

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

MAY - 4 2011

DEPARTMENT OF REAL ESTATE

By R. M. M.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12)
13 LAST DANCE INC.,)
14 JONATHAN ALDRICH KOHL,)
15 and DAVID MASSOT HARVEY,)

16 Respondents.)

NO. H-4096 SD

STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between Respondent JONATHAN ALDRICH
18 KOHL (hereafter "Respondent") only, acting by and through Mary E. Work, Counsel for
19 Respondent, and the Complainant, acting by and through John W. Barron, Counsel for the
20 Department of Real Estate, as follows for the purpose of settling and disposing of the First
21 Amended Accusation filed on August 26, 2010, in this matter:

22 1. All issues which were to be contested and all evidence which was to be
23 presented by Complainant and Respondent at a formal hearing on the First Amended
24 Accusation, which hearing was to be held in accordance with the provisions of the
25 Administrative Procedure Act (hereafter "APA"), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this Stipulation and Agreement.

27 ///

H-4096 SD

JONATHAN ALDRICH KOHL

1 2. Respondent has received, read and understands the Statement to
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
3 of Real Estate in this proceeding.

4 3. On May 3, 2010, Respondent filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the original Accusation. On September 14, 2010, Respondent filed a Second
7 Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of
8 requesting a hearing on the allegations in the First Amended Accusation. Respondent hereby
9 freely and voluntarily withdraws said Notice of Defense and Second Notice of Defense.
10 Respondent acknowledges that Respondent understands that by withdrawing said Notice of
11 Defense and Second Notice of Defense, Respondent will thereby waive Respondent's right to
12 require the Commissioner to prove the allegations in the First Amended Accusation at a
13 contested hearing held in accordance with the provisions of the APA and that Respondent will
14 waive other rights afforded to Respondent in connection with the hearing such as the right to
15 present evidence in defense of the allegations in the First Amended Accusation and the right to
16 cross-examine witnesses.

17 4. This Stipulation is based on the factual allegations contained in the First
18 Amended Accusation. In the interest of expedience and economy, Respondent chooses not to
19 contest these factual allegations, but to remain silent and understands that, as a result thereof,
20 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
21 "Order" set forth below. The Real Estate Commissioner shall not be required to provide further
22 evidence to prove such allegations. The attached Statement of Mitigation provided by
23 Respondent is hereby incorporated by reference and shall become part of the Stipulation.

24 5. This Stipulation and Respondent's decision not to contest the First
25 Amended Accusation are made for the purpose of reaching an agreed disposition of this
26 proceeding and are expressly limited to this proceeding and any other proceeding or case in
27 ///

1 under the provisions of Sections 10085, 10145, 10146 and 10159.2 of the Business and
2 Professions Code (hereafter "the Code") in conjunction with Sections 10177(d) of the Code, and
3 Sections 10177(g) and 10177(h) of the Code, and Sections 2970 and 2972 of Title 10 of the
4 California Code of Regulations in conjunction with Section 10177(d) of the Code.

5 ORDER

6 All licenses and licensing rights of Respondent under the Real Estate Law are
7 suspended for a period of thirty (30) days from the effective date of the Decision herein;
8 provided, however, thirty (30) days of said suspension shall be stayed upon the condition that:

9 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
10 Business and Professions Code at a rate of \$50.00 for each day of the suspension for a total
11 monetary penalty of \$1,500.00:

12 a. Said payment shall be in the form of a cashier's check or certified check,
13 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered
14 to the Department prior to the effective date of the Decision in this matter.

15 b. No further cause for disciplinary action against the Real Estate license of
16 Respondent occurs within two (2) years from the effective date of the decision in this matter.

17 c. If Respondent fails to pay the monetary penalty in accordance with the
18 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
19 immediate execution of all or any part of the stayed suspension, in which event, Respondent
20 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
21 Department under the terms of this decision.

22 d. If Respondent pays the monetary penalty and if no further cause for
23 disciplinary action against the real estate license of Respondent occurs within two (2) years from
24 the effective date of the Decision herein, then the stay hereby granted shall become permanent.

