

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.

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

12 3. On May 12, 2000, Respondent filed a Notice of
13 Defense Pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that he
17 understands that by withdrawing said Notice of Defense,
18 Respondent will thereby waive his right to require the
19 Commissioner to prove the allegations in the Accusation at a
20 contested hearing held in accordance with the provisions of the
21 APA and that he will waive other rights afforded to him in
22 connection with the hearing, such as the right to present
23 evidence in defense of the allegations in the Accusation and the
24 right to cross-examine witnesses.

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1 4. This Stipulation and Agreement ("Stipulation") is
2 based on the factual allegations contained in the Accusation
3 filed in this proceeding. In the interest of expedience and
4 economy, Respondent chooses not to contest these factual
5 allegations, but to remain silent and understands that, as a
6 result thereof, these factual statements, without being admitted
7 or denied, will serve as a prima facie basis for the
8 disciplinary action stipulated to herein. This Stipulation and
9 Respondent's decision not to contest the Accusation are hereby
10 expressly limited to this proceeding and made for the sole
11 purpose of reaching an agreed disposition of this proceeding.
12 Respondent's decision not to contest the factual allegations is
13 made solely for the purpose of effectuating this Stipulation and
14 is intended by Respondent to be non-binding upon it in any
15 actions against Respondent by third parties. The Real Estate
16 Commissioner shall not be required to provide further evidence
17 to prove such allegations.

18 5. This Stipulation and any Order made pursuant to
19 this Stipulation shall have no collateral estoppel or res
20 judicata effect in any proceedings in which Respondent and the
21 Department (or the Department's representative) are not parties.
22 This Stipulation is made by Respondent and received by the
23 Commissioner and the Department, with the express understanding
24 and agreement that it is for the purpose of settling these
25 proceedings only, and that this Stipulation is not intended as,
26 and shall not be deemed, used, or accepted as an acknowledgment
27 or admission of fact in any other judicial, administrative, or

1 1. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

6 2. The restricted license issued to Respondent
7 may be suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

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

17 4. Respondent shall, within nine months from the
18 effective date of this Decision, present evidence satisfactory
19 to the Real Estate Commissioner that he has, since the most
20 recent issuance of an original or renewal real estate license,
21 taken and successfully completed the continuing education
22 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
23 for renewal of a real estate license. If Respondent fails to
24 satisfy this condition, the Commissioner may order the
25 suspension of the restricted license until the Respondent
26 presents such evidence. The Commissioner shall afford

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1 Respondent the opportunity for a hearing pursuant to the
2 Administrative Procedure Act to present such evidence.

3 5. Respondent shall, within six months from the
4 effective date of this Decision, take and pass the Professional
5 Responsibility Examination administered by the Department
6 including the payment of the appropriate examination fee. If
7 Respondent fails to satisfy this condition, the Commissioner may
8 order suspension of Respondent's license until Respondent passes
9 the examination.

10 6. During the term of the restricted license
11 Respondent cannot be the designated officer of a licensed real
12 estate corporation, unless Respondent owns more than a fifty
13 percent (50%) interest in the corporation.

14 DATED: September 26, 2000 *Darlene Averetta*
15 DARLENE AVERETTA, Counsel for
16 the Department of Real Estate

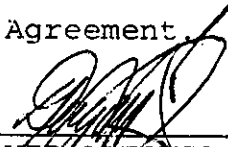
17 * * *

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

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Respondent can signify acceptance and approval of the
terms and conditions of this Stipulation and Agreement by faxing
a copy of its signature page, as actually signed by Respondent,
to the Department at the following telephone/fax number: (213)
576-6917. Respondent agrees, acknowledges and understands that
by electronically sending to the Department a fax copy of his
actual signature as it appears on the Stipulation and Agreement,
that receipt of the faxed copy by the Department shall be as
binding on Respondent as if the Department had received the
original signed Stipulation and Agreement.

