

*Suits*

**FILED**

JUL 19 2010

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-34088 LA
	)	
<u>INCORE GROUP INC.</u> doing business	)	
as Incore Realty, Incore Lending	)	
and Incore Escrow; and ROBERT	)	
EDWARD DALSIMER, individually	)	
and as designated officer of	)	
Incore Group, Inc.,	)	
	)	
	)	
Respondents	)	
	)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on June 10, 2010, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent INCORE GROUP INC.'s express admissions; (2) affidavits; and (3) Department Audit Reports LA 050395, LA 050396 and LA 050397 (4) other evidence.

FACTUAL FINDINGS

1.

On May 31, 2007, Janice Waddell made the Accusation in her official capacity as a Deputy Real

Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail to Respondent's last known mailing addresses on file with the Department on July 3, 2007, by certified mail.

2.

On June 10, 2009, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent INCORE GROUP INC.'s default was entered herein.

3.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

#### LICENSE HISTORY

4.

A. At all times mentioned, INCORE GROUP INC. ("INCORE") was licensed or had license rights issued by the California Department of Real Estate ("Department") as a real estate broker. On July 26, 2005, INCORE was originally licensed as a real estate broker.

#### LICENSED ACTIVITIES AND BROKERAGE INCORE GROUP INC.

5.

At all times mentioned, in the City of Laguna Hills, County of Orange, INCORE acted as real estate broker conducting licensed activities within the meaning of:

A. Code Section 10131(a) by operating a residential resale brokerage dba Incore Realty;

B. Code Section 10131(d) by operating a mortgage and loan brokerage dba Incore Lending; and

C. In addition, INCORE conducted broker-controlled escrows through its escrow division, Incore Escrow, under the exemption set forth in California

Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

FIRST CAUSE OF ACCUSATION  
MORTGAGE LOAN AUDIT  
INCROE GROUP INC.

6.

On October 4, 2006, the Department completed an audit examination of the books and records of INCORE pertaining to the mortgage and loan brokerage activities described in Finding 5, that require a real estate license. The audit examination covered a period of time beginning on July 26, 2005 to June 30, 2006. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 050395 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT  
MORTGAGE AND LOAN ACTIVITIES

7.

At all times mentioned, in connection with the activities described in Finding 5, above, INCORE accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by INCORE including borrowers and lenders and thereafter made deposits and or disbursements of such funds. During the audit period INCORE did not maintain a trust account.

VIOLATIONS OF THE REAL ESTATE LAW  
MORTGAGE LOAN AUDIT

8.

In the course of activities described in Findings 5 and 7 above, and during the examination period described in Finding 6, Respondent INCORE, acted in violation of the Code and the Regulations in that the Respondent:

(a) Mixed and commingled trust funds and personal funds by depositing appraisal fees received from escrow into INCORE's general operating account and issuing checks from said account to the appraisers or credit companies after the escrow checks were deposited, in violation of Code Sections 10145 and 10176(e).

(b) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", in violation of Code Section 10145 and Regulation 2831. No control record existed for appraisal fees paid either at the close of escrow or from the lender.

(c) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, as required by Code Section 10145 and Regulation 2831.1. No separate record existed for appraisal fees paid either at the close of escrow or from the lender.

(d)(1) Failed to provide, maintain or retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Huggins, Jurczk, Phillips, Toren and Fong, in violation of Code Section 10240 and Regulation 2840.

(d)(2) Failed to disclose yield spread premiums from lenders on the approved Mortgage Loan Disclosure Statement for borrowers Jurczk, Phillips, Fong, Lovato, Roqueta and Miller, in violation of Code Section 10240, 10241 and Regulation 2840; and

(e) Failed to display INCORE's corporation's license number on the Mortgage Loan Disclosure Statements in violation of Code Section 10236.4(b) for borrowers Huggins, Jurczk, Phillips, Toren, Fong, Friekin, Lovato, Roqueta and Miller.

SECOND CAUSE OF ACCUSATION  
RESIDENTIAL RESALES AUDIT  
INCORE GROUP INC.

9.

On September 22, 2006, the Department completed an

audit examination of the books and records of INCORE pertaining to the residential resale activities described in Finding 5, that require a real estate license. The audit examination covered a period of time beginning on July 26, 2005 to June 30, 2006. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 050397 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT  
RESIDENTIAL REALES AUDIT

10.

