

FILED

SEP 09 2015

BUREAU OF REAL ESTATE

By

*John C. [Signature]*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-39199 LA
	)	
OPEN MARKET REALTY CORP; and	)	
	)	
CRAIG MARTIN SHULTS, individually and as	)	
designated officer of Open Market Realty Corp.,	)	
	)	
Respondents.	)	

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 23, 2015; and the findings of fact set forth herein are based on one or more of the following: (1) Respondents OPEN MARKET REALTY CORP's and CRAIG MARTIN SHULTS's express admissions; (2) affidavits; (3) Bureau Audit Report LA110286; and (4) other evidence.

FACTUAL FINDINGS

1.

On December 3, 2013, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail on December 13, 2013 and by regular mail on December 26, 2013, to OPEN MARKET REALTY CORP., and CRAIG

MARTIN SHULTS's last known mailing address on file with the Bureau of Real Estate ("Bureau").

2.

On July 23, 2015, no Notice of Defense having been filed by Respondents within the time prescribed by Section 11506 of the Government Code, Respondents' default was entered herein.

#### LICENSE STATUS

3.

From February 25, 2010, Respondent OMRC has been licensed as a real estate corporation. At all times relevant herein, OMRC was acting by and through Respondent SHULTS as its designated broker-officer from February 25, 2010, pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. On October 19, 2012, OMRC became non Broker Affiliated due to the California Financial Code Section 17250 suspension of Respondent SHULTS.

4.

At all times mentioned, CRAIG MARTIN SHULTS ("SHULTS"), was licensed or had license rights issued by the Bureau as a real estate broker. On June 7, 2000, Respondent SHULTS was originally licensed as a real estate salesperson. On August 21, 2001, SHULTS was originally licensed as a real estate broker. On October 19, 2012, SHULT's broker license was suspended for violation of California Financial Code Section 17250. On August 20, 2013, SHULTS's broker license expired with renewal rights.

OMRC is owned by SHULTS, its Chief Executive Officer.

#### AUDIT OF OPEN MARKET REALTY CORP.

5.

At all times mentioned, in the City of Costa Mesa, County of Orange, Respondents OMRC and SHULTS acted as real estate brokers and conducted licensed activities within the meaning of Code Section 10131(a). Respondents engaged in the business of a residential estate brokerage and acted in the capacity of, advertised or assumed to act as real estate brokers, including the solicitation and negotiation of the sale of real property as the agent of others.

6.

On May 1, 2012, the Bureau completed an audit examination of the books and records of Respondent OMRC pertaining to the residential resale activities described in Paragraph 5, which require a real estate license. The audit examination covered a period of time beginning on August 4, 2009 and ending on February 29, 2012. The audit examination revealed violations of the Code and Title 10, Chapter 6, California Code of Regulations ("Regulation") as set forth in

the following paragraphs, and more fully discussed in Audit Report LA 110286 and the exhibits and work papers attached.

### TRUST ACCOUNT

7.

OMRC did not maintain a trust account during the audit period.

### VIOLATIONS OF REAL ESTATE LAW

8.

In the course of activities described in Paragraph 5, above, and during the examination period described in Paragraph 6, Respondents OMRC and SHULTS acted in violation of the Code and the Regulations in which Respondents:

- (a) Failed to timely notify the Bureau timely regarding the change of their principal place of business, in violation of Code Section 10162 and Regulation 2715;
- (b) Failed to disclose OMRC's real estate license identification number on the solicitation materials used in its real estate sales activity for first point of contact with consumers, to wit, under "http://www.openmarketrealty.com," the unlicensed fictitious business name/website "Open Market Realty" in violation of Code Section 10140.6(b) and Regulation 2773; and
- (c) Used the fictitious name/website of "http://www.openmarketrealty.com," to conduct licensed activity, without first obtaining from the Bureau a license bearing said fictitious business name, in violation of Code Section 10159.5 and Regulation 2731.

### NEGLIGENCE

9.

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

### FIDUCIARY DUTY

10.

The conduct, acts and omissions of Respondents OMRC and SHULTS constitute a breach of fiduciary duty, owed to OMRC's clients and trust fund beneficiaries of good faith, trust, confidence and candor, within the scope of their brokerage relationship, in violation of

Code Section 10177(g) and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of said Code Section.

### SUPERVISION AND COMPLIANCE

11.

The overall conduct of Respondent SHULTS constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of OMRC as required by and in violation of Code Section 10159.2 and Regulation 2725, and to keep OMRC in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondents pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

### DETERMINATION OF ISSUES

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of OPEN MARKET REALTY CORP., and CRAIG MARTIN SHULTS, individually and as designated officer of Open Market Realty Corp. under the provisions of Code Sections 10165, 10177(d), 10177(g) and 10177(h)

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

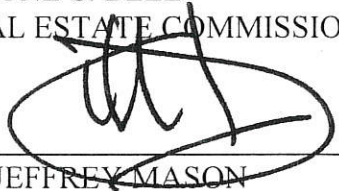
### ORDER

The real estate license and license rights of Respondents OPEN MARKET REALTY CORP; and CRAIG MARTIN SHULTS, individually and as designated officer of Open Market Realty Corp. under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on SEP 29 2015.

DATED: August 28, 2015

WAYNE S. BELL  
REAL ESTATE COMMISSIONER

By:   
JEFFREY MASON  
Chief Deputy Commissioner

1 Bureau of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105

4 (213) 576-6982

**FILED**

JUL 23 2015

BUREAU OF REAL ESTATE

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11 OPEN MARKET REALTY CORP; and

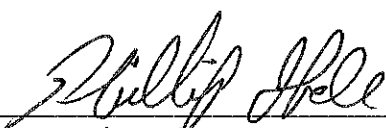
12  
13 CRAIG MARTIN SHULTS, individually and as  
14 designated officer of Open Market Realty Corp.,

15 Respondents.

16  
17 DEFAULT ORDER

18 Respondents OPEN MARKET REALTY CORP; and CRAIG MARTIN  
19 SHULTS, individually and as designated officer of Open Market Realty Corp., having failed to  
20 file a Notice of Defense within the time required by Section 11506 of the Government Code, are  
21 now in default. It is, therefore, ordered that a default be entered on the record in this matter.

22  
23 IT IS SO ORDERED JULY 23, 2015  
24 Real Estate Commissioner

25  
26 By:   
27 Regional Manager