

By Jean A. Smith

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
RONALD MARVIN LINDBLOM,) NO. H-857 FRESNO
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On October 27, 1992, a Decision was rendered herein
revoking the real estate broker license of Respondent.

On October 23, 1997, Respondent petitioned for
reinstatement of said real estate broker license, and the Attorney
General of the State of California has been given notice of the
filing of said petition.

I have considered Respondent's petition and the evidence
and arguments in support thereof. Respondent has failed to
demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's real estate broker license. Respondent has failed to
make restitution to persons who suffered monetary loss from the

1 acts of Respondent. Respondent continues to minimize the nature
2 of the conduct which led to the disciplinary action in this
3 matter. Therefore, Respondent has not demonstrated a change in
4 attitude from that which existed at the time of the conduct in
5 question. Further, Respondent has no experience acting in a
6 fiduciary capacity since the effective date of the Decision in
7 this matter. Consequently, Respondent is not able to present any
8 evidence of compliance with Section 2911(j) of Title 10,
9 California Code of Regulations.

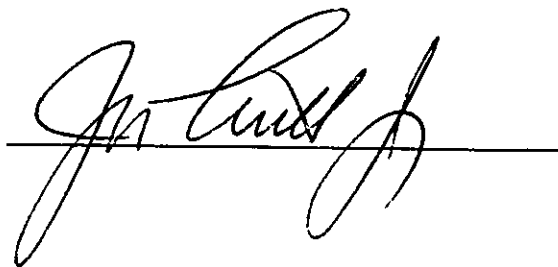
10 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
11 for reinstatement of his real estate broker license is denied.

12 This Order shall become effective at 12 o'clock
13 noon on August 13, 1998.

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15 DATED: 7/17, 1998.

16 JIM ANTT, JR.
17 Real Estate Commissioner

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FILED
MAR - 3 1997

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zin*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
KAREN GEARHART,)
Respondent.)

No. H-857 FRESNO

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 26, 1990, a Decision was rendered herein
revoking the real estate salesperson license of Respondent. On
March 18, 1993, an Order was rendered herein denying reinstatement
of Respondent's petition for reinstatement of Respondent's real
estate salesperson license, but granting Respondent the right to
the issuance of a restricted real estate salesperson license. A
restricted real estate salesperson license was issued to
Respondent on May 12, 1993, and Respondent has operated as a
restricted licensee without cause for disciplinary action against
Respondent since that time.

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1 On February 6, 1996, Respondent petitioned for
2 reinstatement of said license, and the Attorney General of the
3 State of California has been given notice of the filing of said
4 petition.

5 I have considered the petition of Respondent and the
6 evidence and arguments in support thereof including Respondent's
7 record as a restricted licensee. Respondent has demonstrated to
8 my satisfaction that Respondent meets the requirements of law for
9 the issuance to Respondent of an unrestricted real estate
10 salesperson license and that it would not be against the public
11 interest to issue said license to Respondent.

12 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
13 for reinstatement is granted and that a real estate salesperson
14 license be issued to Respondent if Respondent satisfies the
15 following conditions within six (6) months from the date of this
16 Order:

17 1. Submittal of a completed application and payment of
18 the fee for a real estate salesperson license.

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

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This Order shall become effective immediately.

DATED: 2/25/97

JIM ANTT, JR.
Real Estate Commissioner





FILED
MAY 16 1995

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
KAREN GEARHART,)
Respondent.)

No. H-857 FRESNO

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 26, 1990, a Decision was rendered herein
revoking the real estate salesperson license of Respondent. On
March 18, 1993, an Order was rendered herein denying reinstatement
of Respondent's petition for reinstatement of her real estate
salesperson license, but granting Respondent the right to the
issuance of a restricted real estate salesperson license. A
restricted real estate salesperson license was issued to
Respondent on May 12, 1993, and Respondent has operated as a
restricted licensee without cause for disciplinary action against
Respondent since that time.

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1 On June 7, 1994, Respondent petitioned for reinstatement
2 of said license and the Attorney General of the State of
3 California has been given notice of the filing of said petition.

4 I have considered the petition of Respondent and the
5 evidence and arguments in support thereof including Respondent's
6 record as a restricted licensee. Respondent has demonstrated to
7 my satisfaction that Respondent meets the requirements of law for
8 the issuance to Respondent of an unrestricted real estate
9 salesperson license and that it would not be against the public
10 interest to issue said license to Respondent.

11 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
12 for reinstatement is granted and that a real estate salesperson
13 license be issued to Respondent if Respondent satisfies the
14 following conditions within six (6) months from the date of this
15 Order:

16 1. Submittal of a completed application and payment of
17 the fee for a real estate salesperson license.

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

23 This Order shall become effective immediately.

24 DATED: May 10, 1995

25 JOHN R. LIBERATOR
26 Interim Commissioner

27 by:

Betty R. Ludeman

BETTY R. LUDEMAN
Assistant Commissioner,
Enforcement

By Emily Jaked

* * *

ORDER DENYING REINSTATEMENT OF LICENSE

I have considered Respondent's petition and the evidence and arguments in support thereof.. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of

1 has no experience acting in a fiduciary capacity since the
2 effective date of the Decision in this matter. Consequently,
3 Respondent is not able to present any evidence of compliance with
4 Section 2911(j), Title 10, California Code of Regulations. Due
5 consideration has also been given to the serious nature of the
6 multiple violations which served as the basis for the disciplinary
7 action in this matter. I am satisfied, however, that it will not
8 be against the public interest to issue a restricted real estate
9 salesperson license to Respondent.

10 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
11 for reinstatement of her real estate salesperson license is
12 denied.

13 A restricted real estate salesperson license shall be
14 issued to Respondent pursuant to Section 10156.5 of the Business
15 and Professions Code, if Respondent satisfies the following
16 conditions within six (6) months from the date of this Order:

17 1. Submittal of a completed application and payment of
18 the fee for a restricted real estate salesperson license.

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

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25 The restricted license issued to Respondent shall be
26 subject to all of the provisions of Section 10156.7 of the
27 Business and Professions Code and to the following limitations,

1 Business and Professions Code and to the following limitations,
2 conditions and restrictions imposed under authority of Section
3 10156.6 of that Code.

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

10 B. The restricted license issued to Respondent may be
11 suspended prior to hearing by Order of the Real Estate
12 Commissioner on evidence satisfactory to the Commissioner that
13 Respondent has violated provisions of the California Real Estate
14 Law, the Subdivided Lands Law, Regulations of the Real Estate
15 Commissioner or conditions attaching to the restricted license.

16 C. Respondent shall submit with any application for
17 license under an employing broker, or any application for transfer
18 to a new employing broker, a statement signed by the prospective
19 employing broker on a form approved by the Department of Real
20 Estate which shall certify:

21 (1) That the employing broker has read the Decision of
22 the Commissioner which granted the right to a
23 restricted license; and,

24 (2) That the employing broker will exercise close
25 supervision over the performance by the restricted
26 licensee relating to activities for which a real
27 estate license is required.

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D. Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license nor the removal of
any of the limitations, conditions or restrictions of a restricted
license until one (1) year has elapsed from the date of the
issuance of the restricted license to respondent.

This Order shall be effective immediately.

DATED: 3/18/93

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

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FILED
FEB 18 1993
DEPARTMENT OF REAL ESTATE

By Emily J. J. J.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
ADELE ROBINSON,) No. H-857 FRESNO
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On June 17, 1989, a Decision was rendered herein
revoking the real estate salesperson license of Respondent but
granting Respondent the right to apply for a restricted real
estate salesperson license upon terms and conditions. Respondent
failed to apply for said restricted salesperson license.

On July 30, 1992, Respondent petitioned for
reinstatement of said license and the Attorney General of the
State of California has been given notice of the filing of said
petition.

I have considered Respondent's petition and the evidence
and arguments in support thereof. Respondent has failed to

1 demonstrate to my satisfaction that Respondent has undergone
2 sufficient rehabilitation to warrant the reinstatement of
3 Respondent's real estate salesperson license, in that since the
4 revocation of Respondent's real estate salesperson license,
5 Respondent has continued to perform acts for which a real estate
6 license is required without having such license. From January 15,
7 1990 through August 11, 1992, Respondent, in expectation of
8 compensation and acting on behalf of another or others, solicited
9 borrowers for, negotiated loans and performed services for
10 borrowers or lenders in connection with loans secured by liens on
11 real property.

12 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
13 for reinstatement of her real estate salesperson license is
14 denied.

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16 This Order shall become effective at 12 o'clock
17 noon on March 10, 1993.

18 DATED: February 15, 1993

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20 CLARK WALLACE
Real Estate Commissioner

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23 BY: John R. Liberator
24 Chief Deputy Commissioner
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By Kathleen Contreras

* * *

NO. H-857 FRESNO
N- 30673

The Proposed Decision dated October 9, 1992,
of the Administrative Law Judge of the Office of Administrative
Hearings is hereby adopted as the Decision of the Real Estate
Commissioner in the above-entitled matter.

IT IS SO ORDER October 27, 1992.

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

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	
)	No. H-857 FRESNO
RONALD MARVIN LINDBLOM,)	
)	OAH No. N-30673
)	
Respondent.)	
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PROPOSED DECISION

On September 5 through 8, October 30, 1989 and September 8, 1992, in Fresno, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Roland Adickes, Staff Counsel, represented the complainant.

Ronald Marvin Lindblom, respondent, did not appear in person and was not otherwise represented.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Complainant, Jerry Fiscus, a Deputy Real Estate Commissioner of the State of California made and filed the Accusation in his official capacity and not otherwise.

II

Ronald Marvin Lindblom (hereinafter, respondent) is presently licensed as a real estate broker and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code.

III

County Home Loan, Inc. (hereinafter, CHLI) was a mortgage loan broker in Fresno, California through David Leroy Hicks (hereinafter, Hicks) as designated broker-officer. Karen Gearhart (hereinafter, Gearhart) is a real estate salesperson and was a vice-president and the secretary of the corporation. Hicks and Gearhart were directors of the corporation.

IV

In 1985 and 1986 respondent, Gearhart and CHLI, conspired and agreed to permit respondent to receive funds earmarked for construction and/or repairs of properties known as 1404 Tucker Street, 2632 - 34 S. McCall Street, 1932 - 1940 1/2 John Street, Selma, California; 147- 149 N. Broadway, Fresno, California; 224 North Fifth Street, Fowler, California and 1581 - 85 Simpson, Kingsburg, California, without disbursement controls and prior to the completion of construction and/or repairs.

V

Gearhart and CHLI instructed the escrow holder to pay the funds to CHLI. Gearhart then deposited the funds into one bank account of CHLI and immediately withdrew an equal amount payable directly to respondent from the same or from another bank account of CHLI, or endorsed the check received from the escrow holder directly to respondent. The amounts of these funds were as follows:

<u>Tucker Street:</u>	\$10,000.00
<u>McCall Street:</u>	\$35,000.00
<u>John Street:</u>	\$50,000.00
<u>Broadway:</u>	\$ 6,000.00
<u>North Fifth Street:</u>	\$ 7,000.00
<u>Simpson Street:</u>	<u>\$60,000.00</u>
Total:	\$168,000.00

VI

Respondent used all or part of the \$168,000 which respondent knew was intended for construction and/or repairs for his own benefit including the following:

McCall Street: respondent used \$20,000 to pay off a balance due on a "line of credit" respondent then held with Community First Bank.

John Street: respondent used \$17,090.90 to pay off a pre-existing obligation to Community First Bank.

North Fifth Street: respondent deposited \$7,000 into a "Rental Account" at Community First Bank.

Simpson Street: respondent deposited \$60,000 into a "certificate of deposit" on February 14, 1986 and used said certificate of deposit as security for a "line of credit" with Community first Bank. On August 20, 1986, the \$60,000 plus interest was applied against the pre-existing balance due on the line of credit. Six days later, on August 26, 1986, a \$43,389.62 mechanic's lien was filed against the Simpson Street property.

VII

Respondent's failure to expend the \$168,000 in whole or in part for the construction and/or repairs as represented, resulted in mechanics' liens filed against the properties as follows:

<u>Tucker Street:</u>	\$ 428.41
<u>McCall Street:</u>	\$ 887.05
<u>John Street:</u>	\$11,194.24
<u>Broadway:</u>	\$ 4,303.76
<u>Simpson Street:</u>	\$43,389.62


DETERMINATION OF ISSUES

Cause for discipline of respondent's license for violation of Business and Professions Code section 10177(j) was established by Findings II through VII.

ORDER

All license and license rights of Ronald Marvin
Lindblom are revoked.

