

*fact*

**FILED**

SEP 17 2008

DEPARTMENT OF REAL ESTATE

BY: *A. Ely*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
 )  
OMEGA INVESTMENT & LOANS CORP.; )  
 and STEPHEN RAY HARPER, )  
 individually and as designated )  
 officer of Omega Investment & )  
 Loans Corp., )  
 )  
 Respondents. )

No. H-34687 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on July 14, 2008, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent OMEGA INVESTMENT & LOANS CORP.'s express admissions; (2) affidavits; and (3) Department Audit Report LA 060317 dated July 18, 2007, and (4) other evidence.

FACTUAL FINDINGS

1.

On January 29, 2008, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent OMEGA INVESTMENT & LOANS CORP. and Notice of Defense were mailed by certified mail, to said Respondent's last known mailing addresses on file with the Department on January 29, 2008.

2.

On July 14, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent OMEGA INVESTMENT & LOANS CORP.'s ("OMEGA") default was entered herein.

3.

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

#### LICENSE HISTORY

4.

A. At all times mentioned, OMEGA INVESTMENT & LOANS CORP. ("OMEGA") and STEPHEN RAY HARPER ("HARPER") were licensed or had license rights issued by the Department of Real Estate ("Department") as real estate brokers; and

B. At all times material herein, OMEGA was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through HARPER, as the designated officer and broker responsible, pursuant to Code Section 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf OMEGA of by OMEGA' officers, agents and employees. OMEGA was originally licensed as a real estate broker on February 9, 2005 by and through HARPER as designated officer. HARPER was initially licensed as a real estate broker on April 15, 1991.

#### BROKERAGE

5.

At all times mentioned, in the City of Downey, County of Los Angeles, OMEGA acted as a real estate broker conducting licensed activities within the meaning of Code Section 10131(d) by operating a mortgage and loan brokerage.

#### AUDIT EXAMINATION

6.

On July 18, 2007, the Department completed an audit examination of the books and records of OMEGA pertaining to the mortgage and loan activities described in Finding 5, which require a real estate license. The

audit examination covered a period of time beginning on January 1, 2006 to May 31, 2007. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 060317 and the exhibits and work papers attached to said audit report.

#### TRUST ACCOUNT

7.

During the audit period OMEGA did not maintain a trust account for the trust funds it collected and received.

#### VIOLATIONS OF THE REAL ESTATE LAW

8.

In the course of activities described in Finding 5, above, and during the examination period described in Finding 6, Respondent OMEGA, acted in violation of the Code and the Regulations in that OMEGA:

(a) Failed to place appraisal and credit report fees collected from borrowers Carillo, Mota, P. Alvarado, Robles, Diaz, Vasquez, Cortez, Trujillo and S. Alvarado, into a trust account in the name of the broker as trustee at a bank or other financial institution, in violation of Code Section 10145 and Regulation 2832(a).

(b) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", including credit report fees collected in advance from escrow companies, in violation of Code Section 10145 and Regulation 2831.

(c) Failed to maintain a separate record for trust funds in the form of credit report fees collected in advance from escrow companies, in violation of Code Section 10145 and Regulation 2831.1.

(d) Permitted and/or caused the disbursement of trust funds to credit report companies on the representation that these amounts were needed to pay for credit report fees, which payments exceeded the actual costs of these services. Respondent did not disclose these "mark-ups" to borrower-beneficiaries Carillo, Mota, P. Alvarado, Robles, Diaz, Vasquez, Cortez, Trujillo and S. Alvarado of said trust funds, and did not obtain their consent to these "mark-ups". Respondent retained the difference between the amounts paid and the actual costs of the services, in violation of Code Sections 10176(a) and 10176(g).

(e) (1) Failed to retain a true and correct copy of a Department of Real Estate approved Good Faith Estimate/Mortgage Loan Disclosure Statement signed by the broker for borrowers Carillo, Mota and Sufle, in violation of Code Section 10240 and Regulation 2840; and,

(e) (2) Failed to disclose yield spread premiums from lenders on the approved Mortgage Loan Disclosure Statement for the borrowers Robles, Vasquez and Cortez, for a total amount of \$54,555, in violation of Code Section 10240 and Regulation 2840.

