

FILED

SEP 09 2015

BUREAU OF REAL ESTATE

By [Signature]

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Continuing Education)
Course Offerings of:)
)
NOBLE FIELDS SCHOOL OF)
REAL ESTATE LLC,)
)
Sponsor.)

Case No. H-6180 SAC
OAH No. 2014120381

DECISION

The Proposed Decision dated July 23, 2015, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

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

IT IS SO ORDERED 9/2/2015

REAL ESTATE COMMISSIONER

[Signature]
Wayne S. Bell

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Continuing Education
Course Offerings of:

NOBLE FIELDS SCHOOL OF REAL
ESTATE LLC,

Sponsor.

Case No. H-6180 SAC

OAH No. 2014120381

PROPOSED DECISION

This matter was heard before Administrative Law Judge Erin R. Koch-Goodman, Office of Administrative Hearings, State of California, on June 2, 2015, in Oakland, California.

Annette E. Ferrante, Real Estate Counsel, represented Wayne S. Bell, Real Estate Commissioner (complainant).

Marglyn E. Paseka, Attorney at Law, Slote Links & Boreman, LLP, represented Noble Fields School of Real Estate LLC (respondent).

Testimonial and documentary evidence was received on June 2, 2015. By mutual agreement, the record remained open for the submission of further evidence and argumentation regarding Exhibit 15 - prior discipline (H-7304 SF & H-7305). On June 10, 2015, complainant submitted further evidence, a Stipulation and Agreement in Settlement and Order as to Notice of Withdrawal, in Case No. H-7305 SF. The newly submitted documents were marked as Exhibit 15(a). Complainant asks that the newly located evidence be added to Exhibit 15 and admitted. On June 22, 2015, respondent replied, indicating that Case Nos. H-7304 SF and H-7305 were both resolved in early 1996 through stipulations, with no admissions of misconduct. Respondent argues that the prior disciplinary actions are 20 years old, highly prejudicial, and should be afforded little weight or be excluded from consideration altogether. On June 29, 2015, complainant responded, arguing that the prior discipline shows a pattern of behavior by respondent, and are instructive as to whether respondent can uphold the complainant's rules and regulations. Respondent's objections are noted, but overruled. Exhibit 15(a) is admitted. As such, on June 29, 2015, the record was closed and the matter was submitted for decision.

FACTUAL FINDINGS

1. On October 31, 2014, complainant filed a Notice of Withdrawal of Continuing Education Course Offerings Approval, No. H-06180 SAC, against respondent, Sponsor No. 0722. Respondent is owned and/or controlled by Noble Lee Fields, a licensed real estate broker, License No. 00519204.

2. The Bureau of Real Estate (Bureau) issued respondent approval for, or is currently reviewing a pending application for approval, for the following continuing education courses: Course No. 1093, Probate for Property Managers, Pending; Course No. 1092, Ethics, effective November 25, 2013, and expiring November 24, 2015; Course No. 1091, Residential Real Property, effective October 1, 2013, and expiring September 30, 2015; Course No. 1090, Trust Funds, effective June 28, 2013, and expired June 27, 2015; and Course No. 1089, Agency, effective August 9, 2013, and expiring August 8, 2015; Course No. 1088, Risk Management, effective May 23, 2013, and expired May 22, 2015; Course No. 1087, Fair Housing, effective April 7, 2013, and expired April 6, 2015; Course No. 1086, Probate for Property Managers, effective August 10, 2012, and expired August 9, 2014; Course No. 1085, Ethics, effective November 25, 2011, and expired November 24, 2013; Course No. 1084, Residential Real Property, effective October 1, 2011, and expired September 30, 2013; Course No. 1083, Agency, effective August 9, 2011, and expired August 8, 2013; Course No. 1082, Trust Funds, effective June 28, 2011, and expired June 27, 2013; Course No. 1081, Risk Management, effective May 23, 2011, and expired May 22, 2013; Course No. 1080, Fair Housing, effective April 7, 2011, and expired April 6, 2013; Course No. 1079, Ethics, effective November 25, 2009, and expired November 24, 2011; Course No. 1048, Real Estate Contracts, effective October 16, 2001, expired October 15, 2003.

All courses were approved, or are under consideration for approval, as correspondence courses. Prior to approval, the Bureau evaluates the course materials, quizzes, and final examinations submitted by sponsors. The Bureau maintains a copy of same for a period not to exceed their record retention policy.