At all times mentioned, in connection with the activities described in Finding 5, above, INCORE accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by INCORE including buyers and sellers and thereafter made deposits and or disbursements of such funds. During the audit period INCORE did not maintain a trust account.

VIOLATIONS OF THE REAL ESTATE LAW  
RESIDENTIAL REALES AUDIT

11.

In the course of activities described in Findings 5 and 10 above, and during the examination period described in Finding 9, Respondent INCORE and DALSIMER, as indicated, acted in violation of the Code and the Regulations in that they:

(a) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", in violation of Code Section 10145 and Regulation 2831. No control record existed for earnest money deposits for buyers, Ramirez, Cascalle, Bangan, Plando, Dignan, McDiarmid and Flynn.

THIRD CAUSE OF ACCUSATION  
BROKER ESCROW AUDIT  
INCORE GROUP INC.

12.

On September 29, 2006, the Department completed an audit examination of the books and records of INCORE pertaining to the broker-controlled escrow activities described in Finding 5, that require a real estate license. The audit examination covered a period of time beginning on July 26, 2005 to June 30, 2006. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 050396 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT  
BROKER ESCROW AUDIT

13.

At all times mentioned, in connection with the activities described in Finding 5, above, INCORE accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by INCORE including buyers and sellers, lenders and escrow holders. INCORE maintained the following trust account into which it deposited certain of these funds:

"Incore Escrow Trust Account  
Account No. 183-08201497"  
Wells Fargo Bank  
San Francisco, California ("escrow trust account")

VIOLATIONS OF THE REAL ESTATE LAW  
BROKER ESCROW AUDIT

14.

In the course of activities described in Findings 5 and 13 above, and during the examination period described in Finding 12, Respondent INCORE and DALSIMER,

as indicated, acted in violation of the Code and the Regulations in that they:

(a) received undisclosed compensation by means of an earning credit arrangement with Wells Fargo Bank. The earnings credit was based on and calculated by trust fund activity in the escrow trust account. Bank service charges were deducted from the earning credit accrued on the escrow trust account thus reducing INCORE's cost of doing business. The earnings credit arrangement was not disclosed by INCORE and DALSIMER to the beneficiaries of the escrow trust account, in violation of Code Sections 10176(a) and 10176(g).

#### NEGLIGENCE

15.

The overall conduct of Respondents INCORE and DALSIMER constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

#### DETERMINATION OF ISSUES

1.

The conduct of Respondent INCORE GROUP INC. as described in Finding 8, herein above, is in violation of Code Sections 10145, 10176(e), 10236.4(b) and 10240, 10241 and Regulation Sections 2831, 2831.1 and 2840, and is cause for disciplinary action pursuant to Code Sections 10176(e), 10177(d) and 10177(g).

2.

The conduct of Respondent INCORE GROUP INC., as described in Finding 11, herein above, is in violation of Code Section 10145 and Regulation 2831 and is cause for disciplinary action pursuant to Code Sections 10177(d) and 10177(g).

3.

The conduct of Respondent INCORE GROUP INC., as described in Finding 14, herein above is cause for

disciplinary action pursuant to Code Sections 10176(a)  
and 10176(g).

4.

The conduct of Respondent INCORE GROUP INC., as described in Finding 15, herein above, constitutes negligence or incompetence, and is cause for disciplinary action pursuant to Code Section 10177(g).

5.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

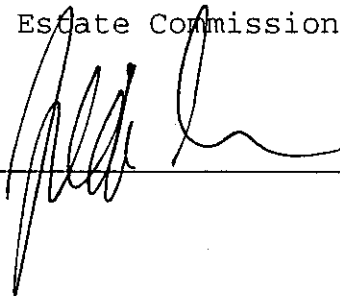
ORDER

The real estate broker license and license rights of Respondent INCORE GROUP INC., under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on August 9, 2010

DATED: \_\_\_\_\_ 7-14, 2010

JEFF DAVI  
Real Estate Commissioner



\_\_\_\_\_



1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105

4 (213) 576-6982

**FILED**

JUN 10 2009

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

10 In the Matter of the Accusation of )

No. H-34088 LA

11 INCORE GROUP INC. doing business )  
12 as Incore Realty, Incore Lending )  
13 and Incore Escrow; and ROBERT )  
14 EDWARD DALSIMER, individually and )  
15 as designated office of Incore )  
16 Group Inc., )

Respondents

DEFAULT ORDER

17 Respondent INCORE GROUP INC., having failed to file a  
18 Notice of Defense within the time required by Section 11506 of  
19 the Government Code, are now in default. It is, therefore,  
20 ordered that a default be entered on the record in this matter.