Dated: October 9, 1992



KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

FILED
MAY 22 1992

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

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

RONALD LINDBLOM,

}

Case No. H-857 FRESNO

OAH No. N-30673

By Kathleen Contreas

Respondent

CONTINUED

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 the
Office of Administrative Hearings, 501 J Street, Suite 220,
Second Floor Hearing Rooms, Sacramento, CA 95814

on September 8, 1992, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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

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

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

DEPARTMENT OF REAL ESTATE

Dated: May 21, 1992

By Roland Adickes
ROLAND ADICKES Counsel

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

FILED
JAN 31 1992
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

COUNTY HOME LOANS, INC.,
RONALD MARVIN LINDBLOM, et al.,

Case No. H-857 FRESNO

OAH No. N-30673

Respondent

**CONTINUED
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 the Office of Administrative Hearings, 501 J Street, Suite 220 (2nd Floor), Sacramento, CA 95814

on the 30th day of March, 19 92, at the hour of 1:30 PM, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

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

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

Dated: January 31, 1992

DEPARTMENT OF REAL ESTATE

By Roland Adickes
ROLAND ADICKES Counsel

FILED
AUG 8 1990
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Emily Jakeda

* * *

In the Matter of the Accusation of)
COUNTY HOME LOAN, INC.,)
et al.,)
Respondents.)

NO. H-857 FRESNO
and NO. H-912 FRESNO

DECISION

The Proposed Decision dated July 12, 1990,
of Robert E. McCabe, Regional Manager, Department of Real Estate,
State of California, is hereby adopted as the Decision of the Real
Estate Commissioner in the above-entitled matter as to respondents
COUNTY HOME LOAN, INC.; DAVID LEROY HICKS; KAREN GEARHART; and
KATHI CARDOZA, only.

The Decision shall become effective at 12 o'clock noon
on August 28, 19 90.

IT IS SO ORDERED July 26, 19 90.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

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

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
COUNTY HOME LOAN, INC., et al.,) NO. H-857 FRESNO
Respondent.) and NO. H-912 FRESNO

PROPOSED DECISION

This matter was presided over as an uncontested case by Robert E. McCabe, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Sacramento, California on

Roland Adickes, Counsel, represented the complainant.

Respondents County Home Loan, Inc.; David Leroy Hicks; Karen Gearhart; and Kathi Cardoza were represented by Jackson, Hargrove, Hillison & Emerich, Robert K. Hillison, David R. Emerich, attorneys at law, and entered into a written stipulation with the Department.

The following decision as to respondents County Home Loan, Inc.; David Leroy Hicks; Karen Gearhart; and Kathi Cardoza, only, is proposed, certified and recommended for adoption:

STIPULATED BASIS FOR DECISION

1.

Jerry E. Fiscus made the Accusation (H-857 FRESNO) and the Statement of Issues (H-912 FRESNO) in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2.

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 "the Code"), as follows:

- (1) COUNTY HOME LOAN, INC., as a real estate broker through David Leroy Hicks as designated broker-officer.
- (2) DAVID LEROY HICKS as a real estate broker.
- (3) KAREN GEARHART as a real estate salesperson.
- (4) KATHI CARDOZA as a real estate salesperson.

On or about December 21, 1987, Karen Gearhart made application to the Department of Real Estate for a real estate broker license.

FIRST CAUSE OF ACCUSATION

3.

From time to time during 1984, 1985, 1986 and 1987, Hicks was the designated broker-officer of County Home Loan, Inc., a corporation acting as a mortgage loan broker in Fresno, California (hereinafter "CHLI"). Hicks was the chief executive officer and the chief financial officer of the corporation. Gearhart was a vice-president and the secretary of the corporation. Hicks and Gearhart were directors of the corporation.

During the period stated above, Hicks did not exercise reasonable supervision over the activities of the real estate salespersons employed by the corporation including Gearhart, Cardoza and Robinson and over the activities of the corporation for which a real estate license is required. Hicks permitted Gearhart and others to act as if Gearhart or others were the licensed broker for the corporation.

4.

CHLI's and Hicks' failure to exercise reasonable supervision included, but was not limited to, the matters and transactions alleged as to CHLI and Hicks in the Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Accusation below. In each of these matters and transactions, CHLI and Hicks caused or permitted the respective violation of the Real Estate Law or the Regulations by his failure to exercise reasonable supervision.

5.

During the period April 1986 through August 1986, CHLI and Hicks employed Karen McDermott for a compensation to perform acts for which a real estate license is required including soliciting lenders to make loans secured by lien on real property and negotiating such loans. CHLI and Hicks knew or should have known that McDermott did not have a real estate license at that time.

6.

From time to time during 1984, 1985, 1986 and 1987, CHLI and Hicks failed to comply with Section 2725, Title 10, California Administrative Code (herein "Regulations") in that CHLI and Hicks did not review and initial all investment proposals, lenders' escrow instructions, investors' loan service agreements and other instruments which had a material effect on the rights and obligations of the parties and which were prepared or signed

by or under the direction of real estate salespersons employed by CHLI and Hicks, including such documents used in connection with loans solicited by CHLI and Hicks from Refinery Maintenance Corporation Retirement Trust; Reimer; Webb; Bassett; McMicken; Schaffer; Santa Maria Electric, Inc. Defined Benefit Plan; Mussell; and others.

7.

From time to time during 1984, 1985, 1986 and 1987, CHLI and Hicks failed to comply with Section 10145 of the Code and Regulation 2830 in that CHLI and Hicks were using interest-bearing trust accounts not requested by the owners of the trust funds or the principals to the transactions and without disclosing to such persons how interest would be calculated and paid and whether and by whom service charges would be paid.

8.

From time to time during 1984, 1985, 1986 and 1987, CHLI and Hicks failed to comply with Regulation 2831 in that CHLI and Hicks did not keep records of trust funds not deposited in a bank trust account.

9.

As of February 11, 1986, CHLI and Hicks had negotiated five "new loans" of an aggregate amount of more than \$500,000.00 in the three successive months of December, 1985; January, 1986; and February, 1986. Pursuant to Section 10232(b) of the Code, CHLI and Hicks were therefore required to comply with Sections 10232(e) (30-day written notice to Department of Real Estate), 10232.1 (advertising clearance), 10232.2 (annual reports), 10232.25 (trust fund reports), 10232.4 (disclosure statement) of the Code. Respondents CHLI and Hicks did not comply with any of said sections within the time period required, or at any time.

10.

During the period February, 1986 through July, 1986, CHLI and Hicks employed William LeBlanc for a compensation to perform acts for which a real estate license is required including soliciting lenders to make loans secured by lien on real property and negotiating such loans. CHLI and Hicks knew or should have known that LeBlanc did not have a real estate license at that time.

11.

From time to time during 1986, CHLI and Hicks, acting directly or through agents, performed acts for which a real estate license is required under the fictitious business name Cherokee Properties. These activities included the negotiation and/or sale of real property known as 205 West Hawes Street, Fresno, California and 10781 Fourteenth Street, Armona, California. At the time these activities took place, CHLI and Hicks were not the holders of a license bearing the fictitious business name as required by Regulation 2731.

12.

From time to time during 1984, 1985, 1986 and 1987, CHLI and Hicks failed to comply with Section 10145 of the Code and Regulation 2830 in that CHLI and Hicks permitted trust funds to be deposited in trust accounts which could not be controlled by CHLI acting through Hicks or by Hicks, in that Hicks was not an authorized signatory on these accounts. These trust accounts include the following:

- (1) Bank of Fresno Account No. 01223720-70.
- (2) Bank of Fresno Account No. 02224224-70.

13.

From time to time during 1984, 1985 and 1986, CHLI and Hicks permitted Gearhart, Cardoza and others to solicit from various persons loans secured by liens on real estate by means of a printed form of "Investment Proposal" a copy of which form is attached as Exhibit "A", which form did not provide for disclosure of material facts necessary to any prospective lender for making an informed decision whether to make a loan and in what amount, as follows:

- (1) The "Investment Proposal" form provided no space for disclosure of the purpose of the loan, e.g., acquisition, construction of improvements, etc.
- (2) The "Investment Proposal" form provided no space for disclosure of the sales price and terms, e.g., amount of down payment, purchase money, trust deeds, etc.
- (3) The "Investment Proposal" form provided no space for disclosure of the commission payable to CHLI and Hicks.

14.

From time to time during 1987, CHLI and Hicks failed to deposit and maintain trust funds received in the course of the business of CHLI as required by Section 10145 of the Code and Regulation 2830 in that as of April 30, 1987, there was a shortage of \$10,111.02 in the bank trust accounts of CHLI (Bank of Fresno Accounts #1223720, 1219650, and 2220512), which is to say that the trust obligations of CHLI on that day, as determined from the records of CHLI exceeded the adjusted trust account bank balances by \$10,111.02.

15.

On or about March 27, 1987, CHLI and Hicks, acting through Gearhart, submitted to the Department, a report pursuant to Sections 10232 and 10232.2 of the Code. This report was false and misleading in that it did not disclose a trust fund shortage of approximately \$7,700.00 existing as of that date.

The acts and/or omissions of respondents CHLI and Hicks described above are grounds for the suspension or revocation of these Respondents' licenses under the following sections of the Business and Professions Code of the State of California and of Title 10, California Administrative Code (Regulations):

- (1) As to paragraph 3., under Section 10177(h).
- (2) As to paragraph 4., under Section 10177(h).
- (3) As to paragraph 5., under Section 10137.
- (4) As to paragraph 6., under Section 10177(d) in conjunction with Regulation 2725.
- (5) As to paragraph 7., under Section 10177(d) in conjunction with Section 10145 and Regulation 2830.
- (6) As to paragraph 8., under Section 10177(d) in conjunction with Regulation 2831.
- (7) As to paragraph 9., under Section 10177(d) in conjunction with Sections 10232(e), 10232.1, 10232.2, 10232.25, and 10232.4.
- (8) As to paragraph 10., under Section 10137.
- (9) As to paragraph 11., under Section 10177(d) in conjunction with Regulation 2731.
- (10) As to paragraph 12., under Section 10177(d) in conjunction with Section 10145 and Regulation 2830.
- (11) As to paragraph 13., under Section 10176(a) and (c) and/or Section 10177(g) and/or (h).
- (12) As to paragraph 14., under Section 10177(d) in conjunction with Section 10145 and Regulation 2830
- (13) As to paragraph 15., under Section 10176(a) and (i) and/or Section 10177(j) and/or Section 10177(g).

SECOND CAUSE OF ACCUSATION - (TUCKER STREET)

During July 1985, CHLI and Hicks, acting through Gearhart and Cardoza, solicited and negotiated a loan secured by lien on real estate from John and Mary Ann Mussell (Mussell) to Ron Lindblom (Lindblom) and Karen L. McDermott (McDermott) in the amount of \$136,500.00. The property which was to secure the loan is known as 1404 Tucker Street, Selma, California (herein "Tucker") a 10-unit apartment.

In connection with this solicitation and negotiation and in order to induce Mussell to grant the loan, CHLI and Hicks, acting through Gearhart and Cardoza represented to Mussell verbally and/or in writing that \$10,000.00 of the loan proceeds "will be held in escrow" for completing the improvements upon which the estimated market value depended. This representation was false in that CHLI, Hicks and Gearhart had no intention of causing this money to be held in escrow for the purposes represented, but CHLI, Hicks and Gearhart provided by written escrow instructions in the name of CHLI, given to the escrow holder (Lawyers Title Insurance Company), that this money was to be disbursed to CHLI upon close of escrow.

CHLI, Hicks and Gearhart did not disclose these conflicting escrow instructions to Mussell. After receiving the \$10,000.00 at close of escrow, CHLI, Hicks and Gearhart made this money available to Lindblom and McDermott without any disbursement controls.

18.

On or about July 11, 1985, CHLI, Hicks and Gearhart undertook to serve as the agents to find a \$136,500.00 loan for Lindblom and McDermott. On or about July 18, 1985, CHLI, Hicks and Gearhart undertook to act as agents of Mussell in connection with "all matters relating to" the \$136,500.00 loan. CHLI, Hicks and Gearhart did not disclose at any time to Mussell that they were at the same time acting as agents for Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to receive a commission of \$10,900.00 from the loan proceeds. CHLI, Hicks and Gearhart did not obtain the consent of Mussell to the dual agency.

19.

In connection with the escrow for the \$136,500.00 loan from Mussell, CHLI, Hicks and Gearhart knew that a substantial part of the loan proceeds (approximately \$14,000.00) would not be used for the purchase of Tucker by Lindblom and McDermott and would be paid in cash to Lindblom and McDermott. These facts were material for an informed decision by Mussell whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose this fact to Mussell before Mussell made the loan, or at any time.

20.

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing Tucker without making any down payment and were paying the entire cash portion of the purchase price (including a cash payment of \$2,000.00 to the seller) out of the \$136,500.00 loan proceeds, while the seller took back a second deed of trust note of \$21,500.00. These facts were material for an informed decision by Mussell whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose all of these facts to Mussell before Mussell made the loan, or at any time.

21.

CHLI, Hicks, and Gearhart knew or should have known prior to close of the escrow for the loan and the sale of Tucker to Lindblom and McDermott and knew at the closing of said escrow the following facts material for an informed decision by Mussell whether to make the loan and in what amount:

(1) The purchase price of Tucker was approximately \$143,000.00 including the \$10,000.00 estimated to renovate the improvements on Tucker.

(2) The appraised value of Tucker based on completed renovation of the improvements on Tucker was \$195,000.00.

