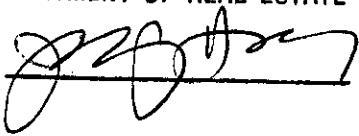


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FILED
MAY 22 2003
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-29019 LA
)	L-2001060474
JAMES EDWARD MACKE,)	
)	
Respondent.)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: JAMES EDWARD MACKE:

On July 5, 2002, a restricted real estate salesperson license was issued by the Department of Real Estate to Respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of April 24, 2002, in case No. H-29019 LA. This Order, with the effective date of July 5, 2002 (the original effective date was May 28, 2002, but was stayed for 30 days and then stayed 10 days further pending a Petition for Reconsideration) granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions

1 and restrictions imposed under authority of Section 10156.6 of
2 said Code.

3 Among those terms, conditions and restrictions,
4 Respondent was required to submit, within nine (9) months from
5 the effective date the Decision, evidence of having completed 45
6 hours of approved continuing education offerings as set forth in
7 Article 2.5 of Chapter 3 of the Real Estate Law. The
8 Commissioner has determined that as of May 6, 2003, Respondent
9 has failed to satisfy this condition, and as such, is in
10 violation of Section 10177(k) of the Business and Professions
11 Code.

12 NOW, THEREFORE, IT IS ORDERED under authority of
13 Section 10156.7 of the Business and Professions Code of the State
14 of California that the restricted real estate salesperson license
15 heretofore issued to respondent and the exercise of any
16 privileges thereunder is hereby suspended until such time as
17 Respondent provides satisfactory proof to the Department of
18 compliance with the "condition(s)" referred to above, or pending
19 final determination made after hearing (see "Hearing Rights" set
20 forth below).

21 ////
22 ////
23 ////
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26 ////
27 ////

1 IT IS FURTHER ORDERED that all license certificates and
2 identification cards issued by Department which are in the
3 possession of respondent be immediately surrendered by personal
4 delivery or by mailing in the enclosed, self-addressed envelope
5 to:

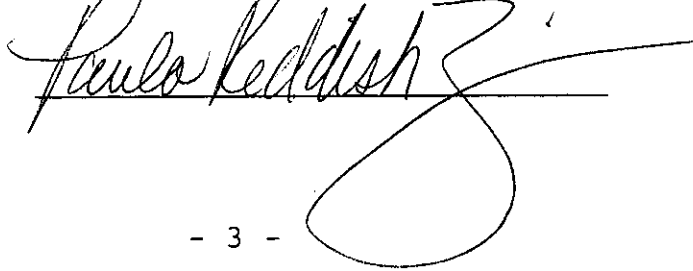
6 Department of Real Estate
7 Attn: Flag Section
8 P. O. Box 187000
9 Sacramento, CA 95818-7000

10 HEARING RIGHTS: Pursuant to the provisions of Section
11 10156.7 of the Business and Professions Code, you have the right
12 to a hearing to contest the Commissioner's determination that you
13 are in violation of Section 10177(k). If you desire a hearing,
14 you must submit a written request. The request may be in any
15 form, as long as it is in writing and indicates that you want a
16 hearing. Unless a written request for a hearing, signed by or on
17 behalf of you, is delivered or mailed to the Department at 320
18 West 4th Street, Suite 350, Los Angeles, California, 90013-1105
19 within 20 days after the date that this Order was mailed to or
20 served on you, the Department will not be obligated or required
21 to provide you with a hearing.

22 This Order shall be effective immediately.

23 DATED: May 16, 2003

24 PAULA REDDISH ZINNEMANN
25 Real Estate Commissioner

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2 cc: James Edward Macke
3 29 Rainbow Ridge
4 Irvine, CA 92612

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I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of April 24, 2002, and reconsideration is hereby denied.

IT IS SO ORDERED June 26, 2002.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



**BY: John R. Liberator
Chief Deputy Commissioner**

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FILED
JUN 25 2002

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA
* * *

In the Matter of the Accusation of)	
JAMES EDWARD MACKE,)	NO. H-29019 LA
Respondent.)	L-2001060474

ORDER STAYING EFFECTIVE DATE

On April 24, 2002, a Decision was rendered in the above-entitled matter to become effective May 28, 2002.

On May 22, 2002, the effective date of said Order was stayed until June 27, 2002.

IT IS HEREBY ORDERED that the effective date of the Decision of April 24, 2002, is stayed for an additional period of ten (10) days.

The Decision of April 24, 2002, shall become effective at 12 o'clock noon on July 5, 2002.

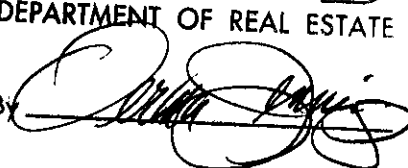
DATED: June 25, 2002.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: *Dolores Ramos*
DOLORES RAMOS
Regional Manager

5/22/02
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FILED
MAY 22 2002
DEPARTMENT OF REAL ESTATE
By: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-29019 LA
JAMES EDWARD MACKE, et al.,)	L-2001060474
Respondents.)	

ORDER STAYING EFFECTIVE DATE

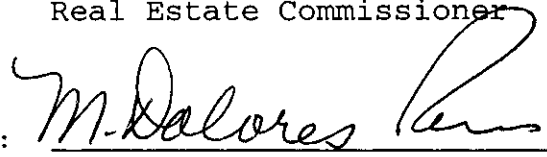
On April 24, 2002, a Decision was rendered in the above-entitled matter to become effective May 28, 2002.

