

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

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

FILED
AUG 26 2004
DEPARTMENT OF REAL ESTATE

By K. Friederich

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-29676 LA

12 HARDWIRE MORTGAGE CO. INC.,)
13 and ALEX NELSON, individually)
14 and as designated officer of)
Hardwire Mortgage Co. Inc.)

STIPULATION
AND
AGREEMENT

15 Respondents.)
16)

17 It is hereby stipulated by and between HARDWIRE
18 MORTGAGE CO. INC. and ALEX NELSON, individually and as designated
19 officer of Hardwire Mortgage Co. Inc. (sometimes collectively
20 referred to as "Respondents"), represented by Frank M. Buda,
21 Esq., and the Complainant, acting by and through Elliott Mac
22 Lennan, Counsel for the Department of Real Estate, as follows for
23 the purpose of settling and disposing of the Accusation filed on
24 September 10, 2002, 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 Respondents
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 (Stipulation).

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents filed a Notice of Defense pursuant to
13 Section 11506 of the Government Code for the purpose of
14 requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense of the allegations in the
23 Accusation and the right to cross-examine witnesses.

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1 4. This Stipulation is based on the allegations
2 contained in the Accusation. In the interest of expedience and
3 economy, Respondents choose not to contest these allegations, but
4 to remain silent and understand that, as a result thereof, these
5 allegations, without being admitted or denied, will serve as a
6 prima facie basis for the disciplinary action stipulated to
7 herein. The Real Estate Commissioner shall not be required to
8 provide further evidence to prove said allegations.

9 5. This Stipulation and Respondent's decision not to
10 contest the Accusation is made for the purpose of reaching an
11 agreed disposition of this proceeding and is expressly limited to
12 this proceeding and any other proceeding or case in which the
13 Department of Real Estate ("Department"), the state or federal
14 government, or any agency of this state, another state or federal
15 government is involved.

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt this Stipulation as his Decision
18 in this matter thereby imposing the penalty and sanctions on
19 Respondents real estate licenses and license rights as set forth
20 in the "Order" herein below. In the event that the Commissioner,
21 in his discretion, does not adopt the Stipulation, it shall be
22 void and of no effect and Respondents shall retain the right to
23 a hearing and proceeding on the Accusation under the provisions
24 of the APA and shall not be bound by any stipulation or waiver
25 made herein.

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1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for Accusation in this proceeding but do
7 constitute a bar, estoppel and merger as to any allegations
8 actually contained in the Accusation against Respondents herein.

9 8. Respondents understand that by agreeing to this
10 Stipulation, Respondents agree to pay, pursuant to Business and
11 Professions Code Section 10148, the cost of the audit (LA 010258
12 and LA 010107) which led to this disciplinary action. The amount
13 of said cost is \$3,570.16.

14 9. Respondents have received, read, and understand the
15 "Notice Concerning Costs of Subsequent Audit". Respondents
16 further understand that by agreeing to this Stipulation, the
17 findings set forth below in the Determination of Issues become
18 final, and the Commissioner may charge Respondents for the cost
19 of any subsequent audits conducted pursuant to Business and
20 Professions Code Section 10148 to determine if the violations
21 have been corrected. The maximum cost of the subsequent audit
22 will not exceed \$3,570.16.

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DETERMINATION OF ISSUES

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2 By reason of the foregoing stipulations, it is
3 stipulated and agreed that the following determination of issues
4 shall be made:

5 1.

6 The conduct, acts or omissions of HARDWIRE MORTGAGE CO.
7 INC. as described in Paragraph 4 above, is in violation of
8 Sections 10145, 10160 and 10161.8 of the Business and Professions
9 Code ("Code") and Sections 2752, 2753, 2831.1, 2831.2, 2832, 2834
10 and 2951 of Title 10, Chapter 6 of the California Code of
11 Regulations ("Regulations") and is a basis for the suspension
12 or revocation of Respondent's license pursuant to Code Sections
13 10165, 10177(d) and 10177(g).

14 2.

