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FILED
JUN 13 2001

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-2084 SA
KIRKOR YARACIYAN,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 15, 1997, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on June 4, 1997 and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On January 31, 2001, Respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1
2 I have considered the petition of Respondent and the
3 evidence and arguments in support thereof. Respondent has
4 demonstrated to my satisfaction that Respondent meets the
5 requirements of law for the issuance to Respondent of an
6 unrestricted real estate broker license and that it would
7 not be against the public interest to issue said license to
8 Respondent KIRKOR YARACIYAN.

9 NOW, THEREFORE, IT IS ORDERED that Respondent's
10 petition for reinstatement is granted and that a real estate
11 broker license be issued to Respondent if Respondent satisfies
12 the following conditions within nine (9) months from the date
13 of this Order:

14 1. Submittal of a completed application and payment
15 of the fee for a real estate broker license.

16 2. Submittal of evidence of having, since the most
17 recent issuance of an original or renewal real estate license,
18 taken and successfully completed the continuing education
19 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
20 for renewal of a real estate license.

21 This Order shall become effective immediately.

22 DATED: June 5, 2001

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

25 
26

27 cc: Kirkor Yaraciyan
5181 Gelding Circle
Huntington Beach, CA 92649

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FILED
JUL - 7 1997
DEPARTMENT OF REAL ESTATE

By *Emily J. Kido*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-2084 SA
)	L-9511022
)	
UNION CAPITAL INVESTMENTS,)	
INC., KIRKOR YARACIYAN,)	
and GLENN EVERETT SAXTON,)	
individually and as)	
designated officer of Union)	
Capital Investments, Inc.,)	
SIMON JAMES DILLON, and)	
DONALD JOHN SAFFIRE,)	
)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On April 15, 1997, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on June 4, 1997.

An Order Staying Effective Date was issued staying the effective date for a period of thirty (30) days until 12 o'clock noon on July 7, 1997.

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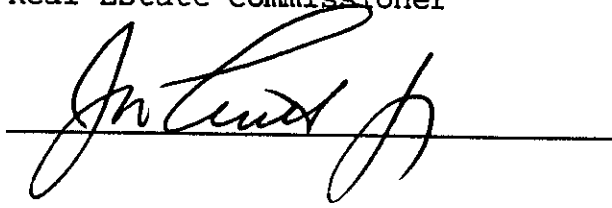
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On June 20, 1997, respondent UNION CAPITAL INVESTMENTS, INC., petitioned for reconsideration of the Decision of April 15, 1997, and submitted additional argument in support of its petition for reconsideration.

I have given due consideration to the petition of said respondent. I find no good cause to reconsider the Decision of April 15, 1997, and reconsideration is hereby denied.

IT IS SO ORDERED 7/7, 1997

JIM ANTT, JR.
Real Estate Commissioner



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FILED
June 2, 1997

DEPARTMENT OF REAL ESTATE

BY Baker

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-2084 SA
UNION CAPITAL INVESTMENTS,)	L-9511022
INC., et al.,)	
Respondents.)	

AMENDED ORDER STAYING EFFECTIVE DATE

On April 15, 1997, a Decision was rendered in the above-entitled matter to become effective June 4, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of April 15, 1997, is stayed for a period of 30 days as to respondent UNION CAPITAL INVESTMENTS, INC only.

The Decision of April 15, 1997, shall become effective at 12 o'clock noon on July 7, 1997.

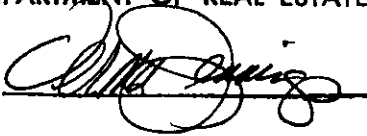
DATED: June 2, 1997.