IT IS HEREBY ORDERED that the effective date of the Decision of April 24, 2002, is stayed for a period of 30 days.

The Decision of April 24, 2002, shall become effective at 12 o'clock noon on June 27, 2002.

DATED: May 22, 2002

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: 
DOLORES RAMOS
Regional Manager

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FILED
MAY - 6 2002
DEPARTMENT OF REAL ESTATE
BY *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of:)	No. H-29019 LA
)	
SIERRA FINANCIAL, INC.,)	No. L-2001060474
LAWRENCE EDWARD CRANE, and)	
JAMES EDWARD MACKE)	
)	
Respondents.)	

DECISION AFTER REJECTION

The matter of JAMES EDWARD MACKE, alone, came on for hearing before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on October 30, 2001. Respondents SIERRA FINANCIAL, INC. and JAMES EDWARD MACKE were severed from the hearing.

Sean Crahan, Counsel, represented the Complainant. Respondent appeared and represented himself¹.

¹ In the Proposed Decision dated November 15, 2001, the Administrative Law Judge recited that Respondent MACKE was represented by Frank Buda, Esq. This was not correct. The transcript shows no appearance by Frank Buda, Esq. and that Respondent MACKE represented himself.

1 Evidence was received, the hearing was closed, and the
2 matter was submitted.

3 On November 15, 2001, the Administrative Law Judge
4 submitted a Proposed Decision which I declined to adopt as my
5 Decision.

6 Pursuant to Section 11517(c)(2)(E) of the Government
7 Code of the State of California, Respondent was served with
8 notice of my determination not to adopt the Proposed Decision of
9 the Administrative Law Judge along with a copy of said Proposed
10 Decision. Respondent was notified that the case would be
11 decided by me upon the record including the transcript of the
12 proceedings held on October 30, 2001, and upon any written
13 argument offered by Respondent and Complainant.

14 On February 6, 2002, the transcript of the October 30,
15 2001 hearing was received. Respondent was requested to submit
16 argument within fifteen (15) days thereof. Despite notice to do
17 so, Respondent has not submitted argument. On April 3, 2002,
18 Complainant submitted Argument After Non-Adoption.

19 I have given careful consideration to the record in
20 this case including the transcript of proceedings of
21 October 30, 2001 and Complainant's Argument After Non-Adoption.

22 The following shall constitute the Decision of the
23 Real Estate Commissioner in this proceeding:

24 FINDINGS OF FACT

25 The Real Estate Commissioner makes the following
26 factual findings:
27

1 1. Thomas McCrady filed the Accusation in his
2 official capacity as a Deputy Real Estate Commissioner of the
3 Department of Real Estate of the State of California (the
4 "Department"). Upon his own motion, the Administrative Law
5 Judge amended page 2, line 15 of the accusation to strike the
6 words "an expired real estate licensee," and to substitute the
7 words "while holding an expired real estate license" in lieu
8 thereof.

9 2. JAMES EDWARD MACKE, Respondent, is presently
10 licensed as a real estate salesperson. He originally obtained
11 such license on March 10, 1993. It expired on March 9, 1997 and
12 remained expired until July 14, 2000, when Respondent procured
13 its renewal under the license of broker Lawrence Edward Crane.
14 During the period March 10, 1997, to July 14, 2000, Respondent
15 did not hold a real estate license.

16 3. The parties have timely filed and served on one
17 another all pleadings, notices and other papers as required by
18 law.

19 4. The sole issue pending between the parties is
20 whether Respondent engaged in acts for which a real estate
21 license was required during the time he had no license.

22 5. It has been established that Respondent, while
23 employed by Sierra Financial as a loan officer, solicited and
24 negotiated loans on real property as set forth below on the
25 dates indicated:

26 //

1 (a) A loan on 11405 Sherwood Drive, Garden Grove
2 for borrower Mark L. Wong, March 16, 2000. Respondent received
3 a commission of \$2,374.98 for this loan.

4 (b) A loan on 12689 Cambria Drive, Rancho
5 Cucamonga, for borrowers George H. and Danielle K. Porter, on
6 April 21, 2000. Respondent received a commission of \$8,058.35
7 for this loan.

8 (c) A loan on 29507 Desert Terrace Drive,
9 Menifee, for James T. and Beth A. Rose, March 31, 2000.
10 Respondent received a commission of \$1,435.70 for this loan.

11 6. It is inferred from the foregoing facts that
12 Respondent, in soliciting and negotiating these loans, performed
13 acts for which a real estate license was required during a
14 period of time when he had no valid and active real estate
15 license.

16 7. Respondent presented the following evidence in
17 mitigation and extenuation:

18 (a) Respondent testified that this incident has
19 caused him shame and embarrassment as he comes from a family of
20 realtors. His father and his uncle have been in real estate
21 since 1935.

22 (b) Respondent testified that he tried to renew
23 his license. Shortly before he left the Weyerhaeuser Mortgage
24 Company in early 1997, he took two continuing education courses,
25 and gave the course certificates to his supervisor, along with
26 an application for renewal. He knew his license was due to
27

1 expire at the end of February 1997.

2 (c) On joining Sierra Financial in March of
3 1997, he filled out a DRE Form 214 requesting transfer of his
4 license from one broker to another. He never heard anything
5 further about his license. He gave his existing license to
6 Sierra which was about to expire.

