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**FILED**

**MAR 27 2018**

**BUREAU OF REAL ESTATE**

By 

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7  
8 BEFORE THE BUREAU OF REAL ESTATE  
9 DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

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11 In the Matter of the Accusation against

CalBRE No. H-40988 LA

12 SUNBELT FINANCIAL CORPORATION, dba  
13 Hub Real Estate Co. and Sunbelt Property  
Management, and  
14 CHERYL EVON GREEN, individually and as  
former designated officer for Sunbelt Financial  
15 Corporation,

ACCUSATION

16 Respondents.

17 The Complainant, Chika Sunquist, a Supervising Special Investigator for the Bureau of  
18 Real Estate ("Bureau") of the State of California, for cause of Accusation against SUNBELT  
19 FINANCIAL CORPORATION, also doing business as Hub Real Estate Co. and Sunbelt  
20 Property Management, and CHERYL EVON GREEN, individually and as former designated  
21 officer of Sunbelt Financial Corporation (collectively "Respondents"), alleges as follows:

22 1.

23 The Complainant, Chika Sunquist, acting in her official capacity as a Supervising Special  
24 Investigator, makes this Accusation against Respondents.

2.

All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, California Code of Regulations Title 10, Chapter 6.

3.

Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Code).

4.

From on or about January 11, 1978 through the present, Respondent SUNBELT FINANCIAL CORPORATION ("SFC") has been licensed by the Bureau as a real estate corporation, License ID 00654538. SFC is licensed to do business as Hub Real Estate Co. and Sunbelt Property Management. Unless renewed, Respondent SFC's license shall expire on December 8, 2019. Respondent SFC has renewal rights pursuant to Code section 10201. The Bureau retains jurisdiction pursuant to Code section 10103.

5.

From on or about January 23, 1998 through the present, Respondent CHERYL EVON GREEN ("GREEN") has been licensed by the Bureau as a real estate broker, License ID 01232636. Respondent GREEN's license expired on January 22, 2018. Respondent GREEN has renewal rights pursuant to Code section 10201. The Bureau retains jurisdiction pursuant to Code section 10103.

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1 6.

2 From on or about December 21, 2011 through January 8, 2018, Respondent SFC was  
3 licensed as a real estate corporation, acting by and through Respondent GREEN as its designated  
4 broker-officer. As the broker-officer designated by Respondent SFC pursuant to Section 10211  
5 of the Code, GREEN was responsible for the supervision and control of the activities conducted  
6 on behalf of Respondent SFC, by its officers and employees, as necessary to secure full  
7 compliance with Real Estate Law as set forth in Code section 10159.2 and Regulation 2725.

8 7.

9 Respondent SFC's current real estate license status is in a non-working status, "NBA."  
10 SFC has no current main office address listed with the Bureau and SFC may not perform acts for  
11 which a real estate license is required in California.

12 8.

13 Respondent SFC was a California corporation, California Secretary of State File No.  
14 C0846723. SFC's officers and directors included Respondent GREEN, Michael J. O'Leary aka  
15 Michael James O'Leary (expired broker License ID 00922851), and Claude D. Jones  
16 (unlicensed). On or about December 21, 2017, a Certificate of Dissolution of SFC was filed with  
17 the California Secretary of State.

18 FIRST CAUSE OF ACCUSATION

19 Dissolved Corporate Status

20 9.

21 SFC's dissolved corporate status as described above in Paragraph 8 constitutes cause for  
22 the suspension or revocation of the real estate licenses and license rights of Respondent SFC  
23 under the provisions of Regulation 2742(c) and Code sections 10177(d) and/or 10177(g).

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1 SECOND CAUSE OF ACCUSATION

2 Audit SD 150001

3 10.

4 There is hereby incorporated in this Second, separate, Cause of Accusation, all of the  
5 allegations contained in Paragraphs 1 through 9 above, with the same force and effect as if herein  
6 fully set forth.

7 11.

8 On or about June 22, 2016, the Bureau completed an audit examination of the books and  
9 records of Respondent SFC's mortgage loan activities including mortgage loan servicing. The  
10 audit examination covered a period of time from April 1, 2015 through March 31, 2016 ("audit  
11 period"). The audit examination revealed violations of the Code and the Regulations as set forth  
12 in the following paragraphs, and more fully discussed in Audit Report SD 150001 and the  
13 exhibits and work papers attached to said audit report.

14 12.