JIM ANTT, JR.
Real Estate Commissioner

By: Randolph Brendia
RANDOLPH BRENDIA
Regional Manager

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FILED
MAY 30 1997
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-2084 SA
)	L-9511022
UNION CAPITAL INVESTMENTS,)	
INC., et al.,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

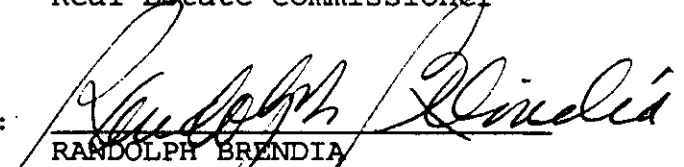
On April 15, 1997, a Decision was rendered in the above-entitled matter to become effective June 4, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of April 15, 1997, is stayed for a period of 30 days as to respondents UNION CAPITAL INVESTMENTS, INC., and SIMON JAMES DILLON only.

The Decision of April 15, 1997, shall become effective at 12 o'clock noon on July 7, 1997.

DATED: May 30, 1997.

JIM ANTT, JR.
Real Estate Commissioner

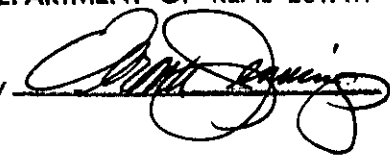
By: 
RANDOLPH BRENDIA
Regional Manager

FILED
MAY 15 1997
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By



* * * * *

In the Matter of the Accusation of) DRE No. H-2084 SA
) OAH No. L-9511022
UNION CAPITAL INVESTMENTS,)
INC.; KIRKOR YARACIYAN;)
and GLENN EVERETT SAXTON,)
individually and as)
designated officers of)
Union Capital Investments,)
Inc.; SIMON JAMES DILLON,)
and DONALD JOHN SAFFIRE,)
)
)
)
)
Respondents.)
_____)

DECISION

The Proposed Decision dated March 19, 1997,
of the Administrative Law Judge of the Office of
Administrative Hearings has been considered by me.

Pursuant to Section 11517(b) of the Government Code of
the State of California, the disciplinary action imposed upon
respondent UNION CAPITAL INVESTMENTS, INC., is reduced by
modifying Paragraph 1 of the Order of the Proposed Decision
to be as follows:

- a. Respondent pays a monetary penalty
pursuant to Section 10175.2 of the
Business and Professions Code at the rate
of \$222.23 for each day of the suspension
for a total monetary penalty of \$10,000.

Except as hereby modified and amended, the Proposed
Decision dated March 19, 1997, is hereby adopted as the
Decision of the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock
noon on June 4, 1997.

IT IS SO ORDERED 4/15, 1997.

JIM ANTT, JR.
Real Estate Commissioner



A handwritten signature in cursive script, appearing to read "Jim Antt, Jr.", is written over a horizontal line.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
of:)	
)	No. H-2084 SA
)	
UNION CAPITAL INVESTMENTS, INC.,)	L-9511022
KIRKOR YARACIYAN, and)	
GLENN EVERETT SAXTON,)	
individually and as)	
designated officer of Union)	
Capital Investments, Inc.,)	
SIMON JAMES DILLON, and)	
DONALD JOHN SAFFIRE,)	
)	
Respondents.)	
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)	

PROPOSED DECISION

This matter came on regularly for hearing before Ronald M. Gruen, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on February 26, 1997.

Elliott MacLennan, Staff, Counsel, Department of Real Estate, represented the complainant. Respondent Union Capital Investments, Inc., a corporation was represented by its Vice-President, Nezam Nejad. Respondents Glenn Everett Saxton and Simon James Dillon were present and represented themselves. Respondent's Kirkor Yaraciyan and Donald John Saffire were not present or represented although duly and legally served with service of process and notice of hearing.

Oral and documentary evidence having been received, submission of the matter was deferred until March 7, 1997, to permit the complainant an opportunity to file a written brief. No such brief having been timely filed the matter stood submitted as of March 7, 1997. On March 13, 1997, the complainant's brief was received and marked as Exhibit 21 for identification but was not considered. The Administrative Law Judge now finds as follows:

I

The complainant, Thomas McCrady, is a Deputy Real Estate Commissioner and filed the Accusation in his official capacity.

II

At all times mentioned herein, Union Capital Investments, Inc. ("Union"), was and still is licensed by the Department of Real Estate of the State of California ("Department") as a corporate real estate broker.