7 (d) He was not surprised to hear nothing from
8 the Department about his license. All licensing documents and
9 correspondence are customarily handled by clerical personnel
10 working for the supervising broker.

11 8. There is no evidence of other disciplinary
12 problems arising during Respondent's licensure, nor is there any
13 evidence of any damage caused anyone by reason of his
14 misconduct.

15 9. On the other hand, there are obvious
16 inconsistencies in his testimony, and one is left wondering why,
17 when he knew his license was about to expire, he did nothing
18 more to get it renewed, or at least, inquire concerning its
19 status. One is left in doubt as to Respondent's reliability and
20 sincerity.

21 10. All allegations concerning Respondent MACKE
22 contained in the accusation upon which no specific findings have
23 been made have not been proved.

24 11. All evidence presented by Respondent MACKE in
25 explanation, extenuation and mitigation has been considered.

26 //

27

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent JAMES EDWARD
MACKE under the Real Estate Law are revoked; provided, however,
a restricted real estate salesperson license shall be issued to
Respondent pursuant to Section 10156.5 of the Business and
Professions Code if Respondent makes application therefor 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:

1. Any restricted real estate salesperson license
issued to Respondent pursuant to this Decision shall be
suspended for a period of ninety (90) days from the effective
date of this Decision; provided, however, that if Respondent
petitions, said suspension (or a portion thereof) shall be
stayed upon condition that:

(a) Respondent pays a monetary penalty pursuant
to Section 10175.2 of the Business and Professions Code at the
rate of \$112.00 for each day of the suspension for a total
monetary penalty of \$10,000.00.

(b) Said payment shall be in the form of a
cashier's check or certified check made payable to the Recovery

1 Account of the Real Estate Fund. Said check must be received by
2 the Department prior to the effective date of the Decision in
3 this matter.

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

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

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

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

24 3. The restricted license issued to Respondent may be
25 suspended prior to hearing by Order of the Real Estate
26 Commissioner on evidence satisfactory to the Commissioner that
27

1 Respondent has violated provisions of the California Real Estate
2 Law, the Subdivided Lands Law, Regulations of the Real Estate
3 Commissioner or conditions attaching to the restricted license.

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

9 5. Respondent shall submit with any application for
10 license under an employing broker, or any application for
11 transfer to a new employing broker, a statement signed by the
12 prospective employing real estate broker on a form approved by
13 the Department of Real Estate which shall certify:

14 (a) That the employing broker has read the
15 Decision of the Commissioner which granted the right
16 to a restricted license; and

17 (b) That the employing broker will exercise close
18 supervision over the performance by the restricted
19 licensee relating to activities for which a real
20 estate license is required.

21 6. Respondent shall, within six months from the
22 effective date of this Decision, take and pass the Professional
23 Responsibility Examination administered by the Department
24 including the payment of the appropriate examination fee. If
25 Respondent fails to satisfy this condition, the Commissioner may
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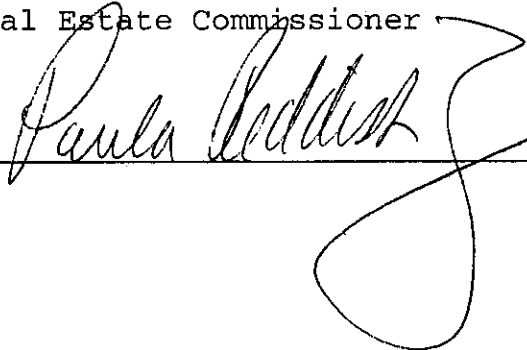
1 order suspension of Respondent's license until Respondent passes
2 the examination.

3 7. Respondent MACKÉ shall, within nine months from
4 the effective date of this Decision, present evidence
5 satisfactory to the Real Estate Commissioner that Respondent
6 has, since the most recent issuance of an original or renewal
7 real estate license, taken and successfully completed the
8 continuing education requirements of Article 2.5 of Chapter 3 of
9 the Real Estate Law for renewal of a real estate license. If
10 Respondent fails to satisfy this condition, the Commissioner may
11 order the suspension of the restricted license until the
12 Respondent presents such evidence. The Commissioner shall afford
13 Respondent the opportunity for a hearing pursuant to the
14 Administrative Procedure Act to present such evidence.

15 This Decision shall become effective on
16 May 28, 2002.

17
18 IT IS SO ORDERED April 24, 2002.

19
20 PAULA REDDISH ZINNEMANN
21 Real Estate Commissioner

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FILED
JAN 11 2002

DEPARTMENT OF REAL ESTATE

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-29019 LA
)	
JAMES EDWARD MACKE,)	L-2001060474
)	
)	
Respondent.)	
)	

NOTICE

To: Respondent JAMES EDWARD MACKE.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated November 15, 2001, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated November 15, 2001, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on October 30,

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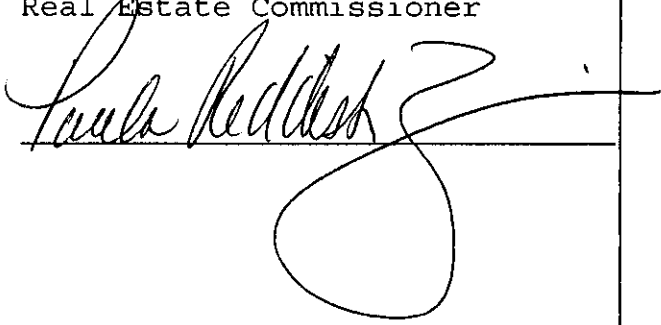
1 2001, and any written argument hereafter submitted on behalf of
2 Respondent and Complainant.

