

FILED

February 11, 2014

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Bureau of Real Estate
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BUREAU OF REAL ESTATE

By 

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-6065 SAC
MARK E. CHRISCO, and)	
DANIEL JOSEPH BOSCH,)	<u>FIRST AMENDED</u>
)	<u>ACCUSATION</u>
Respondents.)	
)	

The Complainant, TRICIA D. SOMMERS, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MARK E. CHRISCO ("CHRISCO") and DANIEL JOSEPH BOSCH ("BOSCH"), (collectively referred to as Respondents"), is informed and allege as follows:

PRELIMINARY ALLEGATIONS

1.

At all times herein mentioned, CHRISCO was licensed and/or has license rights under Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code") as a real estate broker.

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2.

At all times herein mentioned, BOSCH was licensed and/or has license rights under Real Estate Law, Part 1 of Division 4 of the Code as a real estate salesperson.

3.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of section 10131(a) of the Code, including the operation and conduct of a real estate brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity.

4.

At all times herein mentioned, Respondents' real estate services also included negotiating with lenders on behalf of property owners to permit the sale of real property for an amount less than the balance due on the loans secured by said property along with the agreement that the Bank would forgive any remaining balance due on the promissory notes and/or release their liens; a process commonly known as a short sale.

5.

Between about January 11, 2011 and about November 26, 2012, in the process of providing short sale services as described above in Paragraph 4, Respondents demanded and collected advance fees for services as short sale negotiators from the following owners/borrowers:

Owner/Borrower Name	Date Collected	Amount Collected
Powers (Phase I)	January 11, 2011	\$595.00
Lobban (Phase II)	January 25, 2011	\$495.00
Sanders (Phase I)	January 25, 2011	\$595.00

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Powers (Phase II)	February 15, 2011	\$595.00
Brown (Phase I)	March 1, 2011	\$650.00
Walburn (Phase II)	March 1, 2011	\$595.00
Joiner (Phase I)	March 22, 2011	\$650.00
Sanders (Phase II)	April 5, 2011	\$595.00
Brown (Phase II)	April 12, 2011	\$650.00
Lobban (Phase III)	May 10, 2011	\$495.00
Dietle (Phase I)	July 5, 2011	\$1,995.00
Walburn (Phase III)	October 11, 2011	\$595.00
Bagtas (Phase I)	February 14, 2012	\$750.00
Osborn (Phase II)	February 14, 2012	\$1,995.00
Bagtas (Phase II)	March 6, 2012	\$750.00
Miles (Phase I)	May 22, 2012	\$650.00
Bagtas (Phase III)	July 17, 2012	\$950.00
Sajadi (Phase I)	August 28, 2012	\$695.00
Mullan (Phase I)	September 28, 2012	\$595.00
Sajadi (Phase II)	October 16, 2012	\$695.00
Mullan (Phase II)	October 30, 2012	\$695.00
Sajadi (Phase III)	November 26, 2012	\$695.00

6.

The advance fees collected by Respondents, as set forth above in Paragraph 5, were deposited into the following bank account:

BANK ACCOUNT # 1	
Bank Name and Location:	U.S. Bank 260 E. 2 nd St. Chico, CA 95928
Account No.:	X XXX XXXX 9505
Entitled:	MBSM Joint Venture dba Remax of Chico
Signatories:	Unknown
No. of Signatures Required:	Unknown

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FIRST CAUSE OF ACTION
Unlawful Collection of Advance Fee
(As to Respondents CHRISCO and BOSCH)

7.

Each and every allegation contained above in Paragraphs 1 through 6, inclusive, is incorporated by this reference as if fully set forth herein.

8.

In connection with the activities described above in Paragraphs 1 through 7, Respondents collected advance fees within the meaning of sections 10026 (advance fee definition) and 10131.2 (broker definition – advance fees) of the Code in exchange for purportedly providing short sale negotiation services.

9.

The acts or omissions of Respondents, as alleged above in Paragraph 8, violate sections 10085.5 (advance fees collection) and 10085.6 (collection of advance fees prior to performance of services) of the Code.

10.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 8 and 9, are grounds for the suspension or revocation of Respondents' licenses and license rights under sections 10177(d) and/or 10177(g) of the Code.

SECOND CAUSE OF ACTION
Failure to Submit Advance Fee Contract
(As to Respondents CHRISCO and BOSCH)

11.

Each and every allegation above in Paragraphs 1 through 10, inclusive, is incorporated by this reference as if fully set forth herein.

12.

In connection with the collection and handling of advance fees as alleged above in Paragraphs 5 and 8, Respondents failed to submit the advance fee contract and all materials used

1 in obtaining those advance fee agreements to the Bureau of Real Estate for approval prior to their
2 use in obtaining advance fees from owners/borrowers.

3 13.