III

At all times herein mentioned, Kirkor Yaraciyen ("Yaraciyen") was licensed by the Department as a real estate broker in his individual capacity. From August 4, 1992, to February 24, 1994, Yaraciyen was licensed by the Department as the designated officer of Union. As the designated officer of Union, Yaraciyen was responsible for the supervision and control of the activities conducted on behalf of Union by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

IV

At all times herein mentioned, Glenn Everett Saxton ("Saxton") was licensed by the Department as a real estate broker in his individual capacity. It was not established that from February 25, 1994, to May 31, 1994, Saxton was acting as the officially designated officer of Union, and therefore was not responsible for the supervision and control of the activities conducted on behalf of Union by its officers and employees as necessary to secure full compliance with the Real Estate Law.

The evidence showed that respondent Saxton applied to the Department for designated officer status with Union, but the Department never acted on such application and respondent Saxton never became designated officer of record for Union, and is not legally responsible for his conduct in performing as a designated officer.

V

At all times mentioned herein, Simon James Dillon ("Dillon") was licensed by the Department as a real estate salesperson. On or about June 3, 1990, Dillon's license was suspended by the Department for failing to comply with Section 10153.4(a) of the California Business and Professions Code (Code). On or

about February 16, 1994, Dillon was licensed by the Department as a real estate salesperson employed under the broker license of Saxton.

VI

From May 20, 1994 to May 19, 1998, Donald John Saffire ("Saffire") was and is licensed by the Department as a real estate salesperson employed under the broker license of Saxton.

VII

At no time mentioned herein were Ingrid England ("England"), Paul M. Albert ("Albert"), Nezam Nejad ("Nejad"), Jeff Summer Russell ("J. Russell"), or Richard Russell ("R. Russell") licensed by the Department as real estate salespersons operating under the license of a real estate broker or as real estate brokers.

VIII

At all times mentioned herein, for or in expectation of compensation, Union engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation.

IX

On or about June 23, 1994, Department personnel completed an investigative audit of the books and records of Union, pertaining to its mortgage loan broker activities, for a period commencing on January 1, 1993, and terminating on May 31, 1994, and unless otherwise specified, the relevant period of time referenced herein shall be the same. The findings of that audit are set forth in the findings of fact that follow.

X

A. On or about January 1, 1993, and continuing thereafter, Union engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 of the Code. Said advance fees were collected from the prospective borrowers as a loan application fee for the negotiation of financing for

the purchase and/or development of real property secured directly or collaterally by liens on said real property. The advance fees collected were not placed in a trust account nor was an accounting made to the principals as required by law.¹ The contention on the part of Union, that such fees were not associated with costs of the loan, and therefore not advance fees, is rejected. Further it was established that Union did not submit to the Commissioner at least ten days prior to its use, any of the materials used in collecting the advance fees as required by law.¹

XI

On or about November 30, 1993, Saffire solicited and negotiated a loan application for a Carol Maas ("Maas") although he was not licensed by the Department at the time. The loan application taken by Saffire was the result of prior discussion between Maas, J. Russell, Dillon, Saffire, and Nejad about financing although none were licensed at the time by the Department. Maas paid a loan application fee of \$95.00 at the time. This fee was deposited into Union's general operating account on December 10, 1993. J. Russell was compensated from this transaction. J. Russell, Dillon, Saffire, and Nejad violated the law² by performing said acts which require a license when J. Russell, Dillon, Saffire, and Nejad were not licensed by the Department at the time as either real estate brokers or as salespersons employed under the license of Union. Union violated the law³ by employing and/or compensating J. Russell, Dillon, Saffire, and Nejad for these acts. As previously noted Union did not consider application fees to be an advance fee and therefore saw no need to deposit same into a trust account.