15 The conduct, acts or omissions of ALEX NELSON, as
16 described in Paragraph 4, constitutes a failure to ensure that
17 HARDWIRE MORTGAGE CO. INC. was in compliance with the Real Estate
18 Law during the time that he was the officer designated by a
19 corporate broker licensee, in violation of Code Section 10159.2.
20 This conduct is a basis for the suspension or revocation of
21 Respondent's broker license pursuant to Code Section 10177(h).

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ORDER

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2 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT
3 TO THE WRITTEN STIPULATION OF THE PARTIES:

4 I.

5 A. All licenses and licensing rights of Respondent
6 HARDWIRE MORTGAGE CO. INC. under the Real Estate Law are
7 suspended for a period of ninety (90) days from the effective
8 date of this Decision; provided, however, that sixty (60) days of
9 said suspension shall be stayed for two (2) years upon the
10 following terms and conditions:

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

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

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1 B. The initial thirty (30) day portion of said ninety
2 (90) day suspension shall commence on the effective date of this
3 Decision; provided, however, that if Respondent HARDWIRE MORTGAGE
4 CO. INC. petitions, said suspension shall be stayed upon
5 condition that:

6 1. Pursuant to Section 10175.2 of the Business and
7 Professions Code, HARDWIRE MORTGAGE CO. INC. pays a monetary
8 penalty of one hundred dollars (\$100.00) per day totaling three
9 thousand dollars (\$3,000).

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

15 3. No further cause for disciplinary action against
16 the real estate license of Respondent HARDWIRE MORTGAGE CO. INC.
17 occurs within two (2) years from the effective date of the
18 Decision in this matter.

19 4. If Respondent HARDWIRE MORTGAGE CO. INC. fails
20 to pay the monetary penalty in accordance with the terms and
21 conditions of the Decision, the Commissioner may, without a
22 hearing, order the immediate execution of all or any part of the
23 stayed suspension in which event Respondent shall not be entitled
24 to any repayment nor credit, prorated or otherwise, for money
25 paid to the Department under the terms of this Decision.
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1 (B) All licenses and licensing rights of Respondent
2 ALEX NELSON are indefinitely suspended unless or until he
3 provides proof satisfactory to the Commissioner of having taken
4 and completed at an accredited institution the continuing
5 education course on trust fund accounting and handling specified
6 on paragraph (3) of subdivision (a) of Section 10170.5 of the
7 Business and Professions Code. Proof of satisfaction of this
8 requirement includes evidence that Respondent has successfully
9 completed the trust fund account and handling continuing
10 education course within 120 days prior to the effective date of
11 the Decision in this matter.

12 C. All licenses and licensing rights of Respondent
13 ALEX NELSON are indefinitely suspended upon the effective date of
14 this Decision and thereafter until he provides proof satisfactory
15 to the Commissioner of (1) having taken and satisfactorily
16 completed the Los Angeles Superior Court Rio Hondo Drug Court
17 Program and (2) providing certified copies of court records for
18 expungement and/or dismissal pursuant to Penal Code Sections
19 1000.3, 1000.5 (now 1000.4), 1203.4 and/or 1385 for the
20 convictions set forth in Paragraphs 16, 17 and 19 of the
21 Accusation.

22 D. The initial thirty (30) day portion of said ninety
23 (90) day suspension shall commence on the effective date of this
24 Decision; provided, however, that if Respondent ALEX NELSON
25 petitions, said suspension shall be stayed upon condition that:
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1 1. Pursuant to Section 10175.2 of the Business and
2 Professions Code, ALEX NELSON pays a monetary penalty of one
3 hundred dollars (\$100.00) per day totaling three thousand dollars
4 (\$3,000).

5 2. Said payment shall be in the form of a cashier's
6 check or certified check made payable to the Recovery
7 Account of the Real Estate Fund. Said check must be received
8 by the Department prior to the effective date of the Decision
9 in this matter.

10 3. No further cause for disciplinary action against
11 the real estate license of Respondents occur within two (2) years
12 from the effective date of the Decision in this matter.