3 Written argument of Respondent to be considered by me
4 must be submitted within 15 days after receipt of the transcript
5 of the proceedings of October 30, 2001, at the Los Angeles office
6 of the Department of Real Estate unless an extension of the time
7 is granted for good cause shown.

8 Written argument of Complainant to be considered by me
9 must be submitted within 15 days after receipt of the argument of
10 Respondent at the Los Angeles office of the Department of Real
11 Estate unless an extension of the time is granted for good cause
12 shown.

13 DATED: January 4, 2002

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15 PAULA REDDISH ZINNEMANN
16 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-29019 LA
)	
SIERRA FINANCIAL, INC.,)	OAH No. L-2001060474
LAWRENCE EDWARD CRANE, and)	
JAMES EDWARD MACKE,)	
)	
Respondents.)	
)	
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PROPOSED DECISION

This case was tried before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on October 30, 2001.

Sean Crahan, counsel, appeared for complainant. Frank M. Buda, attorney at law, appeared for respondent James Edward Macke, who was present throughout the hearing and who participated therein. On motion of complainant, an order severing the matters pertaining to all other respondents was granted, and the case was prosecuted against Mr. Macke alone.

Upon his own motion, the Administrative Law Judge amends page 2, line 15 of the accusation to strike the words "an expired real estate licensee," and to substitute the words "while holding an expired real estate license" in lieu thereof.

The parties presented oral and documentary evidence and submitted the matter for decision. The Administrative Law Judge proposes:

Findings of Fact

1. Complainant, Thomas McCrady, is a Deputy Real Estate Commissioner of the State of California, and caused the accusation to be filed and served on respondent while serving in his official capacity.

2. James Edward Macke, respondent, is presently licensed as a real estate salesperson. He originally obtained such license some time prior to February 28, 1997, when it expired without renewal, until July 14, 2000, when respondent procured its renewal. During the period February 28, 1997, to July 14, 2000 respondent did not hold an active real estate license.

3. The parties have timely filed and served on one another all pleadings, notices and other papers as required by law.

4. The sole issue pending between the parties is whether respondent engaged in acts for which a real estate license was required during the time he had no active license.

5. It has been established that respondent, while employed by Sierra Financial as a loan officer, solicited and negotiated loans on real property as set forth below on the dates indicated:

(a) A loan on 11405 Sherwood Drive, Garden Grove for borrower Mark L. Wong, March 16, 2000;

(b) A loan on 12689 Cambria Drive, Rancho Cucamonga, for borrowers George H. and Danielle K. Porter, on April 21, 2000;

(c) A loan on 29507 Desert Terrace Drive, Menifee, for James T. and Beth A. Rose, March 31, 2000.

6. It is inferred from the foregoing facts that respondent, in negotiating these loans, performed acts for which a real estate license was required during a period of time when he had no valid and active real estate license.

7. Respondent presented the following evidence in mitigation and extenuation:

(a) This incident has caused him shame and embarrassment. He comes from a family of realtors. His father and his uncle have been in real estate since 1935.

(b) He tried to renew his license. Shortly before he left the Weyerhaeuser corporation in early 1997, he took two continuing education courses, and gave the course certificates to his supervisor, along with an application for renewal. He knew his license was due to expire at the end of February 1997.

(c) On joining Sierra Financial in March of 1997, he filled out a DRE Form 214 requesting transfer of his license from one broker to another. He never heard anything further about his license. He gave his "old license" to Sierra.

(d) He was not surprised to hear nothing from the Department about his license. All licensing documents and correspondence are customarily handled by clerical personnel working for the supervising broker. Sales agents rarely get involved in the renewal process.

8. There is no evidence of other disciplinary problems arising during respondent's licensure, nor is there any evidence of any damage caused anyone by reason of his misconduct.

9. On the other hand, there are obvious inconsistencies in his testimony, and one is left wondering why, when he knew his license was about to expire, he did nothing more to get it renewed, or at least, inquire concerning its status. One is left in doubt as to respondent's reliability and sincerity.

10. All allegations concerning Mr. Macke contained in the accusation upon which no specific findings have been made have not been proved.

11. All evidence presented by Mr. Macke in explanation, extenuation and mitigation has been considered.


Conclusions of Law

The conduct of respondent, JAMES EDWARD MACKE, described in Findings 5 and 6 above, was in violation of section 10130 of the Business and Professions Code, and subjects his real estate license to discipline pursuant to section 10177(d) of said Code.

Order

The real estate salesperson's license issued to respondent JAMES EDWARD MACKE is hereby suspended for ninety (90) days. The period of suspension shall begin 30 calendar days following the effective date hereof.

November 15, 2001



PAUL M. HOGAN
Administrative Law Judge
Office of Administrative Hearings

not adopted

FILED
DEC - 5 2001

DEPARTMENT OF REAL ESTATE

By K. Mederholt

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
SIERRA FINANCIAL, INC.,)
LAWRENCE EDWARD CRANE, and)
JAMES EDWARD MACKE,)
Respondents.)

