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FILED

SEP - 1 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

| | | |
|--|---|----------------|
| In the Matter of the Accusation of |) | No. H-35016 LA |
| |) | |
| <u>CANYON CAPITAL FUNDING CORPORATION;</u> |) | |
| and, WELDON FREDERICK SOMES JR., |) | |
| individually and as designated |) | |
| officer of Canyon Capital Funding |) | |
| Corporation, |) | |
| |) | |
| Respondents. |) | |
| |) | |
| |) | |
| |) | |

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On June 09, 2008, an Accusation was filed in this matter against Respondent CANYON CAPITAL FUNDING CORPORATION.

On May 28, 2009, Respondent CANYON CAPITAL FUNDING CORPORATION petitioned the Commissioner to voluntarily surrender its real estate broker license and license rights pursuant to Section 10100.2 of the Business and Professions Code.

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///

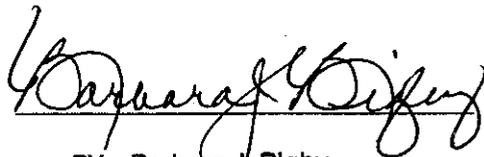
1 IT IS HEREBY ORDERED that Respondent CANYON CAPITAL
2 FUNDING CORPORATION's petition for voluntary surrender of its
3 real estate broker license rights is accepted as of the effective
4 date of this Order as set forth below, based upon the
5 understanding and agreement expressed in Respondent's Declaration
6 dated May 28, 2009, (attached as Exhibit "A" hereto).
7 Respondent's license certificate, pocket card and any branch
8 office license certificate shall be sent to the below listed
9 address so that they reach the Department on or before the
10 effective date of this Order:
11

12 Department of Real Estate
13 Atten: Licensing Flag Section
14 P.O. Box 187000
15 Sacramento, CA 95818-7000

16 This Order shall become effective at 12 o'clock noon on
17 September 21, 2009.

18 DATED: 8/17, 2009

19 JEFF DAVI
20 Real Estate Commissioner

21 

22 BY: Barbara J. Bigby
23 Chief Deputy Commissioner
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EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | | |
|--|---|----------------|
| In the Matter of the Accusation of |) | No. H-35016 LA |
| |) | |
| <u>CANYON CAPITAL FUNDING CORPORATION;</u> |) | |
| and, WELDON FREDERICK SOMES JR., |) | |
| individually and as designated |) | |
| officer of Canyon Capital Funding |) | |
| Corporation, |) | |
| |) | |
| Respondents. |) | |
| |) | |
| |) | |

DECLARATION

My name is Erik Freeman Bryant and I am the designated officer of Canyon Capital Funding Corporation, which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized to sign this declaration on behalf of Canyon Capital Funding Corporation.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act

1 (Sections 11400 et seq., of the Government Code) Canyon Capital
2 Funding Corporation wishes to voluntarily surrender its real
3 estate license issued by the Department of Real Estate
4 ("Department"), pursuant to Business and Professions Code
5 Section 10100.2.

6 I understand that Canyon Capital Funding Corporation,
7 by so voluntarily surrendering its license, can only have it
8 reinstated in accordance with the provisions of Section 11522 of
9 the Government Code. I also understand that by so voluntarily
10 surrendering its license rights, Canyon Capital Funding
11 Corporation agrees to the following:

12 The filing of this Declaration shall be deemed as its
13 petition for voluntary surrender. It shall also be deemed to be
14 an understanding and agreement by Canyon Capital Funding
15 Corporation that, it waives all rights it has to require the
16 Commissioner to prove the allegations contained in the
17 Accusation ("Accusation") filed in this matter at a hearing held
18 in accordance with the provisions of the Administrative
19 Procedures Act (Government Code Sections 11400 et seq.), and
20 that it also waives other rights afforded to it in connection
21 with the hearing such as the right to discovery, the right to
22 present evidence in defense of the allegations in the Accusation
23 and the right to cross examine witnesses. I further agree on
24 behalf of Canyon Capital Funding Corporation that upon
25 acceptance by the Commissioner, as evidenced by an appropriate
26
27

1 order, all affidavits and all relevant evidence obtained by the
2 Department in this matter prior to the Commissioner's
3 acceptance, and all allegations contained in the Accusation
4 filed in the Department Case No. H-35016 LA, may be considered
5 by the Department to be true and correct for the purpose of
6 deciding whether or not to grant reinstatement of Canyon Capital
7 Funding Corporation's license pursuant to Government Code
8 Section 11522.