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

20 5. If Respondent ALEX NELSON pays the monetary penalty
21 and if no further cause for disciplinary action against the real
22 estate licenses of Respondent occurs within two (2) years from
23 the effective date of the Decision, the stay hereby granted shall
24 become permanent.
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1 E. During the two (2) year period of time following
2 the effective date of the Decision, Respondent ALEX NELSON, shall
3 submit to the Department of Real Estate as of the last day of
4 each March, June, September and December, proof satisfactory to
5 the Real Estate Commissioner of Respondent's ongoing
6 participation in a recognized drug and alcohol program. Said
7 proof shall be submitted to the Manager of the Crisis Response
8 Team at the Los Angeles Office of the Department of Real Estate
9 and shall be verified as true and accurate by Respondent under
10 penalty of perjury.

11 The Commissioner may suspend all licenses and licensing
12 rights of Respondent ALEX NELSON for non-participation in a
13 recognized drug and alcohol program. The suspension shall remain
14 in effect until such proof is submitted or until Respondent
15 enters into an agreement satisfactory to the Commissioner to
16 provide such proof, or until a decision providing otherwise is
17 adopted following a hearing held pursuant to this condition.
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19 III.

20 Pursuant to Section 10148 of the Business and
21 Professions Code, Respondents shall pay the Commissioner's
22 reasonable cost for: (a) the audit (Audit Reports LA 010107 and
23 LA 010258) which led to this disciplinary action and (b) a
24 subsequent audit to determine if Respondent HARDWIRE MORTGAGE CO.
25 INC. is now in compliance with the Real Estate Law. The cost of
26 the audit which led to this disciplinary action is \$3,570.16. In
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1 calculating the amount of the Commissioner's reasonable cost, the
2 Commissioner may use the estimated average hourly salary for all
3 persons performing audits of real estate brokers, and shall
4 include an allocation for travel time to and from the auditor's
5 place of work. Said amount for the prior and subsequent audit
6 shall not exceed \$7,140.32.

7 Respondents shall pay such cost within 60 days of
8 receiving an invoice from the Commissioner detailing the
9 activities performed during the audit and the amount of time
10 spent performing those activities.

11 The Commissioner may suspend the license of a
12 Respondent pending a hearing held in accordance with Section
13 11500, et seq., of the Government Code, if payment is not timely
14 made as provided for herein, or as provided for in a subsequent
15 agreement between the Respondent and the Commissioner. The
16 suspension shall remain in effect until payment is made in full
17 or until a Respondent enters into an agreement satisfactory to
18 the Commissioner to provide for payment, or until a decision
19 providing otherwise is adopted following a hearing held pursuant
20 to this condition.
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24 DATED: 8-3-04

ELI
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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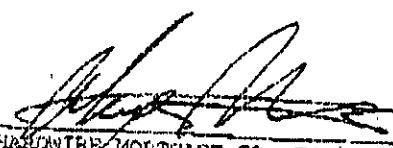
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2 We have read the Stipulation and Agreement, and have
3 discussed it with our counsel. Its terms are understood by us
4 and are agreeable and acceptable to us. We understand that we
5 are waiving rights given to us by the California Administrative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

13 Respondents can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of its signature page, as actually signed by Respondents,
16 to the Department at the following telephone/fax number: (213)
17 576-6917, Attention: Elliott Mac Lennan. Respondents agree,
18 acknowledge and understand that by electronically sending to the
19 Department a fax copy of Respondents' actual signatures as they
20 appear on the Stipulation and Agreement, that receipt of the
21 faxed copy by the Department shall be as binding on Respondents
22 as if the Department had received the original signed Stipulation
23 and Agreement.
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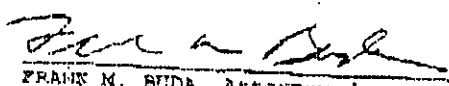
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4 DATED: 8/11/04


HARDWARE MORTGAGE CO. INC.
BY: ALEX NELSON D.O.
Respondent

5 DATED: 8/11/04


ALEX NELSON, Individually and as
designated officer of Hardware
Mortgage Co. Inc. Respondent

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10
11 DATED: 8-11-04


FRANK M. BUDA, Attorney for
Respondents
Approved as to form.

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16 The foregoing Stipulation and Agreement is hereby
17 adopted as my Decision and Order and shall become effective at 12
18 o'clock noon on _____, 2004.

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20 IT IS SO ORDERED _____ 2004.

