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FILED
AUG 21 2020
DEPT. OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-41520 LA
)	
SECURE HERITAGE REALTY INC;)	<u>FIRST AMENDED</u>
SECURE HERITAGE LENDING INC,)	<u>ACCUSATION</u>
and CHARLES ROBERT OLSEN, individually)	
and as designated officer of Secure)	
Heritage Realty Inc and Secure)	
Heritage Lending, Inc,)	
)	
Respondents.)	

This First Amended Accusation amends the Accusation field on or about October 10, 2019. The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against SECURE HERITAGE REALTY INC, SECURE HERITAGE LENDING INC, and CHARLES ROBERT OLSEN (collectively "Respondents") alleges as follows:

1.

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, makes this First Amended Accusation in her official capacity.

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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

(SECURE HERITAGE REALTY INC)

3.

(a) Respondent SECURE HERITAGE REALTY INC ("SHRI") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real estate corporation, Department of Real Estate¹ ("Department") license ID 01839514.

(b) The Department originally issued SHRI's corporate license on January 24, 2008. SHRI's license originally expired on May 13, 2020, but is extended to December 31, 2020 pursuant to Executive Order No. N-71-20.

(c) According to the Department's records to date, SHRI's main office address is 2440 N. Glassell Street, Ste H, Orange, CA 92865.

(d) According to the Department's records to date, SHRI does not employ any salesperson under its real estate license.

(e) According to the Department's records to date, SHRI maintains authorized fictitious business names of "Premier Real Estate Solutions", "Professional Property Servicing", "S C Closings", "Villa Park Real Estate", and "Villa Park Realty".

(SECURE HERITAGE LENDING INC)

4.

(a) Respondent SECURE HERITAGE LENDING INC ("SHLI") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the

¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

1 California Business and Professions Code, as a real estate corporation, Department license ID
2 01835628.

3 (b) The Department originally issued SHLI's corporate license on November 30,
4 2007. SHLI's license originally expired on April 22, 2020, but is extended to December 31,
5 2020 pursuant to Executive Order No. N-71-20.

6 (c) According to the Department's records to date, SHLI's main office address is
7 2440 N. Glassell Street, Ste H, Orange, CA 92865.

8 (d) According to the Department's records to date, SHLI does not employ any
9 salesperson under its real estate license.

10 (e) According to the Department's records to date, SHRI maintains no
11 authorized fictitious business names.

12 (f) According to the Department's records to date, SHRI was issued an
13 endorsement for mortgage loan origination on April 28, 2011. The endorsement expired on
14 January 1, 2017.

15 (CHARLES ROBERT OLSEN)

16 5.

17 (a) Respondent CHARLES ROBERT OLSEN ("OLSEN") is presently licensed
18 under the Code, as a real estate broker, Department license ID 01243090.

19 (b) The Department originally issued OLSEN broker license on September 24,
20 2007. OLSEN's license is scheduled to expire on September 23, 2023, unless renewed.

21 (c) OLSEN is the designated officer for SHRI and SHLI. His designation is
22 scheduled to expire on May 13, 2020 for SHRI and April 22, 2020 for SHLI, but was extended
23 to December 31, 2020 pursuant to Executive Order No. N-71-20. As designated officer,
24 OLSEN is responsible for the supervision of the activities conducted on behalf of SHRI and
25 SHLI by its officers, agents, real estate licensees, and employees pursuant to Section 10159.2 of
26 the Code.

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6.

At all times relevant herein Respondents were engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate corporation, within the meaning of Section 10131(a) of the Code. Respondents' activities included purchase and sale of real property on behalf of others for compensation or in expectation of compensation. In addition, Respondents conducted broker-controlled escrows through SHLI under the exemption set forth in California Financial Code section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

(AUDITS LA170196 (SALES) and LA180029 (BROKER ESCROW))

7.

On or about December 31, 2018, the Department completed an audit examination of the books and records of SHRI pertaining to the real estate activities described in Paragraph 6 above. The audit examination covered the period of time from January 1, 2016, through July 31, 2018 ("audit period"). The primary purpose of the examination was to determine whether Respondents conducted real estate activities in accordance with the Real Estate Law. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audits No. LA170196, LA180029, and the exhibits and work papers attached to said audit report.

8.