No. H-29019 LA

L-2001050081

STIPULATION AND AGREEMENT

It is hereby stipulated by and between LAWRENCE EDWARD CRANE (referred to as Respondent herein), acting by and through his Counsel Frank M. Buda, Esq., and the Complainant, acting by and through Sean Crahan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on April 12, 2001, in this matter:

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

1 Stipulation And Agreement (hereafter Stipulation).

2 2. Respondent has received, read and understands the
3 Statement to Respondent, the Discovery Provisions of the APA and
4 the Accusation, filed by the Department of Real Estate in this
5 proceeding.

6 3. On April 30, 2001, Respondent filed a Notice of
7 Defense pursuant to Section 11506 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense, he will
12 thereby waive his right to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA and that he will waive
15 other rights afforded to him in connection with the hearing such
16 as the right to present evidence in defense of the allegations in
17 the Accusation and the right to cross-examine witnesses.

18 4. This Stipulation and Agreement relates to the
19 factual allegations contained in paragraphs one (I) through six
20 (VI) in the Accusation filed in this proceeding. Respondent
21 chooses not to contest these factual allegations and to remain
22 silent and understands that, as a result thereof, these factual
23 allegations, without being admitted or denied, will serve as a
24 basis for the discipline stipulated to herein. This Stipulation
25 and Agreement and the findings based on Respondent's decision not
26 to contest the Accusation is hereby expressly limited to this
27 proceeding and made for the sole purpose of reaching an agreed

1 disposition of this proceeding, only. Respondent's decision not
2 to contest the factual allegations is made solely for the purpose
3 of effectuating this Stipulation and is intended by Complainant
4 and Respondent to be non-binding upon him in any actions against
5 Respondent by third parties and shall not be deemed, used, or
6 accepted as an acknowledgement or admission. The Real Estate
7 Commissioner shall not be required to provide further evidence to
8 prove such allegations.

9 5. It is understood by the parties that the Real
10 Estate Commissioner may adopt the Stipulation And Agreement as
11 her Decision in this matter, thereby imposing the penalty and
12 sanctions on Respondent's real estate licenses and/or license
13 rights as set forth in the below Order. In the event that the
14 Commissioner in her discretion does not adopt the Stipulation And
15 Agreement, it shall be void and of no effect, and Respondent
16 shall retain the right to a hearing and proceeding on the
17 Accusation under all the provisions of the APA and shall not be
18 bound by any admission or waiver made herein.

19 6. The Order or any subsequent Order of the Real
20 Estate Commissioner made pursuant to this Stipulation And
21 Agreement shall not constitute an estoppel, merger or bar to any
22 further administrative or civil proceedings by the Department of
23 Real Estate with respect to any matters which were not
24 specifically alleged to be causes for accusation in this
25 proceeding.

26 //

27 7. The below Determination of Issues contains a

1 determination that Respondent CRANE, has violated Code Section
2 10145 and Regulations 2831, 2831.1, 2831.2, and 2834. Respondent
3 CRANE, is aware that by agreeing to this Stipulation And
4 Agreement In Settlement, if the findings set forth below in the
5 Determination of Issues become final, the Commissioner may charge
6 Respondent CRANE for the costs of Audit LA 990447 and of any
7 follow-up audit conducted pursuant to Section 10148 of the Code
8 to determine if Respondent CRANE is in compliance with the Real
9 Estate Law. The maximum cost of each of the audits will not
10 exceed \$2,581.46.

11 DETERMINATION OF ISSUES

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

16 The conduct or omissions of Respondent LAWRENCE EDWARD
17 CRANE under Part 1 of Division 4 of the Business and Professions
18 Code are, as set forth in paragraphs one (I) through six (VI) in
19 the Accusation constitute cause to suspend or revoke his real
20 estate broker license and/or license rights under the provisions
21 of Code Sections 10137, 10177(h) and 10177(d) for violations of
22 Code Sections 10145, 10161.8 and 10240, Regulations 2831, 2831.1,
23 2831.2, and 2834.

24 ORDER

25 WHEREFORE, THE FOLLOWING ORDER is hereby made:
26
27

1 All licenses and licensing rights of Respondent LAWRENCE EDWARD
2 CRANE under the Real Estate Law are suspended for a period of
3 ninety (90) days from the effective date of this Decision;
4 provided, however, that if Respondent petitions, the last eighty
5 (80) days of said suspension (or a portion thereof) shall be
6 stayed upon condition that:

7 1. Respondent pays a monetary penalty pursuant to
8 Section 10175.2 of the Business and Professions Code at the rate
9 of \$112.00 for each day of the suspension for a total monetary
10 penalty of \$10,000.00.

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

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

19 4. If Respondent fails to pay the monetary penalty in accordance
20 with the terms and conditions of the Decision, the Commissioner
21 may, without a hearing, order the immediate execution of all or
22 any part of the stayed suspension in which event the Respondent
23 shall not be entitled to any repayment nor credit, prorated or
24 otherwise, for money paid to the Department under the terms of
25 this Decision.

26 4. If Respondent fails to pay the monetary penalty in
27 accordance with the terms and conditions of the Decision, the

1 Commissioner may, without a hearing, order the immediate
2 execution of all or any part of the stayed suspension in which
3 event the Respondent shall not be entitled to any repayment nor
4 credit, prorated or otherwise, for money paid to the Department
5 under the terms of this Decision.

6 5. During two years from the effective date of this
7 Decision, Respondent shall not remain or become an officer or
8 designated officer of a corporate broker, nor become the broker
9 for a business of any form the activities of which require a real
10 estate license, unless he owns 80 or more percent of such
11 corporation or business.