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22 JOHN R. LIBERATOR
Acting Real Estate Commissioner
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DATED: _____

HARDWIRE MORTGAGE CO. INC.
BY: ALEX NELSON D.O.,
Respondent

DATED: _____

ALEX NELSON, individually and as
designated officer of Hardwire
Mortgage Co. Inc. Respondent

DATED: _____

FRANK M. BUDA, Attorney for
Respondents
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at 12
o'clock noon on SEP 15, 2004.

IT IS SO ORDERED August 12, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

Sacto
gob

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
DEC 22 2003
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

HARDWIRE MORTGAGE CO., INC., ET AL,

By *R. Medelhoff*

Case No. H-29676 LA

OAH No. L-2002100391

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at 320 W. Fourth Street, Ste. 630, Los Angeles, CA on August 11, 12 & 13, 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

DEC 22 2003

Dated:

By

Elliott MacLennan
ELLIOTT MAC LENNAN, Counsel

cc: Hardwire Mtg. Co./Alex Nelson
Frank M. Buda, Esq.
Sacto/OAH/KA

Sacto 1/2003

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
NOV 26 2002
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

HARDWIRE MORTGAGE CO. INC., et al.,

Case No. H-29676 LA

OAH No. L-2002100391

Kenedick

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

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, Ste. 630, Los Angeles, CA on May 27, 28, and 29, 2003**, 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: November 26, 2002

By

[Signature]

ELLIOTT MAC LENNAN, Counsel

cc: Hardwire Mtg. Co., Inc., Alex Nelson
Frank M. Buda, Esq.
Sacto/OAH/KA

Handwritten initials

FILED
SEP 10 2008
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

By K. Kuderholt

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) NO. H-29676 LA
12 HARDWARE MORTGAGE CO. INC., and)
13 ALEX NELSON, individually) A C C U S A T I O N
14 and as designated officer)
of Hardwire Mortgage Co. Inc.,)
15 Respondents.)

16
17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against HARDWARE MORTGAGE CO. INC., and ALEX NELSON,
20 individually and as designated officer of Hardwire Mortgage Co.
21 Inc., alleges as follows:

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1.

1 The Complainant, Maria Suarez, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against HARDWIRE MORTGAGE CO.
4 INC. (HARDWIRE MORTGAGE), and ALEX NELSON (NELSON).
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6 All references to the "Code" are to the California
7 Business and Professions Code and all references to
8 "Regulations" are to Title 10, Chapter 6, California Code of
9 Regulations.
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3.

11 HARDWIRE MORTGAGE and NELSON (sometimes hereinafter
12 referred to as Respondents) are presently licensed or have
13 license rights under the Real Estate Law (Part 1 of Division 4
14 of the Business and Professions Code, hereinafter "Code").
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17 FIRST CAUSE OF ACCUSATION

4.

18 At all time herein mentioned, NELSON was licensed by
19 the Department as the designated officer of HARDWIRE MORTGAGE to
20 qualify HARDWIRE MORTGAGE and to act for HARDWIRE MORTGAGE as a
21 real estate broker and, as provided by Code Section 10159.2, was
22 responsible for the supervision and control of the activities
23 conducted on behalf of HARDWIRE MORTGAGE by its officers,
24 managers and employees as necessary to secure full compliance
25 with the provisions of the Real Estate Law including the
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1 supervision of the salespersons licensed to the corporation in
2 the performance of acts for which a real estate license is
3 required. HARDWIRE MORTGAGE was originally licensed as a
4 corporate real estate broker on June 26, 1999. NELSON was
5 originally licensed as a real estate broker on August 28, 1996.

6 5.

7 Whenever reference is made in an allegation in the
8 Accusation to an act or omission of HARDWIRE MORTGAGE such
9 allegation shall be deemed to mean that the officers, directors,
10 managers, employees, agents and real estate licensees employed
11 by or associated with HARDWIRE MORTGAGE including NELSON
12 committed such act or omission while engaged in the furtherance
13 of its business or operation and while acting within the course
14 and scope of its corporate authority, agency and employment.

15 6.