9 I declare under penalty of perjury under the laws of
10 the State of California that the above is true and correct and
11 that I am acting freely and voluntarily on behalf of Canyon
12 Capital Funding Corporation to surrender its license and all
13 license rights attached thereto.
14

15 5-28-09 Tustin Ca

16 Date and Place

17 

18 CANYON CAPITAL FUNDING CORPORATION
19 BY: ERIK FREEMAN BRYANT,
20 Designated Officer
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Sachs

FILED

SEP - 1 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

| | | |
|--|---|----------------|
| In the Matter of the Accusation of |) | No. H-35016 LA |
| |) | |
| |) | |
| CANYON CAPITAL FUNDING CORPORATION; |) | |
| and <u>WELDON FREDRICK SOMES JR.</u> , |) | |
| individually and as designated |) | |
| officer of Canyon Capital Funding |) | |
| Corporation, |) | |
| |) | |
| Respondents. |) | |

DISMISSAL

The Accusation filed against WELDON FREDRICK SOMES JR.
on June 9, 2008, is dismissed.

IT IS SO ORDERED this 17th day of August, 2009.

JEFF DAVI
Real Estate Commissioner

[Signature]
BY: Barbara J. Elgby
Chief Deputy Commissioner

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 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)
7
8

FILED

JUN - 9 2008

DEPARTMENT OF REAL ESTATE

BY: *H. S. ...*

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation of)
13 CANYON CAPITAL FUNDING CORPORATION;)
14 and, WELDON FREDERICK SOMES JR.,)
15 individually and as designated)
16 officer of Canyon Capital Funding)
17 Corporation,)
18 Respondents.)

No. H-35016 LA

A C C U S A T I O N

19
20 The Complainant, Robin Trujillo, a Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against CANYON CAPITAL FUNDING CORPORATION; and WELDON FREDERICK
23 SOMES JR., individually and as designated officer of Canyon
24 Capital Funding Corporation, alleges as follows:

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1.

1 The Complainant, Robin Trujillo, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against CANYON CAPITAL FUNDING
4 CORPORATION and WELDON FREDERICK SOMES JR.
5

2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.
9

10 LICENSE HISTORY

11 3.

12 A. CANYON CAPITAL FUNDING CORPORATION. At all times
13 mentioned, CANYON CAPITAL FUNDING CORPORATION ("CCFC") was
14 licensed or had license rights issued by the Department of Real
15 Estate ("Department") as a real estate broker. On July 18, 2005,
16 CCFC was originally licensed as a real estate broker via WELDON
17 FREDERICK SOMES JR. as the designated officer.

18 B. WELDON FREDERICK SOMES JR. At all times mentioned,
19 WELDON FREDERICK SOMES JR. ("SOMES") was licensed or had license
20 rights issued by the Department as a real estate broker. On
21 August 10, 1980, SOMES was originally licensed as a real estate
22 salesperson. On January 7, 1991, SOMES was originally licensed
23 as a real estate broker; and

24 C. At all times material herein, CCFC was licensed by
25 the Department as a corporate real estate broker by and through
26 SOMES, as the designated officer and broker responsible, pursuant
27

1 to Code Section 10159.2 of the Business and Professions Code for
2 supervising the activities requiring a real estate license
3 conducted on behalf CCFC of by CCFC's officers, agents and
4 employees, including SOMES.

5 BROKERAGE AND LICENSED ACTIVITIES

6 4.