3. On October 18 and 25, 2011, Kelly Mieske, a real estate licensee and CPS HR Consulting employee, telephoned respondent and left voicemail messages seeking information about taking license renewal coursework. On October 27, 2011, Ms. Fields telephoned Ms. Mieske, telling her that the license renewal coursework was \$202 and included 48-hours of coursework: 1079 - Ethics (3 hours), 1080 - Fair Housing (3 hours); 1081 - Risk Management (3 hours), 1082 - Trust Funds (3 hours), 1083 - Agency (3 hours), and 1084 - Residential Real Property (33 hours). On November 2, 2011, Ms. Mieske provided respondent with payment information and registered for the 48-hour license renewal coursework. Respondent informed Ms. Mieske that she would need a non-relative to monitor her during the final examination.

4. On November 4, 2011, Ms. Mieske received two course booklets, as well as quizzes and final examinations for Residential Real Property and Real Estate Contracts, from

respondent. Booklet 1 contained materials for 1079 - Ethics (3 hours), 1080 - Fair Housing (3 hours); 1081 - Risk Management (3 hours), 1082 - Trust Funds, and 1083 - Agency. Booklet 2 had a table of contents indicating: Section 1. Residential Real Property, Section 2. The Standard Probate Code, Section 3. Real Estate Contracts; however, the tabs in Booklet 2 read: Residential Real Property, Claim of Right to Possession, and Real Estate Contracts. Claim of Right to Possession is actually a subpart of Residential Real Property. Residential Real Property is a 33-hour course and Real Estate Contracts is a 9-hour course, making the coursework total 57-hours, not 48-hours. Ms. Mieske also noticed that the answer sheet, sent with the course materials, listed a section for Probate Code answers, but no quizzes for that subject were included with the course materials.

5. On November 17, 2011, Ms. Mieske completed the final examinations and quizzes for all subjects at CPS HR Consulting headquarters. Carmelita Hammons, CPS HR Consulting employee, completed the test administrator form. On November 18, 2011, Ms. Mieske mailed her answer sheet and the completed test administrator form back to respondent.

6. On November 28, 2011, December 5, 2011, and December 29, 2011, Ms. Mieske telephoned respondent to inquire as to the status of her completion certificate. On December 30, 2011, Ms. Mieske received her completion certificate from respondent for courses 1079 - 1084. The name Noble Fields appeared on the signature line.

7. The following is a comparison of the materials presented to the Bureau for course approval and the materials distributed to Ms. Mieske for courses 1079 - 1084 and 1048.

- a. Respondent provided the Bureau a General Information Page (GIP) for courses 1079 - 1084. In comparison, respondent failed to provide Ms. Mieske a GIP for courses 1079 - 1084 and 1048.
- b. For course 1079 - Ethics, respondent submitted a 35-question multiple choice examination to the Bureau for approval. In comparison, respondent provided Ms. Mieske a 14-question true/false examination for course 1079. For a three-hour class, respondent was required to provide Ms. Mieske with an examination, with a minimum of 15-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(3) & (e).)
- c. For course 1080 - Fair Housing, respondent submitted a 30-question multiple choice examination to the Bureau for approval. In comparison, respondent provided Ms. Mieske a 14-question true/false examination for course 1080. For a three-hour class, respondent was required to provide Ms. Mieske with an examination, with a minimum of 15-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(3) & (e).)

- d. For course 1081 - Risk Management, respondent submitted a 60-question multiple choice examination to the Bureau for approval. In comparison, respondent provided Ms. Mieske an 11-question true/false examination for course 1081. For a three-hour class, respondent was required to provide Ms. Mieske with an examination, with a minimum of 15-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(3) & (e).)
- e. For course 1082 - Trust Funds, respondent submitted a 30-question multiple choice examination to the Bureau for approval. In comparison, respondent provided Ms. Mieske a 15-question true/false examination for course 1082. For a three-hour class, respondent was required to provide Ms. Mieske with an examination, with a minimum of 15-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(3) & (e).)
- f. For course 1083 - Agency, respondent submitted a 30-question multiple choice examination to the Bureau for approval. In comparison, respondent provided Ms. Mieske a 13-question true/false examination for course 1083. For a three-hour class, respondent was required to provide Ms. Mieske with an examination, with a minimum of 15-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(3) & (e).)
- g. For course 1084 - Residential Real Property, respondent submitted two, 80-question multiple choice examination to the Bureau for approval. In comparison, respondent provided Ms. Mieske four quizzes, with 10 true/false questions per quiz, for course 1084. For a 33-hour course, respondent was required to provide Ms. Mieske with an examination, with a minimum of 80-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(11) & (e).)
- h. The course 1048 - Real Estate Contracts expired on October 15, 2003; Bureau submission records are no longer available. That said, respondent provided Ms. Mieske three quizzes, with 10 true/false questions per quiz, for course 1048. If respondent were approved to sponsor course 1048, a nine-hour course, respondent was required to provide Ms. Mieske with an examination, with a minimum of 25-questions, and with no more than 10 percent being phrased as true/false. (Cal. Code of Regs., tit. 10, § 3007.3, subs. (d)(5) & (e).)