XII

The audit examination also revealed that Union employed Dillon, England and Nejad to perform acts which require a real estate license when none were licensed by the Department at the time. Dillon, England and Nejad assisted Union as loan officers by soliciting borrowers and negotiating rates and terms with said borrowers as telemarketers, for the purpose of originating mortgage loans. Dillon, Nejad and England discussed financing with Mark and Cindy Reidlinger and England took their loan application on September 9, 1993. The Reidlingers paid a loan application fee of \$95.00 at the time. This fee was deposited into Union's

¹Code Sections 10085 and 10146.

And Chapter 6, Title 10, California Code of Regulations, Sections 2970 and 2972.

²Code Section 10130.

³Code Section 10137.

general operating account on September 13, 1993. Dillon, England and Nejad violated the law² by performing said acts which require a license when Dillon, England and Nejad were not licensed by the Department at the time as either real estate broker or as salespersons employed under the license of Union. Union violated the law³ by employing and/or compensating Dillon, England and Nejad for these acts.

XIII

At all times material in the course of the above-described mortgage loan brokerage business, Union solicited borrowers for and negotiated for loans secured by liens on real property. The evidence did not establish that borrowers did not receive Mortgage Loan Disclosure Statements when mortgage loans were arranged as required by law.⁴

XIV

The audit examination revealed that Union employed real estate salespersons who prepared instruments which had a material effect upon the rights and obligations of principals represented by Union. Yaraciyani violated the Regulations⁵ by failing to review, initial and date all such instruments.

XV

The audit examination also revealed that Union failed to maintain written broker-salesperson agreements for the salespeople employed by them, in connection with mortgage loan brokerage activities for which a real estate license is required in violation of the Regulation.⁶ Union's contention that such agreements were maintained is not supported by the evidence.

⁴Code Section 10240.

⁵Chapter 6, Title 10, California Code of Regulations, Section 2725.

⁶Section 2726

XVI

The audit examination also revealed that Union employed real estate salespersons Saffire and Dillon but failed to notify the Department. Union violated the Regulations⁷ by failing to notify the Department of their employment. Union's contention that such notifications were made is not supported by the evidence.

XVII

The audit examination also revealed that Union did not disclose to borrowers that it received rebates from lenders for mortgage loans arranged through said lenders. Union violated the law⁸ by taking such secret compensation without notifying the borrowers of this fact.

XVIII

Union is a family-owned mortgage lender. The equity holders are Nezam Nejad and his brother. Neither of the brothers are real estate licensees. Nezam testified on behalf of Union and displayed ignorance in certain areas of the law critical to licensure. However, with a qualified designated officer for Union, as required by law, the violations found hereinabove should be corrected. The violations for the most part arose out of failure of active supervision on the part of the designated officer. There is no evidence of deliberate wrongdoing on the part of Union or its principals.

XIX

All allegations in the accusation not found to be true were not established by the evidence.

DETERMINATION OF ISSUES

1. Respondents Union and Yaraciyan violated Code Section 10137 and Section 10177(d) by reason of findings X, XI, XII, XIV, XV, XVI and XVII.

2. Respondent Yaraciyan as designated officer of Union, failed to exercise reasonable supervision and control and cause for suspension or revocation exists under Code Section 10177(h) by reason of findings X, XI, XII, XIV, XV, XVI and XVII.

⁷Section 2752

⁸Business and Professions Code Section 10176(g).

3. Respondents Dillon and Saffire violated Code Section 10130 and cause for suspension or revocation exists under Section 10177(d) by reason of findings XI and XII for acting as a real estate licensees without a license.

4. No violation of law was established on the part of respondent Saxton by reason of finding IV.

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. All licenses and licensing rights of respondent Union Capital Investments, Inc. under the Real Estate Law are suspended for a period of forty-five (45) days from the effective date of this Decision; provided, however, that if respondent petitions, said suspension shall be stayed upon condition that:

MODIFIED

}

a. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$250.00 for each day of the suspension for a total monetary penalty of \$11,250.00

b. 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 delivered to the Department prior to the effective date of the Decision in this matter.

c. No further cause for disciplinary action against the real estate license of respondent occurs within one year from the effective date of the Decision in this matter.

d. If respondent fails to pay the monetary penalty in accordance with the terms and conditions 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 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

e. If respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of respondent occurs within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