16 At all times herein mentioned, in the City of Beverly
17 Hills, California, HARDWIRE MORTGAGE on behalf of others in
18 expectation of compensation, engaged in the business, acted in
19 the capacity of, advertised or assumed to act as a real estate
20 broker within the meaning of:

21 A. Section 10131(d) of the Code. HARDWIRE MORTGAGE
22 operated as a mortgage and loan broker, including soliciting
23 borrowers and lenders and negotiating and servicing loans on
24 real property; and, in addition,

25 B. HARDWIRE MORTGAGE conducted broker controlled
26 escrows through its escrow division under the exemption set
27 forth in Section 17006(a)(4) of the California Financial Code.

1 HARDWIRE MORTGAGE CO. INC.

2 AUDIT REPORT LA 010258

3 7.

4 On January 11, 2002, the Department completed an audit
5 examination of the books and records of HARDWIRE MORTGAGE CO.
6 INC. pertaining to the activities described in Paragraph 6 that
7 require a real estate license. The audit examination covered a
8 period of time beginning on December 1, 2000 through December
9 31, 2001. The audit examination revealed violations of the Code
10 and the Regulations as set forth in the following paragraphs,
11 and more fully discussed in Audit Report LA 010258 and the
12 exhibits and workpapers attached to said audit report.
13

14 8.

15 At all times mentioned, in connection with the
16 activities described in Paragraph 6, above, HARDWIRE MORTGAGE
17 accepted or received funds in trust (trust funds) as an escrow
18 holder from or on behalf of borrowers and lenders, and
19 thereafter made disposition of such funds. Respondent HARDWIRE
20 MORTGAGE maintained the following escrow trust account during
21 the audit period into which were deposited certain of these
22 funds at:

23
24 "Hardwire Mortgage Co. Inc. Escrow Division Trust Account
25 Account No. 101510123"
26 City National Bank
27 400 N. Roxbury Dr.
Beverly Hills, California 90211

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2 With respect to the trust funds referred to in
3 Paragraph 8, it is alleged that HARDWIRE MORTGAGE:

4 (a) Permitted, allowed or caused an overage of trust
5 funds from the escrow trust account where the accumulation of
6 funds increased the total of aggregate funds in trust account,
7 to an amount which, on December 31, 2001, was \$451.24 in excess
8 than the existing aggregate trust fund liability of HARDWIRE
9 MORTGAGE to every principal who was an owner of said funds, in
10 violation of Code Section 10145.

11 (b) Failed to designate NELSON as a signatory on the
12 escrow trust account, in violation of Code Section 10145 and
13 Regulations 2834 and 2951.

14 (c) Failed to maintain a separate record for each
15 beneficiary or transaction, thereby failing to account for all
16 trust funds received, deposited into, and disbursed from the
17 escrow trust account, as required by Code Section 10145 and
18 Regulations 2831.1 and 2951.

19 (d) Failed to perform a monthly reconciliation of the
20 balance of all separate beneficiary or transaction records
21 maintained pursuant to Regulation 2831.1 with the record of all
22 trust funds received and disbursed by escrow trust account, as
23 required by Code Section 10145 and Regulations 2831.2 and 2951.

24 (e) Failed to disburse trust funds belonging in part
25 to the broker and in part to the broker's principal within
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1 twenty-five days of their deposit where there was no dispute
2 between the broker and the broker's principal as to the broker's
3 portion of the funds, as required by Code Section 10145 and
4 Regulations 2835 and 2951. \$251.24 in excess of the amount of
5 HARDWIRE MORTGAGE's trust fund liability was retained in the
6 escrow trust fund; and

7 (f) Failed, while acting as an escrow holder for borrowers
8 Illia Huff (Escrow No. 0626), Jack Leamon (Escrow No. 0622) and
9 Gomez/Angeles (Escrow No. 0608), to place funds, including funds
10 received in certain mortgage loan transactions, accepted on
11 behalf of another into the hands of the owner of the funds, into
12 a neutral escrow depository or into a trust fund account in the
13 name of the broker as trustee at a bank or other financial
14 institution, not later than the next business day following
15 receipt of the funds, as required by Code Section 10145 and
16 Regulations 2832 and 2950(f).

17
18 10.