Aggravation

8. On December 11, 1995, the Bureau filed a Notice of Withdrawal of Continuing Education Course Offering Approvals against Noble Fields, individually, and dba Noble Fields Realty & Investment Co., and Noble Fields School of Real Estate, Sponsors (H-7305 SF), alleging respondent failed to meet the statutory and regulatory standards required for real estate course offerings approved by the Bureau. For example, respondent did not require students to be physically present at a live seminar with an instructor during 90 percent of the offering time, as required; respondent did not require enrollee to present a documentary form of identification immediately before or upon completion of the final examination, as required; and respondent permitted enrollees to take the final examination without attending a closed-book examination with a Test Administrator at a monitored site, as required. On or about May 1, 1996, the parties reached a Stipulation and Agreement in H-7305 SF, which included a two-week suspension of two approved courses and a stayed one year suspension of the same two approved courses.

On December 15, 1995, the Bureau filed an Accusation against Noble Fields (H-7304 SF), alleging that Ms. Fields courses were not being administered in accordance with the requirements of the Bureau. On May 1, 1996, the parties reached a Stipulation and Agreement in H-7304 SF, which revoked Ms. Fields's license and issued her a restricted license. On December 17, 1998, Ms. Fields petitioned for reinstatement of her unrestricted license. On August 12, 1999, the Bureau granted her Petition.

On April 26, 2010, the Bureau sent Ms. Fields a Corrective Action Letter (410-0406-011) putting her on notice that the school was violating statutory and regulatory standards required for real estate course offerings approved by the Bureau. For example, the identity of the students was not being verified immediately before the final examination; students could surpass the final examination time limit by "logging out" and "logging back in" to the computer; and the final examination can be printed out.

Mitigation/Rehabilitation

9. Ms. Fields is 82 years old. She served in the U.S. Army for 20 years; attended City College of San Francisco to learn real estate; and earned an M.S. in law from Oakland Law School. She has been an insurance broker, a real estate appraiser, a notary public, and she has had held a real estate license since 1978. She testified that she has a passion for both real estate and teaching. As such, in 1985, Ms. Fields opened a school of real estate. Without heirs, Ms. Fields would like the school to continue to operate, in perpetuity, supporting the local community/neighborhood.

10. Respondent has received a certificate of appreciation from the Daly City Chamber of Commerce and a certificate of recognition from Senator Mark Leno for participating in the 2015 Chamber Business to Business Extravaganza and Taste of Our Cities event. Ms. Fields has received a commendation from the County of San Mateo for participating in the 2015 Small Business Week Business to Business Networking event.

11. At hearing, Ms. Fields testified on her own behalf. She is aware of, and understands the requirement to obtain course approval from the Bureau every two years for each and every course offering. For each course, Ms. Fields indicated that she personally created the instruction materials, quizzes, and final examinations, and submitted the same to the Bureau for approval.

Ms. Fields testified that she was not working in the office at the time Ms. Mieske registered and completed the real estate renewal courses through respondent; and she did not personally sign Ms. Mieske's certificate of completion. At that time, Ms. Fields was caring for her "significant other," who was dying of cancer. As a result of her unavailability, Ms. Fields asserts that she hired Robin Gifford to run the school in her absence; Ms. Gifford had worked at the school 10 years prior. In total, Ms. Fields had known Ms. Gifford for 17 years and Ms. Fields is the Godmother to Ms. Gifford's son. Ms. Gifford was a Mortgage loan broker and had refinanced all of Ms. Fields's mortgages. Ms. Fields testified that she explained to Ms. Gifford the process for enrolling students, including mailing out the pre-prepared packet of course materials, quizzes, and finals, and then the completion certificate. In addition, Ms. Fields gave Ms. Gifford permission to sign, Noble Fields, to the completion certificates. At all times, Ms. Fields trusted and relied upon Ms. Gifford's representations regarding the school's happenings.

Ms. Fields's "significant other" passed away on April 20, 2012. When Ms. Fields returned to the school in late April 2012, she alleges that she discovered that money was missing from the school. Ms. Fields confronted Ms. Gifford about the missing money. Ms. Fields testified that she has not seen, nor heard from Ms. Gifford since that day.