25 2. Respondent shall pay the sum of \$3,187.01 for the Commissioner's cost of
26 the audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60)
27 days of receiving an invoice therefore from the Commissioner. The Commissioner may

H-4096 SD

JONATHAN ALDRICH KOHL

1 indefinitely suspend all licenses and licensing right of Respondent pending a hearing held in
2 accordance with Section 11500, et seq., of the Government Code, if payment is not timely
3 made as provided for herein, or as provided for in a subsequent agreement between Respondent
4 and the Commissioner. The suspension shall remain in effect until payment is made in full or
5 until Respondent enters into an agreement satisfactory to the Commissioner to provide for
6 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
7 to this condition.

8 3. Respondent shall pay the Commissioner's costs, not to exceed \$3,187.01,
9 of any audit conducted pursuant to Section 10148 of the Code to determine if Respondent has
10 corrected the violations described in the Determination of Issues, above, and any other
11 violations found in the audit which led to this disciplinary action. In calculating the amount of
12 the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly
13 salary for all persons performing audits of real estate brokers, and shall include an allocation
14 for travel time to and from the auditor's place of work. Respondent shall pay such cost within
15 sixty (60) days of receiving an invoice, therefore, from the Commissioner detailing the
16 activities performed during the audit and the amount of time spent performing those activities.
17 If Respondent fails to pay such cost within the sixty (60) days, the Commissioner may
18 indefinitely suspend all licenses and licensing rights of Respondent under the Real Estate Law
19 until payment is made in full or until Respondent enters into an agreement satisfactory to the
20 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided
21 for in this paragraph shall be stayed.

22 4. Respondent shall, within six (6) months from the effective date of this
23 Order, take and pass the Professional Responsibility Examination administered by the
24 Department, including the payment of the appropriate examination fee. If Respondent fails to
25 satisfy this condition, the Commissioner may order the suspension of all licenses and licensing
26 rights until Respondent passes the examination.

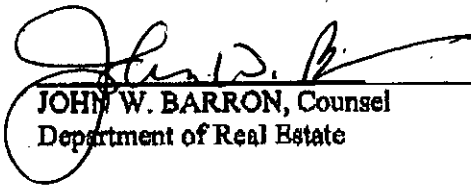
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5. Notwithstanding any other provision of this Order, all licenses and
licensing rights of Respondent are suspended unless and until he provides proof satisfactory to
the Commissioner that he has taken and successfully completed the continuing education
course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code.
The course must have been completed no earlier than one hundred twenty (120) days prior to
the effective date of this Order, and proof must be submitted prior to the effective date of this
Order, to prevent suspension of Respondent's license pursuant to this condition.

12/17/2010

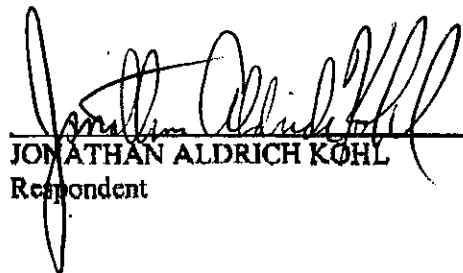
DATED


JOHN W. BARRON, Counsel
Department of Real Estate

I have read the Stipulation and Agreement and its terms are understood by me
and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
the California Administrative Procedure Act (including but not limited to Sections 11506,
11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
voluntarily waive those rights, including the right of requiring the Commissioner to prove the
allegations in the First Amended Accusation at a hearing at which I would have the right to
cross-examine witnesses against me and to present evidence in defense and mitigation of the
charges.

12/17/2010

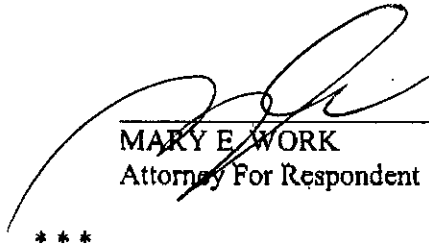
DATED


JONATHAN ALDRICH KOHL
Respondent

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I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.

12/17/10
DATED

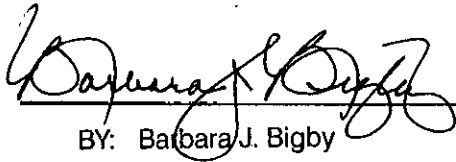


MARY E. WORK
Attorney For Respondent

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent JONATHAN ALDRICH KOHL and shall become
effective at 12 o'clock noon on **MAY 25 2011**

IT IS SO ORDERED 5/2/11

Acting
Real Estate Commissioner



BY: Barbara J. Bigby

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED
APR 28 2011

DEPARTMENT OF REAL ESTATE
By R. Mat

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6
7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11 LAST DANCE INC.,) NO. H-4096 SD
12 JONATHAN ALDRICH KOHL,) STIPULATION AND AGREEMENT
13 and DAVID MASSOT HARVEY,)
14 Respondents.)