2. All licenses and licensing rights of respondent Kirkor Yaracian under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The restricted license issued to respondent 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 is substantially related to respondent's fitness or capacity as a real estate licensee.

b. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent 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.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

3. All licenses and licensing rights of respondents Simon James Dillon and Donald John Saffire under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of this Decision; provided, however, that if respondents petition, said suspension shall be stayed upon condition that:

a. Respondents and each of them pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$150.00 for each day of the suspension for a total monetary penalty of \$4,500.00.

b. 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 delivered to the Department prior to the effective date of the Decision in this matter.

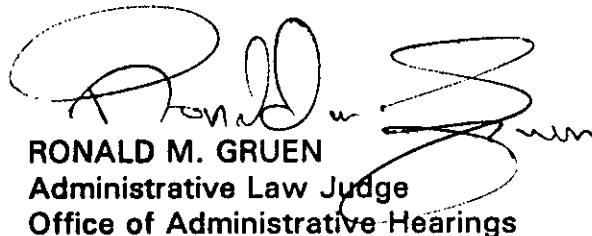
c. No further cause for disciplinary action against the real estate license of respondents occur within one year from the effective date of the Decision in this matter.

d. If respondents or any of them fail to pay the monetary penalty in accordance with the terms and conditions 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 defaulting respondents shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

e. If respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate license of respondents occur within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

4. The accusation against respondent Glenn Everett Saxton is dismissed.

DATED: 19 March 1997


RONALD M. GRUEN
Administrative Law Judge
Office of Administrative Hearings

RMG:btm

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
NOV 26 1996
DEPARTMENT OF REAL ESTATE
BY *[Signature]*

In the Matter of the Accusation of)
)
UNION CAPITAL INVESTMENTS,)
et al.,)
)
Respondents.)

Case No. H-2084 SA
OAH No. L-9511022

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on **February 26, 1997**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: November 26, 1996.

cc: Union Capital Investments
Kirkor Yarcivan
Glenn Everett Saxton
Simon James Dillon
Donald John Saffire
Sacto.
OAH

DEPARTMENT OF REAL ESTATE

[Signature]
ELLIOTT MAC LENNAN, Counsel

facto

George Wright, Staff Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 897-3937

FILED
SEP 21 1996
DEPARTMENT OF REAL ESTATE

By *K. Kricheldorf*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-2084 SA
UNION CAPITAL INVESTMENTS, INC.,)	A C C U S A T I O N
KIRKOR YARACIYAN, and GLENN)	
EVERETT SAXTON, individually)	
and as designated officers of)	
Union Capital Investments, Inc.,)	
SIMON JAMES DILLON, and DONALD)	
JOHN SAFFIRE,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against UNION CAPITAL INVESTMENTS, INC., KIRKOR YARACIYAN, and GLENN EVERETT SAXTON, individually and as designated officers of Union Capital Investments, Inc., SIMON JAMES DILLON, and DONALD JOHN SAFFIRE, alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

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II

At all times mentioned herein, UNION CAPITAL INVESTMENTS, INC. ("UNION"), was and still is licensed by the Department of Real Estate of the State of California ("Department") as a corporate real estate broker.

III

At all times herein mentioned, KIRKOR YARACIYAN ("YARACIYAN") was licensed by the Department as a real estate broker in his individual capacity. From August 4, 1992, to February 24, 1994, YARACIYAN was licensed by the Department as the designated officer of UNION. As the designated officer of UNION, YARACIYAN was responsible for the supervision and control of the activities conducted on behalf of UNION by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

IV

At all times herein mentioned, GLENN EVERETT SAXTON ("SAXTON") was licensed by the Department as a real estate broker in his individual capacity. From February 25, 1994, to May 31, 1994, SAXTON was acting as the designated officer of UNION. As the designated officer of UNION, SAXTON was responsible for the supervision and control of the activities conducted on behalf of UNION by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

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V

At all times mentioned herein, SIMON JAMES DILLON ("DILLON") was licensed by the Department as a real estate salesperson. On or about June 3, 1990, DILLON'S license was suspended by the Department for failing to comply with Section 10153.4(a) of the California Business and Professions Code. On or about February 16, 1994, DILLON was licensed by the Department as a real estate salesperson employed under the broker license of SAXTON.