12 6. Pursuant to Section 10148 of the Business and
13 Professions Code, Respondent shall pay the Commissioner's
14 reasonable cost for the subject Audit, LA 990447, and a Follow-up
15 Audit of any business in which Respondent is performing acts for
16 which a real estate license is required. The Follow-up Audit is
17 to determine if Respondent is in compliance with the Real Estate
18 Law. In calculating the amount of the Commissioner's reasonable
19 cost, the Commissioner may use the estimated average hourly
20 salary for all persons performing audits of real estate brokers,
21 and shall include allocation for travel costs, including mileage,
22 time to and from the auditor's place of work and per diem.
23 Respondent shall pay such cost within 45 days of receiving an
24 invoice from the Commissioner detailing the activities performed
25 during the audit and the amount of time spent performing those
26 activities. The Commissioner may, in her discretion, vacate and
27 set aside the stay order, if payment has not been made as

1 provided for herein, or as provided for in subsequent agreement
2 between the Respondent and the Commissioner. The vacation and
3 set aside of the stay shall remain in effect until payment is
4 made in full, or until Respondent enters into an agreement
5 satisfactory to the Commissioner to provide for payment.

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

13 8. If Respondent; pays the monetary penalty, pays for
14 the audit and followup audit, complies with the conditions
15 hereinabove set forth and if no further cause for disciplinary
16 action against the real estate license of Respondent occurs
17 within two years from the effective date of the Decision, the
18 stay hereby granted shall become permanent.

19 DATED: 11-19-01


SEAN CRAHAN, Counsel for
Complainant.

21 * * * * *

22 I have read the Stipulation And Agreement, and its
23 terms are understood by me and are agreeable and acceptable to
24 me. I understand that I am waiving rights given to me by the
25 California Administrative Procedure Act (including but not
26 limited to Sections 11506, 11508, 11509 and 11513 of the

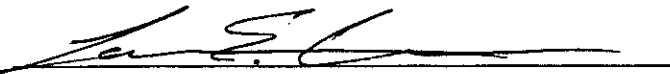
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1 Government Code), and I willingly, intelligently and voluntarily
2 waive those rights, including the right of requiring the
3 Commissioner to prove the allegations in the Accusation at a
4 hearing at which I would have the right to cross-examine
5 witnesses against me and to present evidence in defense and
6 mitigation of the charges.


7 Respondent can signify acceptance and approval of the
8 terms and conditions of this stipulation and Agreement by faxing
9 a copy of the signature page, as actually signed by Respondent,
10 to the Department at the following telephone/fax number: (213)
11 576-6917. Respondent agrees, acknowledges and understands that
12 by electronically sending to the Department a fax copy of his
13 actual signature as it appears on the Stipulation and Agreement,
14 that receipt of the faxed copy by the Department shall be as
15 binding on Respondent as if the Department had received the
16 original signed Stipulation and Agreement.

17 Further, Respondent's counsel will, within 24 hours of
18 obtaining Respondent's original signature to the Stipulation and
19 Agreement, deliver the Stipulation and Agreement to the
20 Department.

21 DATED: 11/14/01


LAWRENCE EDWARD CRANE, Respondent.

22
23 DATED: 11-7-01


FRANK M. BUDA, ESQ. Counsel for
Respondent Lawrence Edward Crane,
approved as to form.

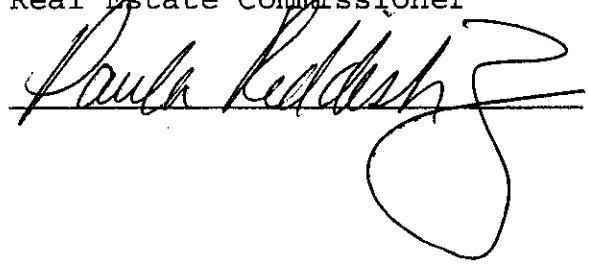
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* * * * *

The foregoing Stipulation And Agreement is hereby
adopted as my Decision as to Respondent LAWRENCE EDWARD CRANE and
shall become effective at 12 o'clock noon on
December 26, 2001

IT IS SO ORDERED November 29, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



Handwritten initials/signature

FILED
DEC - 5 2001

DEPARTMENT OF REAL ESTATE

By *K. W. Underhill*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29019 LA
)	
<u>SIERRA FINANCIAL, INC.,</u>)	L-2001050081
LAWRENCE EDWARD CRANE, and)	
JAMES EDWARD MACKE,)	
)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On April 12, 2001, an Accusation was filed in this matter against Respondent SIERRA FINANCIAL, INC., et. al.

On November 14, 2001, Jeffrey D. Rice, petitioned the Commissioner to voluntarily surrender the corporate real estate broker license of SIERRA FINANCIAL, INC. pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent SIERRA FINANCIAL, INC.'s petition for voluntary surrender of its real estate broker license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed

1 in Respondent's Declaration dated November 14, 2001 (attached as
2 Exhibit "A" hereto).

