

FILED

JUN 30 2009

1 Department of Real Estate  
2 P.O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE



7 BEFORE THE DEPARTMENT OF REAL ESTATE  
8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of

11 KIMBALL HILL HOMES CALIFORNIA,  
12 INC., a California Corporation, and  
13 LAWRENCE L. BONTRAGER,

14 Respondents.

No. H-5141 SAC

OAH No. 2009030647

STIPULATION AND AGREEMENT  
AS TO LAWRENCE L.  
BONTRAGER ONLY

15  
16 It is hereby stipulated by and between LAWRENCE L. BONTRAGER  
17 (hereinafter "Respondent") and his attorney, Bruce R. Inman, and the Complainant, acting by  
18 and through Angela L. Cash, Counsel for the Department of Real Estate, as follows for the  
19 purpose of settling and disposing of the Accusation filed on January 27, 2009 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 Accusation, which hearing  
22 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),  
23 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
24 Stipulation and Agreement.

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

1                   3.       On February 9, 2009, Respondent filed a Notice of Defense pursuant to  
2 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations  
3 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
4 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he  
5 will thereby waive his right to require the Commissioner to prove the allegations in the  
6 Accusation at a contested hearing held in accordance with the provisions of the APA, and that he  
7 will waive other rights afforded to him in connection with the hearing such as the right to present  
8 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

9                   4.       This stipulation is based on the factual allegations contained in the  
10 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these  
11 factual allegations, but to remain silent and understand that, as a result thereof, these factual  
12 allegations, without being admitted or denied, will serve as a prima facie basis for the  
13 "Determination of Issues" and "Order" set forth below. The Real Estate Commissioner shall not  
14 be required to provide further evidence to prove such allegations.

15                   5.       This Stipulation and Respondent's decision not to contest the Accusation  
16 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
17 limited to this proceeding and any other proceeding or case in which the Department of Real  
18 Estate (herein "the Department"), the state or federal government, an agency of this state, or an  
19 agency of another state is a party.

20                   6.       It is understood by the parties that the Real Estate Commissioner may  
21 adopt the Stipulation and Agreement as his decision in this matter thereby imposing the penalty  
22 and sanctions on the real estate licenses and license rights of Respondent as set forth in the  
23 below "Order". In the event that the Commissioner in his discretion does not adopt the  
24 Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the  
25 right to a hearing and proceeding on the Accusation under all the provisions of the APA and  
26 shall not be bound by any admission or waiver made herein.

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(1) The restricted license issued to Respondent LAWRENCE L.

BONTRAGER may be suspended prior to hearing by order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which bears a substantial relationship to Respondent's fitness or capacity as a real estate licensee.

(2) The restricted license may be suspended prior to hearing by Order of the

Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent LAWRENCE L. BONTRAGER has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

(3) Respondent LAWRENCE L. BONTRAGER shall not be eligible to apply

for the issuance of an unrestricted real estate license, nor the removal of any of the conditions of the restricted license, until two (2) years have elapsed from the effective date of this Order.

(4) Respondent LAWRENCE L. BONTRAGER shall, within nine (9)

months from the effective date of this Order, present evidence satisfactory to the Real Estate Commissioner that Respondent LAWRENCE L. BONTRAGER has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent LAWRENCE L. BONTRAGER fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent LAWRENCE L. BONTRAGER presents such evidence. The Commissioner shall afford Respondent LAWRENCE L. BONTRAGER the opportunity for hearing pursuant to the Administrative Procedure Act to present such evidence.

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(5) Respondent LAWRENCE L. BONTRAGER shall, within six (6) months  
from the effective date of this Decision, take and pass the Professional Responsibility  
Examination administered by the Department including the payment of the appropriate  
examination fee. If Respondent LAWRENCE L. BONTRAGER fails to satisfy this condition,  
the Commissioner may order suspension of the restricted license until Respondent  
LAWRENCE L. BONTRAGER passes the examination.

\_\_\_\_\_  
DATED

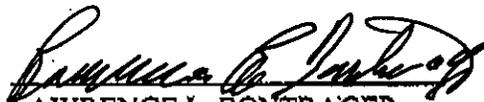
\_\_\_\_\_  
ANGELA L. CASH  
Counsel for Complainant

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I have read the Stipulation and Agreement, discussed it with my counsel, 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, and I willingly,  
intelligently and voluntarily waive those rights, including the right of requiring the  
Commissioner to prove the allegations in the 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.