Thus, a \$10,000.00 renovation was supposed to increase the fair market value of the property by \$52,000.00. CHLI, Hicks and Gearhart did not disclose these facts to Mussell at or prior to close of escrow, or at any time.

22.

In connection with soliciting the \$136,500.00 loan from Mussell, CHLI, Hicks, Gearhart and Cardoza presented to Mussell an appraisal of Tucker which stated a fair market value of \$195,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose to Mussell and did not explain to Mussell that this opinion expressed the fair market value of the property after improvements and renovation work would be completed, and that the appraisal, or any other document submitted to Mussell, did not specify in detail the improvements and renovation work necessary to support the fair market value stated.

These facts were material for an informed decision by Mussell whether to make the loan and in what amount.

23.

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses under the following sections of the Business and Professions Code of the State of California:

(1) As to paragraph 17., and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(2) As to paragraph 18., and respondents CHLI, Hicks and Gearhart under Sections 10176(a), (d), (g) and (i) and/or Section 10177(g).

(3) As to paragraph 19., and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(4) As to paragraph 20. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(5) As to paragraph 21. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(6) As to paragraph 22. and respondents CHLI, Hicks, Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(7) As to paragraphs 17. through 22. and respondents CHLI and Hicks under Section 10177(h).

THIRD CAUSE OF ACCUSATION - (McCALL STREET)

24.

During October 1985, CHLI and Hicks, acting through Gearhart and Cardoza, solicited and negotiated a loan secured by lien on real estate from Santa Maria Electric, Inc. Defined Benefit Plan, represented by John Mussell, Trustee (herein "Santa Maria") in the amount of \$138,000.00. The property which was to secure the loan is known as 2632 - 34 S. McCall Street, Selma, California, a seven-unit rental property (herein "McCall"). CHLI and Hicks, acting through Gearhart and Cardoza, represented to Santa Maria verbally and/or in writing that \$35,000.00 of the loan proceeds were "being held in escrow pending completion of repairs". This representation was false in that CHLI, Hicks and Gearhart had no intention of causing this money to be held in escrow for the purposes represented, but CHLI, Hicks and Gearhart provided by written instructions in the name of CHLI, given to the escrow holder (Lawyer Title Insurance Company), that the \$35,000.00 were to be disbursed to CHLI upon close of escrow. CHLI, Hicks and Gearhart did not disclose these conflicting escrow instructions to Santa Maria. After receiving the \$35,000.00 at close of escrow, CHLI, Hicks and Gearhart made this money available to Lindblom and McDermott without any disbursement controls.

25.

During October 1985, CHLI, Hicks and Gearhart undertook to serve as the agents to find a \$138,000.00 loan for Lindblom and McDermott. On or about October 16, 1985, CHLI, Hicks and Gearhart undertook to act as agents of Santa Maria in connection with "all matters relating to" the \$138,000.00 loan. CHLI, Hicks and Gearhart did not disclose at any time to Santa Maria that they were at the same time acting as agents for Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to receive a commission of \$5,520.00 from the loan proceeds. CHLI, Hicks and Gearhart did not obtain the consent of Santa Maria to the dual agency.

26.

In connection with the escrow for the \$138,000.00 loan from Santa Maria, CHLI, Hicks and Gearhart knew or should have known that a substantial part of the loan proceeds (approximately \$14,000.00) would not be used for the purchase of McCall by

Lindblom and McDermott and would be paid in cash to Lindblom and McDermott. These facts were material for an informed decision by Santa Maria whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose these facts to Santa Maria before Santa Maria made the loan, or at any time.

27.

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing McCall without making any down payment, and were paying the entire purchase price out of the \$138,000.00 loan proceeds. These facts were material for an informed decision by Santa Maria whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose all of these facts to Santa Maria before Santa Maria made the loan, or at any time.

28.

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the \$138,000.00 loan and the sale of McCall to Lindblom and McDermott and knew at the closing of said escrow the following facts material for an informed decision by Santa Maria whether to make the loan and in what amount:

(1) The purchase price of McCall was approximately \$82,500.00. The amount of \$35,000.00 was estimated to renovate the improvements on McCall.

(2) The appraised value of McCall based on completed renovation of the improvements on McCall was \$197,000.00. Thus, a \$35,000.00 renovation was supposed to increase the fair market value of the property by \$114,500.00. CHLI, Hicks and Gearhart did not disclose these facts to Santa Maria at or prior to close of escrow, or at any time.

29.

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses under the following sections of the Business and Professions Code of the State of California:

(1) As to paragraph 24. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(2) As to paragraph 25. and respondents CHLI, Hicks and Gearhart under Sections 10176(a), (d), (g), and (i) and/or Section 10177(g).

(3) As to paragraph 26. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(4) As to paragraph 27. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(5) As to paragraph 28. and respondents CHLI, Hicks, Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(6) As to paragraphs 24. through 28. and respondents CHLI and Hicks under Section 10177(h).

FOURTH CAUSE OF ACCUSATION - (JOHN STREET)

30.

During November and December, 1985, CHLI and Hicks acting through Gearhart and Cardoza solicited and negotiated a loan secured by lien on real estate from Dale and Dorothy Bassett (Bassett) and Dave and Peggy McMicken (McMicken) to Ron Lindblom (Lindblom) and Karen L. McDermott (McDermott) in the total amount of \$235,000.00. The property which was to secure the loan is known as 1932 - 1940-1/2 John Street, Selma, California (herein "John Street") a nine-unit apartment project. In connection with soliciting and negotiating the \$235,000.00 loan, CHLI, Hicks, Gearhart and Cardoza represented to Bassett and McMicken that the borrowers, Lindblom and McDermott, were independently wealthy, were involved only with projects with positive cash flows, and had had a "long relationship" with CHLI in which Lindblom and McDermott always paid on time, that the rental income of John Street was \$3,800.00 per month, that Lindblom and McDermott had put or would put \$100,000.00 of their own money into John Street, that Lindblom and McDermott had obtained a special approval for low income housing from the County of Fresno for the John Street improvement and renovation, and that the County of Fresno dealt primarily with Lindblom and McDermott for supplying low income housing. CHLI, Hicks, Gearhart and Cardoza either knew these representations to be false or had no reasonable grounds for believing them to be true.

In the same connection, CHLI, Hicks, Gearhart and Cardoza represented to Bassett and McMicken that loan funds as necessary for improvements and renovations on John Street would be held in trust by CHLI and that CHLI would control the disbursement of these funds to the contractors who did the work stage by stage as the work was being completed. This representation was false in that CHLI, Hicks and Gearhart, after receiving \$50,000.00 at close of escrow for this purpose, made this money available to Lindblom and McDermott without any disbursement controls.

31.

During November and December, 1985, CHLI, Hicks and Gearhart undertook to serve as the agents to find a \$235,000.00 loan for Lindblom and McDermott. On or about December 5 and 9, 1985, CHLI, Hicks and Gearhart undertook to act as agents of McMicken and Bassett in connection with "all matters relating to" the \$235,000.00 loan. CHLI, Hicks and Gearhart did not disclose at any time to Bassett and McMicken that they were at the same time acting as agents for Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to receive a commission of \$11,790.00 from the loan proceeds. CHLI, Hicks and Gearhart did not obtain the consent of Bassett and McMicken to the dual agency.

32.

In connection with the escrow for the \$235,000.00 loan from Bassett and McMicken, CHLI, Hicks and Gearhart knew that a substantial part of the loan proceeds (approximately \$28,000.00) would not be used for the purchase of John Street by Lindblom and McDermott and would be paid in cash to Lindblom and McDermott. These facts were material for an informed decision by Bassett and McMicken whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose these facts to Bassett and McMicken before Bassett and McMicken made the loan, or at any time.

33.

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the loan and the sale of John Street to Lindblom and McDermott, and knew at the closing of said escrow, the following facts material for an informed decision by Bassett and McMicken whether to make the loan and in what amount:

(1) The purchase price of John Street was approximately \$145,000.00. The amount of \$50,000.00 was estimated to be needed to build and to renovate the improvements on John Street.

(2) The appraised value of John Street based on completed construction and renovation of the improvements on John Street was \$335,000.00.

Thus, a \$50,000.00 improvement and renovation was supposed to increase the fair market value of the property by \$190,000.00. CHLI, Hicks and Gearhart did not disclose these facts to Bassett or McMicken at or prior to close of escrow, or at any time.

34.

In connection with soliciting the \$235,000.00 loan from Bassett and McMicken, CHLI, Hicks, Gearhart and Cardoza presented to Bassett and McMicken an appraisal of John Street which stated a fair market value of \$335,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose to Bassett and McMicken and did not explain to Bassett and McMicken that this opinion expressed the fair market value of the property after improvements and renovation work would be completed and that the appraisal, nor any other document submitted to Bassett and McMicken, did not specify in detail the cost of the improvement and renovation work necessary to support the fair market value stated, so that it could not be determined by reference to the cost of the proposed improvement and renovation work, whether the appraiser's opinion of fair market value was sound. These facts were material for an informed decision by Bassett and McMicken whether to make the loan and in what amount.

35.

During November, 1986 and/or December, 1986, prior to December 24, 1986, CHLI, Hicks and Gearhart represented to McMicken and Bassett that John Street had been reappraised, that all proposed improvements had been completed, and that the fair market value of John Street at this time was \$335,000.00. Those representations were false and CHLI, Hicks and Gearhart knew or should have known them to be false in that the improvements had in fact not been completed and were still uncompleted as of December 24, 1986.

36.

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses under the following sections of the Business and Professions Code of the State of California:

(1) As to paragraph 30. and respondents CHLI, Hicks Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(2) As to paragraph 31. and respondents CHLI, Hicks and Gearhart under Sections 10176(a), (d), (g) and (i) and/or Section 10177(g).

(3) As to paragraph 32. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(4) As to paragraph 33. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(5) As to paragraph 34. and respondents CHLI, Hicks Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(6) As to paragraph 35. and respondents CHLI, Hicks, and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(7) As to paragraphs 30. through 35. and respondents CHLI and Hicks under Section 10177(h).

FIFTH CAUSE OF ACCUSATION - (BROADWAY)

37.

During December, 1985 and January, 1986, CHLI and Hicks, acting through Gearhart and Cardoza, solicited and negotiated a loan secured by a lien on real estate from Charles and Eileen Schaffer (Schaffer) in the amount of \$77,000.00. The property which was to secure the loan is known as 147-149 N. Broadway, Fresno, California, a residential four-plex (herein "Broadway"). In connection with soliciting and negotiating this loan, CHLI, Hicks and Gearhart did not disclose to Schaffer that \$6,000.00 of

the loan proceeds were to be paid to CHLI to insure necessary repairs to Broadway but would in fact be made available to Lindblom and McDermott at or shortly after close of escrow and would not be disbursed directly to the contractors through a control account. This fact was material for an informed decision by Schaffer whether to make the loan and in what amount.

38.

On or about January 7, 1986, CHLI, Hicks and Gearhart undertook to serve as the agents to find a \$77,000.00 loan for Lindblom and McDermott. On or about January 13, 1986, CHLI, Hicks and Gearhart undertook to act as agents of Schaffer in connection with "all matters relating to" the \$77,000.00 loan. CHLI, Hicks and Gearhart did not disclose at any time to Schaffer that they were at the same time acting as agents for Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to receive a commission of \$3,850.00 from the loan proceeds. CHLI, Hicks and Gearhart did not obtain the consent of Schaffer to the dual agency.

39.

In connection with the escrow for the \$77,000.00 loan from Schaffer, CHLI, Hicks and Gearhart knew or should have known that a substantial part of the loan proceeds (approximately \$14,000.00) would not be used for the purchase of Broadway by Lindblom and McDermott and would be paid in cash to Lindblom and McDermott. This fact was material for an informed decision by Schaffer whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose this fact to Schaffer before Schaffer made the loan, or at any time.

40.

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing Broadway without making any down payment, and were paying the entire purchase price out of the \$77,000.00 loan proceeds. These facts were material for an informed decision by Schaffer whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose all of these facts to Schaffer before Schaffer made the loan, or at any time.

41.

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the \$77,000.00 loan and the sale of Broadway to Lindblom and McDermott and knew at the closing of said escrow the following facts material for an informed decision by Schaffer whether to make the loan and in what amount:

(1) The purchase price of Broadway was approximately \$50,000.00. The amount of \$6,000.00 was estimated to renovate the improvements on Broadway.

(2) The appraised value of Broadway based on completed renovation of the improvements on Broadway was \$110,000.00. Thus, a \$6,000.00 renovation was supposed to increase the fair market value of the property by \$60,000.00. CHLI, Hicks and Gearhart did not disclose these facts to Schaffer at or prior to close of escrow, or at any time.

42.