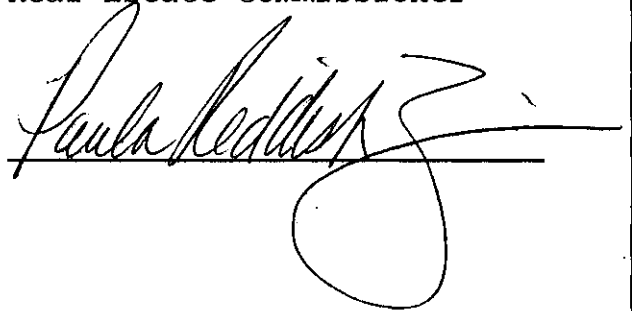
3 Respondent SIERRA FINANCIAL, INC.'s license
4 certificates shall be sent to the below listed address so that
5 they reach the Department on or before the effective date of this
6 Order:

7 DEPARTMENT OF REAL ESTATE
8 Attn: Licensing Flag Section
9 P. O. Box 187000
Sacramento, CA 95818-7000

10 This Order shall become effective at 12 o'clock noon
11 on December 26, 2001.

12 DATED: November 29, 2001

14 PAULA REDDISH ZINNEMANN
15 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-29019 LA
)	
SIERRA FINANCIAL, INC.,)	L-2001050081
LAWRENCE EDWARD CRANE, and)	
JAMES EDWARD MACKE,)	
)	
Respondents.)	

DECLARATION

My name is Jeffrey D. Rice. I am currently the President and Secretary of SIERRA FINANCIAL, INC., and have authority to surrender the corporate real estate broker license of SIERRA FINANCIAL, INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code) I wish to voluntarily surrender the corporate real estate broker license and license rights issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

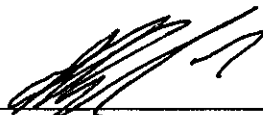
1 I understand that by so voluntarily surrendering the
2 license of SIERRA FINANCIAL, INC., that it can only be reinstated
3 in accordance with the provisions of Section 11522 of the
4 Government Code. I also understand that by so voluntarily
5 surrendering the license of SIERRA FINANCIAL, INC., I agree to
6 the following:

7 The filing of this Declaration shall be deemed as my
8 petition for voluntary surrender of the license of SIERRA
9 FINANCIAL, INC. It shall also be deemed to be an understanding
10 and agreement by SIERRA FINANCIAL, INC. that, it waives all
11 rights it has to require the Commissioner to prove the
12 allegations contained in the Accusation filed in this matter at a
13 hearing held in accordance with the provisions of the
14 Administrative Procedure Act (Government Code Sections 11400 et
15 seq.), and that I also waive other rights afforded to SIERRA
16 FINANCIAL, INC. in connection with the hearing such as the right
17 to discovery, the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses. I further agree that upon acceptance by the
20 Commissioner, as evidenced by an appropriate order, all
21 affidavits and all relevant evidence obtained by the Department
22 in this matter prior to the Commissioner's acceptance, and all
23 allegations contained in the Accusation filed in the Department
24 Case No. H-29019 LA, may be considered by the Department to be
25 true and correct for the purpose of deciding whether or not to
26 grant reinstatement of the license of SIERRA FINANCIAL, INC.,
27 pursuant to Government Code Section 11522.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I freely and voluntarily surrender my licenses and all license rights attached thereto.

11/14/01 Los Angeles
Date and Place of Execution.


Jeffrey D. Rice, President,
SIERRA FINANCIAL, INC.,
Respondent

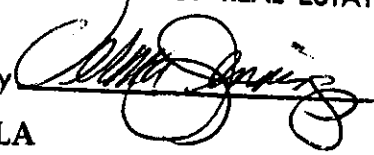
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 27 2001
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
SIERRA FINANCIAL INC., et al.,)
)
Respondents.)

Case No. H-29019 LA
OAH No. L-2001050081

By: 

AMENDED NOTICE OF 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, 320 West Fourth Street, Suite 630, Los Angeles, California, on **October 30 and 31, 2001**, 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.

Dated: July 27, 2001.

cc: Sierra Financial Inc.
Lawrence E. Crane
James E. Macke
Frank M. Buda, Esq.
Danio Fajardo
Lisa Kwong
Sacto./OAH

DEPARTMENT OF REAL ESTATE

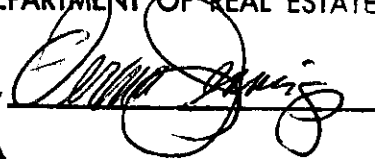
By: 
SEAN CRAHAN, Counsel

Sacto. Plan

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL - 3 2001
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
SIERRA FINANCIAL INC., et al.,)
)
Respondents.)

29019 By 
Case No. H-28986-LA
OAH No. L-2001050081

NOTICE OF 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, 320 West Fourth Street, Suite 630, Los Angeles, California, on **October 30 and 31, 2001**, 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.

Dated: July 3, 2001.

DEPARTMENT OF REAL ESTATE


cc: Sierra Financial Inc.
Lawrence E. Crane
James E. Macke
Frank M. Buda, Esq.
Danio Fajardo
Lisa Kwong
Sacto./OAH

By:


SEAN CRAHAN, Counsel

SAC 70

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)

FILED
APR 12 2001
DEPARTMENT OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-29019 LA
12 SIERRA FINANCIAL, INC.,)	<u>A C C U S A T I O N</u>
13 LAWRENCE EDWARD CRANE, and)	
14 JAMES EDWARD MACKE,)	
15 Respondents.)	

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against SIERRA FINANCIAL, INC., LAWRENCE EDWARD CRANE, and JAMES
19 EDWARD MACKE, alleges as follows:

20 I

21 The Complainant, Thomas McCrady, acting in his official
22 capacity as a Deputy Real Estate Commissioner of the State of
23 California, makes this Accusation SIERRA FINANCIAL, INC.,
24 LAWRENCE EDWARD CRANE, and JAMES EDWARD MACKE.