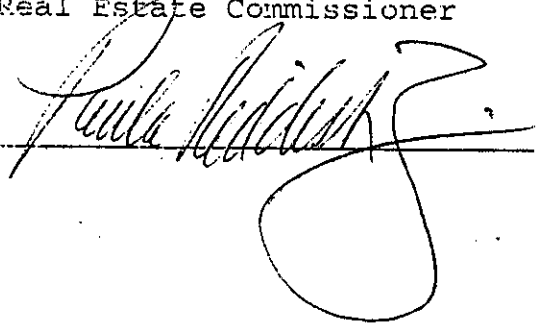
DATED: 9/22/00



DAVID ALFONSO MAGARIN, Respondent
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent DAVID ALFONSO MAGARIN,
individually and formerly as designated officer of Wall Street
Residential Loans, Inc., and shall become effective at
12 o'clock noon on November 16, 2000.

IT IS SO ORDERED October 23, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner


1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982
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7

FILED
SEP 15 2000
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-28521 LA
12) WALL STREET RESIDENTIAL LOANS,) L-2000050387
13) INC. and DAVID ALFONSO MAGARIN,) STIPULATION AND AGREEMENT
14) individually and as designated)
15) officer of Wall Street Residential)
16) Loans, Inc.,)
17) Respondents.)

18 It is hereby stipulated by and between Respondent
19 WALL STREET RESIDENTIAL LOANS, INC. (sometimes referred to
20 herein as "Respondent"), and it's attorney of record,
21 Robert A. Brown, Esq., and the Complainant, acting by and
22 through Darlene Averetta, Counsel for the Department of Real
23 Estate, as follows for the purpose of settling and disposing
24 of the Accusation filed on April 27, 2000, in this matter.

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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.

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

12 3. On May 12, 2000, Respondent filed a Notice of
13 Defense Pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that Respondent
17 understands that by withdrawing said Notice of Defense,
18 Respondent will thereby waive its right to require the
19 Commissioner to prove the allegations in the Accusation at a
20 contested hearing held in accordance with the provisions of the
21 APA and that Respondent will waive other rights afforded to it
22 in connection with the hearing, such as the right to present
23 evidence in defense of the allegations in the Accusation and the
24 right to cross-examine witnesses.

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1 4. This Stipulation and Agreement ("Stipulation") is
2 based on the factual allegations contained in the Accusation
3 filed in this proceeding. In the interest of expedience and
4 economy, Respondent chooses not to contest these factual
5 allegations, but to remain silent and understands that, as a
6 result thereof, these factual statements, without being admitted
7 or denied, will serve as a prima facie basis for the
8 disciplinary action stipulated to herein. This Stipulation and
9 Respondent's decision not to contest the Accusation are hereby
10 expressly limited to this proceeding and made for the sole
11 purpose of reaching an agreed disposition of this proceeding.
12 Respondent's decision not to contest the factual allegations is
13 made solely for the purpose of effectuating this Stipulation and
14 is intended by Respondent to be non-binding upon it in any
15 actions against Respondent by third parties. The Real Estate
16 Commissioner shall not be required to provide further evidence
17 to prove such allegations.

18 5. This Stipulation and any Order made pursuant to
19 this Stipulation shall have no collateral estoppel or res
20 judicata effect in any proceedings in which Respondent and the
21 Department (or the Department's representative) are not parties.
22 This Stipulation is made by Respondent and received by the
23 Commissioner and the Department, with the express understanding
24 and agreement that it is for the purpose of settling these
25 proceedings only, and that this Stipulation is not intended as,
26 and shall not be deemed, used, or accepted as an acknowledgment
27 or admission of fact in any other judicial, administrative, or



1 other proceedings to which the Department is not a party.

2 6. It is understood by the parties that the Real
3 Estate Commissioner may adopt the Stipulation as her decision
4 in this matter thereby imposing the penalty and sanctions on
5 Respondent's real estate license and license rights as set forth
6 in the below "Order". In the event that the Commissioner in her
7 discretion does not adopt the Stipulation, the Stipulation shall
8 be void and of no effect, and Respondent shall retain the right
9 to a hearing on the Accusation under all the provisions of the
10 APA and shall not be bound by any stipulation or waiver made
11 herein.