In connection with soliciting the \$77,000.00 loan from Schaffer, CHLI, Hicks, Gearhart and Cardoza presented to Schaffer an appraisal of Broadway which stated a fair market value of \$110,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose to Schaffer and did not explain to Schaffer that this opinion expressed the fair market value of the property after improvements and renovation work would be completed and that the appraisal, or any other document submitted to Schaffer, did not specify in detail the improvements and renovation work necessary to support the fair market value stated. These facts were material for an informed decision by Schaffer whether to make the loan and in what amount.

43.

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses under the following sections of the Business and Professions Code of the State of California:

(1) As to paragraph 37. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(2) As to paragraph 38. and respondents CHLI, Hicks, and Gearhart under Sections 10176(a), (d), (g), and (i) and/or Section 10177(g).

(3) As to paragraph 39. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(4) As to paragraph 40. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(5) As to paragraph 41. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(6) As to paragraph 42. and respondents CHLI, Hicks, Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(7) As to paragraphs 37. through 42. and respondents CHLI and Hicks under Section 10177(h).

SIXTH CAUSE OF ACCUSATION - (NORTH FIFTH STREET)

44.

During January 1986, CHLI and Hicks, acting through Gearhart and Adele Robinson (Robinson), solicited and negotiated a loan secured by lien on real estate from Alvin and Lillie Reimer (Reimer) and Willadean Webb (Webb) in the amount of \$35,700.00. The property which was to secure the loan is known as 224 North Fifth Street, Fowler, California, a single-family residence (herein "North Fifth"). In connection with soliciting and negotiating this loan, CHLI, Hicks and Gearhart did not disclose to Reimer and Webb that \$6,000.00 of the loan proceeds were to be paid to CHLI to assure necessary repairs to North Fifth but would in fact be made available to Lindblom and McDermott at or shortly after close of escrow and would not be disbursed directly to the contractors through a control account. This fact was material for an informed decision by Reimer and Webb whether to make the loan and in what amount.

45.

On or about January 22, 1986, CHLI, Hicks and Gearhart undertook to serve as the agents to find a \$35,700.00 loan for Lindblom and McDermott. On or about January 21, 1986, CHLI, Hicks and Gearhart undertook to act as agents of Reimer and Webb in connection with "all matters relating to" the \$35,700.00 loan. CHLI, Hicks and Gearhart did not disclose at any time to Reimer and Webb that they were at the same time acting as agents for Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to receive a commission of \$1,785.00 from the loan proceeds. CHLI, Hicks and Gearhart did not obtain the consent of Reimer and Webb to the dual agency.

46.

In connection with the escrow for the \$35,700.00 loan from Reimer and Webb, CHLI, Hicks and Gearhart knew or should have known that a substantial part of the loan proceeds (approximately \$11,000.00) would not be used for the purchase of North Fifth by Lindblom and McDermott and would be paid in cash to Lindblom and McDermott. This fact was material for an informed decision by Reimer and Webb whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose this fact to Reimer and Webb before Reimer and Webb made the loan, or at any time.

47.

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing North Fifth without making any down payment, and were paying the entire cash portion of the purchase price out of the \$35,700.00 loan proceeds, while the seller took back a second deed of trust note of \$12,500.00. These facts were material for an informed decision by Reimer and Webb whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose these facts to Reimer and Webb before Reimer and Webb made the loan, or at any time.

48.

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the \$77,000.00 loan and the sale of North Fifth to Lindblom and McDermott and knew at the closing of said escrow the following facts material for an informed decision by Reimer and Webb whether to make the loan and in what amount:

(1) The purchase price of North Fifth was approximately \$27,500.00. The amount of \$7,000.00 was estimated to renovate the improvements on North Fifth.

(2) The appraised value of North Fifth based on completed renovation of the improvements on North Fifth was \$51,000.00. Thus, a \$7,000.00 renovation was supposed to increase the fair market value of the property by \$23,500.00. CHLI, Hicks and Gearhart did not disclose these facts to Reimer and Webb at or prior to close of escrow, or at any time.

49.

In connection with soliciting the \$35,700.00 loan from Reimer and Webb, CHLI, Hicks, Gearhart and Robinson presented to Reimer and Webb an appraisal of North Fifth which stated a fair market value of \$51,000.00. CHLI, Hicks, Gearhart and Robinson did not disclose to Reimer and Webb and did not explain to Reimer and Webb that this opinion expressed the fair market value of the property after improvements and renovation work would be completed and that the appraisal, or any other documents submitted to Reimer and Webb, did not specify in detail the improvements and renovation work necessary to support the fair market value stated. These facts were material for an informed decision by Reimer and Webb whether to make the loan and in what amount.

50.

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses under the following sections of the Business and Professions Code of the State of California:

(1) As to paragraph 44. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(2) As to paragraph 45. and respondents CHLI, Hicks and Gearhart under Sections 10176(a), (d), (g), and (i) and/or Section 10177(g).

(3) As to paragraph 46. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(4) As to paragraph 47. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(5) As to paragraph 48. and respondents CHLI, Hicks, and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(6) As to paragraph 49. and respondents CHLI, Hicks, Gearhart and Robinson under Sections 10176(a) and (i) and/or Section 10177(g).

(7) As to paragraphs 44. through 49., and respondents CHLI and Hicks under Section 10177(h).

SEVENTH CAUSE OF ACCUSATION - (SIMPSON STREET)

51.

During January and February, 1986, CHLI and Hicks, acting through Gearhart and Cardoza solicited and negotiated a \$275,000.00 loan from Refinery Maintenance Corporation Retirement Trust, Bernard Huston, Trustee ("Refinery") to Lindblom and McDermott. The property which was to secure this loan is known as 1581-85 Simpson, Kingsburg, California, a motel, tires shop, and bar-restaurant (herein "Simpson"). CHLI, Hicks and Gearhart, acting through Cardoza, represented the following to Refinery:

(1) That the loan was a good investment and safe because of the great financial strength of Lindblom and McDermott;

(2) that the loan would be used entirely for improvements, renovation and rehabilitation of Simpson; and

(3) that Lindblom and McDermott were the owners of Simpson.

CHLI, Hicks, Gearhart and Cardoza knew or should have known that these statements were not true.

CHLI, Hicks, Gearhart and Cardoza concealed from and failed to disclose to Refinery that a substantial portion of the loan proceeds would be used by Lindblom and McDermott to purchase Simpson and that \$60,000.00 of the loan proceeds purportedly to be held in trust for improvements and repairs would be released by CHLI to Lindblom and McDermott at or immediately after close of escrow.

CHLI, Hicks, Gearhart and Cardoza further concealed from and failed to disclose to Refinery that the loan proceeds would not be disbursed under construction progress disbursement controls but would be entirely released to Lindblom and McDermott at or immediately after close of escrow. These undisclosed facts were material for Refinery to determine whether to make the loan and in what amount.

52.

On or about January 29, 1986, CHLI, Hicks and Gearhart undertook to serve as the agent to find a \$275,000.00 loan for Lindblom and McDermott. On or about February 3, 1986, CHLI, Hicks and Gearhart undertook to act as agents of Refinery in connection with "all matters relating to" the \$275,000.00 loan. CHLI, Hicks and Gearhart did not disclose at any time to Refinery that they were at the same time acting as agents for Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to receive a commission of \$13,750.00 from the loan proceeds. CHLI, Hicks and Gearhart did not obtain the consent of Refinery to the dual agency.

53.

In connection with the escrow for the \$275,000.00 loan from Refinery, CHLI, Hicks and Gearhart knew that a substantial part of the loan proceeds (approximately \$93,000.00) would not be used for the purchase of Simpson by Lindblom and McDermott and would be paid in cash to Lindblom and McDermott. This fact was material for an informed decision by Refinery whether to make the loan and in what amount.

Hicks and Gearhart did not disclose this fact to Refinery before Refinery made the loan, or at any time.

54.

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing Simpson without making any down payment and were paying the entire cash portion of the purchase price out of the \$275,000.00 loan proceeds, while the seller took back a third deed of trust note of \$60,000.00. These facts were material for an informed decision by Refinery whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose these facts to Refinery before Refinery made the loan, or at any time.

55.

In connection with soliciting the \$275,000.00 loan from Refinery, CHLI, Hicks, Gearhart and Cardoza presented to Refinery two appraisals of Simpson (one of real property and improvements, one of machinery and equipment) which stated a total fair market value of \$402,500.00.

CHLI, Hicks, Gearhart and Cardoza did not disclose to Refinery and did not explain to Refinery that these opinions of value expressed the fair market value of the property after improvements and renovation work would be completed, and that the appraisals did not specify in detail the improvements and renovation work necessary to support the fair market value stated.

These facts were material for an informed decision by Refinery whether to make the loan and in what amount.

56.

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the loan and the sale of Simpson to Lindblom and McDermott, and knew at the closing of said escrow the following facts material for an informed decision by Refinery whether to make the loan and in what amount:

(1) The purchase price of Simpson was approximately \$260,000.00. The amount of \$60,000.00 had been estimated for renovation of the improvements on Simpson.

(2) The appraised value of Simpson based on completed renovation of the improvements on Simpson was \$402,500.00.

Thus, a \$60,000.00 renovation was supposed to increase the fair market value of the property by \$142,500.00.

CHLI, Hicks and Gearhart did not disclose these facts to Refinery at or prior to close of escrow or at any time.

57.

The acts and/or omissions of Respondents described above are grounds for the suspension or revocation of Respondents' licenses under the following sections of the Business and Professions Code of the State of California:

(1) As to paragraph 51. and respondents CHLI, Hicks, Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(2) As to paragraph 52. and respondents CHLI, Hicks and Gearhart under Sections 10176(a), (d), (g), and (i) and/or Section 10177(g).

(3) As to paragraph 53. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(4) As to paragraph 54. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(5) As to paragraph 55. and respondents CHLI, Hicks, Gearhart and Cardoza under Sections 10176(a) and (i) and/or Section 10177(g).

(6) As to paragraph 56. and respondents CHLI, Hicks and Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

(7) As to paragraphs 51. through 56. and respondents CHLI and Hicks under Section 10177(h).

EIGHTH CAUSE OF ACCUSATION

58.

From time to time during 1985 and 1986, Lindblom, Gearhart and CHLI, conspired and agreed to permit Lindblom to receive funds earmarked for construction and/or repairs of the properties described in the Second, Third, Fourth, Fifth, Sixth and Seventh Cause of Accusation, without disbursement controls and prior to the completion of such construction and/or repairs. As part of this conspiracy and agreement, Gearhart and CHLI instructed the escrow holder to pay such funds to CHLI. Gearhart then deposited such funds into one bank account of CHLI and immediately withdrew an equal amount payable directly to Lindblom from the same or from another bank account of CHLI, or endorsed the check received from the escrow holder directly to Lindblom.

The amounts of such funds were as follows:

<u>Tucker Street:</u>	\$ 10,000.00
<u>McCall Street:</u>	\$ 35,000.00
<u>John Street:</u>	\$ 50,000.00
<u>Broadway:</u>	\$ 6,000.00
<u>North Fifth Street:</u>	\$ 7,000.00
<u>Simpson Street:</u>	\$ 60,000.00

Total: \$168,000.00

Gearhart and CHLI failed to disclose these arrangements to the investors who had lent these funds and to the persons who had agreed to subordinate their liens of higher priority.

59.

The acts and/or omissions of respondents described above are grounds for the suspension or revocation of respondents' licenses as follows:

(1) As to paragraph 58. and as against respondents Gearhart and CHLI under Sections 10176(a) and (i), Section 10177(d) in conjunction with Section 10145, and Section 10177(j) of the Code.

DETERMINATION OF ISSUES

Cause for disciplinary action against Respondents exists pursuant to the Sections of the Business and Professions Code and of Title 10, California Administrative Code (the Regulations) alleged in paragraphs 16., 23., 29., 36., 43., 50., 57., and 59., above.

ORDER

- a. The real estate broker license of respondent COUNTY HOME LOAN, INC., is revoked.
- b. The real estate broker license of respondent DAVID LEROY HICKS is revoked.
- c. The real estate salesperson license of respondent KAREN GEARHART is revoked, and the application of KAREN GEARHART for a real estate broker license is denied.
- d. The real estate salesperson license of respondent KATHI CARDOZA is revoked, provided that a restricted real estate salesperson license shall be issued to respondent KATHI CARDOZA, if respondent KATHI CARDOZA makes application for a restricted license and pays to the Department the appropriate fee for such license prior to or within 90 days after the effective date of the Decision herein. The restricted real estate salesperson license so issued to respondent KATHI CARDOZA shall be suspended for 180 days from date of issuance.

e. The restricted real estate salesperson license to be issued to respondent CARDOZA as provided above shall be subject to 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 the Code:

- (1) As provided by Business and Professions Code, Section 10156.7, the license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - (A) The conviction of Respondent (including a plea of nolo contendere) of a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee; or
 - (B) The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, regulations of the Real Estate Commissioner, or conditions attaching to this restricted license.
- (2) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until three (3) years have elapsed from the date of issuance of the restricted license to Respondent.
- (3) Respondent KATHI CARDOZA shall, within six (6) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that she has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirement of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent KATHI CARDOZA fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until respondent KATHI CARDOZA presents such evidence. The Commissioner shall afford respondent KATHI CARDOZA the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
- (4) Respondent KATHI CARDOZA shall, within six (6) months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent KATHI CARDOZA fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent KATHI CARDOZA passes the examination.