6/6/2009

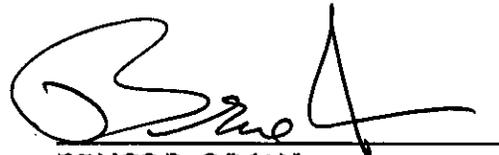
\_\_\_\_\_  
DATED

  
\_\_\_\_\_  
LAWRENCE L. BONTRAGER  
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have  
advised my clients accordingly.

6-1-09

\_\_\_\_\_  
DATED

  
\_\_\_\_\_  
BRUCE R. INMAN  
Attorney for Respondent

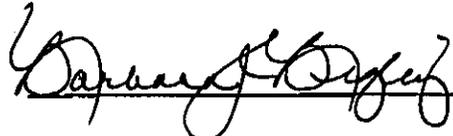
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The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on JUL 21 2009

IT IS SO ORDERED 6-25-09

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

FILED

JUN 30 2009

DEPARTMENT OF REAL ESTATE



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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of

KIMBALL HILL HOMES CALIFORNIA,  
INC., a California Corporation, and  
LAWRENCE L. BONTRAGER,

Respondents.

No. H-5141 SAC

OAH No. 2009030647

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On January 27, 2009, an Accusation was filed in this matter against Respondents  
KIMBALL HILL HOMES CALIFORNIA, INC. and LAWRENCE L. BONTRAGER.

On June 1, 2009, Respondent KIMBALL HILL HOMES CALIFORNIA INC.  
only petitioned the Commissioner to voluntarily surrender its real estate license pursuant to  
Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent KIMBALL HILL HOMES  
CALIFORNIA INC. only petition for voluntary surrender of its corporate real estate license is  
accepted as of the effective date of this Order as set forth below, based upon the understanding  
and agreement expressed in Respondent's Declaration dated June 1, 2009 (attached as Exhibit  
"A" hereto). Respondent's license certificate, pocket card and any branch office license

1 certificates shall be sent to the address listed below so that they reach the Department on or  
2 before the effective date of this Order:

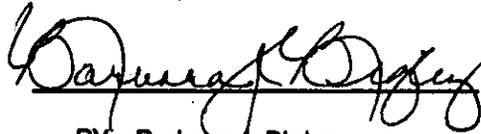
3 Department of Real Estate  
4 Atten: Licensing Flag Section  
5 P.O. Box 187000  
6 Sacramento, CA 95818-7000

7 This Order shall become effective at 12 o'clock noon on

8 **JUL 21 2009**

9 DATED: 6-25-09

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11 JEFF DAVI  
12 Real Estate Commissioner

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14 BY: Barbara J. Bigby  
15 Chief Deputy Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of

KIMBALL HILL HOMES CALIFORNIA,  
INC., a California Corporation, and  
LAWRENCE L. BONTRAGER,

Respondents.

No. H-5141 SAC

OAH No. 2009030647

DECLARATION

Respondent is KIMBALL HILL HOMES CALIFORNIA, INC. and is currently licensed as a real estate broker corporation. Bruce R. Inman is representing KIMBALL HILL HOMES CALIFORNIA, INC. in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Business and Professions Code) KIMBALL HILL HOMES CALIFORNIA, INC. wishes to voluntarily surrender the real estate license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

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1 KIMBALL HILL HOMES CALIFORNIA, INC. understands that by so  
 2 voluntarily surrendering the license, that it can only be reinstated in accordance with the  
 3 provisions of Section 11522 of the Government Code. KIMBALL HILL HOMES  
 4 CALIFORNIA, INC. also understands that by so voluntarily surrendering its license, KIMBALL  
 5 HILL HOMES CALIFORNIA, INC. agrees to the following:

6 The filing of this Declaration shall be deemed as KIMBALL HILL HOMES  
 7 CALIFORNIA, INC.'s petition for voluntary surrender. It shall also be deemed to be an  
 8 understanding and agreement by KIMBALL HILL HOMES CALIFORNIA, INC. that,  
 9 KIMBALL HILL HOMES CALIFORNIA, INC. waives all rights it has to require the  
 10 Commissioner to prove the allegations contained in the Accusation filed in this matter at a  
 11 hearing held in accordance with the provisions of the Administrative Procedures Act  
 12 (Government Code Sections 11400 et seq.), and that KIMBALL HILL HOMES CALIFORNIA,  
 13 INC. also waives other rights afforded to it in connection with the hearing such as the right to  
 14 discovery, the right to present evidence in defense of the allegations in the Accusation and the  
 15 right to cross examine witnesses. KIMBALL HILL HOMES CALIFORNIA, INC. further agrees  
 16 that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits  
 17 and all relevant evidence obtained by the Department in this matter prior to the Commissioner's  
 18 acceptance, and all allegations contained in the Accusation filed in the Department Case No.  
 19 H-5141 SAC, may be considered by the Department to be true and correct for the purpose of  
 20 deciding whether or not to grant reinstatement of KIMBALL HILL HOMES CALIFORNIA,  
 21 INC. license pursuant to Government Code Section 11522.

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KIMBALL HILL HOMES CALIFORNIA, INC. declares under penalty of perjury under the laws of the State of California that the above is true and correct and that it freely and voluntarily surrender its license and all license rights attached thereto.

6/1/2009  
DATED

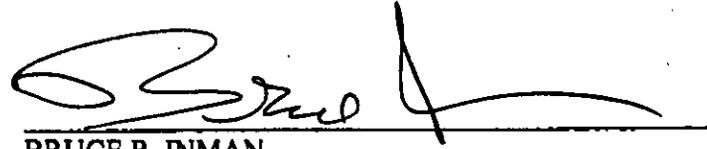
KIMBALL HILL HOMES CALIFORNIA, INC.  
Respondent

By   
LAWRENCE L. BONTRAGER  
Designated Officer

\*\*\*

I have reviewed the Declaration as to form and content and have advised my client accordingly.

6-1-09  
DATED

  
BRUCE R. INMAN  
Attorney for Respondent

1 ANGELA L. CASH, Counsel  
2 State Bar No. 230882  
3 Department of Real Estate  
4 P.O. Box 187007  
5 Sacramento, CA 95818-7007  
6 Telephone: (916) 227-0785

FILED

JAN 27 2009

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-5141 SAC

12 KIMBALL HILL HOMES CALIFORNIA,  
13 INC., a California Corporation, and  
14 LAWRENCE L. BONTRAGER,

ACCUSATION

15 Respondents.

16  
17 The Complainant, Joe M. Carrillo, a Deputy Real Estate Commissioner of the  
18 State of California (hereinafter "Complainant"), for cause of Accusation against KIMBALL  
19 HILL HOMES CALIFORNIA, INC., a California Corporation (hereinafter "Respondent  
20 KIMBALL HILL"), and LAWRENCE L. BONTRAGER (hereinafter "Respondent  
21 BONTRAGER") is informed and alleges as follows:

22 PRELIMINARY ALLEGATIONS

23 1

24 Complainant makes this Accusation against Respondents in his official capacity.

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2 Respondents KIMBALL HILL and BONTRAGER are presently licensed and/or  
3 have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business  
4 and Professions Code) (hereinafter "Code").

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6 3

6 At all times herein mentioned, Respondent KIMBALL HILL was and now is  
7 licensed by the Department of Real Estate of the Department as a corporate real estate broker by  
8 and through Respondent BONTRAGER as designated officer-broker of Respondent KIMBALL  
9 HILL to qualify said corporation and to act for said corporation as a real estate broker.

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11 4

11 At all times herein mentioned, Respondent BONTRAGER was licensed as a real  
12 estate broker individually and beginning on or about December 21, 1994 as the designated  
13 broker-officer for Respondent KIMBALL HILL. As said designated officer-broker, Respondent  
14 BONTRAGER was at all times mentioned herein responsible pursuant to Section 10159.2 of the  
15 Code for the supervision of the activities of the officers, agents, real estate licensees and  
16 employees of Respondent for which a license is required.