Ms. Fields acknowledged that she is ultimately responsible for the school and Ms. Mieske received incorrect materials, quizzes, and finals from respondent. However, Ms. Fields attributes respondent's failures, when dealing with Ms. Mieske, to Ms. Gifford, and asserts that the same failures will not happen again under her watchful eyes. Ms. Fields represents that she knows the right materials to mail out and the correct process for enrolling and certifying students.

On cross-examination, Ms. Fields admitted that she defended her previous disciplinary actions by alleging that the failures were made by another short-term employee she hired to run the school.

12. Respondent offered a letter of support and the testimony of Oral Brown, a licensed real estate broker, and President of the Oral Lee Brown Foundation. Ms. Brown works for Nationwide Realty One. She became a designated officer in 1979; a real estate salesperson in 1983; and a broker in 1987. Ms. Brown renewed her license every four years, as required, until she turned 65. At 65, with no disciplinary record, Ms. Brown no longer has to renew her license.

Ms. Brown is a staunch supporter of respondent and Ms. Fields. Ms. Brown has used respondent for license renewal coursework and always received her certificate on time. She

believes that respondent is an "excellent school" with a reputation in the community of providing real estate knowledge to lots of individuals. Ms. Brown is aware that large real estate firms have Ms. Fields come out and teach classes for them. To Ms. Brown, Ms. Fields "loves the profession and is very giving." Ms. Brown recounted Ms. Fields community service efforts: a real estate association in Oakland needed a building and Ms. Fields bought a building for them; for the last 10 to 12 years, Ms. Fields has given scholarships to 10 to 15 students who want to go to real estate school; Ms. Fields has donated money and time to the Leukemia Society, the Veteran's Administration, and the Oral Lee Brown Foundation, which yearly, adopts an elementary school class in a public school in Oakland to ensure that the students have as many opportunities as possible to achieve success; and she is the President of the Social Real Property Association, where she serves as a role model. Ms. Brown testified that Ms. Fields has a reputation for honesty; she has a strong work ethic; and works from 11 a.m. to 11 p.m. almost every day.

Ms. Brown has known Ms. Fields for years. Ms. Brown testified that she trusted respondent and has taken license renewal coursework from respondent. Ironically, Ms. Brown did not choose to use respondent for her license renewals in 2010, 2006, or 2002.

13. Finally, respondent offered a letter of support from Joseph Blum, a real estate agent, who has used respondent's services in the past. Mr. Blum indicates that he is aware of the pending Accusation, and finds the "matter unbelievable" given his experience with respondent. Of concern: Mr. Blum and Ms. Brown's letters are almost identical in form and language, making their support less credible, less personal, and ultimately, less helpful.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10170.4 provides, in part:

The commissioner shall adopt regulations pursuant to Section 10080, to prescribe all of the following:

- (a) A definition of basic requirements for continuing education of 45 clock hours of attendance at approved educational courses, seminars, workshops, or conferences, or their equivalent, achieved during a four-year period preceding license renewal application.
- (b) A basis and method of qualifying educational programs, the successful completion of which, will satisfy the requirements of this article.
- (c) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which an activity would be judged

equivalent, including, but not limited to, instruction in real estate subjects, publication of professional articles or books, or development of real estate educational programs, law or research.

(d) A system of control and reporting qualifying attendance.

(e) An appropriate form of testing, examination or evaluation by the sponsor of each approved correspondence or homestudy educational program, or equivalent, of the student.

2. requires: California Code of Regulations, title 10, section 3007, subdivision (f),

A General Information Page that will be provided to the participant prior to registration for the course that sets forth all requirements and policies that affect the participant's enrollment and completion of the course, i.e., fees, cancellation, refund; attendance and dismissal; final exam criteria, etc.

3. California Code of Regulations, title 10, section 3007.2, states, in part:

(a) Any proposed change to an approved course offering that is a significant deviation, in one or more aspects, from the offering as approved by the Bureau including a change in curriculum, course length, method of presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to reflect recent changes in statutes, regulations or decisional law, shall be deemed to be material and shall be submitted by the sponsor to the Bureau for consideration and approval prior to use.

(b) A material change shall require a new application and fee.

4. California Code of Regulations, title 10, section 3007.3, provides, in part:

(d) The minimum number of questions required on a final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be: . . . (3) 3 - 5 credit hours - 15 questions; . . . (5) 9 - 11 credit hours - 25 questions; . . . (11) 32 - 35 credit hours - 80 questions.

