

TRUST ACCOUNT REPORT (Multi-Lender Transactions)

RE 852 (Rev. 9/06)

GENERAL INFORMATION

- A broker must file CPA prepared quarterly reports with DRE only if they are, or become the servicing agent for multi-lender notes and their servicing volume on multi-lender loans exceeds \$125,000 in payments due in a three month period or if the number of investors entitled to the payments exceeds 120. See Business and Professions Code Sections 10238(k)(3) and 10238(j)(4).
- This form to be completed by an independent accountant as part of a trust account inspection for multi-lender transactions.
- Read instructions on pages 3 and 4 before completing this report.

BROKER INFORMATION

NAME OF BROKER/SERVICING AGENT		TELEPHONE NUMBER
BUSINESS ADDRESS		BROKER LICENSE ID#
CITY, STATE, ZIP CODE		

REPORT PERIOD

REPORT PERIOD (CHECK ONE)	DATE QUARTER ENDED (M/D/Y)	START OF FISCAL YEAR (M/D/Y)	END OF FISCAL YEAR (M/D/Y)
<input type="checkbox"/> 1ST QUAR. <input type="checkbox"/> 2ND QUAR. <input type="checkbox"/> 3RD QUAR. <input type="checkbox"/> 4TH QUARTER – NON-THRESHOLD BROKER ONLY <i>(See instructions under "Who must file.")</i>			

DEPOSITORIES FOR TRUST FUNDS

List the banks or other financial institutions in which the broker's trust accounts are maintained for transactions subject to B&P Code 10238. If the account is not in the broker's name as trustee, give the account name.

LEVEL OF BUSINESS

To be provided by broker/servicing agent. If the information requested below is not available, so indicate and note the reason under Comments area.

Number of notes being serviced..... _____

Aggregate principal amount of such notes..... \$ _____

Aggregate payments due during report period..... \$ _____

Number of persons entitled to such payments _____

Number of sales during report period _____

Detach and retain instructions for your use.

INSTRUCTIONS

These instructions have been prepared as a guide to the independent certified public accountant for the inspection and review report (RE 852) required of certain brokers who conduct transactions pursuant to Business & Professions (B&P) Code Section 10238. Set forth below are the requirements which must be included in the accountant's comments and certain auditing procedures to be performed in the conduct of the inspection. These instructions set forth the minimum audit procedures and do not restrict the judgment of the independent accountant when circumstances warrant the employment of additional procedures.

PART I — GENERAL INSTRUCTIONS

A. Who Must File

Pursuant to Sections 10238(k)(3) and 10238(j)(4), if the broker, is or becomes the servicing agent for notes or interests sold, upon which the payments due during any period of three consecutive months in the aggregate exceed one hundred twenty-five thousand dollars (\$125,000) or the number of persons entitled to the payments exceeds 120, the trust account or accounts of that broker or affiliate shall be inspected at no less than three-month intervals during which the volume is maintained, by an independent certified public accountant. If the broker is required to file an annual report pursuant to B&P Code Sections 10238(o) or 10232.2, the quarterly report need not be filed for the last quarter of the broker's fiscal year.

B. Independence of Accountant

The review report includes a representation by the accountant that he or she is independent of the broker. An accountant is not "independent" if the accountant is: employed by the broker; responsible directly or indirectly for the maintenance of the records of the broker; has a financial interest in the business of the broker or an affiliate of the broker; or is an "affiliate" of the broker. (An "affiliate" of a person is a person controlling, controlled by, or under common control with, such person.)

C. Trust Account Liability

The review should determine the trust fund liability, trust account balance, and any overage or shortage, as of the close of the period (generally the end of broker's fiscal quarter) for which the report is made. Any deficiency should be noted under the Comments area of RE 852, with such comment as the accountant considers relevant.

D. Currency of Records

The trust account records will be considered current if they, and the subsidiary ledgers and control account, are posted on a daily basis and the subsidiary ledgers balanced to the control account at least once each week or in accordance with B&P Code Section 10145 and Regulations 2831, 2831.1 & 2831.2. The trust account(s) should be reconciled to the adjusted control account's balance and the subsidiary ledger balance(s) as of each month's end by the 15th day of the following month. If the trust account records are not current in accordance with the above, this should be noted with the reason in Comments area of the report and the actual currency of the account indicated.