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18 At all times herein mentioned, Respondent KIMBALL HILL acted in the  
19 capacity of, advertised, or assumed to act as a real estate broker within the State of California  
20 within the meaning of Sections 10131(a) of the Code, including the operation and conduct of a  
21 real estate brokerage business with the public wherein, on behalf of others, for compensation or  
22 in expectation of compensation, Respondent sold and offered to sell, solicited prospective  
23 sellers and purchasers of, and negotiated the purchase and sale of real property.

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25 6

25 Whenever reference is made in an allegation in this Accusation to an act or  
26 omission of Respondent KIMBALL HILL, such allegation shall be deemed to mean that the  
27 officers, directors, employees, agents and real estate licensees employed by or associated with

1 Respondent KIMBALL HILL committed such act or omission while engaged in the furtherance  
2 of the business or operations of Respondent KIMBALL HILL and while acting within the  
3 course and scope of their corporate authority and employment.

4 7

5 At all times mentioned herein Respondents were the owners or subdividers, or  
6 agents of the owners or subdividers of subdivided lands as defined in Sections 11000, 11003, and  
7 11004.5 of the Code.

8 8

9 Said subdivision is a multi-phased planned development known as or commonly  
10 called "Somerset", consisting of 169 lots and is located in or near the County of Sacramento,  
11 State of California (hereinafter "Subdivision").

12 FIRST CAUSE OF ACTION

13 9

14 On approximately September 15, 2006, Respondent KIMBALL HILL applied to  
15 the California Department of Real Estate (herein "the Department") for a final public report  
16 authorizing such respondent to offer for sale, negotiate the sale and sell lots in phase 1 identified  
17 as lots 1 through 13, 37 through 61 and 88 through 93 (totaling 44 lots) in addition to common  
18 areas consisting of lots B, D, H, J, K, Q, R and S within the Subdivision.

19 10

20 On approximately August 9, 2007, in reliance upon the representations and  
21 assurances described in Paragraph 9, above, the Department issued to Respondent KIMBALL  
22 HILL a Final Subdivision Public Report, File No. 127794SA-F00 (hereinafter "original final  
23 public report"), authorizing Respondent KIMBALL HILL to offer for sale, negotiate the sale and  
24 sell the lots identified in Paragraph 9, above,

25 11

26 On approximately November 12, 2007, without first obtaining a public report  
27 authorizing such offering, negotiation, or sale, Respondent KIMBALL HILL entered into a

1 contract to sell lot 33 to John and Victoria Gilmette in violation of Section 11018.2 of the Code  
2 which constitutes grounds for the suspension or revocation of the licenses and license rights of  
3 Respondent KIMBALL HILL under Section 10177(d) of the Code.

4 SECOND CAUSE OF ACTION

5 12

6 The allegations of Paragraphs I through 11 are incorporated herein by reference.

7 13

8 On approximately January 3, 2008, the Department issued an Amended Final  
9 Subdivision Public Report - Planned Development, File No. 127794SA-A01 (hereinafter  
10 "amended final public report"). The amended final public report replaced the original final  
11 public report and only authorized Respondent KIMBALL HILL to offer for sale, negotiate the  
12 sale and sell lots 2 through 13 in the Subdivision.

13 14

14 Between approximately February 23, 2008 and September 5, 2008, Respondent  
15 KIMBALL HILL solicited prospective purchasers, offered for sale, and entered into contracts on  
16 lots in the Subdivision including but not limited to:

17 Lot	Purchaser(s)	Reservation/Contract Date
18 14	Salvatore and Brooke Davide	6/17/08
19 15	Luis and Shabreen Quintanilla	6/16/08
20 16	Anthony Johnson and 21 Angelinque Lockhart	6/8/08
22 20	Kelli Espinoza	6/8/08
23 21	Benjamin Banahene	8/29/08
24 22	Thomas Harris and 25 Roberta Lepird	7/28/08
26 23	Chung Yip	8/18/08