(e) A final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be limited to a maximum of 10% true/false questions.

[¶] . . . [¶]

(n) A violation of a final examination rule by the sponsor or the sponsor's representative administering the examination shall constitute grounds for denial or withdrawal of approval of the offering.

5. California Code of Regulations, title 10, section 3007.6, subdivision (a)(1) provides, in part: "[a]ll advertising and promotional material for a continuing education offering shall: [n]ot include false or misleading statements or representations."
6. California Code of Regulations, title 10, section 3010 provides in part:
 - (a) If the Commissioner determines that a previously-approved continuing education offering . . . differs materially from that which was previously approved, the Commissioner shall give written notice of withdrawal of approval setting forth the reasons for the determination. . . .
7. Pursuant to Business and Professions Code section 10170.4 and California Code of Regulations, title 10, section 3007, subdivision (f), and by reason of Factual Finding 7, cause exists to withdraw the course offerings of respondent. Respondent failed to provide a GIP to Ms. Mieske for each and every course she registered and paid for.
8. Pursuant to Business and Professions Code section 10170.4 and California Code of Regulations, title 10, sections 3007.2 and 3010, subdivision (a), and by reason of Factual Finding 7, cause exists to withdraw the course offerings of respondent. Respondent provided Ms. Mieske a substantially different examination in each and every course she registered and paid for than respondent provided to the Bureau for course approval.
9. Pursuant to Business and Professions Code section 10170.4 and California Code of Regulations, title 10, sections 3007.3, subdivisions (d) and (n), and 3010, subdivision (n), and by reason of Factual Finding 7, cause exists to withdraw the course offerings of respondent. Respondent provided Ms. Mieske an insufficient number of, and only true/false questions on each and every quiz and final examination for each course Ms. Mieske registered and paid for.
10. Pursuant to Business and Professions Code section 10170.4 and California Code of Regulations, title 10, section 3007.6, subdivision (a)(1), and by reason of Factual Finding 7, cause exists to withdraw the course offerings of respondent. Respondent provided Ms. Mieske course material for a Real Estate Contracts class that respondent was no longer approved to sponsor, having expired on October 15, 2003.
11. The matters set forth in Factual Findings 8 through 13 have been considered. At hearing, respondent failed to provide satisfactory evidence that it can meet or conform to

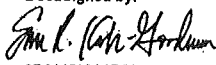
the requirements outlined in the Real Estate Law for the course offerings at issue. Ms. Fields is the owner and operator of the school. Her name is a part of the school's name and her name marks the certificates of compliance/completion for real estate students matriculating through her school. Ms. Fields entrusted her business to others while she was not present; and whether those people were untrustworthy or they simply made mistakes is irrelevant. Either way, Ms. Fields exercised poor judgment in selecting agents for her school and relinquishing total control to them.

Ultimately, Ms. Mieske's experience violates the statutory and regulatory standards required of a sponsor; and Ms. Mieske's experience is not an isolated incident, given respondent's/Ms. Fields's prior disciplinary actions. After considering all of the evidence, it is determined that respondent's conduct justifies the withdrawal of approval of continuing course offerings.

ORDER

The approval of respondent Noble Fields School of Real Estate LLC to provide continuing education course offerings is WITHDRAWN, and pending applications for approval of continuing education course offerings are DENIED.

DATED: July 23, 2015

DocuSigned by:

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ERIN R. KOCH-GOODMAN
Administrative Law Judge
Office of Administrative Hearings

1 BUREAU OF REAL ESTATE
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FILED
OCT 31 2014
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By L. Frost

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Continuing Education)
12 Course Offerings of:)
13 NOBLE FIELDS SCHOOL OF)
14 REAL ESTATE LLC,)
15 Sponsor.)

NO. H-6180 SAC

16 NOTICE OF WITHDRAWAL OF
17 CONTINUING EDUCATION COURSE OFFERINGS APPROVAL

18 TO: NOBLE FIELDS SCHOOL OF REAL ESTATE LLC
19 c/o Noble Lee Fields
20 6121 Mission Street
Daly City, CA 94015

21 RE: COURSES / COURSE NUMBERS

22 1093 "PROBATE FOR PROPERTY MANAGERS" (approval pending)
23 1092 "ETHICS" (expires 11/24/15)
24 1091 "RESIDENTIAL REAL PROPERTY" (expires 09/30/15)
25 1090 "TRUST FUNDS" (expires 06/27/15)
26 1089 "AGENCY" (expires 08/08/15)
1088 "RISK MANAGEMENT" (expires 05/22/15)
1087 "FAIR HOUSING" (expires 04/06/15)