15 According to Respondent GREEN and/or the audit work papers examined, during the  
16 audit period, Respondent SFC collected approximately \$684,000 in trust funds in 2015. During  
17 the audit period, SFC serviced five loans for lender IAF<sup>1</sup>, which consisted of 42 investors. Two  
18 of the loans were paid off in 2015 (approximately \$148,000 in February of 2015 and  
19 approximately \$410,000 in June of 2015). The following three loans remained as of April 15,  
20 2016:

<u>Loan</u>	<u>Loan Amount</u>	<u>Maturity Date</u>
Loan #1	\$185,000	January 2020
Loan #2	\$160,000	November 2016
Loan #3	\$663,000	Paid off \$623,000 on 3/16/2016

24 <sup>1</sup> Initials are used in place of persons' full names to protect their privacy. Documents containing the persons' full names will be provided during the discovery phase of this case to Respondents and/or their attorneys, after service of a timely and proper request for discovery on Complainant's counsel.

13.

Based on an examination of SFC's bank account records and statements from Respondent GREEN, SFC collected trust funds that were payable to IAF from the borrowers and deposited the funds into two bank accounts (BA1 No. XXXX851 and BA2 No. XXXXX779) which were in the name of IAF. Respondent GREEN and Michael James O'Leary ("O'Leary") were the signatories on the two bank accounts.

Audit SD 150001 Violations

14.

In the course of SFC's activities during the audit examination period described above in Paragraph 11, Respondent SFC acted in violation of the Code and the Regulations as follows:

14(A). Code section 10232.2(a). Filing Fiscal Year Reports - Accounting Criteria - Trust Account Review Report

As of August 31, 2015, SFC's annual Trust Account Review ("TAR") report for the fiscal year ending in 2014 was delinquent (due on May 31, 2015), in violation of Code section 10232.2(a). On or about October 20, 2015, SFC submitted a Trust Fund Non-Accountability Report to the Bureau.

14(B). Code section 10232.2(c). Filing Fiscal Year Reports - Accounting Criteria - Business Activity Report

As of August 31, 2015, SFC's annual Business Activity Reports ("BAR") for the fiscal years ending in 2013 and 2014 were both delinquent (due on March 31, 2014 and March 31, 2015, respectively). The reports were received by the Bureau on October 8, 2015 and October 17, 2015, respectively. As of April 15, 2016, SFC's BAR for the fiscal year ending in 2015 was delinquent (due on March 31, 2016). The Bureau received the report on April 15, 2016. Said acts are in violation of Code section 10232.2(c).

1           14(C). Code section 10232.25(a). Trust Fund Status Reports

2           SFC failed to submit timely quarterly Trust Fund Status Reports as required. Instead,  
3 SFC submitted Trust Fund Non-Accountability Reports.

4           As of August 31, 2015, SFC's quarterly reports for the first quarter of 2012 (due by  
5 April 30, 2012), first quarter of 2015 (due April 30, 2015), and second quarter of 2015 (due July  
6 31, 2015) were delinquent. On September 9, 2015, the Bureau received Trust Fund Non-  
7 Accountability Reports submitted by SFC for the first quarter of 2012, first quarter of 2015, and  
8 second quarter of 2015.

9           As of March 2, 2016, SFC's report for the third quarter of 2015 was delinquent. On  
10 March 25, 2016, the Bureau received a Trust Fund Non-Accountability Report submitted by SFC  
11 for the third quarter of 2015.

12           Said acts are in violation of Code section 10232.25(a).

13           14(D). Code section 10145 and Regulation 2832. Trust Account Designation – Trust  
14 Account Handling

15           SFC's bank accounts (BA1 and BA2) in which trust funds were deposited, were not  
16 properly designated as trust accounts, nor in the name of SFC as trustee, in violation of Code  
17 section 10145 and Regulation 2832. According to account records reviewed, deposits were not  
18 always made within three business days.

19           14(E). Code section 10145 and Regulation 2831. Trust fund records to be maintained.

20           SFC provided an accounting record for BA1; however, the transactions were not in  
21 chronological sequence and did not provide daily balances. The deposits posted on SFC's  
22 accounting record did not always match the amount on the bank statements. Based on a review  
23 of the accounting records provided, deposits were not always made within three business days,  
24 but could not be verified. There was no account record for all trust funds received and disbursed

1 for BA2 provided during the audit examination. Said acts are in violation of Code section 10145  
2 and Regulation 2831.

3 15.

4 The conduct of Respondent SFC as described above in Paragraphs 14(A) through 14(E),  
5 violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14(A)	Code section 10232.2(a)
14(B)	Code section 10232.2(c)
14(C)	Code section 10232.25(a)
14(D)	Code section 10145 and Regulation 2832
14(E)	Code section 10145 and Regulation 2831.

12 16.