15
16 It is hereby stipulated by and between Respondent DAVID MASSOT
17 HARVEY (hereafter "Respondent") only, and the Complainant, acting by and through John W.
18 Barron, Counsel for the Department of Real Estate, as follows for the purpose of settling and
19 disposing of the First Amended Accusation filed on August 26, 2010, in this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondent at a formal hearing on the First Amended
22 Accusation, which hearing was to be held in accordance with the provisions of the
23 Administrative Procedure Act (hereafter "APA"), shall instead and in place thereof be
24 submitted solely on the basis of the provisions of this Stipulation and Agreement.

25 2. Respondent has received, read and understands the Statement to
26 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
27 of Real Estate in this proceeding.

H-4096 SD

DAVID MASSOT HARVEY

1 3. On May 6, 2010, Respondent filed a Notice of Defense pursuant to
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the
3 allegations in the Accusation. On September 14, 2010, Respondent filed a First Amended
4 Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of
5 requesting a hearing on the allegations in the First Amended Accusation. Respondent hereby
6 freely and voluntarily withdraws said Notice of Defense and First Amended Notice of Defense.
7 Respondent acknowledges that Respondent understands that by withdrawing said Notice of
8 Defense and First Amended Notice of Defense, Respondent will thereby waive Respondent's
9 right to require the Commissioner to prove the allegations in the First Amended Accusation at
10 a contested hearing held in accordance with the provisions of the APA and that Respondent
11 will waive other rights afforded to Respondent in connection with the hearing such as the right
12 to present evidence in defense of the allegations in the First Amended Accusation and the right
13 to cross-examine witnesses.

14 4. This Stipulation is based on the factual allegations contained in the First
15 Amended Accusation. In the interest of expedience and economy, Respondent chooses not to
16 contest these factual allegations, but to remain silent and understands that, as a result thereof,
17 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
18 "Order" set forth below. The Real Estate Commissioner shall not be required to provide further
19 evidence to prove such allegations. The attached Statement of Mitigation provided by
20 Respondent is hereby incorporated by reference and shall become part of the Stipulation.

21 5. This Stipulation and Respondent's decision not to contest the First
22 Amended Accusation are made for the purpose of reaching an agreed disposition of this
23 proceeding and are expressly limited to this proceeding and any other proceeding or case in
24 which the Department of Real Estate, the State or the federal government, an agency of this
25 State, or an agency of another state is involved.

26 6. It is understood by the parties that the Real Estate Commissioner may adopt
27 the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and

1 sanctions on Respondent's real estate license and license rights as set forth in the "Order"
2 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and
3 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
4 and proceeding on the First Amended Accusation under all the provisions of the APA and shall
5 not be bound by any admission or waiver made herein.

6 7. This Stipulation and Agreement shall not constitute an estoppel, merger or
7 bar to any further administrative or civil proceedings by the Department of Real Estate with
8 respect to any matters which were not specifically alleged to be causes for accusation in this
9 proceeding.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations, admissions and waivers and solely for the
12 purpose of settlement of the pending First Amended Accusation without hearing, it is stipulated
13 and agreed that the acts and omissions of Respondent described in the First Amended Accusation
14 are grounds for the suspension or revocation of the licenses and license rights of Respondent
15 under the provisions of Sections 10085, 10145 and 10146 of the Business and Professions Code
16 (hereafter "the Code") in conjunction with Section 10177(d) of the Code and Sections 2970 and
17 2972 of Title 10 of the California Code of Regulations in conjunction with Section 10177(d) of
18 the Code.

19 ORDER

20 All licenses and licensing rights of Respondent under the Real Estate Law are
21 suspended for a period of thirty (30) days from the effective date of the Decision herein;
22 provided, however, thirty (30) days of said suspension shall be stayed upon condition that:

23 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
24 Business and Professions Code at a rate of \$50.00 for each day of the suspension for a total
25 monetary penalty of \$1,500.00:

26 ///

27 ///

H-4096 SD

DAVID MASSOT HARVEY

1 a. Said payment shall be in the form of a cashier's check or certified check
2 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered
3 to the Department prior to the effective date of the Decision in this matter.