27 ///

1 NOTICE IS HEREBY GIVEN pursuant to the provisions of Sections 3006
2 through 3010 of Title 10, Chapter 6, California Code of Regulations (herein "the Regulations")
3 that the Real Estate Commissioner (herein "the Commissioner") has caused an investigation to
4 be made into the presentation of the continuing education course offerings identified in
5 Paragraph 2, below. Said course offerings are sponsored by NOBLE FIELDS SCHOOL OF
6 REAL ESTATE LLC (herein "NFSRE") and were previously approved by the Bureau¹ of Real
7 Estate of the State of California (herein "the Bureau"), or are currently under review for
8 approval, and on the basis of said investigation, the Commissioner has determined that said
9 courses no longer meet the statutory and regulatory standards for approval for continuing
10 education course offerings, and that approval of said courses should be and hereby are
11 withdrawn for the reasons set forth below:

12 SPONSOR

13 1. NFSRE is the sponsor, Bureau Sponsor No. 0722, of the continuing
14 education course offerings identified in Paragraph 2, below. NFSRE is owned and/or controlled
15 by Noble Lee Fields (herein "Fields"), a licensed real estate broker, Bureau License No.
16 00519204.

17 CONTINUING EDUCATION COURSE OFFERINGS

18 2. The Bureau issued to NFSRE approval for, or is currently reviewing a
19 pending application for approval, the following continuing education course offerings pursuant
20 to Section 10170.4 of the California Business and Professions Code (herein "the Code") and
21 Sections 3006 through 3009 of the Regulations:

<u>Course No.</u>	<u>Approval Date</u>	<u>Course Title</u>
1093	Pending	"PROBATE FOR PROPERTY MANAGERS"
1092	11/25/13	"ETHICS" (expires 11/24/15)

25 ///

26
27 ¹ Effective July 1, 2013, the Department of Real Estate has become the Bureau of Real Estate under the Department of Consumer Affairs pursuant to the Governor's Reorganization Plan of 2012.

	<u>Course No.</u>	<u>Approval Date</u>	<u>Course Title</u> (Continued)
1			
2	1091	10/01/13	“RESIDENTIAL REAL PROPERTY”
3			(expires 09/30/15)
4	1090	06/28/13	“TRUST FUNDS” (expires 06/27/15)
5	1089	08/09/13	“AGENCY” (expires 08/08/15)
6	1088	05/23/13	“RISK MANAGEMENT” (expires 05/22/15)
7	1087	04/07/13	“FAIR HOUSING” (expires 04/06/15)
8	1086	08/10/12	“PROBATE FOR PROPERTY MANAGERS”
9			(expired 08/09/14)
10	1085	11/25/11	“ETHICS” (expired 11/24/13)
11	1084	10/01/11	“RESIDENTIAL REAL PROPERTY”
12			(expired 09/30/13)
13	1083	08/09/11	“AGENCY” (expired 08/08/13)
14	1082	06/28/11	“TRUST FUNDS” (expired 06/27/13)
15	1081	05/23/11	“RISK MANAGEMENT” (expired 05/22/13)
16	1080	04/07/11	“FAIR HOUSING” (expired 04/06/13)
17	1079	11/25/09	“ETHICS” (expired 11/24/11)
18	1048	10/16/01	“REAL ESTATE CONTRACTS”
19			(expired 10/15/03)

20 These courses were applied for and approved, or under review for approval, to be
21 taught as correspondence courses.

22 COMPLIANCE REGULATIONS

23 3. Approval of said courses was predicated upon the sponsor’s compliance
24 with Sections 3006 through 3013 of the Regulations and Sections 10170 through 10170.6 of the
25 Code, including criteria set forth by the Regulations, as shown below in pertinent part, and other
26 assurances which NFSRE and Fields represented and assured the Bureau would be complied
27 with:

1 3007. Application for Offering Approval.

2 An application for approval of a continuing education offering shall be
3 made on a RE 315 (Rev. 2/06) "C.E. Offering Approval Application" form, herein
4 incorporated by reference, not less than 90 days before the proposed commencement
5 date of the offering. The completed application shall be accompanied by the fee and
6 include at least the following supporting documents when applicable:

7 ...

8 (f) A General Information Page that will be provided to the participant
9 prior to registration for the course that sets forth all requirements and policies that
10 affect the participant's enrollment and completion of the course, i.e., fees,
11 cancellation, refund; attendance and dismissal; final exam criteria, etc.

12 3007.2. Material Change in Course Offering.