13 The acts, conduct and/or omissions of SFC as described above in Paragraphs 14(A)  
14 through 14(E) constitute cause for the suspension or revocation of the real estate licenses and  
15 license rights of Respondent SFC under the provisions of Code sections 10177(d) and/or  
16 10177(g).

17 THIRD CAUSE OF ACCUSATION

18 Audit SD 170005

19 17.

20 There is hereby incorporated in this Third, separate, Cause of Accusation, all of the  
21 allegations contained in Paragraphs 1 through 16 above, with the same force and effect as if  
22 herein fully set forth.

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18.

On or about February 28, 2018, the Bureau completed an audit examination of the books and records of Respondent SFC's real estate activities, specifically, to determine whether SFC handled and accounted for trust funds in accordance with the Code and Regulations and with respect to SFC's annual TAR reports. The audit examination covered a period of time from January 1, 2016 through December 31, 2017 ("audit period"). 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 SD 170005 and the exhibits and work papers attached to said audit report.

19.

According to Respondent GREEN and/or the audit work papers examined, SFC's corporate structure as of April of 2016 was the following: Respondent GREEN was a Director, President, and 33.33% shareholder for SFC; O'Leary was a Director, Secretary, and 33.33% shareholder for SFC; and Allan Koljonen (unlicensed) was a 33.33% shareholder for SFC.

20.

According to Respondent GREEN, Respondent SFC ceased loan servicing activities. The last loan serviced was paid off in November of 2016. Based on an examination of the bank statements of two trust fund bank accounts held by SFC (BA1 and BA2), as of December 31, 2016, BA1 had a bank balance of \$173,671.28 and BA2 had a bank balance of \$78,655.25. A bank reconciliation was not prepared and accountability was not determined for BA1 and BA2 due to the lack of records provided for the audit examination.

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Audit SD 170005 Violations

21.

In the course of SFC's activities during the audit examination period described above in Paragraph 18, Respondent SFC acted in violation of the Code and the Regulations as follows:

21(A). Code section 10232.2(a) and Regulation 2846.5. Filing Fiscal Year Reports - Accounting Criteria - Trust Account Review Report

As of February 28, 2018, SFC was delinquent in submitting an annual Trust Account Review ("TAR ") for the fiscal year ending in December of 2016 (the report was due on May 31, 2017), in violation of Code section 10232.2(a) and Regulation 2846.5.

21(B). Code section 10148. Retention of records/Failure to provide records

Respondents failed to retain or provide trust funds records, books, and documents requested for the Bureau's audit examination, in violation of Code section 10148.

22.

The conduct of Respondent SFC as described above in Paragraphs 21(A) and 21(B), violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
21(A)	Code section 10232.2(a) and Regulation 2846.5
21(B)	Code section 10148

23.

The acts, conduct and/or omissions of SFC as described above in Paragraphs 21(A) and 21(B) constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent SFC under the provisions of Code sections 10177(d) and/or 10177(g).

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1 FOURTH CAUSE OF ACCUSATION

2 Respondent GREEN - Broker Supervision

3 24.

4 There is hereby incorporated in this Fourth, separate, Cause of Accusation, all of the  
5 allegations contained in Paragraphs 1 through 23 above, with the same force and effect as if  
6 herein fully set forth.

7 25.

8 The conduct, acts and/or omissions of Respondent GREEN constitutes a failure to  
9 exercise the supervision and control over the activities of SFC to ensure compliance with the  
10 Real Estate Law and Regulations, as is required by Code section 10159.2 and Regulation 2725.  
11 Said conduct, acts, or omissions constitute cause to suspend or revoke the real estate license and  
12 license rights of Respondent GREEN pursuant to Code sections 10177(h), 10177(d) and/or  
13 10177(g).

14 Audit Costs

15 26.

16 Code section 10148(b) provides, in pertinent part, that the Commissioner shall charge a  
17 real estate broker for the cost of any audit, if the Commissioner has found in a final decision  
18 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation  
19 or rule of the Commissioner interpreting said section.

20 Investigation/Enforcement Costs


21 27.

22 Code section 10106 provides, in pertinent part, that in any order issued in resolution of a  
23 disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the  
24

1 administrative law judge to direct a licensee found to have committed a violation of this part to  
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this  
4 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
5 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of  
6 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and  
7 enforcement as permitted by law, and for such other and further relief as may be proper under  
8 other provisions of law.

9 Dated at Sacramento, California this 27<sup>th</sup> day of March, 2018.

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12   
CHIKA SUNQUIST  
Supervising Special Investigator

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17  
18 cc: Sunbelt Financial Corporation  
19 Cheryl Evon Green  
20 Chika Sunquist  
21 Sacto  
22 Audits/Jennifer Borromeo  
23  
24