21 IT IS SO ORDERED

*June 10, 2009*  
JEFF DAVI  
Real Estate Commissioner  
*Dolores Weeks*

22 By: DOLORES WEEKS  
23 Regional Manager  
24  
25  
26  
27

*Fast*

1 Department of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105

3 213) 576-6982 (office)

**FILED**

APR 14 2009

DEPARTMENT OF REAL ESTATE

BY: *Des Y*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 INCORE GROUP INC. doing business )  
13 as Incore Realty, Incore Lending, )  
14 and Incore Escrow; and ROBERT )  
15 EDWARD DALSIMER, individually )  
and as designated officer of )  
16 Incore Group Inc., )  
17 Respondents, )

No. H-34088 LA

STIPULATION  
AND  
AGREEMENT

18 It is hereby stipulated by and between Respondent  
19 ROBERT EDWARD DALSIMER, individually and as designated officer of  
20 Incore Group Inc. (sometimes collectively referred to as the  
21 "Respondent"), represented by Mary E. Work, Esq., and the  
22 Complainant, acting by and through Elliott Mac Lennan, Counsel  
23 for the Department of Real Estate, as follows for the purpose of  
24 settling and disposing of the Accusation ("Accusation") filed on  
25 July 3, 2007, in this matter:

26 ///

1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondent  
3 at a formal hearing on the Accusation, which hearing was to be  
4 held in accordance with the provisions of the Administrative  
5 Procedure Act ("APA"), shall instead and in place thereof be  
6 submitted solely on the basis of the provisions of this  
7 Stipulation and Agreement ("Stipulation").

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

12           3. Respondent timely filed a Notice of Defense  
13 pursuant to Section 11506 of the Government Code for the purpose  
14 of requesting a hearing on the allegations in the Accusation.  
15 Respondent hereby freely and voluntarily withdraws said Notice of  
16 Defense. Respondent acknowledges that he understand that by  
17 withdrawing said Notice of Defense he thereby waive his right to  
18 require the Commissioner to prove the allegations in the  
19 Accusation at a contested hearing held in accordance with the  
20 provisions of the APA and that he will waive other rights  
21 afforded to him in connection with the hearing such as the right  
22 to present evidence in his defense the right to cross-examine  
23 witnesses.  
24

25 ///

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1                   4. This Stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expedience and economy, Respondent chooses not to contest these  
4 allegations, but to remain silent and understand that, as a  
5 result thereof, these factual allegations, without being admitted  
6 or denied, will serve as a prima facie basis for the disciplinary  
7 action stipulated to herein. The Real Estate Commissioner shall  
8 not be required to provide further evidence to prove said factual  
9 allegations.

10                   5. This Stipulation and Respondent's decision not to  
11 contest the Accusation is made for the purpose of reaching an  
12 agreed disposition of this proceeding and is expressly limited to  
13 this proceeding and any other proceeding or case in which the  
14 Department of Real Estate ("Department"), the state or federal  
15 government, or any agency of this state, another state or federal  
16 government is involved, and otherwise shall not be admissible in  
17 any other criminal or civil proceedings.

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

3 7. The Order or any subsequent Order of the Real  
4 Estate Commissioner made pursuant to this Stipulation shall not  
5 constitute an estoppel, merger or bar to any further  
6 administrative or civil proceedings by the Department of Real  
7 Estate with respect to any matters which were not specifically  
8 alleged to be causes for Accusation in this proceeding but do  
9 constitute a bar, estoppel and merger as to any allegations  
10 actually contained in the Accusations against Respondent herein.