12 7. The Order or any subsequent Order of the Real
13 Estate Commissioner made pursuant to this Stipulation shall
14 not constitute an estoppel, merger or bar to any further
15 administrative or civil proceedings by the Department of Real
16 Estate with respect to any matters which were not specifically
17 alleged to be causes for accusation in this proceeding.

18 8. Respondent understands that by agreeing to this
19 Stipulation, Respondent agrees to pay, pursuant to Business and
20 Professions Code Section 10148, the cost of the audit which
21 led to this disciplinary action. The amount of said cost is
22 \$2,443.76.

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1 9. Respondent has received, read, and understands the
2 "Notice Concerning Costs of Subsequent Audit". Respondent
3 further understands that by agreeing to this Stipulation, the
4 findings set forth below in the DETERMINATION OF ISSUES become
5 final, and the Commissioner may charge Respondent for the cost
6 of any subsequent audit conducted pursuant to Business and
7 Professions Code Section 10148 to determine if the violations
8 have been corrected. The maximum cost of said audit will not
9 exceed \$2,443.76.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations and waivers
12 and solely for the purpose of settlement of the pending
13 Accusation without a hearing, it is stipulated and agreed that
14 the following determination of issues shall be made:

15 The conduct, acts and/or omissions of Respondent,
16 WALL STREET RESIDENTIAL LOANS, INC., as set forth in the
17 Accusation, constitute cause to suspend or revoke the real
18 estate license and license rights of Respondent, WALL STREET
19 RESIDENTIAL LOANS, INC., under the provisions of Business and
20 Professions Code ("Code") Section 10177(d) for violation of
21 Code Sections 10145, and 10240 and Sections 2731, 2831, 2831.1,
22 2831.2, 2832, 2834 and 2950(h) of Title 10, Chapter 6,
23 California Code of Regulations ("Regulations").

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1 ORDER

2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3 All licenses and licensing rights of Respondent
4 WALL STREET RESIDENTIAL LOANS, INC. under the Real Estate Law
5 are suspended for a period of sixty (60) days from the effective
6 date of this Decision; provided, however, that thirty (30) days
7 of said suspension shall be stayed for two (2) years upon the
8 following terms and conditions:

9 1. Respondent shall obey all laws, rules and
10 regulations governing the rights, duties and responsibilities
11 of a real estate licensee in the State of California.

12 2. That no final subsequent determination be made,
13 after hearing or upon stipulation, that cause for disciplinary
14 action occurred within two (2) years of the effective date of
15 this Decision. Should such determination be made, the
16 Commissioner may, in her discretion, vacate and set aside the
17 stay order and reimpose all or a portion of the stayed
18 suspension. Should no such determination be made, the stay
19 imposed herein shall become permanent.

20 3. The initial thirty (30) day portion of said sixty
21 (60) day suspension shall commence on the effective date of this
22 Decision; provided, however, that if Respondent petitions, said
23 suspension shall be stayed upon condition that:

24 (a) Respondent pays a monetary penalty pursuant
25 to Section 10175.2 of the Business and Professions at the rate
26 of \$50 for each day of the suspension for a total monetary
27 penalty of \$1,500.

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

6 (c) No further cause for disciplinary action
7 against the real estate license of Respondent occurs within
8 two (2) years from the effective date of the Decision in this
9 matter.

10 (d) If Respondent fails to pay the monetary
11 penalty in accordance with the terms and conditions of the
12 Decision, the Commissioner may, without a hearing, order the
13 immediate execution of all or any part of the stayed suspension
14 in which event Respondent shall not be entitled to any repayment
15 nor credit, prorated or otherwise, for money paid to the
16 Department under the terms of this Decision.

17 (e) If Respondent pays the monetary penalty and
18 if no further cause for disciplinary action against the real
19 estate license of Respondent occurs within two (2) years from
20 the effective date of the Decision, the stay hereby granted
21 shall become permanent.