(5) With the application for license, if applicable, or with the application for transfer to a new employing broker, respondent KATHI CARDOZA shall submit a statement signed by the prospective employing broker on a form approved by the Department of Real Estate wherein the employing broker shall certify as follows:

(A) That broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

(B) That broker has read the Accusation which is the basis for the issuance of the restricted license.

DATED:

July 12, 1990

Robert E. McCabe

ROBERT E. MCCABE
Regional Manager
Department of Real Estate

FILED
MAR 30 1990
DEPARTMENT OF REAL ESTATE

Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
COUNTY HOME LOAN, INC.,)
ERNEST TROLIER, et al.,)
Respondents.)

NO. H-857 FRESNO

DECISION

The Proposed Decision dated March 16, 1990,
of Robert E. McCabe, Regional Manager, Department of Real Estate,
State of California, is hereby adopted as the Decision of the Real
Estate Commissioner in the above-entitled matter.

The Decision shall become effective at 12 o'clock noon
on April 19, 19 90.

IT IS SO ORDERED 3-26, 19 90.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
COUNTY HOME LOAN, INC.,)	NO. H-857 FRESNO
ERNEST TROLIER, et al.,)	
_____ Respondents.)	

PROPOSED DECISION

This matter was presided over as an uncontested case by Robert E. McCabe, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Sacramento, California, on March 16, 1990.

Roland Adickes, Counsel, represented the complainant.

Respondent ERNEST TROLIER was represented by Robert W.M. Cross, attorney at law, and entered into a written stipulation with the Department.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

1.

Jerry Fiscus made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2.

Respondent ERNEST TROLIER is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "the Code"), as a real estate broker.

During 1986, respondent Ernest L. Trolier, of Selma, California held a listing on property known as 224 North Fifth Street, Fowler, California. The seller of North Fifth was Gladys Pauline George (George). During the transaction, Trolier acted from time to time through respondent Mary Stott, a real estate salesperson employed by Trolier. Trolier drafted or assisted in drafting a written offer for the purchase of North Fifth by Lindblom and McDermott to George and developed and/or negotiated the credit terms of this offer by which George was to take back a \$12,500.00 deed of trust which was to be subject to the \$35,700.00 loan obtained by Lindblom and McDermott from Reimer and Webb. Trolier did not disclose to George prior to close of escrow or at any time the following material facts necessary for George to make an informed decision whether or not to accept the Lindblom and McDermott offer on the terms stated therein or at all: That Lindblom and McDermott would be receiving approximately \$11,000.00 cash from the loan to which George's purchase money second trust deed was to be subordinated. Trolier knew or should have known these material facts.

DETERMINATION OF ISSUES

Cause for disciplinary action against Respondent Trolier exists pursuant to Section 10177(g) of the Business and Professions Code.

ORDER

- A. The real estate broker license of respondent ERNEST TROLIER is suspended for thirty (30) days, provided however, that this suspension is stayed for twelve months from the effective date of this Decision on condition that during that period none of the following occurs:
- (1) The conviction of Respondent (including a plea of nolo contendere) of a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee; or
 - (2) The receipt of evidence by the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, regulations of the Real Estate Commissioner.
- B. If any of the events described in paragraphs A.(1) and/or A.(2) above occur during said twelve-month period, then the Commissioner may, after a hearing in accordance with the Administrative Procedure Act, impose the 30-day suspension together with any other discipline that may result from a final decision made after such hearing.
- C. If none of the events described in paragraphs A.(1) and/or A.(2) above occur during said twelve-month period, then the thirty-day suspension shall be stayed permanently.

D. This Order shall be null and void and the Accusation against respondent Trolter shall proceed as previously, if Bank of America Cashier's Check No. 0012781619, dated February 28, 1990, payable to Gladys Pauline George, amount \$12,500.00, is not honored by said bank for any reason other than failure to present said cashier's check for payment within six (6) months of February 28, 1990.

DATED: March 16, 1990.

Robert E. McCabe
ROBERT E. MCCABE
Regional Manager
Department of Real Estate

FILED
NOV 22 1989
DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Kathleen Contreras

In the Matter of the Accusation of)
COUNTY HOME LOAN, INC., et al.,)
Respondents)

CASE NO. H-857 FRESNO & H-912 FRESNO
OAH NO. N-30673

CONTINUED
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 the State Building, Room 1036, 2550 Mariposa Mall, Fresno, CA 93721 on the following days and times, or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you:

<u>DATES</u>	<u>SCHEDULED STARTING TIME</u>
April 16, 1990	1:30 P.M.
April 17, 1990 through April 20, 1990	9:00 A.M.
April 23, 1990	1:30 P.M.
April 24, 1990 through April 27, 1990	9:00 A.M.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

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

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

Dated: November 21, 1989

DEPARTMENT OF REAL ESTATE
Roland Adickes
ROLAND ADICKES
Counsel

FILED
JUN 21 1989

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Spurie A. Zyan

In the Matter of the Accusation of)

COUNTY HOME LOAN, INC., et al.,)

Respondents)

CASE NO. H-857 FRESNO and

CASE NO. H-912 FRESNO

OAH NO. N-30673

FIFTH AMENDED 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 the State Building, Room 1036, 2550 Mariposa Mall, Fresno, CA 93721 on the following days and times, or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you:

DATES

SCHEDULED STARTING TIME

September 5, 1989	1:30 P.M.
September 6 - 8, 1989	9:00 A.M.
October 30, 1989	1:30 P.M.
October 31, 1989	9:00 A.M.
November 1 - 3, 1989	9:00 A.M.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

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

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

DEPARTMENT OF REAL ESTATE

Dated: June 20, 1989

Roland Adickes
ROLAND ADICKES
Counsel

FILED
JUN 16 1989

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
COUNTY HOME LOAN, INC., et al.,)
)
Respondents)

Laurie A. Gian
CASE NO. H-857 FRESNO and
CASE NO. H-912 FRESNO

OAH NO. N-30673

FOURTH AMENDED 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 the State Building, Room 1036, 2550 Mariposa Mall, Fresno, CA 93721 on the following days and times, or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you:

<u>DATES</u>	<u>SCHEDULED STARTING TIME</u>
September 5, 1989	1:30 P.M.
September 6 - 8, 1989	9:00 A.M.
September 11, 1989	1:30 P.M.
September 12 - 15, 1989	9:00 A.M.
October 30, 1989	1:30 P.M.
October 31, 1989	9:00 A.M.
November 1 - 3, 1989	9:00 A.M.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

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

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

DEPARTMENT OF REAL ESTATE

Dated: June 16, 1989

Larry Adams
for ROLAND ADICKES
Counsel

FILED
JUN 12 1989

DEPARTMENT OF REAL ESTATE

By Murie A. Gian

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-857 FRESNO
COUNTY HOME LOAN, INC.,)	
ADELE ROBINSON, et al.,)	
)	
Respondents.)	

DECISION

The Proposed Decision dated May 17, 1989 of Robert E. McCabe, Regional Manager, Department of Real Estate, State of California, as to respondent ADELE ROBINSON only is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision shall become effective at 12 o'clock
noon on July 3, 1989.

IT IS SO ORDERED June 7, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

John R. Liberator
by: JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
COUNTY HOME LOAN, INC.,)	NO. H-857 FRESNO
ADELE ROBINSON, et al.,)	
Respondents.)	
_____)	

PROPOSED DECISION
AS TO RESPONDENT ADELE ROBINSON

This matter was presided over as an uncontested case by Robert E. McCabe, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Sacramento, California, on May 17, 1989.

ROLAND ADICKES Counsel, represented the Complainant.

Respondent was represented by Charles A. Wieland, attorney at law, and entered into a written Stipulation with the Department.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

1.

Jerry E. Fiscus made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

2.

Respondent ADELE ROBINSON is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "the Code") as a real estate salesperson, and was employed by COUNTY HOME LOAN, INC. (herein "CHLI"), a corporate real estate broker during relevant times in 1986.

///

///

During January 1986, CHLI acting through ADELE ROBINSON (ROBINSON) and others, solicited and negotiated a loan secured by lien on real estate from Alvin and Lillie Reimer (Reimer) and Willadean Webb (Webb) in the amount of \$35,700.00. The property which was to secure the loan is known as 224 North Fifth Street, Fowler, California, a single-family residence (herein "North Fifth"). In connection with soliciting the \$35,700.00 loan from Reimer and Webb, Robinson and others presented to Reimer and Webb an appraisal of North Fifth which stated a fair market value of \$51,000.00. ROBINSON and others did not disclose to Reimer and Webb and did not explain to Reimer and Webb that this opinion expressed the fair market value of the property after improvements and renovation work would be completed and that the appraisal, or any other documents submitted to Reimer and Webb, did not specify in detail the improvements and renovation work necessary to support the fair market value stated. These facts were material for an informed decision by Reimer and Webb whether to make the loan and in what amount.

DETERMINATION OF ISSUES

Cause for disciplinary action against respondent ADELE ROBINSON exists pursuant to Sections 10176(a) and 10177(g) of the Business and Professions Code.

ORDER

A. The real estate salesperson license of respondent ADELE ROBINSON is revoked, provided, however, that a restricted real estate salesperson license shall be issued to respondent ADELE ROBINSON 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 said license within ninety (90) days from the effective date of the Decision herein.

B. The restricted license issued to respondent ADELE ROBINSON shall be subject to all 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 the Code:

(1) The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

(2) By force of Government Code Section 11522, Respondent is not eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one year has elapsed from the date of issuance of the restricted license to Respondent.


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

C. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker which shall certify:

(1) That the employing real estate broker has read the Decision of the Commissioner which granted the right to a restricted license; and

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

DATED: May 17, 1989


ROBERT E. MCCABE
Regional Manager
Department of Real Estate

FILED
JAN 26 1989

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Saurie R. Gian

In the Matter of the Accusation of

COUNTY HOME LOAN, INC., et al.,

Respondents

CASE NO. H-857 FRESNO and
CASE NO. H-912 FRESNO

OAH NO. N-30673

THIRD AMENDED 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 the State Building, Room 1036, 2550 Mariposa Mall, Fresno, CA 93721 on the following days and times, or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you:

<u>DATES</u>	<u>SCHEDULED STARTING TIME</u>
May 15, 1989	1:30 P.M.
May 16 - 19, 1989	9:00 A.M.
May 22, 1989	1:30 P.M.
May 23 - 26, 1989	9:00 A.M.
September 5, 1989	1:30 P.M.
September 6 - 8, 1989	9:00 A.M.
September 11, 1989	1:30 P.M.
September 12 - 15, 1989	9:00 A.M.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

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

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

DEPARTMENT OF REAL ESTATE

Dated: January 26, 1989

Roland Adickes
ROLAND ADICKES
Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Laurie A. Jan

In the Matter of the Accusation of

COUNTY HOME LOAN, INC., et al.,

Respondents

CASE NO. H-857 FRESNO and
CASE NO. H-912 FRESNO

OAH NO. N-30673

SECOND AMENDED 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 the State Building, Room 1036, 2550 Mariposa Mall, Fresno, CA 93721 on the following days and times, or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you:

<u>DATES</u>	<u>SCHEDULED STARTING TIME</u>
May 8, 1989	1:30 P.M.
May 9 - 12, 1989	9:00 A.M.
May 15, 1989	1:30 P.M.
May 16 - 19, 1989	9:00 A.M.
May 22, 1989	1:30 P.M.
May 23 - 26, 1989	9:00 A.M.
May 30, 1989	1:30 P.M.
May 31, 1989	9:00 A.M.
June 1 - 2, 1989	9:00 A.M.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

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

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

DEPARTMENT OF REAL ESTATE

Dated: December 12, 1988

Roland Adickes
ROLAND ADICKES
Counsel

1 ROLAND ADICKES, Counsel
2 Department of Real Estate
3 2201 Broadway
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 (916) 739-3607

FILED
OCT 22 1987

DEPARTMENT OF REAL ESTATE

By Kathleen Conteras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 COUNTY HOME LOAN, INC.,)
14 DAVID LEROY HICKS,)
15 KAREN GEARHART,)
16 KATHI CARDOZA,)
17 ADELE ROBINSON,)
RONALD MARVIN LINDBLOM,)
ERNEST TROLIER,)
MARY STOTT,)
Respondents.)

NO. H-857 FRESNO

AMENDMENT TO ACCUSATION
(Amend Page 6; Add Page 6a;
Amend Page 7)
(Government Code §11507)

18 The Accusation filed herein on August 21, 1987, is
19 hereby amended, by amending page 6, adding page 6a, amending page
20 7 and adding pages 36a, 36b, and 36c to read as set forth below.