4 b. No further cause for disciplinary action against the Real Estate license of
5 Respondent occurs within two (2) years from the effective date of the decision in this matter.

6 c. If Respondent fails to pay the monetary penalty in accordance with the
7 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
8 immediate execution of all or any part of the stayed suspension, in which event, Respondent
9 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
10 Department under the terms of this decision.

11 d. If Respondent pays the monetary penalty and if no further cause for
12 disciplinary action against the real estate license of Respondent occurs within two (2) years from
13 the effective date of the Decision herein, then the stay hereby granted shall become permanent.

14 2. Respondent shall, within six (6) months from the effective date of this Order,
15 take and pass the Professional Responsibility Examination administered by the Department,
16 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
17 condition, the Commissioner may order the suspension of all licenses and licensing rights until
18 Respondent passes the examination.

19 3. Notwithstanding any other provision of this Order, all licenses and licensing
20 rights of Respondent are suspended unless and until he provides proof satisfactory to the
21 Commissioner that he has taken and successfully completed the continuing education course
22 on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The
23 course must have been completed no earlier than one hundred twenty (120) days prior to the
24 effective date of this Order, and proof must be submitted prior to the effective date of this
25 Order, to prevent suspension of Respondent's license pursuant to this condition.

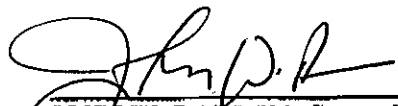
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2/28/11


DATED


JOHN W. BARRON, Counsel
Department of Real Estate

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the First Amended Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

1-15-11

DATED


DAVID MASSOT HARVEY
Respondent

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent DAVID MASSOT HARVEY and shall become
effective at 12 o'clock noon on **MAY 19 2011**

IT IS SO ORDERED


JEFF DAVI
Real Estate Commissioner

H-4096 SD

1 Respondent LAST DANCE INC.'s license certificate and pocket card shall be
2 sent to the below-listed address so that they reach the Department on or before the effective date
3 of this Order:

4 DEPARTMENT OF REAL ESTATE
5 Attention: Licensing Flag Section
6 P. O. Box 187000
7 Sacramento, CA 95818-7000

8 This Order shall become effective at 12 o'clock
9 noon on **OCT 12 2010**

10 DATED: 9/15/2010

11 JEFF DAVI
12 Real Estate Commissioner
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

No. H-4096 SD

LAST DANCE INC., JONATHAN ALDRICH
KOHL, and DAVID MASSOT HARVEY,

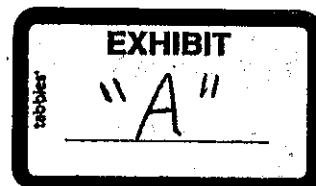
Respondents.

DECLARATION

LAST DANCE INC. is licensed as a corporate real estate broker and/or has license rights with respect to said license. My name is Geoffrey Mountain and I am an officer and/or director of LAST DANCE INC., and I am authorized to sign this declaration on behalf of LAST DANCE INC. I am acting on behalf of LAST DANCE INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) I wish to voluntarily surrender the real estate license(s) issued by the Department of Real Estate ("Department") to LAST DANCE INC., pursuant to Business and Professions Code Section 10100.2.

It is understood that by so voluntarily surrendering this license, LAST DANCE INC. may be relicensed as a broker corporation only by petitioning for reinstatement pursuant to

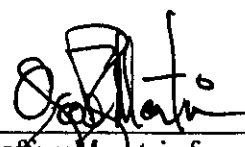


1 Section 11522 of the Government Code. I also understand that by so voluntarily surrendering
2 said license, LAST DANCE INC. agree to the following:

3 The filing of this Declaration shall be deemed as the petition of LAST DANCE
4 INC. for voluntary surrender. It shall also be deemed to be an understanding and agreement by
5 LAST DANCE INC. that it hereby waives all rights it may have to require the Commissioner to
6 prove the allegations contained in the Accusations filed in this matter at a hearing held in
7 accordance with the provisions of the Administrative Procedure Act (Government Code Sections
8 11400 et seq.), and that LAST DANCE INC. also waives other rights afforded to it in connection
9 with the hearing such as the right to discovery, the right to present evidence in defense of the
10 allegations in the Accusation and the right to cross-examine witnesses. LAST DANCE INC.
11 further agrees that upon acceptance by the Commissioner, as evidenced by an appropriate order,
12 all affidavits and all relevant evidence obtained by the Department in this matter prior to the
13 Commissioner's acceptance, and all allegations contained in the Accusations heretofore filed in
14 the Department Case No. H-4096 SD, may be considered by the Department to be true and
15 correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to
16 Government Code Section 11522.