11 8. Respondent understands that by agreeing to this  
12 Stipulation, Respondent agrees to pay, pursuant to Business and  
13 Professions Code Section 10148, the cost of audit which led to  
14 this disciplinary action. The amount of said cost for the audit  
15 is \$10,992.49 (Audit Report LA 050395 dated October 4, 2006).  
16

17 9. Respondent has received, read, and understands the  
18 "Notice Concerning Costs of Subsequent Audit". Respondent  
19 further understands that by agreeing to this Stipulation, the  
20 findings set forth below in the Determination of Issues become  
21 final, and the Commissioner may charge Respondent for the cost of  
22 any subsequent audit conducted pursuant to Business and  
23 Professions Code Section 10148 to determine if the violations  
24 have been corrected. The maximum cost of the subsequent audit  
25 will not exceed \$10,992.49.

26 ///

DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed  
2 that the following determination of issues shall be made:  
3

I.

4  
5 The conduct, acts or omissions of ROBERT EDWARD  
6 DALSIMER, as described in Paragraph 4, above, is in violation of  
7 Sections 10145 and 10240 of the Business and Professions Code  
8 ("Code") and Sections 2831 and 2840 of Title 10, Chapter 6 of the  
9 California Code of Regulations ("Regulations") and is a basis for  
10 discipline of Respondent's license and license rights as a  
11 violation of the Real Estate Law pursuant to Code Sections  
12 10177(d) and 10177(g).

II.

13  
14 The conduct, acts or omissions of ROBERT EDWARD  
15 DALSIMER, as described in Paragraph 4, constitutes a failure to  
16 keep Incore Group Inc. in compliance with the Real Estate Law  
17 during the time that he was the officer designated by a corporate  
18 broker licensee in violation of Section 10159.2 of the Code.  
19 This conduct is a basis for discipline of Respondent's license  
20 pursuant to Code Section 10177(h).

21  
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent

ROBERT EDWARD DALSIMER under the Real Estate Law are suspended

for a period of sixty days from the effective date of this

Decision; provided, however, that if Respondent requests, the

initial thirty days of said suspension (or a portion thereof)

shall be stayed upon condition that:

A.1. Respondent pays a monetary penalty pursuant to  
Section 10175.2 of the Business and Professions Code at the rate  
of \$75.00 per day for each day of the suspension for a monetary  
penalty of \$2,250.

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

3. No further cause for disciplinary action against  
the real estate license of Respondent occurs within two years  
from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in  
accordance with the terms of the Decision, the Commissioner may,  
without a hearing, order the immediate execution of all or any  
part of the stayed suspension, in which event the Respondent

1 shall not be entitled to any repayment nor credit, prorated or  
2 otherwise, for money paid to the Department under the terms of  
3 this Decision.

4 5. If Respondent pays the monetary penalty and if no  
5 further cause for disciplinary action against the real estate  
6 license of Respondent occurs within two years from the effective  
7 date of the Decision, the stay hereby granted shall become  
8 permanent

9 B. The remaining thirty days of the sixty day  
10 suspension shall be stayed for two years upon the following terms  
11 and conditions:

12 (a) Respondent shall obey all laws, rules and  
13 regulations governing the rights, duties and responsibilities of  
14 a real estate licensee in the State of California; and

15 (b) That no final subsequent determination be made  
16 after hearing or upon stipulation, which cause for disciplinary  
17 action occurred within two years from the effective date of this  
18 Decision. Should such a determination be made, the Commissioner  
19 may, in his discretion, vacate and set aside the stay order and  
20 reimpose all or a portion of the stayed suspension. Should no  
21 such determination be made, the stay imposed herein shall become  
22 permanent.  
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1 II.

2 Pursuant to Section 10148 of the Business and

3 Professions Code, Respondent ROBERT EDWARD DALSIMER shall pay the  
4 Commissioner's reasonable cost for (a) the audit which led to  
5 this disciplinary action (b) a subsequent audit to determine if  
6 Respondent Incore Group Inc. is now in compliance with the Real  
7 Estate Law. The cost of the audit which led to this disciplinary  
8 action is \$10,992.49. In calculating the amount of the  
9 Commissioner's reasonable cost, the Commissioner may use the  
10 estimated average hourly salary for all persons performing audits  
11 of real estate brokers, and shall include an allocation for  
12 travel time to and from the auditor's place of work. Said amount  
13 for the prior and subsequent audits shall not exceed \$21,984.98.