VI

At all times mentioned herein, DONALD JOHN SAFFIRE ("SAFFIRE") was licensed by the Department as a real estate salesperson employed under the broker license of SAXTON.

VII

At no time mentioned herein were Ingrid England ("England"), Paul M. Albert ("Albert"), Nezam Nejad ("Nejad"), Jeff Summer Russell (" J. Russell"), or Richard Russell ("R. Russell") licensed by the Department as real estate salespersons operating under the license of a real estate broker or as real estate brokers.

VIII

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

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IX

1
2 At all times mentioned herein, for or in expectation of
3 compensation, UNION engaged in the business of, acted in the
4 capacity of, advertised or assumed to act as a real estate broker
5 in the State of California, within the meaning of Section 10131(d)
6 of the Code, including the operation of a mortgage loan brokerage
7 business with the public wherein lenders and borrowers were
8 solicited for loans secured directly or collaterally by liens on
9 real property, wherein such loans were arranged, negotiated,
10 processed, and consummated on behalf of others for compensation or
11 in expectation of compensation.

X

12
13 On or about June 23, 1994, Department personnel
14 completed an investigative audit of the books and records of
15 UNION, pertaining to its mortgage loan broker activities, for a
16 period commencing on January 1, 1993, and terminating on May 31,
17 1994, and unless otherwise specified, the relevant period of time
18 referenced herein shall be the same. The findings of that audit
19 are set forth in the paragraphs that follow.

XI

20
21 On or about January 1, 1993, and continuing thereafter,
22 UNION engaged in the business of claiming, demanding, charging,
23 receiving, collecting or contracting for the collection of advance
24 fees within the meaning of Sections 10026 and 10131.2 of the Code.
25 Said advance fees were collected from the prospective borrowers as
26 a loan application fee for the negotiation of financing for the
27 purchase and/or development of real property secured directly or



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collaterally by liens on said real property. The advance fees collected were not placed in a trust account nor was an accounting made to the principals. UNION did not submit to the Commissioner at least five days prior to its use, any of the materials used in collecting the advance fees. UNION violated Sections 10085 and 10146 of the Code and Sections 2970 and 2972 of the Regulations by such conduct.

XII

On or about November 30, 1993, SAFFIRE solicited and negotiated a loan application for a Carol Maas ("Maas") although he was not licensed by the Department at the time. The loan application taken by SAFFIRE was the result of prior discussion between Maas, J. Russell, DILLON, SAFFIRE, and Nejad about financing although none were licensed at the time by the Department. Maas paid a loan application fee of \$95.00 at the time. This fee was deposited into UNION'S general operating account on December 10, 1993. J. Russell was compensated for this transaction. J. Russell, DILLON, SAFFIRE, and Nejad violated Section 10130 of the Code by performing said acts which require a license when J. Russell, DILLON, SAFFIRE, and Nejad were not licensed by the Department at the time as either real estate brokers or as salespersons employed under the license of UNION. UNION violated Section 10137 of the Code by employing and/or compensating J. Russell, DILLON, SAFFIRE, and Nejad for these acts.

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XIII

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2 The audit examination also revealed that UNION employed
3 DILLON, England, Albert, R. Russell and Nejad to perform acts
4 which require a real estate license when none were licensed by the
5 Department at the time. DILLON, England, Albert and Nejad
6 assisted UNION as loan officers by soliciting borrowers and
7 negotiating rates and terms with said borrowers as telemarketers,
8 for the purpose of originating mortgage loans. DILLON, Nejad and
9 England discussed financing with Mark and Cindy Reidlinger and
10 England took their loan application on September 9, 1993. The
11 Reidlingers paid a loan application fee of \$95.00 at the time.
12 This fee was deposited into UNION'S general operating account on
13 September 13, 1993. DILLON, England, R. Russell and Nejad violated
14 Section 10130 of the Code by performing said acts which require a
15 license when DILLON, England, R. Russell and Nejad were not
16 licensed by the Department at the time as either real estate
17 brokers or as salespersons employed under the license of UNION.
18 UNION violated Section 10137 of the Code by employing and/or
19 compensating DILLON, England, R. Russell and Nejad for these acts.