17 I declare under penalty of perjury under the laws of the State of California that the
18 above is true and correct and that LAST DANCE INC. freely and voluntarily surrender all
19 license(s) and license rights under the Real Estate Law.

20
21
22 8/16/10 CARLSBAD, CA
Date and Place

23 
24 _____
25 Geoffrey Mountain for
26 LAST DANCE INC.
27

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789
7 (916) 227-0781 (Direct)

FILED

AUG 26 2010

DEPARTMENT OF REAL ESTATE

By *J. Zin*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 LAST DANCE INC.,
13 JONATHAN ALDRICH KOHL,
14 and DAVID MASSOT HARVEY,
15 Respondents.

No. H-4096 SD

FIRST AMENDED
ACCUSATION

16 The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of
17 California, for cause of Accusation against LAST DANCE INC., JONATHAN ALDRICH
18 KOHL, and DAVID MASSOT HARVEY (hereinafter "Respondents"), is informed and alleges
19 as follows:

20 1

21 The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of
22 California, makes this Accusation in his official capacity:

23 2

24 Respondents are presently licensed and/or has license rights under the Real Estate
25 Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

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1 3

2 At all times mentioned, LAST DANCE INC., (hereinafter "LDI") was and is
3 licensed by the State of California Department of Real Estate (hereinafter "Department") as a real
4 estate broker corporation.

5 4

6 At all times mentioned, Respondent JONATHAN ALDRICH KOHL, (hereinafter
7 "KOHL") was and is licensed by the Department individually as a real estate broker. At all time
8 mention herein and continuing through October 27, 2008, KOHL was licensed as the designated
9 broker officer of LDI. As said designated officer-broker, KOHL was responsible pursuant to
10 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
11 licensees and employees of LDI for which a license is required.

12 5

13 At all times mentioned, Respondent DAVID MASSOT HARVEY (hereinafter
14 "HARVEY") was and is licensed by the Department as a real estate salesperson.

15 6

16 At all times mentioned, Respondents engaged in the business of, acted in the
17 capacity of, advertised, or assumed to act as real estate brokers in the State of California, within
18 the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate
19 resale brokerage with the public wherein, on behalf of others, for compensation or in expectation
20 of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited
21 prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the
22 purchase and resale of real property.

23 7

24 In connection with the operation and conduct of the real estate activities described
25 in Paragraph 6, HARVEY, on behalf of LDI, engaged in the business of claiming, demanding,
26 charging, receiving, collecting, or contracting for the collection of advance fees within the
27 meaning of Sections 10026 and 10131.2 of the Code including but not limited to the following:

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Property Owner	Property Address	Date	Advance Fee
Mariano R. Albano	30534 Muir Court, Murrieta	1/14/08	\$6,000
Mariano & Pavita Albano	106 East 18 th Street, San Diego	8/16/07	\$4,000

8

In connection with the collection and handling of said advance fee:

(a) HARVEY and LDI failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations (hereinafter "the Regulations");

(b) LDI failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Sections 10146 and 10145, and Section 2832 of the Regulations; and

(c) LDI failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations.

(d) LDI commingled with its own money or property, the money or property of others which was received or held by LDI in trust in violation of Section 10176(e) of the Code.

9

KOHL failed to exercise reasonable supervision over the acts of LDI in such a manner as to allow the acts and events described above to occur.

10

The acts and/or omissions of KOHL described in paragraph 9, constitutes failure on the part of KOHL, as designated broker-officer for LDI, to exercise reasonable supervision and control over the licensed activities of LDI required by Section 10159.2 of the Code.

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The acts and/or omissions of HARVEY described in Paragraphs 7 and 8, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085 of the Code and Section 2970 of the Regulations, and are cause for the suspension or revocation of HARVEY's license and license rights.