13 (a) Any proposed change to an approved course offering that is a significant
14 deviation, in one or more aspects, from the offering as approved by the Department
15 including a change in curriculum, course length, method of presentation, workbooks,
16 texts, or syllabi, but not including changes designed exclusively to reflect recent
17 changes in statutes, regulations or decisional law, shall be deemed to be material and
18 shall be submitted by the sponsor to the Department for consideration and approval
19 prior to use.

20 (b) A material change shall require a new application and fee.

21 (c) If a course was approved under the regulations in effect from 2008 through
22 January 1, 2011, and the sponsor continues to offer the course after January 1, 2011,
23 the sponsor must change the course by January 1, 2011, to meet the new standard.

24 (d) A course that is changed as described in (c), above, to come into
25 compliance with the regulatory changes adopted to go into effect on January 1, 2011,
26 does not need to be submitted to the Department for review until the course is
27 renewed.

28 3007.3. Final Examination Rules.

29 A final examination is required for all continuing education courses. Sponsors
30 shall establish the following final examination rules for approved offerings that are to
31 be observed by all offering participants:

32 ...

33 (d) The minimum number of questions required on a final examination
34 consisting only of multiple choice, true/false and/or fill-in the blank questions
35 shall be:

- 36 (1) 1 credit hour - 5 questions
37 (2) 2 credit hours - 10 questions
38 (3) 3-5 credit hours - 15 questions
39 (4) 6-8 credit hours - 20 questions

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- (5) 9-11 credit hours - 25 questions
- (6) 12-14 credit hours - 30 questions
- (7) 15-18 credit hours - 40 questions
- (8) 19-23 credit hours - 50 questions
- (9) 24-27 credit hours - 60 questions
- (10) 28-31 credit hours - 70 questions
- (11) 32-35 credit hours - 80 questions
- (12) 36-39 credit hours - 90 questions
- (13) 40 credit hours and over - 100 questions

(e) A final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be limited to a maximum of 10% true/false questions.

...

(n) A violation of a final examination rule by the sponsor or the sponsor's representative administering the examination shall constitute grounds for denial or withdrawal of approval of the offering.

...

3007.6. Advertising and Promotional Material.

(a) All advertising and promotional material for a continuing education offering shall:

- (1) Not include false or misleading statements or representations.

...

INVESTIGATIVE FINDINGS

4. On or about 10/18/11 and 10/25/11, CPS HR Consulting (herein "CPS") employee, Kelly M. (herein "Kelly") called NFSRE to register for the following courses (hereinafter "license renewal package" or "the courses"):

<u>Course No.</u>	<u>Course Title</u>
1079	"ETHICS" (3 hours)
1080	"FAIR HOUSING" (3 hours)
1081	"RISK MANAGEMENT" (3 hours)
1082	"TRUST FUNDS" (3 hours)
1083	"AGENCY" (3 hours)
1084	"RESIDENTIAL REAL PROPERTY" (33 hours)

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1 5. On or about 10/27/11, Fields, on behalf of NFSRE, returned Kelly's
2 telephone call quoting Kelly a price of \$202.00 for the above listed correspondence courses. On
3 11/02/11, Kelly provided Fields with her payment information and registered for the courses
4 over the telephone. At no time prior or subsequent to Kelly registering for the courses did Fields
5 or anyone on behalf of NFSRE provide Kelly with a General Information Page ("GIP")
6 pertaining to any of the courses which set forth all requirements and policies affecting Kelly's
7 enrollment and completion of the courses in violation of Section 3007(f) of the Regulations.

8 6. On or about 11/04/11, Kelly received the license renewal package
9 correspondence course materials from NFSRE, which included two booklets. One booklet
10 contained the five three-hour courses (Course Nos. 1079-1083, above), and another book
11 containing three sections labeled Residential Real Property, Standard Probate Code and Real
12 Estate Contracts. However, that book did not actually contain course materials on Standard
13 Probate Code, but rather on Claim of Right to Possession (a sub-part of the Residential Real
14 Property course).

15 7. The course material Kelly received entitled "Real Estate Contracts"
16 included promotion language, stating "This nine hour course is designed to help the licensees
17 satisfy the Department of Real Estate requirements for renewal of a California Real Estate
18 License." However, the Bureau's approval of NFSRE's course entitled "REAL ESTATE
19 CONTRACTS" bearing course number 1048 had expired on 10/15/03. This misleading course
20 promotion violates Section 3007.6(a)(1) of the Regulations.