4 The acts and/or omissions of Respondents, as alleged above in Paragraph 12,
5 violate sections 10085.5, 10085.6 and 10177(d) in conjunction with section 10085 (submission
6 of advance fee agreements and materials) of the Code, and sections 2970 (submission of advance
7 fee agreements and materials) and 2972 (content requirements of verified accounting) of title 10,
8 chapter 6, California Code of Regulations ("the Regulations").

9 14.

10 The acts and/or omissions of Respondents, as alleged above in Paragraphs 12 and
11 13, are grounds for the suspension or revocation of Respondents' licenses and license rights
12 under sections 10177(d) and/or 10177(g) of the Code.

13 THIRD CAUSE OF ACTION

14 Failure to Deposit Advance Fees Into Trust Account
15 (As to Respondents CHRISCO and BOSCH)

16 15.

17 Each and every allegation above in Paragraphs 1 through 14, inclusive, is
18 incorporated by this reference as if fully set forth herein.

19 16.

20 In connection with the collection and handling of advance fees as alleged above in
21 Paragraphs 5 through 8, Respondents failed to deposit said advance fees into an interest-bearing
22 trust account maintained by CHRISCO after obtaining them from owners/borrowers.

23 17.

24 The acts and/or omissions of CHRISCO, as alleged above in Paragraph 16 violate
25 sections 10145(a) of the Code.

26 18.

27 The acts and/or omissions of BOSCH, as alleged above in Paragraph 16 violate
sections 10145(c) of the Code.

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19.

The acts and/or omissions of Respondents, as alleged above in Paragraphs 14 through 18, are grounds for the suspension or revocation of Respondents' licenses and license rights under sections 10177(d) and/or 10177(g) of the Code.

FOURTH CAUSE OF ACTION
Audit Violations
(As to Respondent CHRISCO)

20.

Each and every allegation contained above in Paragraphs 1 through 19, inclusive, is incorporated by this reference as if fully set forth herein.

21.

Beginning March 19, 2013 and continuing intermittently through May 16, 2013, the Bureau conducted an audit at Respondent's main office located at 1140 Mangrove Ave., Chico CA, where the auditor examined records for the period of June 1, 2010 to February 28, 2013 ("the audit period").

22.

While doing business within the audit period, Respondent accepted or received funds in trust ("trust funds") from or on behalf of prospective purchasers and others and deposited or caused to be deposited those funds into the following bank account maintained by Respondent:

BANK ACCOUNT # 1	
Bank Name and Location:	U.S. Bank 260 E. 2 nd St. Chico, CA 95928
Account No.:	X XXX XXXX 9505
Entitled:	MBSM Joint Venture dba Remax of Chico
Signatories:	Unknown
No. of Signatures Required:	Unknown

From time to time, Respondent made collections and disbursements from said account.

1 23.

2 In the course of the activities described above in Paragraph 22, in connection with
3 the collection and disbursement of trust funds, Respondent:

4 (a) caused, suffered or permitted the balance of funds in Bank Account #1 to
5 contain a shortage of \$4,420.00 without the prior written consent of each and every owner of
6 such funds, in violation of section 10145 of the Code and section 2832.1 of the Regulations;

7 (b) failed to designate Bank Account #1 as a trust account in violation of section
8 10145 of the Code and section 2832 of the Regulations;

9 (c) failed to maintain separate records of all advance fees collected for Bank
10 Account #1 in violation of section 10145(g) of the Code and sections 2831.1 and 2831.2 of the
11 Regulations; and

12 (d) failed to reconcile at least once a month, the balance of all separate
13 beneficiary or transaction records with the record of all trust funds received and disbursed for
14 Bank Account #1 in violation section 10145 of the Code and section 2831.2 of the Regulations.

15 24.

16 The acts and/or omissions of Respondent, as alleged above in Paragraph 23
17 constitute grounds for the suspension or revocation of all licenses and license rights of
18 Respondent pursuant to the following provisions of the Code and Regulations:

19 As to Paragraph 23(a), under Section 10177(d) and/or 10177(g) of the Code, in
20 conjunction with section 10145 of the Code and section 2832.1 of the Regulations;

21 As to Paragraph 23(b), under Section 10177(d) and/or 10177(g) of the Code, in
22 conjunction with section 10145 of the Code and section 2832 of the Regulations;

23 As to Paragraph 23(c), under section 10177(d) and/or 10177(g) of the Code, in
24 conjunction with Section 10145(g) of the Code and sections 2831.1 and 2831.2 of the
25 Regulations; and

26 As to Paragraph 23(d), under section 10177(d) and/or 10177(g) of the Code, in
27 conjunction with section 10145 of the Code and section 2831.2 of the Regulations;

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25.

The acts and/or omissions of Respondent as alleged above in Paragraph 24 entitle the Bureau to reimbursement of the costs of its audit pursuant to section 10148 of the Code.

COST RECOVERY

26.

The Bureau will seek to recover cost of this suit pursuant to section 10106 of the Code which provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license rights of Respondents under the Real Estate Law, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.


TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 11th day of February, 2014.

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Bureau may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.