(f) Failed to notify the Department of the termination of salesperson Hector Daniel Arrieta, as required by Code Section 10161.8 and Regulation 2752.

(g) Failed to retain the salesperson license certificate for Ricardo Hernandez, in violation of Code Section 10160 and Regulation 2753.

#### DETERMINATION OF ISSUES

1.

The conduct of Respondent OMEGA INVESTMENT & LOANS CORP. as described in Finding 8, herein above, is in violation of Code Sections 10145, 10160, 10161.8, and 10240 and Regulations 2752, 2753, 2831, 2831.1, 2832(a) and 2840. Cause for disciplinary action exists pursuant to Code Sections 10176(a), 10176(g), 10177(d) and 10177(g).

2.

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

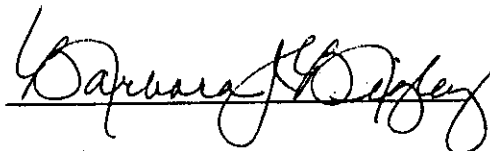
#### ORDER

The real estate broker license and license rights of Respondent OMEGA INVESTMENT & LOANS CORP., under the provisions of Part I of Division 4 of the Business and Professions Code is revoked.

This Decision shall become effective at 12 o'clock noon on October 7, 2008

DATED: 8/13, 2008

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

1 Department of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105  
3 Telephone: (213) 576-6982 (office)

**FILED**

JUL 14 2008

DEPARTMENT OF REAL ESTATE

BY: *Harvey*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-34687 LA

12 OMEGA INVESTMENTS & LOANS CORP.; )

and STEPHEN RAY HARPER, )

13 individually and as )

designated officer of )

14 Omega Investments & Loans Corp., )

15 Respondents. )

16 DEFAULT ORDER

17 Respondents OMEGA INVESTMENTS & LOANS CORP., having  
18 failed to file a Notice of Defense within the time required by  
19 Section 11506 of the Government Code, is now in default. It is,  
20 therefore, ordered that a default be entered on the record in  
21 this matter.

22 IT IS SO ORDERED

*July 14, 2008*  
JEFF DAVI

Real Estate Commissioner

*Dolores Weeks*

26 By: DOLORES WEEKS  
Regional Manager

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

**FILED**

MAY -6 2008

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) No. H-34687 LA  
STEPHEN RAY HARPER, )  
Respondent. )

DISMISSAL

The Accusation filed against STEPHEN RAY HARPER on  
January 31, 2008, is dismissed.

IT IS SO ORDERED this 30 day of April, 2008.

JEFF DAVI  
Real Estate Commissioner  
*[Signature]*



2.

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

LICENSE HISTORY

3.

A. At all times mentioned, OMEGA INVESTMENT & LOANS CORP. ("OMEGA") and STEPHEN RAY HARPER ("HARPER") were licensed or had license rights issued by the Department of Real Estate ("Department") as real estate brokers; and

B. At all times material herein, OMEGA was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through HARPER, as the designated officer and broker responsible, pursuant to Code Section 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf OMEGA of by OMEGA' officers, agents and employees, including HARPER. OMEGA was originally licensed as a real estate broker on February 9, 2005 by and through HARPER as designated officer. HARPER was initially licensed as a real estate broker on April 15, 1991.

///

///

///

///

///



BROKERAGE

4.

At all times mentioned, in the City of Downey, County of Los Angeles, OMEGA acted as a real estate broker conducting licensed activities within the meaning of Code Section 10131(d) by operating a mortgage and loan brokerage.

AUDIT EXAMINATION

July 18, 2007, the Department completed an audit examination of the books and records of OMEGA pertaining to the mortgage and loan activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2006 to May 31, 2007. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 060317 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

6.

During the audit period OMEGA did not maintain a trust account for the trust funds it collected and received.

///

///

///

///

///

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents OMEGA and HARPER, acted in violation of the Code and the Regulations in that they:

(a) Failed to place appraisal and credit report fees collected from borrowers Carillo, Mota, P. Alvarado, Robles, Diaz, Vasquez, Cortez, Trujillo and S. Alvarado, into a trust account in the name of the broker as trustee at a bank or other financial institution, in violation of Code Section 10145 and Regulation 2832(a).

(b) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", including credit report fees collected in advance from escrow companies, in violation of Code Section 10145 and Regulation 2831.

(c) Failed to maintain a separate record for trust funds in the form of credit report fees collected in advance from escrow companies, in violation of Code Section 10145 and Regulation 2831.1.

(d) Permitted and/or caused the disbursement of trust funds to credit report companies on the representation that these amounts were needed to pay for credit report fees, which payments exceeded the actual costs of these services. Respondents did not

1 disclose these "mark-ups" to borrower-beneficiaries Carillo,  
2 Mota, P. Alvarado, Robles, Diaz, Vasquez, Cortez, Trujillo and S.  
3 Alvarado of said trust funds, did not obtain their consent to  
4 these "mark-ups". Respondents retained the difference between  
5 the amounts paid and the actual costs of the services, in  
6 violation of Code Sections 10176(a) and 10176(g).

7 (e) (1) Failed to retain a true and correct copy of a  
8 Department of Real Estate approved Good Faith Estimate/Mortgage  
9 Loan Disclosure Statement signed by the broker for borrowers  
10 Carillo, Mota and Sufle, in violation of Code Section 10240 and  
11 Regulation 2840; and,

12 (e) (2) Failed to disclose yield spread premiums from  
13 lenders on the approved Mortgage Loan Disclosure Statement for  
14 the borrowers Robles, Vasquez and Cortez, for a total amount of  
15 \$54,555.

16 (f) Failed to notify the Department of the termination  
17 of salesperson Hector Daniel Arrieta, as required by Code Section  
18 10161.8 and Regulation 2752.

19 (g) Failed to retain the salesperson license  
20 certificate for Ricardo Hernandez, in violation of Code Section  
21 10160 and Regulation 2753.

22 ///

23 ///

24 ///

25 ///

26 ///

27

DISCIPLINARY STATUTES AND REGULATIONS

8.

The conduct of Respondents OMEGA and HARPER described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10145 and Regulation 2832(a)
7(b)	Code Section 10145 and Regulation 2831
7(c)	Code Section 10145 and Regulation 2831.1
7(d)	Code Section 10176(g)
7(e)	Code Section 10240 Regulation 2840
7(f)	Code Section 10161.8 and Regulation 2752
///	
///	

1 7(g)

Code Section 10160 and Regulation  
2753

2  
3 The foregoing violations constitutes cause for the suspension or  
4 revocation of the real estate license and license rights of OMEGA  
5 and HARPER, under the provisions of Code Sections 10176(g),  
6 10177(d), 10177(f) and/or 10177(g).

7  
8 NEGLIGENCE

9 9.

10 The overall conduct of Respondents OMEGA and HARPER  
11 constitutes negligence. This conduct and violation are cause for  
12 the suspension or revocation of the real estate license and  
13 license rights of said Respondents pursuant to the provisions of  
14 Code Section 10177(g).

15 SUPERVISION AND COMPLIANCE

16 10.

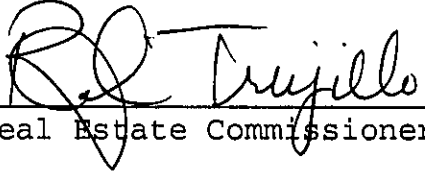
17 The overall conduct of Respondent HARPER constitutes a  
18 failure on her part, as officer designated by a corporate broker  
19 licensee, to exercise the reasonable supervision and control over  
20 the licensed activities of OMEGA as required by Code Section  
21 10159.2 and Regulation 2725, and to keep OMEGA in compliance with  
22 the Real Estate Law, and is cause for the suspension or  
23 revocation of the real estate license and license rights of  
24 HARPER pursuant to the provisions of Code Sections 10177(d) and  
25 10177(h).

26 ///

27

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 the license and license rights of Respondents  
5 OMEGA INVESTMENT & LOANS CORP. and STEPHEN RAY HARPER,  
6 individually and as designated officer of Omega Investment &  
7 Loans Corp., under the Real Estate Law. (Part 1 of Division 4 of  
8 the Business and Professions Code) and for such other and further  
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 29th day of January 2008.   
12 Deputy Real Estate Commissioner

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24 cc: Omega Investment & Loans Corp.  
25 c/o Stephen Ray Harper D.O.  
26 Robin Trujillo  
Sacto  
Audits - Zaky Wanis

27