At all times mentioned herein, and in connection with the broker escrow activities described in Paragraph 6, above, SHRI accepted or received funds, including funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions handled by Respondents and thereafter made deposits and/or disbursements of such funds. According to OLSEN, SHRI maintained 1 bank account for handling of the receipts and disbursements of funds during the audit period in connection with the broker escrow activities. The bank account is as follows:

1 Trust Account 1 ("TA 1")

2 **Bank:** Banc of California
3 **Account Name:** Secure Heritage Realty, Inc Escrow division Trust Account
4 **Account Number:** xxxxxxxx2477
5 **Signatories:** Charles Robert Olsen, Naser Nesheiwai
6 **Signatures Required:** One
7 **Purpose:** TA 1 was maintained to handle trust funds in the escrow broker activity
8 for multiple beneficiaries.

9 Violations of the Real Estate Law

10 9.

11 The audit examination revealed violations of the Code and the Regulations, as
12 set forth in the following paragraphs, and more fully discussed in Audit Reports Nos.
13 LA170196, LA180029, and the exhibits and work papers attached to the audit report:

14 (a) Trust Fund Handling For Multiple Beneficiaries (Code section 10145
15 and Regulations section 2832.1.

16 Based on an examination of TA 1's records, there was a combined minimum
17 trust fund shortage of \$12,665.24 as of July 31, 2018 in violation of Code section 10145 and
18 Regulations section 2832.1. There is no evidence that Respondents were given written consent
19 from the owners of the trust funds to allow Respondents to reduce the balance of the funds in
20 TA 1 to an amount less than the aggregate trust fund liabilities of SHRI to all owners of the
21 trust funds.

22 (b) Trust Account Record to be Maintained/When Broker Handles Escrow
23 (Code section 10145 and Regulations sections 2831, 2950(d), 2951). Respondent SHRI failed
24 to maintain complete and accurate control record for TA 1, which was used for trust fund
25 receipts and disbursements in connection with SHRI's broker escrow activities during the audit
26 period in violation of Code section 10145 and Regulations sections 2831, 2950(d), and 2951.
27 The control records maintained had incorrect dates, incorrect amount of trust fund received, as

1 well as missing records of deposits, checks, withdrawals, and bank adjustments. Respondent
2 OLSEN failed to provide any control records for SHRI's real estate activities or broker escrow
3 activities this audit.

4 **(c) Separate Records for Each Beneficiary/When Broker Handles Escrow**
5 **(Code section 10145 and Regulations sections 2831.1, 2950(d), 2951).** Respondent SHRI
6 failed to maintain complete and accurate separate records for each beneficiary or transaction of
7 all trust fund receipts and disbursements for TA 1 in connection with SHRI's broker escrow
8 activities during the audit period in violation of Code section 10145 and Regulations section
9 2831.1, 2950(d), and 2951. Respondent OLSEN failed to provide any control records for
10 SHRI's real estate activities or broker escrow activities this audit.

11 **(d) Trust Account Reconciliation/When Broker Handles Escrow (Code**
12 **section 10145 and Regulations sections 2831.2, 2950(d), and 2951).** Respondent SHRI did
13 not maintain a complete and accurate monthly reconciliation of the balance of all separate
14 beneficiary and/or transaction records to the balance of the records of all trust funds received
15 and disbursed for TA 1 in violation of Code section 10145 and Regulations sections 2831.2,
16 2950(d), and 2951.

17 **(e) Trust Account Withdrawal/ When Broker Handles Escrow (Code**
18 **section 10145 and Regulations section 2834/2951).** Respondent SHRI's bank signature card
19 still contained the signatory Naser Nesheiwai (former designated officer of SHRI), despite
20 Nesheiwai not having been designated officer of SHRI since 2012.

21 **(f) Trust Fund Handling/Unauthorized Disbursements/Conversion of Funds**
22 **(Code section 10145 and Regulations sections 2832.1, 2950(g) and 2951).** Based on an
23 examination of TA 1's records, OLSEN collected and deposited broker escrow and property
24 management trust funds into TA 1 and made unauthorized disbursements/converted trust funds.

25 **(g) Failure to Disclose Interest in the Agency Holding the Escrow**
26 **(Regulations 2950(h)).** Respondents SHRI and OLSEN did not disclose in writing to all parties
27 of their financial interest in the Agency holding the escrow.