21
22 DATED: 10/8/87

Jerry E. Fiscus
JERRY E. FISCUS
Deputy Real Estate Commissioner

1 ROLAND ADICKES, Counsel
Department of Real Estate
2 2201 Broadway
P. O. Box 187000
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FILED
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DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 COUNTY HOME LOAN, INC.,)
DAVID LEROY HICKS,)
13 KAREN GEARHART,)
KATHI CARDOZA,)
14 ADELE ROBINSON,)
RONALD MARVIN LINDBLOM,)
15 ERNEST TROLIER,)
MARY STOTT,)
16 Respondents.)
17 _____)

NO. H-857 FRESNO

ACCUSATION

18 The Complainant, Jerry Fiscus, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against COUNTY HOME LOAN, INC.; DAVID LEROY HICKS; KAREN GEARHART;
21 KATHY CARDOZA; ADELE ROBINSON; RONALD MARVIN LINDBLOM; ERNEST
22 TROLIER; and MARY STOTT (hereinafter referred to as Respondents)
23 is informed and alleges as follows:

24 I

25 The Complainant, Jerry Fiscus, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27 his official capacity.

1 II

2 Respondents are presently licensed and/or have license
3 rights under the Real Estate Law (Part 1 of Division 4 of the
4 Business and Professions Code, hereinafter "the Code"), as
5 follows:

6 (1) County Home Loan, Inc., as a real estate broker
7 through David Leroy Hicks as designated broker-officer.

8 (2) David Leroy Hicks as a real estate broker.

9 (3) Karen Gearhart as a real estate salesperson.

10 (4) Kathi Cardoza as a real estate salesperson.

11 (5) Adele Robinson as a real estate salesperson.

12 (6) Ronald Marvin Lindblom as a real estate broker.

13 (7) Ernest Trolhier as a real estate broker.

14 (8) Mary Stott as a real estate salesperson.

15 FIRST CAUSE OF ACCUSATION

16 III

17 From time to time during 1984, 1985, 1986 and 1987,
18 Hicks was the designated broker-officer of County Home Loan, Inc.,
19 a corporation acting as a mortgage loan broker in Fresno,
20 California (hereinafter "CHLI"). Hicks was the chief executive
21 officer and the chief financial officer of the corporation.
22 Gearhart was a vice-president and the secretary of the
23 corporation. Hicks and Gearhart were directors of the
24 corporation.

25 During the period stated above, Hicks did not exercise
26 reasonable supervision over the activities of the real estate
27 salespersons employed by the corporation including Gearhart,

1 Cardoza and Robinson and over the activities of the corporation
2 for which a real estate license is required. Hicks permitted
3 Gearhart and others to act as if Gearhart or others were the
4 licensed broker for the corporation.

5 IV

6 CHLI's and Hicks' failure to exercise reasonable
7 supervision included, but was not limited to, the matters and
8 transactions alleged as to CHLI and Hicks in the Second, Third,
9 Fourth, Fifth, Sixth and Seventh Causes of Accusation below. In
10 each of these matters and transactions, CHLI and Hicks caused or
11 permitted the respective violation of the Real Estate Law or the
12 Regulations by his failure to exercise reasonable supervision.

13 V

14 During the period April 1986 through August 1986, CHLI
15 and Hicks employed Karen McDermott for a compensation to perform
16 acts for which a real estate license is required including solic-
17 iting lenders to make loans secured by lien on real property and
18 negotiating such loans. CHLI and Hicks knew or should have known
19 that McDermott did not have a real estate license at that time.

20 VI

21 From time to time during 1984, 1985, 1986 and 1987,
22 CHLI and Hicks failed to comply with Section 2725, Title 10,
23 California Administrative Code (herein "Regulations") in that CHLI
24 and Hicks did not review and initial all investment proposals,
25 lenders' escrow instructions, investors' loan service agreements
26 and other instruments which had a material effect on the rights
27 and obligations of the parties and which were prepared or signed

1 by or under the direction of real estate salespersons employed by
2 CHLI and Hicks, including such documents used in connection with
3 loans solicited by CHLI and Hicks from Refinery Maintenance
4 Corporation Retirement Trust; Reimer; Webb; Bassett; McMicken;
5 Schaffer; Santa Maria Electric, Inc. Defined Benefit Plan;
6 Mussell; and others.

7 VII

8 From time to time during 1984, 1985, 1986 and 1987, CHLI
9 and Hicks failed to comply with Section 10145 of the Code and
10 Regulation 2830 in that CHLI and Hicks were using interest-bearing
11 trust accounts not requested by the owners of the trust funds or
12 the principals to the transactions and without disclosing to such
13 persons how interest would be calculated and paid and whether and
14 by whom service charges would be paid.

15 VIII

16 From time to time during 1984, 1985, 1986 and 1987, CHLI
17 and Hicks failed to comply with Regulation 2831 in that CHLI and
18 Hicks did not keep records of trust funds not deposited in a bank
19 trust account.

20 IX

21 As of February 11, 1986, CHLI and Hicks had negotiated
22 five "new loans" of an aggregate amount of more than \$500,000.00
23 in the three successive months of December, 1985; January, 1986;
24 and February, 1986. Pursuant to Section 10232(b) of the Code, CHLI
25 and Hicks were therefore required to comply with Sections 10232(e)
26 (30-day written notice to Department of Real Estate), 10232.1
27 (advertising clearance), 10232.2 (annual reports), 10232.25

1 (trust fund reports), 10232.4 (disclosure statement) of the Code.
2 Respondents CHLI and Hicks did not comply with any of said
3 sections within the time period required, or at any time.

4 X

5 During the period February, 1986 through July, 1986,
6 CHLI and Hicks employed William LeBlanc for a compensation to
7 perform acts for which a real estate license is required including
8 soliciting lenders to make loans secured by lien on real property
9 and negotiating such loans. CHLI and Hicks knew or should have
10 known that LeBlanc did not have a real estate license at that
11 time.

12 XI

13 From time to time during 1986, CHLI and Hicks, acting
14 directly or through agents, performed acts for which a real estate
15 license is required under the fictitious business name Cherokee
16 Properties. These activities included the negotiation and/or sale
17 of real property known as 205 West Hawes Street, Fresno,
18 California and 10781 Fourteenth Street, Armona, California. At
19 the time these activities took place, CHLI and Hicks were not the
20 holders of a license bearing the fictitious business name as
21 required by Regulation 2731.

22 XII

23 From time to time during 1984, 1985, 1986 and 1987, CHLI
24 and Hicks failed to comply with Section 10145 of the Code and
25 Regulation 2830 in that CHLI and Hicks permitted trust funds to be
26 deposited in trust accounts which could not be controlled by CHLI
27 acting through Hicks or by Hicks, in that Hicks was not an

1 authorized signatory on these accounts. These trust accounts
2 include the following:

3 (1) Bank of Fresno Account No. 01223720-70.

4 (2) Bank of Fresno Account No. 02224224-70.

5 XIII

6 From time to time during 1984, 1985 and 1986, CHLI and
7 Hicks permitted Gearhart, Cardoza and others to solicit from
8 various persons loans secured by liens on real estate by means of
9 a printed form of "Investment Proposal" a copy of which form is
10 attached as Exhibit "A", which form did not provide for disclosure
11 of material facts necessary to any prospective lender for making
12 an informed decision whether to make a loan and in what amount, as
13 follows:

14 (1) The "Investment Proposal" form provided no space
15 for disclosure of the purpose of the loan, e.g., acquisition,
16 construction of improvements, etc.

17 (2) The "Investment Proposal" form provided no space
18 for disclosure of the sales price and terms, e.g., amount of down
19 payment, purchase money, trust deeds, etc.

20 (3) The "Investment Proposal" form provided no space
21 for disclosure of the commission payable to CHLI and Hicks.

22 XIV

23 From time to time during 1987, CHLI and Hicks failed to
24 deposit and maintain trust funds received in the course of the
25 business of CHLI as required by Section 10145 of the Code and
26 Regulation 2830 in that as of April 30, 1987, there was a shortage
27 of \$10,111.02 in the bank trust accounts of CHLI (Bank of Fresno

1 Accounts #1223720, 1219650, and 2220512), which is to say that the
2 trust obligations of CHLI on that day, as determined from the
3 records of CHLI exceeded the adjusted trust account bank balances
4 by \$10,111.02.

5 XIV-A.

6 On or about March 27, 1987, CHLI and Hicks, acting
7 through Gearhart, submitted to the Department, a report pursuant
8 to Sections 10232 and 10232.2 of the Code. This report was false
9 and misleading in that it did not disclose a trust fund shortage
10 of approximately \$7,700.00 existing as of that date.

11 XIV-B.

12 The acts and/or omissions of respondents CHLI and Hicks
13 described above are grounds for the suspension or revocation of
14 these Respondents' licenses under the following sections of the
15 Business and Professions Code of the State of California and of
16 Title 10, California Administrative Code (Regulations):

17 (1) As to paragraph III under Section 10177(h).

18 (2) As to paragraph IV under Section 10177(h).

19 (3) As to paragraph V under Section 10137.

20 (4) As to paragraph VI under Section 10177(d) in
21 conjunction with Regulation 2725.

22 (5) As to paragraph VII under Section 10177(d) in
23 conjunction with Section 10145 and Regulation 2830.

24 (6) As to paragraph VIII under Section 10177(d) in
25 conjunction with Regulation 2831.

26 (7) As to paragraph IX under Section 10177(d) in
27 conjunction with Sections 10232(e), 10232.1, 10232.2, 10232.25,
28 and 10232.4.

- 1 (8) As to paragraph X under Section 10137.
- 2 (9) As to paragraph XI under Section 10177(d) in
3 conjunction with Regulation 2731.
- 4 (10) As to paragraph XII under Section 10177(d) in
5 conjunction with Section 10145 and Regulation 2830.
- 6 (11) As to paragraph XIII under Section 10176(a) and (c)
7 and/or Section 10177(g) and/or (h).
- 8 (12) As to paragraph XIV under Section 10177(d) in
9 conjunction with Section 10145 and Regulation 2830
- 10 (13) As to paragraph XIV-A., under Section 10176(a) and
11 (i) and/or Section 10177(j) and/or Section 10177(g).

12 SECOND CAUSE OF ACCUSATION - (TUCKER STREET)

13 XV

14 During July 1985, CHLI and Hicks, acting through
15 Gearhart and Cardoza, solicited and negotiated a loan secured by
16 lien on real estate from John and Mary Ann Mussell (Mussell) to
17 Ron Lindblom (Lindblom) and Karen L. McDermott (McDermott) in the
18 amount of \$136,500.00. The property which was to secure the loan
19 is known as 1404 Tucker Street, Selma, California (herein
20 "Tucker") a 10-unit apartment.

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XVII

1
2 In connection with the escrow for the \$136,500.00 loan
3 from Mussell, CHLI, Hicks and Gearhart knew that a substantial
4 part of the loan proceeds (approximately \$14,000.00) would not be
5 used for the purchase of Tucker by Lindblom and McDermott and
6 would be paid in cash to Lindblom and McDermott. These facts were
7 material for an informed decision by Mussell whether to make the
8 loan and in what amount. CHLI, Hicks and Gearhart did not
9 disclose this fact to Mussell before Mussell made the loan, or at
10 any time.

XVIII

11
12 Prior to close of escrow, CHLI, Hicks and Gearhart knew
13 or should have known that Lindblom and McDermott were purchasing
14 Tucker without making any down payment and were paying the entire
15 cash portion of the purchase price (including a cash payment of
16 \$2,000.00 to the seller) out of the \$136,500.00 loan proceeds,
17 while the seller took back a second deed of trust note of
18 \$21,500.00. These facts were material for an informed decision by
19 Mussell whether to make the loan and in what amount. CHLI, Hicks
20 and Gearhart did not disclose all of these facts to Mussell before
21 Mussell made the loan, or at any time.

XIX

22
23 CHLI, Hicks, and Gearhart knew or should have known
24 prior to close of the escrow for the loan and the sale of Tucker
25 to Lindblom and McDermott and knew at the closing of said escrow
26 the following facts material for an informed decision by Mussell
27 whether to make the loan and in what amount:

1 of the \$136,500.00 first trust deed note. Lindblom and McDermott
2 declined to identify the holder and referred Parrish to CHLI,
3 Hicks and Gearhart, who refused to disclose the holder's identity.
4 As a result, Parrish was unable to negotiate with Mussell for
5 preserving the \$21,500.00 trust deed note of Parrish.

6 XXI

7 In connection with soliciting the \$136,500.00 loan from
8 Mussell, CHLI, Hicks, Gearhart and Cardoza presented to Mussell an
9 appraisal of Tucker which stated a fair market value of
10 \$195,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose
11 to Mussell and did not explain to Mussell that this opinion
12 expressed the fair market value of the property after improvements
13 and renovation work would be completed, and that the appraisal,
14 or any other document submitted to Mussell, did not specify in
15 detail the improvements and renovation work necessary to support
16 the fair market value stated.

17 These facts were material for an informed decision by
18 Mussell whether to make the loan and in what amount.

19 XXII

20 The acts and/or omissions of Respondents described above
21 are grounds for the suspension or revocation of Respondents'
22 licenses under the following sections of the Business and
23 Professions Code of the State of California:

24 (1) As to paragraph XV and respondents CHLI, Hicks and
25 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

26 (2) As to paragraph XVI and respondents CHLI, Hicks and
27 Gearhart under Sections 10176(a), (d), (g) and (i) and/or Section
28 10177(g).