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1 4. Pursuant to Section 10148 of the Business and
2 Professions Code, Respondent shall pay the Commissioner's
3 reasonable cost for (a) the audit which led to this disciplinary
4 action, and (b) a subsequent audit to determine if Respondent is
5 now in compliance with the Real Estate Law. The cost of the
6 audit which led to this disciplinary action is \$2,443.76. In
7 calculating the amount of the Commissioner's reasonable cost for
8 the subsequent audit, the Commissioner may use the estimated
9 average hourly salary for all persons performing audits of real
10 estate brokers, and shall include an allocation for travel costs
11 including mileage, time to and from the auditor's place of work
12 and per diem. Said amount for the subsequent audit shall not
13 exceed \$2,443.76.

14 Respondent shall pay the cost of both audits within
15 sixty (60) days of receiving an invoice from the Commissioner
16 detailing the activities performed during the audit and the
17 amount of time spent performing those activities. The
18 Commissioner may in her discretion, vacate and set aside any
19 stay order, if payment is not timely made as provided for
20 herein, or as provided for in a subsequent agreement between
21 the Respondent and the Commissioner. The vacation and the
22 set aside of the stay shall remain in effect until payment
23 is made in full, or until Respondent enters into an agreement
24 satisfactory to the Commissioner to provide for payment.
25 Should no order vacating the stay be issued, the stay imposed
26 herein shall become permanent.

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1 DATED: August 30, 2000 *Darlene Averetta*
2 DARLENE AVERETTA, Counsel for
3 the Department of Real Estate

4 * * *

5 I have read the Stipulation and Agreement, and have
6 discussed it with my attorney. Its terms are understood by me
7 and are agreeable and acceptable to me. I understand that I
8 am waiving rights given to me by the California Administrative
9 Procedure Act (including but not limited to Sections 11506,
10 11508, 11509 and 11513 of the Government Code), and I willingly,
11 intelligently and voluntarily waive those rights, including the
12 right of requiring the Commissioner to prove the allegations in
13 the Accusation at a hearing at which I would have the right to
14 cross-examine witnesses against me and to present evidence in
15 defense and mitigation of the charges.

16 Respondent can signify acceptance and approval of the
17 terms and conditions of this Stipulation and Agreement by faxing
18 a copy of its signature page, as actually signed by Respondent,
19 to the Department at the following telephone/fax number: (213)
20 576-6917. Respondent agrees, acknowledges and understands that
21 by electronically sending to the Department a fax copy of his or
22 her actual signature as it appears on the Stipulation and
23 Agreement, that receipt of the faxed copy by the Department
24 shall be as binding on Respondent as if the Department had
25 received the original signed Stipulation and Agreement.

26 DATED: 8/18/00 *Cathy J. ...*
27 WALL STREET RESIDENTIAL LOANS,
INC.

1 DATED:

8-18-00

Roberta B.

ROBERT A. BROWN, ESQ., Attorney
for Respondent, Approved as to
Form

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3
4
5 The foregoing Stipulation and Agreement is hereby
6 adopted as my Decision as to Respondent WALL STREET RESIDENTIAL
7 LOANS, INC. and shall become effective at 12 o'clock noon on
8 October 5, 2000

9 IT IS SO ORDERED

September 12, 2000.

10
11 PAULA REDDISH ZINNEBANN
Real Estate Commissioner

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13 Paula Reddish Zinnemann
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) Case No. H-28521 LA
)
WALL STREET RESIDENTIAL LOANS, INC.) OAH No. L-2000050387
and DAVID ALFONSO MAGARIN,)
individually and as designated)
officer of Wall Street Residential)
Loans, Inc.,)
_____)
Respondent(s)

FILED
AUG 31 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION 3

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, SEPTEMBER 21, 2000, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: August 31, 2000

By Darlene Averetta
DARLENE AVERETTA, Counsel

cc: Wall Street Residential Loans, Inc.
David Alfonso Magarin
Robert A. Brown, Esq.
Danio Fajardo (for A. Watts)
Sacto.
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
WALL STREET RESIDENTIAL LOANS, INC.)
and DAVID ALFONSO MAGARIN,)
individually and as designated)
officer of Wall Street Residential)
Loans, Inc.,)