15 Respondent shall pay such cost within 60 days of  
16 receiving an invoice from the Commissioner detailing the  
17 activities performed during the audit and the amount of time  
18 spent performing those activities.

19 The Commissioner may suspend the license of Respondent  
20 pending a hearing held in accordance with Section 11500, et seq.,  
21 of the Government Code, if payment is not timely made as provided  
22 for herein, or as provided for in a subsequent agreement between  
23 the Respondent and the Commissioner. The suspension shall remain  
24 in effect until payment is made in full or until Respondent  
25 enters into an agreement satisfactory to the Commissioner to  
26 provide for payment, or until a decision providing otherwise is  
27

1 adopted following a hearing held pursuant to this condition.

2 IV.

3 All licenses and licensing rights of Respondent ROBERT  
4 EDWARD DALSIMER are indefinitely suspended unless or until  
5 Respondent provides proof satisfactory to the Commissioner, of  
6 having taken and successfully completed the continuing education  
7 course on trust fund accounting and handling specified in  
8 paragraph (3) of subdivision (a) of Section 10170.5 of the  
9 Business and Professions Code. Proof of satisfaction of this  
10 requirement includes evidence that respondent has successfully  
11 completed the trust fund account and handling continuing  
12 education course within 120 days prior to the effective date of  
13 the Decision in this matter.

14  
15 DATED: 11-17-08 ELW  
16 ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

17 \* \* \*

18 EXECUTION OF THE STIPULATION

19 I have read the Stipulation and discussed with my  
20 counsel. Its terms are understood by me and are agreeable and  
21 acceptable to me. I understand that I am waiving rights given to  
22 me by the California Administrative Procedure Act (including but  
23 not limited to Sections 11506, 11508, 11509 and 11513 of the  
24 Government Code), and I willingly, intelligently and voluntarily  
25 waive those rights, including the right of requiring the  
26 Commissioner to prove the allegations in the Accusation at a  
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1 hearing at which I would have the right to cross-examine  
2 witnesses against me and to present evidence in defense and  
3 mitigation of the charges.

4 MAILING AND FACSIMILE


5 Respondent(s) (1) shall mail the original signed  
6 signature page of the stipulation herein to Elliott Mac Lennan:  
7 Attention: Legal Section, Department of Real Estate, 320 W.  
8 Fourth St., Suite 350, Los Angeles, California 90013-1105.  
9 Additionally, Respondent(s) shall also (2) facsimile a copy of  
10 signed signature page, to the Department at the following  
11 telephone/fax number: (213) 576-6917, Attention: Elliott Mac  
12 Lennan.

13 A facsimile constitutes acceptance and approval of the  
14 terms and conditions of this stipulation. Respondent agrees,  
15 acknowledges and understands that by electronically sending to  
16 the Department a facsimile copy of Respondent's actual signature  
17 as it appears on the stipulation, which receipt of the facsimile  
18 copy by the Department shall be as binding on Respondent as if  
19 the Department had received the original signed stipulation.

21 DATED: April 17, 2008

22   
ROBERT EDWARD DALSTIMER individually

25 DATED: 4/17/08

26   
MARY E. WORK, ESQ.  
Attorney for Respondent  
27 Approved as to form

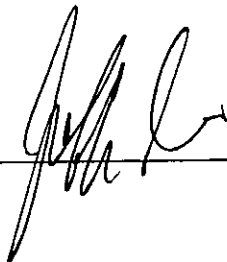
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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondent ROBERT EDWARD DALSIMER,  
individually and as designated officer of Incore Group Inc. and  
shall become effective at 12 o'clock noon on  
May 14, 2009.

IT IS SO ORDERED 3/25, 2009.

JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

*Miss  
Zue*

**FILED**  
JUL - 3 2007  
DEPARTMENT OF REAL ESTATE

*K. M. ...*

1 ELLIOTT MAC LENNAN, SBN 66674  
2 Department of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105  
5  
6  
7  
8 Telephone: (213) 576-6911 (direct)  
9 -or- (213) 576-6982 (office)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11	In the Matter of the Accusation of	)	No. H-34088 LA
12	INCORE GROUP INC. doing business	)	<u>A C C U S A T I O N</u>
13	as Incore Realty, Incore Lending	)	
14	and Incore Escrow; and ROBERT	)	
15	EDWARD DALSIMER, individually	)	
16	and as designated officer of	)	
	Incore Group Inc.,	)	
	Respondents.	)	

17 The Complainant, Janice Waddell, a Deputy Real Estate  
18 Commissioner of the State of California, for cause of Accusation  
19 against INCORE GROUP INC. dba Incore Realty, Incore Lending  
20 Incore Escrow; and ROBERT EDWARD DALSIMER, individually and as  
21 designated officer of Incore Group Inc., alleges as follows:

1.

23 The Complainant, Janice Waddell, acting in her official  
24 capacity as a Deputy Real Estate Commissioner of the State of  
25 California, makes this Accusation against INCORE GROUP INC. and  
26 ROBERT EDWARD DALSIMER.  
27

2.

1 All references to the "Code" are to the California  
2 Business and Professions Code and all references to "Regulations"  
3 are to Title 10, Chapter 6, California Code of Regulations,  
4 except as specifically set forth.  
5

6 LICENSE HISTORY

7 3.

8 A. At all times mentioned, INCORE GROUP INC.  
9 ("INCORE") and ROBERT EDWARD DALSIMER ("DALSIMER") were licensed  
10 or had license rights issued by the Department of Real Estate  
11 ("Department") as real estate brokers.

12 B. At all times mentioned, INCORE was licensed by the  
13 Department as a corporate real estate broker by and through  
14 DALSIMER, as the designated officer and broker responsible,  
15 pursuant to Code Section 10159.2 for supervising the activities  
16 requiring a real estate license conducted on behalf INCORE of by  
17 INCORE's officers, agents and employees, including DALSIMER.  
18 INCORE was originally licensed on July 26, 2005, by DALSIMER.  
19

20 C. DALSIMER was originally licensed as a real estate  
21 salesperson on January 23, 1987 and originally licensed as a real  
22 estate broker on October 15, 1992.

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LICENSED ACTIVITIES AND BROKERAGE

4.

At all times mentioned, in the City of Laguna Hills, County of Orange, INCORE and DALSIMER acted as real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(a) by operating a residential resale brokerage dba Incore Realty.

B. Code Section 10131(d) by operating a mortgage and loan brokerage dba Incore Lending; and

C. In addition, INCORE conducted broker-controlled escrows through its escrow division, Incore Escrow, under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

FIRST CAUSE OF ACTION

MORTGAGE LOAN AUDIT

5.

On October 4, 2006, the Department completed an audit examination of the books and records of INCORE pertaining to the mortgage and loan brokerage activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on July 26, 2005 to June 30, 2006. The audit examination revealed violations of the Code and

1 the Regulations as set forth in the following paragraphs, and  
2 more fully discussed in Audit Report LA 050395 and the exhibits  
3 and workpapers attached to said audit report.

4 TRUST ACCOUNT

5 MORTGAGE AND LOAN ACTIVITIES

6 6.

7 At all times mentioned, in connection with the  
8 activities described in Paragraph 4, above, INCORE accepted or  
9 received funds including funds in trust (hereinafter "trust  
10 funds") from or on behalf of actual or prospective parties to  
11 transactions handled by INCORE including borrowers and lenders  
12 and thereafter made deposits and or disbursements of such funds.  
13 During the audit period INCORE did not maintain a trust account.

14 VIOLATIONS CITED BY THE

15 MORTGAGE LOAN AUDIT

16 7.

17 In the course of activities described in Paragraphs 4  
18 and 6, above, and during the examination period described in  
19 Paragraph 5, Respondents INCORE and DALSIMER, acted in violation  
20 of the Code and the Regulations in that they:

21 (a) Mixed and commingled trust funds and personal funds  
22 by depositing appraisal fees received from escrow into INCORE's  
23 general operating account and issuing checks from said account to  
24 the appraisers or credit companies after the escrow checks were  
25 deposited, in violation of Code Sections 10145 and 10176(e).  
26

27



1 (b) Failed to maintain a control record in the form of  
2 a columnar record in chronological order of all "Trust Funds  
3 Received, Not Placed Broker's Trust Account", in violation of  
4 Code Section 10145 and Regulation 2831. No control record  
5 existed for appraisal fees paid either at the close of escrow or  
6 from the lender.

