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1 DEPARTMENT OF REAL ESTATE
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OCT 26 2010

DEPARTMENT OF REAL ESTATE

BY: James B. Clo

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

11 To:)	
)	NO. H-36883-LA
12 ESCAPE TO PARADISE INC, 5 STAR RESORT)	
13 MARKETING INC, JOHN ERIC HOFFERBERT,)	
14 SEBASTIAN NEWMAN and)	ORDER TO DESIST AND
15 DAVID STEWART.)	REFRAIN
)	(B&P Code Section 10086)
)	

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18 The Commissioner (Commissioner) of the California Department of Real Estate

19 (Department) caused an investigation to be made of the activities of ESCAPE TO PARADISE

20 INC (ESCAPE), 5 STAR RESORT MARKETING INC (5 STAR), JOHN ERIC HOFFERBERT

21 (HOFFERBERT), SEBASTIAN NEWMAN (NEWMAN) and DAVID STEWART

22 (STEWART). Based on that investigation, the Commissioner has determined that ESCAPE,

23 5 STAR, HOFFERBERT, NEWMAN and STEWART have engaged in, are engaging in, or are

24 attempting to engage in, acts or practices constituting violations of the California Business and

25 Professions Code (Code), including the business of, acting in the capacity of, and/or advertising

26 or assuming to act as, real estate brokers in the State of California within the meaning of Section

27 10131(a) (soliciting prospective sellers or purchasers of, or obtaining listings of real property)

1 of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the
2 following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the
3 authority of Section 10086 of the Code.

4 Whenever acts referred to below are attributed to ESCAPE , 5 STAR,
5 HOFFERBERT, NEWMAN and STEWART, those acts are alleged to have been done by
6 ESCAPE , 5 STAR, HOFFERBERT, NEWMAN and STEWART acting by themselves, or by
7 and/or through one or more agents, associates, affiliates, and/or co-conspirators.

8 FINDINGS OF FACT

9 1. ESCAPE, 5 STAR, HOFFERBERT, NEWMAN and STEWART are not
10 now, and have never been, licensed by the Department in any capacity.

11 2. On July 30, 2008, HOFFERBERT registered with the Secretary of State for the
12 State of California as the Chief Executive Officer, Secretary, Chief Financial Officer and Agent
13 for Service of Process for ESCAPE.

14 3. On June 16, 2009, HOFFERBERT filed a Certificate of Amendment to
15 Articles of Incorporation for ESCAPE, changing the name of the corporation to 5 STAR.

16 4. From an unknown time through the present, ESCAPE or 5 STAR has run a
17 website located at <http://paradiseescapes.net>. A heading at the top of every page of the website
18 includes language offering "timeshare sales" and "timeshare rentals". Instead of merely
19 providing a space for individual sellers to advertise real estate, the website states:

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21 "When you choose Escape to Paradise to rent or sell your timeshare, we will offer
22 you all of the most aggressive strategies in marketing your timeshare, such as: A
23 beautiful office located in the mega-tourist town of world famous Newport Beach,
24 California; A posting on this luxurious website with beautiful pictures of your
timeshare resort; Weekly ads in local and national Penny Savers and Thrifty
Nickels."

25 The website further claims that ESCAPE does "an overwhelming amount
26 of advertising for your timeshares in such places as local, national, and international
27

1 newspapers, Penny Savers, and Thrifty Nickels and delivers a state-of-the-art website
2 with high visibility on the world wide web”.

3 5. In January 2008, Lawrence S. was solicited over the telephone by
4 NEWMAN, who persistently claimed ESCAPE could sell Lawrence S’s timeshare within
5 90 days. Based on the representations of NEWMAN, Lawrence S. paid an advance fee of
6 \$299 to ESCAPE on January 19, 2008. Neither ESCAPE nor NEWMAN ever
7 communicated with Lawrence S. after receiving the advance fee, despite repeated phone
8 calls from Lawrence S. to ESCAPE.
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10 6. In October 2008, Kathrina G. was solicited over the telephone by
11 NEWMAN, who guaranteed ESCAPE could sell her timeshare within 2 to 3 months. In
12 Response to NEWMAN’s promises, Kathrina G. paid a \$399 advance fee to ESCAPE.
13 On October 2, 2008, Kathrina G. received a letter signed by STEWART acknowledging
14 receipt of her \$399 fee by ESCAPE. Kathrina G. received no further response from
15 ESCAPE, despite numerous calls requesting reimbursement of her advance fee.
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17 CONCLUSIONS OF LAW

18 7. Based on the findings of fact contained in paragraphs 1 through 6,
19 ESCAPE, 5 STAR, HOFFERBERT, NEWMAN and STEWART acting by themselves, or by
20 and/or through one or more agents, associates, affiliates, and/or co-conspirators, solicited
21 prospective sellers or purchasers and solicited or obtained listings of real property, which acts
22 require a real estate broker license under Section 10131(a) of the Code, during a period of time
23 when ESCAPE, 5 STAR, HOFFERBERT, NEWMAN and STEWART were not licensed by
24 the Department as real estate brokers, in violation of Section 10130 of the Code.
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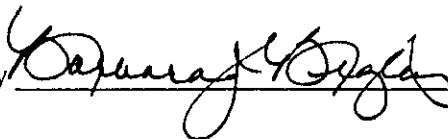
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1 DESIST AND REFRAIN ORDER

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3 Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated
4 herein, it is hereby ordered that ESCAPE TO PARADISE INC, 5 STAR RESORT
5 MARKETING INC, JOHN ERIC HOFFERBERT, SEBASTIAN NEWMAN and DAVID
6 STEWART, whether doing business under their own names, or any other name, ARE HEREBY
7 ORDERED to immediately desist and refrain from performing any acts within the State of
8 California for which a real estate broker license is required, unless or until they are properly
9 licensed by the Department.
10

11 DATED: 10/19/2010

12 JEFF DAVI
13 Real Estate Commissioner

14 By: 
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18 **Notice:** Business and Professions Code Section 10139 provides that "Any person acting as a
19 real estate broker or real estate salesperson without a license or who advertises using words
20 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
21 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
22 imprisonment in the county jail for a term not to exceed six months, or by both fine and
23 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
24 (\$60,000)."

22 cc: ESCAPE TO PARADISE INC
23 5 STAR RESORT MARKETING INC
24 JOHN HOFFERBERT
25 SEBASTIN NEWMAN
26 DAVID STEWART

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27 Newport Beach, CA 92660