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II

SIERRA FINANCIAL, INC., LAWRENCE EDWARD CRANE, and JAMES EDWARD MACKE (hereinafter referred to as "Respondents") are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

III

At all times herein mentioned, respondent SIERRA FINANCIAL, INC., was licensed by the Department of Real Estate of the State of California as a corporate real estate broker, and respondent LAWRENCE EDWARD CRANE, was licensed as the designated broker officer of said corporation, and ordered, authorized or participated in the illegal conduct of respondent SIERRA FINANCIAL, INC., as alleged in this Accusation. Respondent JAMES EDWARD MACKE, an expired real estate licensee, was employed by respondents SIERRA FINANCIAL, INC., and LAWRENCE EDWARD CRANE as a real estate salesperson.

IV

At all times herein mentioned, respondent SIERRA FINANCIAL, INC., on behalf of others in expectation of compensation, engaged in the business, 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 soliciting borrowers and lenders and negotiating loans on real property.

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1 V

2 During 1998 through 2000, in connection with the
3 aforesaid real estate brokerage activities, respondent SIERRA
4 FINANCIAL, INC., accepted or received funds from borrowers and
5 lenders and thereafter made disbursements of such funds.
6 Respondent maintained trust account No. 192-001367-8 at
7 Washington Mutual Bank, 3304 State Street, Santa Barbara.

8 VI

9 In connection with Respondents' activities as a real
10 estate broker as described above, respondents SIERRA FINANCIAL,
11 INC., and LAWRENCE EDWARD CRANE, acted in violation of the Real
12 Estate Law, Business and Professions Code (hereinafter Code), and
13 California Code of Regulations (hereinafter Regulations), Title
14 10, Chapter 6, as follows:

15 1. Violated Section 10137 of the Code by employing
16 respondent JAMES EDWARD MACKE, who was not licensed as a real
17 estate salesperson or broker, to solicit and negotiate loans on
18 real property, as set forth below. These activities require a
19 real estate license under Section 10131(d) of the Code.

20 a) A loan on 12689 Cambria Drive, Rancho Cucamonga,
21 for borrowers George H. and Danielle K. Porter.

22 b) A loan on 11405 Sherwood Drive, Garden Grove, for
23 borrower Mark L. Wong.

24 c) A loan on 29507 Desert Terrace Drive, Menifee, for
25 borrowers James T. and Beth A. Rose.

26 d) A Loan on 29519 Desert Terrace Drive, Menifee, for
27 borrower Carole A. Anderson.

1 e) A loan on 29771 Desert Jewel Drive, Menifee, for
2 borrowers Siamak and Siavosh Azimie.

3 f) A loan on 1 Via Geneva, Rancho Santa Margarita
4 area, for borrowers Paul M. and Maureen E. Hamilton-Rivers.

5 2. Violated Section 10145(a) of the Code and
6 Regulation 2835 by maintaining as of May 17, 2000, an overage of
7 \$305.00 in the trust account.

8 3. Violated Regulation 2831 by not always maintaining
9 a control record that was complete and accurate.

10 4. Violated Regulation 2831.1 by not always
11 maintaining separate records for each beneficiary or transaction
12 that were complete and accurate.

13 5. Violated Regulation 2831.2 by failing to maintain a
14 monthly reconciliation of the separate records with a control
15 record for the trust account.

16 6. Violated Regulation 2834 by allowing Vincent Joseph
17 Barbato and Jeffrey David Rice to be trust account signatories.
18 There was no fidelity bond coverage.

19 7. Violated Section 10161.8 of the Code by failing to
20 notify the Department of Real Estate that salesperson Vincent
21 Joseph Barbato was employed by Respondents.

22 8. Violated Section 10240 of the Code in that the
23 broker or the broker's representative and borrowers did not sign
24 the Mortgage Loan Disclosure Statements.

25 VII

26 The conduct of respondent SIERRA FINANCIAL, INC., as
27 alleged above, subjects its real estate license and license

1 rights to suspension or revocation pursuant to Sections 10137,
2 10177(d), and 10177(g) of the Code.

3 VIII

4 The conduct of respondent LAWRENCE EDWARD CRANE, as
5 alleged above, as the responsible broker, by allowing and
6 permitting respondent SIERRA FINANCIAL, INC., to engage in the
7 conduct specified in paragraph VI above, subjects his real estate
8 licenses and license rights to suspension or revocation pursuant
9 to Sections 10137, 10177(d), and 10177(h) of the Code.

10 IX

11 The conduct of respondent, JAMES EDWARD MACKE, as
12 alleged above, was in violation of Section 10130 of the Code, and
13 subjects his real estate license to suspension or revocation
14 pursuant to Section 10177(d) of the Code.

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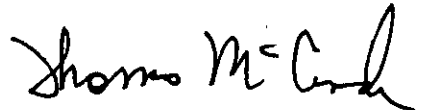
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of respondents
5 SIERRA FINANCIAL, INC., LAWRENCE EDWARD CRANE, and JAMES EDWARD
6 MACKE 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 12th day of April, 2001.

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14 Deputy Real Estate Commissioner

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23 cc: Sierra Financial, Inc.
24 Lawrence Edward Crane
25 James Edward Macke
26 Thomas McCrady
27 Sacto
DW