19 The conduct of Respondent HARDWIRE MORTGAGE, described
20 in Paragraph 9, violated the Code and the Regulations as set
21 forth below:

22 PARAGRAPH

PROVISIONS VIOLATED

23 9 (a)

Code Section 10145

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25 9 (b)

Code Section 10145 and
26 Regulations 2834 and 2951
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9 (c) Code Section 10145 and
Regulations 2831.1 and 2951

9 (d) Code Section 10145 and
Regulations 2831.2 and 2951

9 (e) Code Section 10145 and
Regulations 2835 and 2951

9 (f) Code Section 10145 and
Regulations 2832 and 2950 (f)

Each of the foregoing violations separately constitutes cause
for the suspension or revocation of the real estate license and
license rights of HARDWIRE MORTGAGE under the provisions of Code
Sections 10165, 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

HARDWIRE MORTGAGE CO. INC.

AUDIT REPORT LA 010107

11.

On January 15, 2002, the Department completed an audit
examination of the books and records of HARDWIRE MORTGAGE CO.
INC. pertaining to the activities described also in Paragraph 6
that require a real estate license and in this specific audit,
as an escrow holder. The audit examination covered a period of

1 time beginning on December 1, 2000 through December 31, 2001.
2 The audit examination revealed violations of the Code and the
3 Regulations as set forth in the following paragraphs, and more
4 fully discussed in Audit Report LA 010107 and the exhibits and
5 workpapers attached to said audit report.

6 12.

7 With respect to the escrow holding activities
8 requiring a real estate license referred to in Paragraphs 6 and
9 11, it is alleged that HARDWIRE MORTGAGE:

10 (a) Failed to disclose that HARDWIRE MORTGAGE charged credit
11 report fees in excess of the amount billed to the borrower by the
12 credit reporting company including, but not limited to, the
13 following borrowers: Fuiva Lui (Loan No. 537373), Illia Huff
14 (Loan No. 542613), and Jack Leamon (Loan No. 959826). This
15 failure to disclose constitutes the taking of a secret profit by
16 means of compensation undisclosed to the aforesaid borrowers, in
17 violation of Code Section 10176(g).

18 (b) Failed to forward trust funds, in the form of
19 credit report fee reimbursements, received from mortgage lenders
20 on behalf of borrowers Fuiva Lui (Loan No. 537373), Illia Huff
21 (Loan No. 542613), and Jack Leamon (Loan No. 959826), in
22 violation of Code Section 10145.

23 (c) Failed to notify the Department of the termination
24 of the Robert Santeliz and Paul Yinguez, in violation of Code
25 Section 10161.8 and Regulation 2752; and
26
27

1 (d) Failed to retain the salesperson license
2 certificate for Raffi Hovhannisyan, in violation of Code Section
3 10160 and Regulation 2753.

4 13.

5 The conduct of Respondent HARDWIRE MORTGAGE, described
6 in Paragraph 12, violated the Code and the Regulations as set
7 forth below:

8 <u>PARAGRAPH</u>	9 <u>PROVISIONS VIOLATED</u>
10 12 (a)	Code Section 10176 (g)
11	
12 12 (b)	Code Section 10145
13	
14 12 (c)	Code Section 10161.8 and
15	Regulation 2752
16	
17 12 (d)	Code Section 10160 and
18	Regulation 2753
19	

20 Each of the foregoing violations separately constitutes cause
21 for the suspension or revocation of the real estate license and
22 license rights of HARDWIRE MORTGAGE under the provisions of Code
23 Sections 10165, 10177(d) and/or 10177(g).

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2 THIRD CAUSE OF ACCUSATION

3 14.

4 The overall conduct of HARDWIRE MORTGAGE and NELSON
5 constitutes negligence or incompetence. This conduct and
6 violation are cause for the suspension or revocation of the real
7 estate license and license rights of Respondent HARDWIRE
8 MORTGAGE under the provisions of Code Section 10177(g).

9 15.

10 The overall conduct of Respondent NELSON, constitutes a
11 failure on his part, as officer designated by a corporate broker
12 licensee, to exercise the reasonable supervision and control
13 over the licensed activities of HARDWIRE MORTGAGE as required by
14 Code Section 10159.2, and to keep it in compliance with the Real
15 Estate Law, is cause for the suspension or revocation of the
16 real estate license and license rights of NELSON pursuant to the
17 provisions of Code Sections 10159.2 and 10177(h).