1 (3) As to paragraph XVII and respondents CHLI, Hicks
2 and Gearhart under Sections 10176(a) and (i) and/or Section
3 10177(g).

4 (4) As to paragraph XVIII and respondents CHLI, Hicks
5 and Gearhart under Sections 10176(a) and (i) and/or Section
6 10177(g).

7 (5) As to paragraph XIX and respondents CHLI, Hicks and
8 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

9 (6) As to paragraph XX and respondents Lindblom and
10 Gearhart under Section 10176(i) and/or Section 10177(j).

11 (7) As to paragraph XXI and respondents CHLI, Hicks,
12 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
13 Section 10177(g).

14 (8) As to paragraphs XV through XXI and respondents
15 CHLI and Hicks under Section 10177(h).

16 THIRD CAUSE OF ACCUSATION - (McCALL STREET)

17 XXIII

18 During October 1985, CHLI and Hicks, acting through
19 Gearhart and Cardoza, solicited and negotiated a loan secured by
20 lien on real estate from Santa Maria Electric, Inc. Defined
21 Benefit Plan, represented by John Mussell, Trustee (herein "Santa
22 Maria") in the amount of \$138,000.00. The property which was to
23 secure the loan is known as 2632 - 34 S. McCall Street, Selma,
24 California, a seven-unit rental property (herein "McCall"). CHLI
25 and Hicks, acting through Gearhart and Cardoza, represented to
26 Santa Maria verbally and/or in writing that \$35,000.00 of the loan
27 proceeds were "being held in escrow pending completion of

1 repairs". This representation was false in that CHLI, Hicks and
2 Gearhart had no intention of causing this money to be held in
3 escrow for the purposes represented, but CHLI, Hicks and Gearhart
4 provided by written instructions in the name of CHLI, given to the
5 escrow holder (Lawyer Title Insurance Company), that the
6 \$35,000.00 were to be disbursed to CHLI upon close of escrow.
7 CHLI, Hicks and Gearhart did not disclose these conflicting escrow
8 instructions to Santa Maria. After receiving the \$35,000.00 at
9 close of escrow, CHLI, Hicks and Gearhart made this money
10 available to Lindblom and McDermott without any disbursement
11 controls.

12 XXIV

13 During October 1985, CHLI, Hicks and Gearhart undertook
14 to serve as the agents to find a \$138,000.00 loan for Lindblom and
15 McDermott. On or about October 16, 1985, CHLI, Hicks and Gearhart
16 undertook to act as agents of Santa Maria in connection with "all
17 matters relating to" the \$138,000.00 loan. CHLI, Hicks and
18 Gearhart did not disclose at any time to Santa Maria that they
19 were at the same time acting as agents for Lindblom and McDermott,
20 and that CHLI, Hicks and Gearhart were to receive a commission of
21 \$5,520.00 from the loan proceeds. CHLI, Hicks and Gearhart did
22 not obtain the consent of Santa Maria to the dual agency.

23 XXV

24 In connection with the escrow for the \$138,000.00 loan
25 from Santa Maria, CHLI, Hicks and Gearhart knew or should have
26 known that a substantial part of the loan proceeds (approximately
27 \$14,000.00) would not be used for the purchase of McCall by

1 Lindblom and McDermott and would be paid in cash to Lindblom and
2 McDermott. These facts were material for an informed decision by
3 Santa Maria whether to make the loan and in what amount. CHLI,
4 Hicks and Gearhart did not disclose these facts to Santa Maria
5 before Santa Maria made the loan, or at any time.

6 XXVI

7 Prior to close of escrow, CHLI, Hicks and Gearhart knew
8 or should have known that Lindblom and McDermott were purchasing
9 McCall without making any down payment, and were paying the entire
10 purchase price out of the \$138,000.00 loan proceeds. These facts
11 were material for an informed decision by Santa Maria whether to
12 make the loan and in what amount. CHLI, Hicks and Gearhart did
13 not disclose all of these facts to Santa Maria before Santa Maria
14 made the loan, or at any time.

15 XXVII

16 CHLI, Hicks and Gearhart knew or should have known prior
17 to close of the escrow for the \$138,000.00 loan and the sale of
18 McCall to Lindblom and McDermott and knew at the closing of said
19 escrow the following facts material for an informed decision by
20 Santa Maria whether to make the loan and in what amount:

21 (1) The purchase price of McCall was approximately
22 \$82,500.00. The amount of \$35,000.00 was estimated to renovate
23 the improvements on McCall.

24 (2) The appraised value of McCall based on completed
25 renovation of the improvements on McCall was \$197,000.00. Thus, a
26 \$35,000.00 renovation was supposed to increase the fair market
27 value of the property by \$114,500.00. CHLI, Hicks and Gearhart

1 did not disclose these facts to Santa Maria at or prior to close
2 of escrow, or at any time.

3 XXVIII

4 The acts and/or omissions of Respondents described above
5 are grounds for the suspension or revocation of Respondents'
6 licenses under the following sections of the Business and
7 Professions Code of the State of California:

8 (1) As to paragraph XXIII and respondents CHLI, Hicks
9 and Gearhart under Sections 10176(a) and (i) and/or Section
10 10177(g).

11 (2) As to paragraph XXIV and respondents CHLI, Hicks
12 and Gearhart under Sections 10176(a), (d), (g), and (i) and/or
13 Section 10177(g).

14 (3) As to paragraph XXV and respondents CHLI, Hicks and
15 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

16 (4) As to paragraph XXVI and respondents CHLI, Hicks
17 and Gearhart under Sections 10176(a) and (i) and/or Section
18 10177(g).

19 (5) As to paragraph XXVII and respondents CHLI, Hicks,
20 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
21 Section 10177(g).

22 (6) As to paragraphs XXIII through XXVII and
23 respondents CHLI and Hicks under Section 10177(h).

24 FOURTH CAUSE OF ACCUSATION - (JOHN STREET)

25 XXIX

26 During November and December, 1985, CHLI and Hicks
27 acting through Gearhart and Cardoza solicited and negotiated a

1 loan secured by lien on real estate from Dale and Dorothy Bassett
2 (Bassett) and Dave and Peggy McMicken (McMicken) to Ron Lindblom
3 (Lindblom) and Karen L. McDermott (McDermott) in the total amount
4 of \$235,000.00. The property which was to secure the loan is
5 known as 1932 - 1940-1/2 John Street. Selma, California (herein
6 "John Street") a nine-unit apartment project. In connection with
7 soliciting and negotiating the \$235,000.00 loan, CHLI, Hicks,
8 Gearhart and Cardoza represented to Bassett and McMicken that the
9 borrowers, Lindblom and McDermott, were independently wealthy,
10 were involved only with projects with positive cash flows, and had
11 had a "long relationship" with CHLI in which Lindblom and
12 McDermott always paid on time, that the rental income of John
13 Street was \$3,800.00 per month, that Lindblom and McDermott had
14 put or would put \$100,000.00 of their own money into John Street,
15 that Lindblom and McDermott had obtained a special approval for
16 low income housing from the County of Fresno for the John Street
17 improvement and renovation, and that the County of Fresno dealt
18 primarily with Lindblom and McDermott for supplying low income
19 housing. CHLI, Hicks, Gearhart and Cardoza either knew these
20 representations to be false or had no reasonable grounds for
21 believing them to be true.

22 In the same connection, CHLI, Hicks, Gearhart and
23 Cardoza represented to Bassett and McMicken that loan funds as
24 necessary for improvements and renovations on John Street would be
25 held in trust by CHLI and that CHLI would control the disbursement
26 of these funds to the contractors who did the work stage by stage
27 as the work was being completed. This representation was false in

1 that CHLI, Hicks and Gearhart, after receiving \$50,000.00 at close
2 of escrow for this purpose, made this money available to Lindblom
3 and McDermott without any disbursement controls.

4 XXX

5 During November and December, 1985, CHLI, Hicks and
6 Gearhart undertook to serve as the agents to find a \$235,000.00
7 loan for Lindblom and McDermott. On or about December 5 and 9,
8 1985, CHLI, Hicks and Gearhart undertook to act as agents of
9 McMicken and Bassett in connection with "all matters relating to"
10 the \$235,000.00 loan. CHLI, Hicks and Gearhart did not disclose
11 at any time to Bassett and McMicken that they were at the same
12 time acting as agents for Lindblom and McDermott, and that CHLI,
13 Hicks and Gearhart were to receive a commission of \$11,790.00 from
14 the loan proceeds. CHLI, Hicks and Gearhart did not obtain the
15 consent of Bassett and McMicken to the dual agency.

16 XXXI

17 In connection with the escrow for the \$235,000.00 loan
18 from Bassett and McMicken, CHLI, Hicks and Gearhart knew that a
19 substantial part of the loan proceeds (approximately \$28,000.00)
20 would not be used for the purchase of John Street by Lindblom and
21 McDermott and would be paid in cash to Lindblom and McDermott.
22 These facts were material for an informed decision by Bassett and
23 McMicken whether to make the loan and in what amount. CHLI, Hicks
24 and Gearhart did not disclose these facts to Bassett and McMicken
25 before Bassett and McMicken made the loan, or at any time.

26 ///

27 ///

1 XXXII

2 CHLI, Hicks and Gearhart knew or should have known prior
3 to close of the escrow for the loan and the sale of John Street to
4 Lindblom and McDermott, and knew at the closing of said escrow,
5 the following facts material for an informed decision by Bassett
6 and McMicken whether to make the loan and in what amount:

7 (1) The purchase price of John Street was approximately
8 \$145,000.00. The amount of \$50,000.00 was estimated to be needed
9 to build and to renovate the improvements on John Street.

10 (2) The appraised value of John Street based on
11 completed construction and renovation of the improvements on John
12 Street was \$335,000.00.

13 Thus, a \$50,000.00 improvement and renovation was
14 supposed to increase the fair market value of the property by
15 \$190,000.00. CHLI, Hicks and Gearhart did not disclose these
16 facts to Bassett or McMicken at or prior to close of escrow, or at
17 any time.

18 XXXIII

19 In connection with soliciting the \$235,000.00 loan from
20 Bassett and McMicken, CHLI, Hicks, Gearhart and Cardoza presented
21 to Bassett and McMicken an appraisal of John Street which stated a
22 fair market value of \$335,000.00. CHLI, Hicks, Gearhart and
23 Cardoza did not disclose to Bassett and McMicken and did not
24 explain to Bassett and McMicken that this opinion expressed the
25 fair market value of the property after improvements and
26 renovation work would be completed and that the appraisal, nor any
27 other document submitted to Bassett and McMicken, did not specify

1 in detail the cost of the improvement and renovation work
2 necessary to support the fair market value stated, so that it
3 could not be determined by reference to the cost of the proposed
4 improvement and renovation work, whether the appraiser's opinion
5 of fair market value was sound. These facts were material for an
6 informed decision by Bassett and McMicken whether to make the loan
7 and in what amount.

8 XXXIV

9 During November, 1986 and/or December, 1986, prior to
10 December 24, 1986, CHLI, Hicks and Gearhart represented to
11 McMicken and Bassett that John Street had been reappraised, that
12 all proposed improvements had been completed, and that the fair
13 market value of John Street at this time was \$335,000.00. Those
14 representations were false and CHLI, Hicks and Gearhart knew or
15 should have known them to be false in that the improvements had in
16 fact not been completed and were still uncompleted as of
17 December 24, 1986.

18 XXXV

19 The acts and/or omissions of Respondents described above
20 are grounds for the suspension or revocation of Respondents'
21 licenses under the following sections of the Business and
22 Professions Code of the State of California:

23 (1) As to paragraph XXIX and respondents CHLI, Hicks
24 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
25 Section 10177(g).

26 (2) As to paragraph XXX and respondents CHLI, Hicks and
27 Gearhart under Sections 10176(a), (d), (g) and (i) and/or Section
28 10177(g).

1 (3) As to paragraph XXXI and respondents CHLI, Hicks
2 and Gearhart under Sections 10176(a) and (i) and/or Section
3 10177(g).

4 (4) As to paragraph XXXII and respondents CHLI, Hicks
5 and Gearhart under Sections 10176(a) and (i) and/or Section
6 10177(g).

7 (5) As to paragraph XXXIII and respondents CHLI, Hicks
8 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
9 Section 10177(g).

10 (6) As to paragraph XXXIV and respondents CHLI, Hicks,
11 and Gearhart under Sections 10176(a) and (i) and/or Section
12 10177(g).

13 (7) As to paragraph XXXV and respondents CHLI, Hicks
14 and Gearhart under Sections 10176(a) and (i) and/or Section
15 10177(g).

16 (8) As to paragraphs XXIX through XXXIV and respondents
17 CHLI and Hicks under Section 10177(h).