7 (c) Failed to maintain a separate record for each  
8 beneficiary or transaction, thereby failing to account for all  
9 trust funds received, as required by Code Section 10145 and  
10 Regulation 2831.1. No separate record existed for appraisal fees  
11 paid either at the close of escrow or from the lender.

12 (d) (1) Failed to provide, maintain or retain a true and  
13 correct copy of a Department of Real Estate approved Mortgage  
14 Loan Disclosure Statement signed by the broker for borrowers  
15 Huggins, Jurczk, Phillips, Toren and Fong, in violation of Code  
16 Section 10240 and Regulation 2840.

17 (d) (2) Failed to disclose yield spread premiums from  
18 lenders on the approved Mortgage Loan Disclosure Statement for  
19 borrowers Jurczk, Phillips, Friekin, Fong, Lovato, Roqueta and  
20 Miller, in violation of Code Section 10240, 10241 and Regulation  
21 2840; and  
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1 (e) Failed to display INCORE's corporation's license  
2 number on the Mortgage Loan Disclosure Statements in violation of  
3 Code Section 10236.4(b) for borrowers Huggins, Jurczk, Phillips,  
4 Toren, Fong, Friekin, Lovato, Roqueta and Miller.

5 VIOLATIONS OF THE REAL ESTATE LAW

6 RESIDENTIAL RESALES AUDIT

7 8.

8 The conduct of Respondents INCORE and DALSIMER,  
9 described in Paragraph 7, above, violated the Code and the  
10 Regulations as set forth below:

11 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12 7(a)	Code Sections 10145 and 10176(e)
13	
14 7(b)	Code Section 10145 and Regulation
15	2831
16	
17 7(c)	Code Section 10145 and Regulation
18	2831.1
19	
20 7(d)	Code Sections 10240 and 10241 and
21	Regulation 2840
22	
23 7(e)	Code Section 10236.4(b)

24 The foregoing violations constitute cause for the suspension or  
25 revocation of the real estate license and license rights of  
26 INCORE and DALSIMER, under the provisions of Code Sections  
27 10176(e), 10177(d) and/or 10177(g).

1 SECOND CAUSE OF ACTION  
2 RESIDENTIAL RESALES AUDIT

3 9.

4 On September 22, 2006, the Department completed an  
5 audit examination of the books and records of INCORE pertaining  
6 to the residential resales activities described in Paragraph 4,  
7 that require a real estate license. The audit examination  
8 covered a period of time beginning on July 26, 2005 to June 30,  
9 2006. The audit examination revealed violations of the Code and  
10 the Regulations as set forth in the following paragraphs, and  
11 more fully discussed in Audit Report LA 050397 and the exhibits  
12 and workpapers attached to said audit report.

13 10.

14 TRUST ACCOUNT  
15 RESIDENTIAL RESALES AUDIT

16 At all times mentioned, in connection with the  
17 activities described in Paragraph 4, above, INCORE accepted or  
18 received funds including funds in trust (hereinafter "trust  
19 funds") from or on behalf of actual or prospective parties to  
20 transactions handled by INCORE including buyers and sellers and  
21 thereafter made deposits and or disbursements of such funds.  
22 During the audit period INCORE did not maintain a trust account.

23  
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1 VIOLATIONS CITED BY THE  
2 RESIDENTIAL SALES AUDIT

3 11.

4 In the course of activities described in Paragraphs 4  
5 and 10, above, and during the examination period described in  
6 Paragraph 9, Respondents INCORE and DALSIMER, as indicated, acted  
7 in violation of the Code and the Regulations in that they:

8 (a) Failed to maintain a control record in the form of  
9 a columnar record in chronological order of all "Trust Funds  
10 Received, Not Placed Broker's Trust Account", in violation of  
11 Code Section 10145 and Regulation 2831. No control record  
12 existed for earnest money deposits for buyers, Ramirez, Cascalle,  
13 Bangan, Plando, Dignan, McDiarmid and Flynn.