1 **(h) Failure to Notify the Department of Escrow Activities (Code section**
2 **10141.6)**. SHRI engaged in escrow activities for five or more transactions and/or closed an
3 equivalent of one million dollars in a calendar year without filing a report with the Department
4 within 60 days after the end of 2016 and 2017 as required by Code Section 10141.6.

5 **(i) Corporation Not in Good Standing (Regulation section 2742)**. During the
6 audit period, Respondent SHRI engaged in real estate activities while not in good standing with
7 the California Office of Secretary of State.

8 **(j) Use of False or Fictitious Name (Code section 10159.5 and Regulations**
9 **section 2731)**. During the audit period, Respondent SHRI used the unlicensed fictitious
10 business name of "SC Closings Escrow Division" and "So Cal Closings". These names do not
11 show up in the Department's records as a listed dba.

12 **(k) Retention of Records/When Broker Handles Escrow (Code section**
13 **10148 and Regulations section 2950(e)**. The Department served a subpoena duces tecum to
14 Respondent OLSEN on September 14, 2018. The subpoena served on Respondent OLSEN
15 requested Respondent SHRI produce records on September 28, 2018 that are related to its real
16 estate activities during the audit period. Not all responsive documents were produced by
17 Respondent OLSEN on that date. Respondent OLSEN failed to maintain and/or make available
18 all books, accounts, and records related to its real estate activities for the DRE auditor's
19 examination, inspection, and copying in violation of Code section 10148 and Regulation
20 section 2950(e). Respondent OLSEN failed to make available the following records: (1)
21 corporation documents for SHRI and (2) accounting records, control records, separate records,
22 and reconciliation records, despite being requested to by the Department.

23 **(l) Responsibility of Corporate Office in Charge/Broker Supervision (Code**
24 **sections 10159.2 and 10177(h) and Regulations section 2725)**. Based on the violations in
25 Paragraphs 9 (a)-(k) above, Respondent OLSEN failed to exercise adequate supervision and
26 control over Respondent SHRI's broker escrow activities in violation of Code sections 10159.2
27 and 10177(h). Respondent OLSEN failed to provide established policies, rules, procedures, and

1 systems to review, oversee, inspect, and manage transactions requiring a real estate license and
2 the handling of trust funds in violation of Regulations section 2725.

3 10.

4 Each of the foregoing violations in Paragraphs 9 (a)-(l) above constitute cause
5 for the suspension or revocation of the real estate license and/or license rights of Respondents
6 under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to OLSEN).

7 (AUDIT LA170197 (LENDING ACTIVITIES))

8 11.

9 At all times relevant herein Respondents were also engaged in the business of,
10 acted in the capacity of, advertised or assumed to act as a real estate broker within the meaning
11 of Section 10131(d) of the Code, including the solicitation of borrowers or lenders for and/or
12 negotiating loans, collecting payments and/or performing services for borrowers or lenders in
13 connection with loans secured by liens on real property or on a business opportunity.

14 12.

15 On or about November 30, 2018, the Department completed an audit
16 examination of the books and records of SHRI pertaining to the real estate activities described
17 in Paragraph 11 above. The audit examination covered the period of time from January 1, 2016,
18 through July 31, 2018. The primary purpose of the examination was to determine whether
19 Respondents conducted mortgage loan activities in accordance with the Real Estate Law. The
20 audit examination revealed violations of the Code and the Regulations as set forth in the
21 following paragraphs, and more fully discussed in Audit No. LA170197 and the exhibits and
22 work papers attached to said audit report.

23 Violations of the Real Estate Law

24 13.

25 The audit examination revealed violations of the Code and the Regulations, as
26 set forth in the following paragraphs, and more fully discussed in Audit Report Nos. LA170197
27 and the exhibits and work papers attached to the audit report:

1 (a) **Corporation Not in Good Standing (Regulation section 2742)**. During the
2 audit period, Respondent SHLI engaged in real estate activities while not in good standing with
3 the California Office of Secretary of State.

4 (b) **Mortgage Loan Business Activity Reports (Code section 10166.07(a))**. In,
5 2016, Respondent SHLI acted as a mortgage loan originator and arranged loans secured by real
6 property containing one to four residential units for compensation. From January 1, 2016 to
7 December 31, 2016, Respondent SHLI closed eight (8) loans, valued for approximately \$3.3
8 million, and did not file a business activity report with the Department within 90 days from the
9 fiscal year end, December 31, 2016.