7 At all times mentioned, in the City of Tustin, County
8 of Orange, CCFC acted as a real estate broker and conducted
9 licensed activities within the meaning of:

10 A. Code Section 10131(d). CCFC operated a mortgage and
11 loan brokerage; and

12 B. In addition, CCFC conducted broker-controlled
13 escrows through its escrow division under the exemption set forth
14 in California Financial Code Section 17006(a)(4) for real estate
15 brokers performing escrows incidental to a real estate
16 transaction where the broker is a party and where the broker is
17 performing acts for which a real estate license is required.
18

19 FIRST CAUSE OF ACTION

20 MORTGAGE AND LOAN AUDIT

21 5.

22 On December 21, 2007, the Department completed an audit
23 examination of the books and records of CCFC pertaining to the
24 mortgage and loan and broker-escrow activities described in
25 Paragraph 4 that require a real estate license. The audit
26 examination covered a period of time beginning on January 01,
27

1 2006 to October 31, 2007. The audit examination revealed
2 violations of the Code and the Regulations as set forth in the
3 following paragraphs, and more fully discussed in Audit Report LA
4 070064 and the exhibits and work papers attached to said audit
5 report.

6 TRUST ACCOUNT

7 6.

8 During the audit period CCFC did not maintain a trust
9 account for its mortgage loan activities.

10 VIOLATIONS OF THE REAL ESTATE LAW

11 MORTGAGE LOAN AUDIT

12 7.

13 In the course of activities described in Paragraphs 4
14 and 6, above, and during the examination period described in
15 Paragraph 5, Respondents CCFC and SOMES, acted in violation of
16 the Code and the Regulations in that they:
17
18

19 (a) Compensated DBD Solutions Inc. as an independent
20 contractor loan agent. CFCC compensated DBD Solutions Inc. 35%
21 of all new loans originated, to wit, for borrowers Bodyfelt,
22 Ross, Nishmura, Martinez, Storms, Bridges, Buebara, Grosslight,
23 Shaeffer, and Da Silva, for a total commission of \$22,280.00.
24 CFCC compensated DBD Solutions Inc. who CFCC knew was not
25 licensed by the Department as a real estate broker or as a real
26 estate salesperson employed by a real estate broker, for
27

1 performing acts for which a real estate license is required, in
2 violation of Code Section 10137.

3 (b) Operated a branch office and conducted licensed
4 activities at 31772 Casino Dr. Ste. C, Lake Elsinore, without
5 first obtaining a branch license from the Department, in
6 violation of Code Section 10163 and Regulation 2715.

7 (c) Used the fictitious name of "Canyon Capital
8 Funding", to conduct licensed activities including mortgage loans
9 and broker-controlled escrows without holding a license bearing
10 said fictitious business name, in violation of Code Section
11 10159.5 and Regulation 2731.

12 (d) Failed to display CFCC's corporation's license
13 number on the Mortgage Loan Disclosure Statements. Nor did CFCC
14 disclose its real estate license number on the Mortgage Loan
15 Disclosure Statements provided to borrowers Bodyfelt and
16 MacGregor, in violation of Code Section 10236.4.
17

18
19 DISCIPLINARY STATUES AND REGULATIONS

20 MORTGAGE LOAN AUDIT

21 8.

22 The conduct of Respondents CCFC and SOMES described in
23 Paragraph 7, above, violated the Code and the Regulations as set
24 forth below:

25 PARAGRAPH

PROVISIONS VIOLATED

26 7(a)

Code Section 10137

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- 7(b) Code Section 10163 and Regulation 2715
- 7(c) Code Section 10159.5 and Regulation 2731
- 7(d) Code Section 10236.4

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of CCFC and SOMES, under the provisions of Code Sections 10177(d) and/or 10177(g).

SECOND CAUSE OF ACTION
BROKER ESCROW AUDIT

9.

On March 13, 2008, the Department completed an audit examination of the books and records of CCFC pertaining to the mortgage and loan and broker-escrow activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on January 01, 2006 to January 31, 2008. 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 070143 and the exhibits and work papers attached to said audit report.

///

ESCROW TRUST ACCOUNT

10.