Case No. H-28521 LA
OAH No. L-2000050387

Respondent(s)

FILED
MAY 26 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By CS

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY and THURSDAY, JULY 19 and 20, 2000, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: May 26, 2000

By Darlene Averetta
DARLENE AVERETTA, Counsel

cc: Wall Street Residential Loans, Inc.
David Alfonso Magarin
Robert A. Brown, Esq.
Danio Fajardo (for A. Watts)
Sacto.
OAH

1 DARLENE AVERETTA, Counsel
(SBN 159969)
2 Department of Real Estate
320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982
(Direct) (213) 576-6904

FILED
APR 27 2000
DEPARTMENT OF REAL ESTATE

By CS

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-28521 LA
WALL STREET RESIDENTIAL LOANS,)
INC. and DAVID ALFONSO MAGARIN,) A C C U S A T I O N
individually and as designated)
officer of Wall Street Residential)
Loans, Inc.,)
Respondents.)

The Complainant, Thomas McCrady, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against WALL STREET RESIDENTIAL LOANS INC. and DAVID ALFONSO
MAGARIN, individually and as designated officer of Wall Street
Residential Loans, Inc., is informed and alleges as follows:

1.

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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2.

WALL STREET RESIDENTIAL LOANS, INC. ("WALL STREET LOANS") and DAVID ALFONSO MAGARIN ("MAGARIN"), individually and as designated officer of Wall Street Residential Loans, Inc. (sometimes collectively referred to herein as "Respondents"), are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code").

3.

At all times material herein, WALL STREET LOANS was, and currently is, licensed by the Department of Real Estate of the State of California ("Department") as a corporate real estate broker by and through MAGARIN as the responsible designated officer and broker.

4.

At all times material herein, MAGARIN was licensed by the Department, individually as a real estate broker and as the designated broker-officer of WALL STREET LOANS. As the designated broker-officer, MAGARIN is and was responsible pursuant to the provisions of Code Section 10159.2, for the supervision and control of the activities requiring a real estate license conducted on behalf of WALL STREET LOANS by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

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All further references to "Respondents", unless otherwise specified, include the parties identified in Paragraphs 2 through 4, above, and also include the officers, directors, managers, employees, agents and real estate licensees employed by or associated with said parties, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority, agency or employment.

FIRST CAUSE OF ACCUSATION

(Audit)

6.

On or about July 23, 1999, the Department completed an examination of Respondents' books and records pertaining to the real estate and trust fund handling activities described herein below, covering a period from approximately June 1, 1998 through June 30, 1999. Said examination revealed violations of Title 10, Chapter 6, California Code of Regulations ("Regulations"), as set forth below.

7.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, for another or others, and for or in expectation of compensation within the meaning of Code Section 10131(d). Said activities included the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited borrowers



1 or lenders for, or negotiated loans, or collected payments or
2 performed services, for borrowers or lenders or note owners in
3 connection with loans secured directly or collaterally by liens
4 on real property or on a business opportunity.

5 8.

6 In connection with the above-described loan brokerage
7 business, Respondents engaged in the business of, acted in the
8 capacity of, advertised, or assumed to act as escrow holder,
9 servicer and/or agent, and thereby acted or assumed to act under
10 the exemption from the provisions of the Escrow Law as provided
11 by Section 17006(a)(4) of the California Financial Code.

12 9.