XIV

20
21 At all times material in the course of the above-
22 described mortgage loan brokerage business, UNION solicited
23 borrowers for and negotiated for loans secured by liens on real
24 property. The audit revealed that borrowers did not receive
25 Mortgage Loan Disclosure Statements when mortgage loans were
26 arranged. UNION violated Section 10240 of the Code by failing to
27 provide said borrowers with mortgage loan disclosure statements

1 when appropriate.

2 XV

3 The audit examination also revealed that UNION employed
4 real estate salespersons who prepared instruments which had a
5 material effect upon the rights and obligations of principals
6 represented by UNION. YARACIYAN violated Section 2725 of the
7 Regulations by failing to review, initial, and date all such
8 instruments. SAXTON violated Section 2725 of the Regulations by
9 failing to initial, date and review said documents in a timely
10 manner.

11 XVI

12 The audit examination also revealed that UNION failed to
13 maintain written broker-salesperson agreements for the salespeople
14 employed by them, in connection with mortgage loan brokerage
15 activities for which a real estate license is required in
16 violation of Regulation 2726.

17 XVII

18 The audit examination also revealed that UNION
19 employed real estate salespersons SAFFIRE and DILLON but
20 failed to notify the Department. UNION violated Section 2752
21 of the Regulations by failing to failing to notify the
22 Department of their employment.

23 XVIII

24 The audit examination also revealed that UNION did not
25 disclose to borrowers that it received rebates from lenders for
26 mortgage loans arranged through said lenders. UNION violated
27 Section 10176(g) of the Code by taking such secret compensation



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without notifying the borrowers of this fact.

XIX

The conduct of DILLON and SAFFIRE, as alleged in Paragraphs XII and XIII, violated Section 10130 of the Code, and constitutes cause for the suspension or revocation of all licenses and/or license rights of the DILLON and SAFFIRE under Section 10177(d) of the Code.

XX

The conduct of UNION, YARACIYAN and SAXTON, as alleged hereinabove in Paragraphs XI through XVIII, constitutes cause for the suspension or revocation of all licenses and/or license rights of UNION, YARACIYAN and SAXTON under Sections 10137 and 10177(d) of the Code.

XXI

The conduct of Respondent YARACIYAN, in allowing Respondent UNION to violate the above-described provisions of the Code while acting as the designated officer of UNION, constitutes a failure to exercise reasonable supervision and control of the activities of UNION for which a real estate license is required, and is cause for the suspension or revocation of the licenses and/or licensing rights of YARACIYAN under Section 10177(h) of the Code.

XXII

The conduct of Respondent SAXTON, in allowing Respondent UNION to violate the above-described provisions of the Code while acting as the designated officer of UNION, constitutes a failure to exercise reasonable supervision and control of the activities of UNION for which a real estate license is required, and is cause

1 for the suspension or revocation of the licenses and/or licensing
2 rights of SAXTON under Section 10177(h) of the Code.

3 WHEREFORE, Complainant prays that a hearing be conducted
4 on the allegations of this Accusation and that upon proof thereof,
5 a decision be rendered imposing disciplinary action against all
6 licenses and/or license rights of the Respondents under the Real
7 Estate Law and for such other and further relief as may be proper
8 under applicable provisions of law.

9 Dated at Santa Ana, California
10 this 21st day of September, 1995.

11
12 PETER F. HURST
13 Deputy Real Estate Commissioner
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23 cc: Union Capital Investments, Inc.
24 Kirkor Yaraciyani
25 Glenn Everett Saxton
26 Simon James Dillon
27 Donald John Saffire
SACTO
ML