E. Examination of Sales Transactions

1. A "sales transaction" is defined in B&P Code Section 10238(j)(5) as "... the series of transactions by which a series of notes of a maker, or the interests in the note of a maker, are sold or issued to their various purchasers under this section, including all receipts and disbursements in that process of funds received from the purchasers or lenders."
2. B&P Code Section 10238(j)(4) specifies that the sample of sales transactions shall be selected at random by the accountant from all such transactions and shall consist of three sales transactions or 5% of the sales transactions, whichever is greater. The independent accountant may restrict the inspection only if the condition of the records or the accounts is so deficient that the accountant under the inspection procedure can not make an adequate review. This action and the basis for it are to be noted in the Comments area of the report.
3. The inspection of sales transactions should emphasize the proper handling of trust funds in accordance with the instructions of the parties to the sale and in accordance with B&P Code Section 10238. All funds received by the broker from the purchasers or lenders shall be handled in accordance with B&P Code Section 10145 for disbursement to the persons entitled thereto. The broker shall not accept any purchase or loan funds or other consideration from a prospective lender or purchaser, or directly or indirectly cause the funds or other consideration to be deposited in an escrow or trust account, except as to a specific loan or note secured by deed of trust that the broker owns, is authorized to negotiate, or is unconditionally obligated to buy. The books and records of the broker or servicing agent, or both, shall be maintained in a manner that readily identifies transactions under B&P Code Section 10237 and the receipt and disbursement of funds in connection with these transactions. The authorization and documentation for all disbursements for the sales inspected shall be verified.

F. Examination of Payments Processed

1. B&P Code Section 10238(j)(5) defines a "payment," as the receipt of a payment from the person obligated on the note (or from some other person on behalf of the person so obligated, including the broker or servicing agent) and the distribution of the payment to the persons entitled thereto.
2. Section 10238(j)(4) specifies that the sample inspected by the accountant shall consist of 10 payments processed or

2% of payments processed under this section during the period for which the examination is conducted, whichever is greater. The independent accountant may restrict the inspection only if the condition of the records or the accounts is so deficient that the accountant under the inspection procedure can not make an adequate review. This action and the basis for it are to be noted in the Comments area of the report.

3. Payments received should be traced to the bank to determine that they are being immediately deposited to the trust account. Any commingling of trust funds with those of the broker, except as provided for under Regulation 2835, and any use of such funds for any other transaction or purpose other than that for which they are received is prohibited by Section 10238. In addition, payments received are required to be disbursed within 25 days after receipt by the broker or servicing agent. The broker or servicing agent is also required to notify the lenders or purchasers if the source for any payment is not the maker of the note. The books and records of the broker or servicing agent, or both, shall be maintained in a manner that readily identifies transactions under B&P Code Section 10237 and the receipt and disbursement of funds in connection with these transactions.

PART II. COMPLETION OF REPORT (RE 852).

Broker Information

Broker's name and address should appear as it appears in the notice filed by the broker under B&P Code 10238 along with the broker license identification number. If there has been a subsequent change, the new name should also be indicated.

Report Quarter

If the report is for a quarterly period, indicate the closing date of the quarter for which the report is prepared. If for a longer or shorter period than a quarter, indicate the opening and closing dates of the period.

Depositories for Trust Funds

List the name and address of each depository in which a trust account is maintained. If the account is not in the broker's name as trustee, give the account name.

Level of Business

This information should be provided by the broker. Information should relate solely to transactions conducted pursuant to B&P Code 10238 and should not include those conducted pursuant to some other exemption from qualification or pursuant to a qualification under the Corporate Securities Law. If the broker has a qualification, the broker's attorney will be able to assist the broker and accountant as to the foregoing.

Any specified items not available from the records of the broker should be noted in the report along with reason the items were not available.

1. "Number of notes being serviced" is the number being serviced at the end of the period.
2. "Payments due" means those payments, whether or not received, of principal and/or interest on outstanding notes which became

due and payable during the report period, including balloon payments (but excluding any prepayment, late or other penalties).

3. The term "sales" means "sales transactions" and is defined in Part I item D above.

Number of Items Inspected by Accountant

The accountant should indicate in this item the number of items inspected (sales and payments) and provide, with respect to those items, the information specified.

Comments

Deficiencies noted should be briefly described and their location indicated (account number or other identifier employed by the broker).

If corrective action has been taken by the broker with respect to any deficiency, that should also be noted.

If more space is needed, use an attachment labeled "Comments continued."

PART III — EXECUTION AND FILING

1. The accountant should sign the report and furnish the information specified in the Certification area.
2. A copy of the report should be mailed or delivered to the broker.
3. The report should be filed with the Commissioner at the address below within 30 days after the close of the period for which it is filed.
4. Mail to:

Department of Real Estate
Mortgage Lending Activity Section
P.O. Box 187000
Sacramento, CA 95818-7000