14 VIOLATIONS OF THE REAL ESTATE LAW  
15 RESIDENTIAL SALES AUDIT

16 12.

17 The conduct of Respondents INCORE and DALSIMER,  
18 described in Paragraph 11, above, violated the Code and the  
19 Regulations as set forth below:  
20

21 PARAGRAPH

PROVISIONS VIOLATED

22 11(a)

Code Section 10145 and Regulation  
23 2831

24 The foregoing violation constitutes cause for the suspension or  
25 revocation of the real estate license and license rights of  
26 INCORE and DALSIMER, under the provisions of Code Sections  
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10177(d) and/or 10177(g).

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THIRD CAUSE OF ACTION

BROKER ESCROW AUDIT

13.

On September 29, 2006, the Department completed an audit examination of the books and records of INCORE pertaining to the broker-controlled escrow activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on July 26, 2005 to June 30, 2006. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 050396 and the exhibits and workpapers attached to said audit report.

TRUST ACCOUNT

BROKER ESCROW AUDIT

14.

At all times mentioned, in connection with the activities described in Paragraph 4, above, INCORE accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by INCORE including buyers and sellers, lenders and escrow holders. Thereafter INCORE made deposits and or disbursements of such funds. INCORE maintained the following trust account into which it deposited certain of these funds:

///

1 "Incore Escrow Trust Account  
2 Account No. 183-08201497"  
3 Wells Fargo Bank ("escrow trust account")  
4 San Francisco, California

5 VIOLATIONS CITED BY  
6 BROKER ESCROW AUDIT

7 15.

8 In the course of activities described in Paragraphs 4  
9 and 14, above, and during the examination period described in  
10 Paragraph 13, Respondents INCORE and DALSIMER, as indicated,  
11 acted in violation of the Code and the Regulations in that they:

12 (a) received undisclosed compensation by means of an  
13 earning credit arrangement with Wells Fargo Bank. The earnings  
14 credit was based on and calculated by trust fund activity in the  
15 escrow trust account. Bank service charges were deducted from  
16 the earning credit accrued on the escrow trust account thus  
17 reducing INCORE's cost of doing business. The earnings credit  
18 arrangement was not disclosed by INCORE and DALSIMER to the  
19 beneficiaries of the escrow trust account, in violation of Code  
20 Sections 10176(a) and 10176(g).

21 VIOLATIONS OF THE REAL ESTATE LAW

22 BROKER ESCROW AUDIT

23 16.

24 The conduct of Respondents INCORE and DALSIMER,  
25 described in Paragraph 15, above, violated the Code and the  
26 Regulations as set forth below:  
27

PARAGRAPH

PROVISIONS VIOLATED

15(a)

Code Sections 10176(a) and  
10176(g)

The foregoing violation constitutes cause for the suspension or revocation of the real estate license and license rights of INCORE and DALSIMER, under the provisions of Code Sections 10176(a), 10176(g) 10177(d) and/or 10177(g).

NEGLIGENCE

17.

The overall conduct of Respondents INCORE and DALSIMER constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

SUPERVISION AND COMPLIANCE

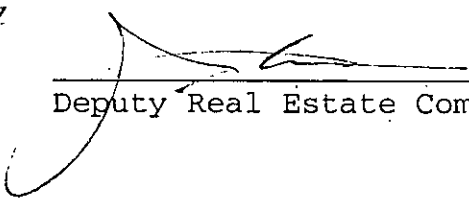
18.

The overall conduct of Respondent DALSIMER constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of INCORE as required by Code Section 10159.2, and to keep INCORE in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of DALSIMER pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against the license and license rights of Respondents  
5 INCORE GROUP INC. and ROBERT EDWARD DALSIMER, individually and as  
6 designated officer of Incore Group Inc., under the Real Estate  
7 Law (Part 1 of Division 4 of the Business and Professions Code)  
8 and for such other and further relief as may be proper under  
9 other applicable provisions of law.

10 Dated at Los Angeles, California

11 this *31 May 2007*

  
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13 Deputy Real Estate Commissioner  
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24 cc: Incore Group Inc.  
25 c/o Robert Edward Dalsimer D.O.  
26 Janice Waddell  
27 Sacto  
Audits - Jennifer Lin