At all times mentioned, in connection with the activities described in Paragraph 4, above, CCFC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including lenders, borrowers, homeowners and escrow holders, to mortgage loan transactions handled by CCFC and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by CCFC in the bank account as follows:

"Canyon Capital Funding Corporation Escrow Trust Account
Account No. 2370000785"
Union Bank of California
Los Angeles, CA 90051-3840 (escrow trust account)

VIOLATIONS OF THE REAL ESTATE LAW

11.

In the course of activities described in Paragraphs 4 and 10, above, and during the examination period described in Paragraph 9, Respondents CCFC and SOMES, acted in violation of the Code and the Regulations in that they:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account where the disbursement of funds reduced the total of aggregate funds in the escrow trust account, to an amount which, on January 31, 2008, was \$1,953.73,

1 less than the existing aggregate trust fund liability of CFCC to
2 every principal who was an owner of said funds, without first
3 obtaining the prior written consent of the owners of said funds,
4 as required by Code Section 10145 and Regulations 2832.1, and
5 2950(g) and 2951. This shortage was caused by Union Bank of
6 California mistakenly debiting CFCC for bank charges from the
7 escrow trust account instead of CFCC's general account. This
8 shortage was restored on February 27, 2008

9 (b) Failed to perform a monthly reconciliation of the
10 balance of all separate beneficiary or transaction records
11 maintained pursuant to Regulation 2831.1 with the record of all
12 trust funds received and disbursed by the escrow trust account,
13 as required by Code Section 10145 and Regulations 2831.2, 2950(d)
14 and 2951. CFCC intended to escheat \$2,847.84, in unidentified
15 and unclaimed funds in the escrow trust account to the State of
16 California because CFCC could not identify the beneficiaries of
17 the trust funds deposited.

18 (c) Received undisclosed compensation by means of an
19 earning credit agreement with Union Bank of California. The
20 earnings credit was based on and calculated by trust fund
21 activity in the escrow trust account. Bank service charges were
22 deducted from the earning credit accrued on the escrow trust
23 account thus reducing CFCC's cost of doing business. The
24 earnings credit arrangement was not disclosed by CFCC and SOMES
25
26
27

1 to the beneficiaries of the escrow trust account, in violation of
2 Code Sections 10176(a) and 10176(g).

3 (d) Failed to disclose in writing to all parties of
4 CCFC's financial interest and ownership of its escrow division,
5 Canyon Country Funding Escrow Department, as required by Code
6 Section 10176(g) and Regulation 2950(h).

7 (e) Used the fictitious name of "Canyon Capital Funding
8 Escrow Department", to conduct licensed activities including
9 mortgage loans and broker-controlled escrows without holding a
10 license bearing said fictitious business name, in violation of
11 Code Section 10159.5 and Regulation 2731.

12 DISCIPLINARY STATUES AND REGULATIONS

13 12.

14 The conduct of Respondents CCFC and SOMES described in
15 Paragraph 1, above, violated the Code and the Regulations as set
16 forth below:

17 PARAGRAPH

18 PROVISIONS VIOLATED

19 11(a)

20 Code Section 10145 and Regulations
21 2832.1, 2950(g) and 2951

22 11(b)

23 Code Section 10145 and Regulations
24 2831.2, 2950(d) and 2951

25 11(c)

26 Code Sections 10176(a) and 10176(g)
27

11(d)

Code Section 10176(g) and
Regulation 2950(h)

11(e)

Code Section 10159.5 and Regulation
2731

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of CCFC and SOMES, under the provisions of Code Sections 10176(a), 10176(g), 10177(d) and/or 10177(g).

13.

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

14.

The overall conduct of Respondent SOMES 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 CCFC as required by Code Section 10159.2, and to keep CCFC in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of SOMES pursuant to the provisions of Code Section 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 CANYON CAPITAL FUNDING CORPORATION and WELDON FREDERICK SOMES
6 JR., under the Real Estate Law (Part 1 of Division 4 of the
7 Business and Professions Code) and for such other and further
8 relief as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 4 day of June 2008. 
11 Deputy Real Estate Commissioner

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24 cc: Canyon Capital Funding Corporation
25 c/o Weldon Frederick Somes Jr. D.O.
26 Robin Trujillo
27 Sacto
Audits - Lisa Kwong