and Regulation 2831.1.

13 (d) Failed to perform a monthly reconciliation of the
14 balance of all separate beneficiary or transaction records
15 maintained pursuant to Regulation 2831.1 with the record of all
16 trust funds received for all trust accounts and disbursed by all
17 trust accounts - T/A #1 - T/A #4, as required by Code Section
18 10145 and Regulation 2831.2.

19 (e) Failed to file Annual Trust Account Reports for the
20 years 2003 and 2004, as required by Code Sections 10232.2(a) and
21 10238(o).

22 (f) Failed to file a Business Activity Report for 2004,
23 as required by Code Sections 10232.2(c) and 10238(p).

1 (g) Failed to file a Quarterly Threshold Reports with
2 respect to the Trust Fund Status Report from march 31, 2004 to
3 March 31, 2005, as required by Code Section 10232.25.

4 (h) Failed to file reports for multi-lender payments
5 collected from March 31, 2004 to date, as required by Code
6 Section 10238(k) (3).

7 (i) Failed to file amended Multi-Lender Transactions
8 Notice to notify the Department that TDS met the requirement for
9 multi-lender payments collected, as required by Code Section
10 10238.

11 (k) Failed to display TDS's corporation's license
12 number on the Mortgage Loan Disclosure Statements. Nor did TDS
13 disclose its real estate license number on the Mortgage Loan
14 Disclosure Statements provided to borrowers, in violation of Code
15 Section 10236.4.

16 (k) Charged expenses to borrowers, in excess of the
17 maximum permissible amount allowable, in violation of Code
18 Section 10242.

19 (l) Changed its address in February 2005 from 73-965B
20 Hwy 111 to 74-051 HWY, Palm Desert, California, without
21 notification to the Department, in violation of Code Section
22 10162 and Regulation 2715.

23 (m) Failed to maintain records in the file that TDS
24 provided or failed to provide covered loan notice to four
25 borrowers no later than three business days prior to signing of
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1 the loan documents in the four (4) covered loan transactions, in
2 violation of Financial Code Section 4973(k)(1).

3 (n) Charged financed points and fees in excess of
4 \$1,000 or 6% of the original principal balance, exclusive of
5 points and fees in the three (3) covered loan transactions, in
6 violation of Financial Code Section 4979.6.

7 14.

8 The conduct of Respondent TDS, described in Paragraph
9 13, violated the Code and the Regulations as set forth below:

10 PARAGRAPH

PROVISIONS VIOLATED

11
12 13(a)

Code Section 10145 and
13 Regulation 2832.1

14
15 13(b)

Code Section 10145 and
16 Regulation 2831

17
18 13(c)

Code Section 10145 and
19 Regulation 2831.1

20
21 13(d)

Code Section 10145 and
22 Regulation 2831.2

23
24 13(e)

Code Section 10232.2(a) and
25 10238(o)
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THIRD CAUSE OF ACTION

(Negligence)

15.

The overall conduct of Respondents TDS and CROUCH constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents TDS and CROUCH pursuant to Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION

(Supervision)

16.

The overall conduct of Respondent CROUCH constitutes a failure on her part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of TDS as required by Code Section 10159.2, and to keep TDS in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of CROUCH pursuant to the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h).

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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 licensing rights of Respondents
5 TRUST DEED SERVICES INC. and SANDRA LEE CROUCH, individually and
6 as designated officer of Trust Deed Services Inc. under the Real
7 Estate Law (Part 1 of Division 4 of the Business and Professions
8 Code) and for such other and further relief as may be proper
9 under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this *28 August 2006*

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16 Deputy Real Estate Commissioner
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24 cc: Trust Deed Services Inc.
25 c/o Sandra Lee Crouch D.O.
26 Janice Waddell
27 Sacto
Audits - Rolly Acuna