12

The acts and/or omissions of LDI described in Paragraphs 7 and 8, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, 10145, and 10146 of the Code and Sections 2970, 2972, and 2832 of the Regulations, and Section 10176(e) of the Code, and are cause for the suspension or revocation of LDI's license and license rights. In addition, the Department is entitled to reimbursement of the costs of its audit pursuant to Section 10148 of the Code.

13

The facts alleged in Paragraphs 9 and 10, are grounds from the suspension or revocation of the licenses and license rights of KOHL under Sections 10177(g) and/or 10177(h) of the Code, and Section 10177(d) of the Code in conjunction with Section 10159.2 of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) of Respondents, and for such other and further relief as may be proper under applicable provisions of law.



JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 27 day of August, 2010.

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007

FILED

APR 26 2010

6 Telephone: (916) 227-0789
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DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-4096 SD

12 LAST DANCE INC.,)
13 JONATHAN ALDRICH KOHL,)
14 and DAVID MASSOT HARVEY,)
15 Respondents.)

ACCUSATION

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17 The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of
18 California, for cause of Accusation against LAST DANCE INC., JONATHAN ALDRICH
19 KOHL, and DAVID MASSOT HARVEY (hereinafter "Respondents"), is informed and alleges
20 as follows:

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22 The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of
23 California, makes this Accusation in his official capacity.

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25 Respondents are presently licensed and/or has license rights under the Real Estate
26 Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

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At all times mentioned, LAST DANCE INC., (hereinafter "LDI") was and is licensed by the State of California Department of Real Estate (hereinafter "Department") as a real estate broker corporation.

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At all times mentioned, Respondent JONATHAN ALDRICH KOHL, (hereinafter "KOHL") was and is licensed by the Department individually as a real estate broker. At all time mention herein and continuing through October 27, 2008, KOHL was licensed as the designated broker officer of LDI. As said designated officer-broker, KOHL was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of LDI for which a license is required.

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At all times mentioned, Respondent DAVID MASSOT HARVEY (hereinafter "HARVEY") was and is licensed by the Department as a real estate salesperson.

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At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property.

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In connection with the operation and conduct of the real estate activities described in Paragraph 6, HARVEY, on behalf of LDI, engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the

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1 meaning of Sections 10026 and 10131.2 (advance fees) of the Code including but not limited to
2 the following:

3	Property Owner	Property Address	Date	Advance Fee
4	Mariano R. Albano	30534 Muir Court, Murrieta	1/14/08	\$6,000
5	Mariano & Pavita Albano	106 East 18 th Street, San Diego	8/16/07	\$4,000

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7 In connection with the collection and handling of said advance fee, HARVEY and
8 LDI failed to cause the advance fee contract and all materials used in obtaining the advance fee
9 agreement to be submitted to the Department of Real Estate prior to use as required by Section
10 10085 of the Code and Section 2970 of Title 10, California Code of Regulations (hereinafter
11 "Regulations").

12 9

13 KOHL failed to exercise reasonable supervision over the acts of LDI in such a
14 manner as to allow the acts and events described above to occur.

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16 The acts and/or omissions of KOHL described in paragraph 9, constitutes failure
17 on the part of KOHL, as designated broker-officer for LDI, to exercise reasonable supervision
18 and control over the licensed activities of LDI required by Section 10159.2 of the Code.

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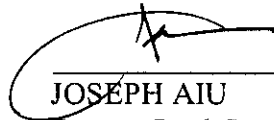
20 The acts and/or omissions of LDI and HARVEY described in Paragraphs 7 and 8,
21 constitute violation of Section 10177(d) of the Code in conjunction with Section 10085 of the
22 Code and Section 2970 of the Regulations (Submission of Advance Fee Agreement and
23 Materials), and are cause for the suspension or revocation of LDI and HARVEY's license and
24 license rights.

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2 The facts alleged in Paragraphs 9 and 10, are grounds from the suspension or
3 revocation of the licenses and license rights of KOHL under Sections 10177(g) and/or 10177(h)
4 of the Code, and Section 10177(d) of the Code in conjunction with Section 10159.2 of the Code.

5 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
6 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and license rights under the Real Estate Law (Part 1 of Division 4 of
8 the Business and Professions Code) of Respondents, and for such other and further relief as may
9 be proper under applicable provisions of law.
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13 _____
14 JOSEPH AIU
15 Deputy Real Estate Commissioner

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Dated at San Diego, California,
this 22 day of April, 2010.