13 At all times material herein, in connection with the
14 activities described in Paragraphs 7 and 8, above, Respondents
15 accepted or received funds, including funds in trust ("trust
16 funds"), from or on behalf of parties to transactions handled
17 by Respondents. Thereafter, Respondents made deposits and/or
18 disbursements of such funds. From time to time herein mentioned,
19 said trust funds were deposited and/or maintained by Respondents
20 in bank accounts including, but not necessarily limited to, the
21 following: Account No. 092-117308, "Wall Street Residential
22 Loans, Inc." ("Trust Account 1"), Pacific Western National Bank,
23 Downey Branch, 10245 Paramount Blvd., Downey, California 90241;
24 Account No. 001-317253, "Wall Street Investment Escrow Division
25 ("Trust Account 2"); American Independent Bank, Gardena Branch,
26 1644 W. Redondo Beach Blvd., Gardena, California 90247 ("American
27 Independent Bank"); and Account No. 001-320351, "Wall Street



1 Residential Loans, Inc. Escrow Division ("Trust Account 3"),
2 American Independent Bank.

3 10.

4 In the course of activities described in Paragraphs 7,
5 8 and 9, above, and during the examination period described in
6 Paragraph 6, Respondents WALL STREET LOANS and MAGARIN acted in
7 violation of the Code and Title 10, Chapter 6, California Code of
8 Regulations ("Regulations") as follows:

9 (a) Respondents failed to maintain complete control
10 records for Trust Account 1. Said records did not list check
11 numbers and a balance after each posting, in violation of
12 Regulation 2831.

13 (b) Respondents failed to maintain separate records
14 for Trust Account 1, and Respondents failed to maintain complete
15 separate records with a balance after each posting for Trust
16 Account 2 and Trust Account 3, in violation of Regulation 2831.1.

17 (c) Respondents failed to maintain a monthly
18 reconciliation of all beneficiary or transaction records to the
19 record of all trust funds received and disbursed, for Trust
20 Account 1, Trust Account 2 and Trust Account 3, in violation of
21 Regulation 2831.2.

22 (d) Respondents failed to designate Trust Account 2
23 and Trust Account 3 as trust accounts, in violation of Code
24 Section 10145 and Regulation 2832.

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1 (e) Respondent MAGARIN was not a signatory on Trust
2 Account 1, Trust Account 2 or Trust Account 3; one Maruska
3 Beltran, a real estate salesperson not licensed to Respondents,
4 was a signatory on Trust Account 1, Trust Account 2 and Trust
5 Account 3; and one Elizabeth Martinez, a real estate salesperson
6 not licensed to Respondents, was a signatory on Trust Account 2
7 and Trust Account 3, in violation of Regulation 2834.

8 (f) Respondents failed give borrowers a statement
9 containing all the information required by Code Section 10241,
10 and Respondents failed to disclose rebates received from the
11 lender, in violation of Code Section 10240.

12 (g) Respondents failed to notify parties in writing of
13 their interest in agency holding the escrow in transactions
14 including, but not necessarily limited to, Eliseo Villa,
15 Feliciano Camacho and Rene Herrera, in violation of Regulation
16 2950(h).

17 (h) Respondents used the unlicensed fictitious
18 business name "Wall Street Investment", in violation of
19 Regulation 2731.

20 11.

21 The conduct, acts and/or omissions of Respondents
22 WALL STREET LOANS and MAGARIN, as described in Paragraph 10,
23 above, violated the Code and the Regulations as set forth below:

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1 as required by Code Section 10159.2. Said conduct is cause
2 to suspend or revoke the real estate licenses and license
3 rights of Respondent MAGARIN, pursuant to the provisions of
4 Code Sections 10177(d), 10177(g) and/or 10177(h).

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against all licenses and license rights of Respondents
9 WALL STREET RESIDENTIAL LOANS, INC. and DAVID ALFONSO MAGARIN,
10 individually and as designated officer of Wall Street Residential
11 Loans, Inc., under the Real Estate Law (Part 1 of Division 4 of
12 the Business and Professions Code), and for such other and
13 further relief as may be proper under other applicable provisions
14 of law.

15 Dated at Los Angeles, California
16 this 27th day of April, 2000.

17
18 THOMAS McCRADY
19 Deputy Real Estate Commissioner
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22

23 cc: Wall Street Residential Loans, Inc.
24 David Alfonso Magarin
25 LA Audits
26 Thomas McCrady
27 SACTO
PM