1	25	Lois Skidmore and	7/26/08
2		Karen Mager	
3	26	Frank and Karla Faucett	7/13/08
4	28	James Trang	7/11/08
5	30	Melissa Reichard	6/18/08
6	31	Taloria Young-Richards	6/25/08
7	34	Travis Hunter and Ashley	6/10/08
8		Boruff	
9	35	Joseph Van Houten and	8/22/08
10		Elizabeth Mariscal	
11	36	Venessa Uclaray, Paul Fortes	6/2/08
12		and Erlinda Fortes	
13	37	Daniel Garcia, Julian Garcia	3/20/08
14		and Maria Garcia	
15	38	Tiana Uhl	8/28/08
16	39	Tina Thi	6/3/08
17	41	Estace and Rodolfo Yambot	8/27/08
18	42	Valerie Oseski	5/31/08
19	43	Stephen Williams	5/17/08
20	160	Victor and Jeanette Ramos	8/22/08
21	162	David and Heather Haworth	9/5/08
22	164	Samuel Mahan	7/8/08

At no time mentioned herein did there exist any conditional public report or final public report issued by the Department authorizing any person to offer for sale, negotiate the sale or sell the lots listed in Paragraph 14, above. Said sales were conducted in violation of

1 Section 11018.2 of the Code and constitute grounds for the suspension or revocation of the  
2 licenses and license rights of Respondent KIMBALL HILL under Section 10177(d) of the Code.

3 THIRD CAUSE OF ACTION

4 16

5 The allegations of Paragraphs 1 through 15 are incorporated herein by reference.

6 17

7 On approximately September 8, 2008, Respondent KIMBALL HILL submitted a  
8 Public Report Amendment/Renewal Application (hereinafter "application #3") to the  
9 Department to amend the amended final public report previously issued to Respondent  
10 KIMBALL HILL on approximately January 3, 2008 as identified in Paragraph 13, above. By  
11 this application #3, Respondent KIMBALL HILL sought to reduce the number of lots offered in  
12 Phase 1 from 12 lots to 6 lots, covering Lots 2 through 7 only.

13 18

14 Between approximately September 12, 2008 and October 11, 2008, Respondent  
15 KIMBALL HILL solicited prospective purchasers, offered for sale, accepted reservations and/or  
16 entered into contracts on lots in the Subdivision including but not limited to:

17 Lot	Purchaser(s)	Reservation/Contract Date
18 18	Steven and Louise Karsten	10/1/08
19 48	Eyvonne Williams	10/11/08
20 165	Mahmoud Elsokary and 21 Fawzia Mabrouk	10/10/08
22 166	Lisa Pulido	9/12/08
23 167	Brandon Johnson	10/6/08

24 19

25 The transactions described in Paragraph 18, above, were conducted by  
26 Respondent KIMBALL HILL in violation of Section 11018.2 of the Code which constitutes  
27

1 grounds for the suspension or revocation of the licenses and license rights of Respondent  
2 KIMBALL HILL under Section 10177(d) of the Code.

3 FOURTH CAUSE OF ACTION

4 20

5 The allegations of Paragraphs 1 through 19 are incorporated herein by reference.

6 21

7 In conducting sales in the Subdivision without first applying for and obtaining a  
8 public report authorizing such sales, as described above, Respondent KIMBALL HILL made a  
9 material change in the setup of the offering described in the public report applications described  
10 above, thereby violating Section 11012 of the Code which constitute grounds for the suspension  
11 or revocation of the licenses and license rights of Respondent KIMBALL HILL under Section  
12 10177(d) of the Code.

13 FIFTH CAUSE OF ACTION

14 The allegations of Paragraphs 1 through 21 are incorporated herein by reference.

15 22

16 Respondent BONTRAGER failed to exercise reasonable supervision over the  
17 acts of Respondent KIMBALL HILL in such a manner as to allow the acts and omissions on the  
18 part of Respondent KIMBALL HILL, described above in Paragraphs 9 through 21, to occur.

19 23

20 The acts and omissions of Respondent BONTRAGER, described above in  
21 Paragraphs 9 through 21, constitute failure on the part of Respondent BONTRAGER, as  
22 designated broker-officer of Respondent KIMBALL HILL, to exercise reasonable supervision  
23 and control over the licensed activities of Respondent KIMBALL HILL as required by Section  
24 10159.2 which constitute grounds for the suspension or revocation of the licenses and license  
25 rights of Respondent BONTRAGER under Section 10177(h) of the Code.

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

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7   
8 JOE M. CARRILLO  
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,  
11 this 26 day of January, 2009  
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