18 IN AGGRAVATION

19
20 16.

21 On June 6, 2001, in Case No. VA 064 708, in the
22 Superior Court of Los Angeles, Southeast Judicial District,
23 County of Los Angeles, State of California, respondent was
24 convicted by a plea of nolo contendere to violating one count of
25 California Penal Code Section 470 (forgery), a misdemeanor, and
26 to one count of violating one count of California Health and
27

1 Safety Code Section 11377(a) (possession of a controlled
2 substance), a felony. The forgery crime, by its facts and
3 circumstances, involves moral turpitude and is substantially
4 related under Section 2910, Chapter 6, Title 10 of the
5 California Code of Regulations, to the qualifications, functions
6 or duties of a real estate licensee. Respondent was sentenced
7 to felony probation on the drug conviction and misdemeanor
8 formal probation for the forgery conviction. During the
9 probation for the forgery conviction, the Court ordered that
10 respondent shall not maintain a checking account. Upon
11 successful completion of the Drug Diversion Program set forth in
12 paragraph 20, below, the drug conviction will be dismissed
13 pursuant to Penal Code Section 1000.5, and the forgery
14 conviction will be dismissed pursuant to Penal Code Section
15 1000.5 or Sections 1203.4 or 1385.

16
17 17.

18 On June 6, 2001, in Case No. NA 047 330, in the
19 Municipal Court of Rio Hondo Judicial District, County of Los
20 Angeles, State of California, respondent was convicted by a plea
21 of nolo contendere to violating one count of California Health
22 and Safety Code Section 11377(a) (possession of a controlled
23 substance - methamphetamine), a misdemeanor. Upon successful
24 completion of the Drug Diversion Program set forth in paragraph
25 20, below, the drug conviction will be dismissed pursuant to
26 Penal Code Section 1000.5.
27

18.

1
2 On January 22, 2001, OLC 02758, in the Municipal Court
3 of Downey Judicial District, County of Los Angeles,, State of
4 California, respondent was convicted by a plea of nolo
5 contendere to one count of violating California Vehicle Code
6 Section 14601.1(a) (driving with suspended/revoked license), a
7 misdemeanor. Upon successful completion of the Drug Diversion
8 Program set forth in paragraph 20, below, the Vehicle Code
9 violation conviction will be dismissed pursuant to Penal Code
10 Sections 1203.4 or 1385.

11
12 19.

13 On October 19, 2001, in Case No. KA 054 559
14 (California court unknown), respondent has been charged with a
15 violation of one count of California Health and Safety Code
16 Section 11377(a) (possession of a controlled substance), a
17 felony, and one count of California Health and Safety Code
18 Section 11364 (possession of a smoking pipe and paraphernalia),
19 a felony. Upon successful completion of the Drug Diversion
20 Program set forth in paragraph 20, below, the drug convictions
21 will be dismissed pursuant to Penal Code Sections 1000.3 or
22 1000.5.

23
24 20.

25 Since March 15, 2002, respondent ALEX NELSON has been
26 a participant in good standing in the Rio Hondo Drug Court.
27 Upon successful completion of this Drug Diversion Program the

1 above drug convictions will be dismissed pursuant to Penal Code
2 Sections 1000.3 or 1000.5, and the above non drug convictions
3 will be dismissed pursuant to Penal Code Section 1000.5 or
4 Sections 1203.4 or 1385.

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 licensing rights of Respondents
9 HARDWIRE MORTGAGE CO. INC., and ALEX NELSON, individually and as
10 designated officer of Hardwire Mortgage Co. Inc., under the Real
11 Estate Law (Part 1 of Division 4 of the Business and Professions
12 Code) and for such other and further relief as may be proper
13 under other applicable provisions of law.
14

15 Dated at Los Angeles, California

16 this *20th* day of August.

17 
18 Deputy Real Estate Commissioner

19
20
21
22
23 cc: Hardwire Mortgage Co. Inc.

24 Alex Nelson
25 Maria Suarez
26 Sacto
27 KA