10 (c) **Written Disclosure Statement (Code section 10240(a) & (c) and**
11 **Regulations section 2840)**. Respondent SHLI's loan files did not all contain approved
12 mortgage loan disclosure statements. Further, the loan estimates contained in the loan files did
13 not include a separate disclosure that included a statement that the loan estimate did not
14 constitute a loan commitment, in violation of Code section 10240(a) & (c).

15 (d) **Disclosure of License Number in Advertisement and License Number**
16 **and License Information, including telephone number in Disclosure Statements (Code**
17 **section 10236.4)**. Respondent SHLI did not include Department license information, including,
18 phone numbers on loan estimates. Further, there were no separate disclosures in Respondent
19 SHLI's loan transaction files as required by Code section 10240.

20 (e) **Fair Lending Notice (Health & Safety Code sections 35800 et. seq.)**.
21 Respondent SHLI failed to provide Fair Lending Notice to borrowers in some of the files
22 examined.

23 (f) **Retention of Records (Code section 10148 and Regulations section**
24 **2950(e)**. The Department served a subpoena duces tecum to Respondent OLSEN on September
25 14, 2018. The subpoena served on Respondent OLSEN requested Respondent SHLI produce
26 records on September 28, 2018 that are related to its mortgage loan activities during the audit
27 period. Not all responsive documents were produced by Respondent OLSEN on that date.

1 Respondent OLSEN failed to maintain and/or make available all books, accounts, and records
2 related to its real estate activities for the DRE auditor's examination, inspection, and copying in
3 violation of Code section 10148 and Regulation section 2950(e). Respondent OLSEN failed to
4 make available complete loan transaction files for SHLI, including, but not limited to, Final
5 Settlement Statement, Mortgage Loan Disclosure Statement, Closing Disclosure, Rate Lock
6 Confirmation, Fair Lending Notice, Credit Report Invoices, and SHLI and OLSEN's license
7 certificates.

8 **(g) Responsibility of Corporate Office in Charge/Broker Supervision (Code**
9 **sections 10159.2 and 10177(h) and Regulations section 2725).** Based on the violations in
10 Paragraphs 13 (a)-(f) above, Respondent OLSEN failed to exercise adequate supervision and
11 control over Respondent SHLI's lending activities in violation of Code sections 10159.2 and
12 10177(h). Respondent OLSEN failed to provide established policies, rules, procedures, and
13 systems to review, oversee, inspect, and manage transactions requiring a real estate license and
14 the handling of trust funds in violation of Regulations section 2725.

15 14.

16 Each of the foregoing violations in Paragraphs 13 (a)-(g) above constitute cause
17 for the suspension or revocation of the real estate license and/or license rights of Respondents
18 under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to OLSEN).

19 **Additional Violations of the Real Estate Law**

20 15.

21 From August 1, 2018 to the filing of this First Amended Accusation, the rights
22 and privileges of SHRI were and are currently suspended by the California Secretary of State
23 pursuant to the provisions of the California Revenue and Taxation Code. Said suspension is a
24 violation of Section 10177(f) of the Code in that it would have constituted grounds for the denial
25 of SHRI's corporate real estate broker license under Section 2742(c) of the Regulations.

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16.

From August 1, 2018 to the filing of this First Amended Accusation, the rights and privileges of SHLI were and are currently suspended by the California Secretary of State pursuant to the provisions of the California Revenue and Taxation Code. Said suspension is a violation of Section 10177(f) of the Code in that it would have constituted grounds for the denial of SHLI corporate real estate broker license under Section 2742(c) of the Regulations.

COSTS

(AUDIT COSTS)

17.

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

(INVESTIGATION AND ENFORCEMENT COSTS)

18.

Section 10106 of the Code, provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

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PRAYER

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this First Amended Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses and/or license rights of Respondents SECURE HERITAGE REALTY INC, SECURE HERITAGE LENDING INC, and CHARLES ROBERT OLSEN under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California this 20th day of August, 2020.


Maria Suarez
Supervising Special Investigator

cc: SECURE HERITAGE REALTY INC,
SECURE HERITAGE LENDING INC, and
CHARLES ROBERT OLSEN
Maria Suarez
Sacto.
Audits – Shirley Xie