21 8. Much of the course material provided by NFSRE to Kelly was not the
22 same material that was submitted, reviewed or approved by the Bureau for use during the course
23 approval application process. Specifically:

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1 (a) The "ETHICS" course (# 1079) examination consisted entirely of
2 fourteen (14) true/false questions. This examination was in violation of Section 3007.2
3 (material change in course offering), Section 3007.3(d) (minimum of 15 questions required for
4 3-hour course), and Section 3007.3(e) (only 10% of questions can be true/false format) of the
5 Regulations.

6 (b) The "FAIR HOUSING" course (# 1080) examination consisted entirely
7 of fourteen (14) true/false questions. However, the examination approved by the Bureau
8 consisted of a multiple-choice format only. This examination was in violation of Section
9 3007.2 (material change in course offering), Section 3007.3(d) (minimum of 15 questions
10 required for 3-hour course), and Section 3007.3(e) (only 10% of questions can be true/false
11 format) of the Regulations.

12 (c) The "RISK MANAGEMENT" course (# 1081) examination consisted
13 entirely of eleven (11) true/false questions. However, the examination approved by the Bureau
14 consisted of a multiple-choice format only. This examination was in violation of Section
15 3007.2 (material change in course offering), Section 3007.3(d) (minimum of 15 questions
16 required for 3-hour course), and Section 3007.3(e) (only 10% of questions can be true/false
17 format) of the Regulations.

18 (d) The "TRUST FUNDS" course (# 1082) examination consisted entirely of
19 fifteen (15) true/false questions. However, the examination approved by the Bureau consisted
20 of a multiple-choice format only. This examination was in violation of Section 3007.2 (material
21 change in course offering), and Section 3007.3(e) (only 10% of questions can be true/false
22 format) of the Regulations.

23 (e) The "AGENCY" course (# 1083) examination consisted entirely of
24 thirteen (13) true/false questions. However, the examination approved by the Bureau consisted
25 of a multiple-choice format only. This examination was in violation of Section 3007.2 (material

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1 change in course offering), Section 3007.3(d) (minimum of 15 questions required for 3-hour
2 course), and Section 3007.3(e) (only 10% of questions can be true/false format) of the
3 Regulations.

4 (f) The "RESIDENTIAL REAL PROPERTY" course (# 1084) examination
5 consisted of seven quizzes, each consisting of ten (10) true/false questions, for a grand total of
6 seventy (70) true/false questions. However, the examination approved by the Bureau consisted
7 of a multiple-choice format only. This examination was in violation of Section 3007.2 (material
8 change in course offering), Section 3007.3(d) (minimum of eighty (80) questions required for
9 33-hour course), and Section 3007.3(e) (only 10% of questions can be true/false format) of the
10 Regulations.

11 9. On about November 25, 2011, NFSRE mailed Kelly a Continuing
12 Education Course Completion Certificate for all six (6) of the courses described in Paragraph 4,
13 above.

14 GROUND FOR WITHDRAWAL OF APPROVAL

15 10. The facts described in Paragraphs 4 through 9, above, constitutes failure
16 by NFSRE to perform in accordance with its representations and assurances that it would
17 comply with the conditions of approval of the continuing education courses identified in
18 Paragraph 2, above, in violation of Sections 3007(f), 3007.6(a)(1), 3007.2, 3007.3(d) and
19 3007.3(e) of the Regulations in conjunction with Section 10170.4 of the Code, and are grounds
20 for the withdrawal and denial of approval of the continuing education course offerings
21 identified in Paragraph 2, above, under the provisions of Sections 3007.3(n) and 3010(a) of the
22 Regulations.

23 ORDER

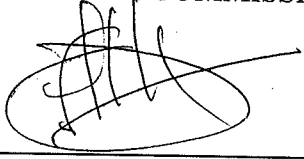
24 11. Based on the foregoing, the Commissioner has determined that the
25 courses identified in Paragraph 2, above, no longer meet the prescribed statutory and regulatory
26 standards for approval, and therefore, approval of said courses should be and hereby are
27 withdrawn, pursuant to the provision of Sections 3007.3(n) and 3010(a) of the Regulations.

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12. The withdrawal and denial of approval of all of the course offerings identified in Paragraph 2, above, shall be automatically effective at 12 o'clock noon on the 30th day after receipt of this notice by the sponsor unless the sponsor causes a request for hearing to be delivered to the Bureau of Real Estate at P.O. Box 137007, Sacramento, California 95813-7007 before 12 o'clock noon of the effective date of this withdrawal of approval of the course offerings pursuant to Section 3010(a) of the Regulations.

Dated: OCT 31 2014

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner