

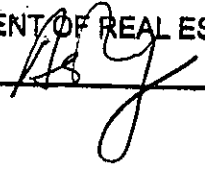
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FILED

APR - 9 2009

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
THOMAS HAROLD PATTERSON, dba) No. H-35210 LA
Financial Advantage, Prime)
Pacific Capital, Mayfair)
Properties and Wellington)
Financial,)
Respondent.)

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On August 13, 2008, an Accusation was filed in this matter against Respondent THOMAS HAROLD PATTERSON.

On December 15, 2008, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent THOMAS HAROLD PATTERSON's petition for voluntary surrender of his real estate broker license is accepted as of the effective date of this Order

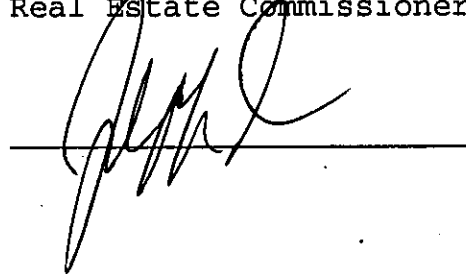
1 as set forth below, based upon the understanding and agreement
2 expressed in Respondent's Declaration dated December 15, 2008
3 (attached as Exhibit "A" hereto). Respondent's license
4 certificate and pocket card shall be sent to the below listed
5 address so that they reach the Department on or before the
6 effective date of this Order:

7
8 Department of Real Estate
9 Atten: Licensing Flag Section
10 P.O. Box 187000
11 Sacramento, CA 95818-7000

12 This Order shall become effective at 12 o'clock noon on
13 April 29, 2009.

14 DATED: 4-7, 2009

15 JEFF DAVI
16 Real Estate Commissioner

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EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-35210 LA
THOMAS HAROLD PATTERSON, doing)	
Business as Financial)	
Advantage, Prime Pacific Capital,)	
Mayfair Properties and)	
Wellington Financial,)	
)	
Respondent.)	

DECLARATION

My name is THOMAS HAROLD PATTERSON and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am representing myself 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

1 Department of Real Estate ("Department"), pursuant to Business
2 and Professions Code Section 10100.2.

3 I understand that by so voluntarily surrendering my
4 license(s); I may be relicensed as a broker or as a salesperson
5 only by petitioning for reinstatement pursuant to Section 11522
6 of the Government Code. I also understand that by so
7 voluntarily surrendering my license(s), I agree to the
8 following:

9 1. The filing of this Declaration shall be deemed as
10 my petition for voluntary surrender.

11 2. It shall also be deemed to be an understanding
12 and agreement by me that I waive all rights I have to require
13 the Commissioner to prove the allegations contained in the
14 Accusation ("Accusation") filed in this matter at a hearing held
15 in accordance with the provisions of the Administrative
16 Procedure Act (Government Code Sections 11400 et seq.), and that
17 I also waive other rights afforded to me in connection with the
18 hearing such as the right to discovery, the right to present
19 evidence in defense of the allegations in the Accusation and the
20 right to cross-examine witnesses.

21 3. I further agree that upon acceptance by the
22 Commissioner, as evidenced by an appropriate order, all
23 affidavits and all relevant evidence obtained by the Department
24 in this matter prior to the Commissioner's acceptance, and all
25 allegations contained in the Accusation filed in the Department
26

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1 Case No. H-35210 LA, may be considered by the Department to be
2 true and correct for the purpose of deciding whether to grant
3 relicensure or reinstatement pursuant to Government Code Section
4 11522.

5 4. I freely and voluntarily surrender all my licenses
6 and license rights under the Real Estate Law.

7
8 I declare under penalty of perjury under the laws of
9 the State of California that the above is true and correct and
10 that this declaration was executed on 12-15, 2008, at
11 Fontana, California.

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14 _____
15 THOMAS HAROLD PATTERSON
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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 13 2008

DEPARTMENT OF REAL ESTATE
BY: H. J. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 THOMAS HAROLD PATTERSON, doing)
13 business as Financial Advantage,)
14 Prime Pacific Capital, Mayfair)
15 Properties and Wellington)
16 Financial,)
Respondent.)

No. H- 35210 LA
A C C U S A T I O N

17 The Complainant, Robin Trujillo, a Deputy Real Estate
18 Commissioner of the State of California, acting in her official
19 capacity, for cause of Accusation against THOMAS HAROLD PATTERSON
20 dba Financial Advantage, Prime Pacific Capital, Mayfair
21 Properties and Wellington Financial, is informed and alleges as
22 follows:

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1.

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 LICENSE HISTORY

6 2.

7 At all times mentioned, THOMAS HAROLD PATTERSON
8 ("PATTERSON"), was licensed or had license rights issued by the
9 Department of Real Estate ("Department") as a real estate broker.
10 On October 23, 1985, PATTERSON was originally licensed as a real
11 estate broker.
12

13 LICENSED ACTIVITIES AND BROKERAGE

14 3.

15 At all times mentioned, in the City of Fontana, County
16 of San Bernardino, PATTERSON acted as real estate broker and
17 conducted licensed activities within the meaning of:

18 A. Code Section 10131(a). PATTERSON, dba Mayfair
19 Properties, engaged in the business of, acted in the capacity of,
20 advertised or assumed to act as a real estate broker, including
21 the solicitation for listings of and the negotiation of the sale
22 of real property as the agent of others.

23 B. Code Section 10131(d). PATTERSON dba Financial
24 Advantage, Prime Pacific Capital and Wellington Financial,
25 engaged in activities with the public wherein lenders and
26 borrowers were solicited for loans secured directly or
27 collaterally by liens on real property, wherein such loans were

1 arranged, negotiated, processed and consummated on behalf of
2 others for compensation or in expectation of compensation and for
3 fees often collected in advance; and

4 C. Conducted broker-controlled escrows through his in-
5 house escrow, Prime Pacific Capital Escrow Division including the
6 ancillary resources of Virtual Escrow, under the exemption set
7 forth in California Financial Code Section 17006(a)(4) for real
8 estate brokers performing escrows incidental to a real estate
9 transaction where the broker is a party and where the broker is
10 performing acts for which a real estate license is required.

11
12 AUDIT

13 4.

14 On March 11, 2008, the Department completed an audit
15 examination of the books and records of PATTERSON, pertaining to
16 the residential resale, mortgage loan and broker escrow
17 activities described in Paragraph 3, that require a real estate
18 license. The audit examination covered a period of time
19 beginning on June 1, 2005 to December 31, 2007. The audit
20 examination revealed violations of the Code and the Regulations
21 as set forth below, and more fully discussed in Audit Report LA
22 070193, LA 070213 and LA 070214 and the exhibits and workpapers
23 attached to said audit report.

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5.

1
2 At all times mentioned, in connection with the
3 activities described in Paragraph 4, PATTERSON accepted or
4 received funds in trust in the form of earnest money deposits
5 (trust funds) from or on behalf of buyers, sellers, borrowers,
6 lenders and escrow holders and thereafter made deposits and/or
7 disbursements of such funds. From time to time herein mentioned
8 during the audit period, said trust funds were deposited and/or
9 maintained by PATTERSON in the bank accounts as follows:

10 "Thomas Harold Patterson dba Prime Pacific Capital Escrow
11 Division Trust Account
12 Account No. 001774581"
13 Mellon 1st Business Bank
14 Los Angeles, CA 90071 ("escrow trust account")

15 VIOLATIONS OF THE REAL ESTATE LAW

16 6.

17 With respect to the licensed activities referred to in
18 Paragraphs 3 and 5, and the audit examination including the
19 exhibits and workpapers referred to in Paragraph 4, it is alleged
20 that PATTERSON:

21 (a) Permitted, allowed or caused the disbursement of
22 trust funds from the escrow trust account where the disbursement
23 of funds reduced the total of aggregate funds in escrow trust
24 account, to an amount which, on April 30, 2007, was \$992.87, less
25 than the existing aggregate trust fund liability to every
26 principal who was an owner of said funds, without first obtaining
27

1 the prior written consent of the owners of said funds, as
2 required by Code Section 10145 and Regulations 2832.1, 2950(d),
3 2950(g) and 2951. The unrestored shortage is due to an overdrawn
4 escrow balance.

5 (b) Failed to maintain an accurate and complete control
6 record in the form of a columnar record in chronological order of
7 all trust funds received, deposited and disbursed by the escrow
8 trust account, in violation of Code Section 10145 and Regulations
9 2831, 2950(d) and 2951.

10 (c) Failed to maintain a separate record for each
11 beneficiary or transaction, thereby failing to account for all
12 trust funds received by the escrow trust account, including
13 credit report fees and appraisal fees, as required by Code
14 Section 10145 and Regulations 2831.1, 2950(d) and 2951.

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

21 (e) Permitted Brian Barrett, an unlicensed and unbonded
22 person, an employee of Virtual Escrow, to be an authorized
23 signatory on the escrow trust account, in violation of Code
24 Section 10145 and Regulations 2834, 2950(d) and 2951.
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1 (f) (1) Failed to provide or retain a true and correct
2 copy of a Good Faith Estimate that satisfies the requirements of
3 the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A
4 2601 et seq.), that (1) sets forth the broker's real estate
5 license number; and (2) a clear and conspicuous statement on the
6 face of the document stating that the Good Faith Estimate does
7 not constitute a loan commitment for borrowers Lamb, Clark, Clapp
8 and Panduro; and, further sets forth all applicable disclosures
9 including but not limited to (3) yield spread premiums rebates by
10 the lender for borrowers Shahmordia, Hernandez, Rankin and
11 Barnes, in violation of Code Section 10240(c); and

12 (f) (2) Failed to disclose yield spread premiums from
13 lenders on the approved Mortgage Loan Disclosure Statement for
14 borrowers Shahmordia, Hernandez, Rankin and Barnes, in violation
15 of Code Section 10240, 10241 and Regulation 2840.

16 (g) Misrepresented to sellers Esclanta, Madrigal,
17 Montano and Borrayo, that PATTERSON held earnest money deposits,
18 for their real properties when in fact he did not have possession
19 of said deposits, in violation of Code Sections 10176(a) and/or
20 10177(g).

21 (h) Failed to retain all records of his activity during
22 the audit period requiring a real estate broker license with
23 particular respect to the Rodriguez and Garcia loan files, as
24 required by Code Section 10148.

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26 ///

1 (i) Failed to retain the salesperson license
2 certificates for Melinda Gonzales and Louis Vierstra, in
3 violation of Code Section 10160 and Regulation 2753.

4 DISCIPLINARY STATUTES AND REGULATIONS

5 7.

6 The conduct of Respondent PATTERSON, described in
7 Paragraph 6, violated the Code and the Regulations as set forth:

8 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9 6(a)	10 Code Section 10145 and Regulations 11 2832.1, 2950(d), 2950(g) and 2951
12	
13	
14 6(b)	15 Code Section 10145 and Regulations 2831, 16 2950(d) and 2951
17	
18 6(c)	19 Code Section 10145 and Regulations 20 2831.1, 2950(d) and 2951
21	
22 6(d)	23 Code Section 10145 and Regulations 24 2831.2, 2950(d) and 2951
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6(e) Code Section 10145 and Regulations 2834,
2950(d) and 2951

6(f) Code Section 10240, 10240(c), 10241 and
Regulation 2840

6(g) Code Sections 10176(a) and/or 10177(g)

6(h) Code Section 10148

6(i) Code Section 10160 and Regulation 2753

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

8.

The overall conduct of PATTERSON constitutes negligence
and is cause for discipline of the real estate license and
license rights of PATTERSON pursuant to Code Section 10177(g).

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1
2 The overall conduct of PATTERSON constitutes a failure
3 to exercise supervision and control over the licensed activities
4 of his brokerage. Nor did PATTERSON maintain a system in place
5 for regularly monitoring his compliance with the Real Estate Law
6 especially in regard to establishing policies to review trust
7 fund handling in an escrow holder capacity and record keeping for
8 his client's trust funds and in regard to the accuracy of the
9 Good Faith Estimates/Mortgage Loan Disclosure Statements, in
10 violation of Code Sections 10177(d), 10177(h) and/or 10177(g).

11 WHEREFORE, Complainant prays that a hearing be
12 conducted on the allegations of this Accusation and that upon
13 proof thereof, a decision be rendered imposing disciplinary
14 action against the license and license rights of Respondent
15 THOMAS HAROLD PATTERSON, under the Real Estate Law (Part 1 of
16 Division 4 of the Business and Professions Code) and for such
17 other and further relief as may be proper under other applicable
18 provisions of law.
19

20 Dated at Los Angeles, California

21 this 29 day of July 2008.

22 
23 Deputy Real Estate Commissioner

24
25 cc: Thomas Harold Patterson
26 Robin Trujillo
27 Sacto
Audits - Zaky Wanis