18 FIFTH CAUSE OF ACCUSATION - (BROADWAY)

19 XXXVI

20 During December, 1985 and January, 1986, CHLI and Hicks,
21 acting through Gearhart and Cardoza, solicited and negotiated a
22 loan secured by a lien on real estate from Charles and Eileen
23 Schaffer (Schaffer) in the amount of \$77,000.00. The property
24 which was to secure the loan is known as 147-149 N. Broadway,
25 Fresno, California, a residential four-plex (herein "Broadway").
26 In connection with soliciting and negotiating this loan, CHLI,
27 Hicks and Gearhart did not disclose to Schaffer that \$6,000.00 of

1 the loan proceeds were to be paid to CHLI to insure necessary
2 repairs to Broadway but would in fact be made available to
3 Lindblom and McDermott at or shortly after close of escrow and
4 would not be disbursed directly to the contractors through a
5 control account. This fact was material for an informed decision
6 by Schaffer whether to make the loan and in what amount.

7 XXXVII

8 On or about January 7, 1986, CHLI, Hicks and Gearhart
9 undertook to serve as the agents to find a \$77,000.00 loan for
10 Lindblom and McDermott. On or about January 13, 1986, CHLI, Hicks
11 and Gearhart undertook to act as agents of Schaffer in connection
12 with "all matters relating to" the \$77,000.00 loan. CHLI, Hicks
13 and Gearhart did not disclose at any time to Schaffer that they
14 were at the same time acting as agents for Lindblom and McDermott,
15 and that CHLI, Hicks and Gearhart were to receive a commission of
16 \$3,850.00 from the loan proceeds. CHLI, Hicks and Gearhart did
17 not obtain the consent of Schaffer to the dual agency.

18 XXXVIII

19 In connection with the escrow for the \$77,000.00 loan
20 from Schaffer, CHLI, Hicks and Gearhart knew or should have known
21 that a substantial part of the loan proceeds (approximately
22 \$14,000.00) would not be used for the purchase of Broadway by
23 Lindblom and McDermott and would be paid in cash to Lindblom and
24 McDermott. This fact was material for an informed decision by
25 Schaffer whether to make the loan and in what amount. CHLI,
26 Hicks and Gearhart did not disclose this fact to Schaffer before
27 Schaffer made the loan, or at any time.

1

XXXIX

2

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing Broadway without making any down payment, and were paying the entire purchase price out of the \$77,000.00 loan proceeds. These facts were material for an informed decision by Schaffer whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose all of these facts to Schaffer before Schaffer made the loan, or at any time.

10

XXXX

11

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the \$77,000.00 loan and the sale of Broadway to Lindblom and McDermott and knew at the closing of said escrow the following facts material for an informed decision by Schaffer whether to make the loan and in what amount:

16

(1) The purchase price of Broadway was approximately \$50,000.00. The amount of \$6,000.00 was estimated to renovate the improvements on Broadway.

19

(2) The appraised value of Broadway based on completed renovation of the improvements on Broadway was \$110,000.00. Thus, a \$6,000.00 renovation was supposed to increase the fair market value of the property by \$60,000.00. CHLI, Hicks and Gearhart did not disclose these facts to Schaffer at or prior to close of escrow, or at any time.

25

XXXXI

26

In connection with soliciting the \$77,000.00 loan from Schaffer, CHLI, Hicks, Gearhart and Cardoza presented to Schaffer

27

1 an appraisal of Broadway which stated a fair market value of
2 \$110,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose
3 to Schaffer and did not explain to Schaffer that this opinion
4 expressed the fair market value of the property after improvements
5 and renovation work would be completed and that the appraisal, or
6 any other document submitted to Schaffer, did not specify in
7 detail the improvements and renovation work necessary to support
8 the fair market value stated. These facts were material for an
9 informed decision by Schaffer whether to make the loan and in what
10 amount.

11 XXXXII

12 The acts and/or omissions of Respondents described above
13 are grounds for the suspension or revocation of Respondents'
14 licenses under the following sections of the Business and
15 Professions Code of the State of California:

16 (1) As to paragraph XXXVI and respondents CHLI, Hicks
17 and Gearhart under Sections 10176(a) and (i) and/or Section
18 10177(g).

19 (2) As to paragraph XXXVII and respondents CHLI, Hicks,
20 and Gearhart under Sections 10176(a), (d), (g), and (i) and/or
21 Section 10177(g).

22 (3) As to paragraph XXXVIII and respondents CHLI, Hicks
23 and Gearhart under Sections 10176(a) and (i) and/or Section
24 10177(g).

25 (4) As to paragraph XXXIX and respondents CHLI, Hicks
26 and Gearhart under Sections 10176(a) and (i) and/or Section
27 10177(g).

1 (5) As to paragraph XXXX and respondents CHLI, Hicks
2 and Gearhart under Sections 10176(a) and (i) and/or Section
3 10177(g).

4 (6) As to paragraph XXXXI and respondents CHLI, Hicks,
5 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
6 Section 10177(g).

7 (7) As to paragraphs XXXVI through XXXXI and
8 respondents CHLI and Hicks under Section 10177(h).

9 SIXTH CAUSE OF ACCUSATION - (NORTH FIFTH STREET)

10 XXXXIII

11 During January 1986, CHLI and Hicks, acting through
12 Gearhart and Adele Robinson (Robinson), solicited and negotiated a
13 loan secured by lien on real estate from Alvin and Lillie Reimer
14 (Reimer) and Willadean Webb (Webb) in the amount of \$35,700.00.
15 The property which was to secure the loan is known as 224 North
16 Fifth Street, Fowler, California, a single-family residence
17 (herein "North Fifth"). In connection with soliciting and
18 negotiating this loan, CHLI, Hicks and Gearhart did not disclose
19 to Reimer and Webb that \$6,000.00 of the loan proceeds were to be
20 paid to CHLI to assure necessary repairs to North Fifth but would
21 in fact be made available to Lindblom and McDermott at or shortly
22 after close of escrow and would not be disbursed directly to the
23 contractors through a control account. This fact was material for
24 an informed decision by Reimer and Webb whether to make the loan
25 and in what amount.

26 ///

27 ///

XXXXIV

1
2 On or about January 22, 1986, CHLI, Hicks and Gearhart
3 undertook to serve as the agents to find a \$35,700.00 loan for
4 Lindblom and McDermott. On or about January 21, 1986, CHLI,
5 Hicks and Gearhart undertook to act as agents of Reimer and Webb
6 in connection with "all matters relating to" the \$35,700.00 loan.
7 CHLI, Hicks and Gearhart did not disclose at any time to Reimer
8 and Webb that they were at the same time acting as agents for
9 Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to
10 receive a commission of \$1,785.00 from the loan proceeds. CHLI,
11 Hicks and Gearhart did not obtain the consent of Reimer and Webb
12 to the dual agency.

XXXXV

13
14 In connection with the escrow for the \$35,700.00 loan
15 from Reimer and Webb, CHLI, Hicks and Gearhart knew or should
16 have known that a substantial part of the loan proceeds
17 (approximately \$11,000.00) would not be used for the purchase
18 of North Fifth by Lindblom and McDermott and would be paid in
19 cash to Lindblom and McDermott. This fact was material for an
20 informed decision by Reimer and Webb whether to make the loan
21 and in what amount. CHLI, Hicks and Gearhart did not disclose
22 this fact to Reimer and Webb before Reimer and Webb made the
23 loan, or at any time.

XXXXVI

24
25 Prior to close of escrow, CHLI, Hicks and Gearhart knew
26 or should have known that Lindblom and McDermott were purchasing
27 North Fifth without making any down payment, and were paying the

1 entire cash portion of the purchase price out of the \$35,700.00
2 loan proceeds, while the seller took back a second deed of trust
3 note of \$12,500.00. These facts were material for an informed
4 decision by Reimer and Webb whether to make the loan and in what
5 amount. CHLI, Hicks and Gearhart did not disclose these facts to
6 Reimer and Webb before Reimer and Webb made the loan, or at any
7 time.

8 XXXXVII

9 CHLI, Hicks and Gearhart knew or should have known
10 prior to close of the escrow for the \$77,000.00 loan and the sale
11 of North Fifth to Lindblom and McDermott and knew at the closing
12 of said escrow the following facts material for an informed
13 decision by Reimer and Webb whether to make the loan and in what
14 amount:

15 (1) The purchase price of North Fifth was approximately
16 \$27,500.00. The amount of \$7,000.00 was estimated to renovate the
17 improvements on North Fifth.

18 (2) The appraised value of North Fifth based on
19 completed renovation of the improvements on North Fifth was
20 \$51,000.00. Thus, a \$7,000.00 renovation was supposed to increase
21 the fair market value of the property by \$23,500.00. CHLI, Hicks
22 and Gearhart did not disclose these facts to Reimer and Webb at or
23 prior to close of escrow, or at any time.

24 XXXXVIII

25 In connection with soliciting the \$35,700.00 loan from
26 Reimer and Webb, CHLI, Hicks, Gearhart and Robinson presented to
27 Reimer and Webb an appraisal of North Fifth which stated a fair

1 market value of \$51,000.00. CHLI, Hicks, Gearhart and Robinson
2 did not disclose to Reimer and Webb and did not explain to Reimer
3 and Webb that this opinion expressed the fair market value of the
4 property after improvements and renovation work would be complet-
5 ed and that the appraisal, or any other documents submitted to
6 Reimer and Webb, did not specify in detail the improvements and
7 renovation work necessary to support the fair market value stated.
8 These facts were material for an informed decision by Reimer and
9 Webb whether to make the loan and in what amount.

10 XXXXIX

11 The broker who held the listing of North Fifth was
12 respondent Ernest L. Trolrier, of Selma, California. The seller of
13 North Fifth was Gladys Pauline George (George). During the trans-
14 action, Trolrier acted from time to time through respondent Mary
15 Stott, a real estate salesperson employed by Trolrier. Trolrier
16 drafted or assisted in drafting a written offer for the purchase
17 of North Fifth by Lindblom and McDermott to George and developed
18 and/or negotiated the credit terms of this offer by which George
19 was to take back a \$12,500.00 deed of trust which was to be
20 subject to the \$35,700.00 loan obtained by Lindblom and McDermott
21 from Reimer and Webb. Trolrier did not disclose to George prior to
22 close of escrow or at any time the following material facts
23 necessary for George to make an informed decision whether or not
24 to accept the Lindblom and McDermott offer on the terms stated
25 therein or at all:

26 (1) That Lindblom and McDermott would be receiving
27 approximately \$11,000.00 cash from the loan to which George's
28 purchase money second trust deed was to be subordinated;

1 (1) As to paragraph XXXXIII and respondents CHLI, Hicks
2 and Gearhart under Sections 10176(a) and (i) and/or Section
3 10177(g).

4 (2) As to paragraph XXXXIV and respondents CHLI, Hicks
5 and Gearhart under Sections 10176(a), (d), (g), and (i) and/or
6 Section 10177(g).

7 (3) As to paragraph XXXXV and respondents CHLI, Hicks
8 and Gearhart under Sections 10176(a) and (i) and/or Section
9 10177(g).

10 (4) As to paragraph XXXXVI and respondents CHLI, Hicks
11 and Gearhart under Sections 10176(a) and (i) and/or Section
12 10177(g).

13 (5) As to paragraph XXXXVII and respondents CHLI,
14 Hicks, and Gearhart under Sections 10176(a) and (i) and/or Section
15 10177(g).

16 (6) As to paragraph XXXXVIII and respondents CHLI,
17 Hicks, Gearhart and Robinson under Sections 10176(a) and (i)
18 and/or Section 10177(g).

19 (7) As to paragraph XXXXIX and respondent Troler under
20 Sections 10176(a) and (i) and/or Section 10177(g).

21 (8) As to paragraph L and respondents Troler and Stott
22 under Sections 10176(a) and (i) and/or Section 10177(g) as to both
23 Troler and Stott and under Section 10177(h) as to Troler.

24 (9) As to paragraph LI and respondents CHLI, Hicks and
25 Cardoza under Section 10176(i) and/or Section 10177(g).

26 (10) As to paragraphs XXXXIII through XXXXVIII, and LI
27 and respondents CHLI and Hicks under Section 10177(h).

1 SEVENTH CAUSE OF ACCUSATION - (SIMPSON STREET)

2 LIII

3 During January and February, 1986, CHLI and Hicks,
4 acting through Gearhart and Cardoza solicited and negotiated a
5 \$275,000.00 loan from Refinery Maintenance Corporation
6 Retirement Trust, Bernard Huston, Trustee ("Refinery") to
7 Lindblom and McDermott. The property which was to secure
8 this loan is known as 1581-85 Simpson, Kingsburg, California,
9 a motel, tireshop, and bar-restaurant (herein "Simpson").
10 CHLI, Hicks and Gearhart, acting through Cardoza, represented
11 the following to Refinery:

12 (1) That the loan was a good investment and safe
13 because of the great financial strength of Lindblom and
14 McDermott;

15 (2) that the loan would be used entirely for
16 improvements, renovation and rehabilitation of Simpson; and

17 (3) that Lindblom and McDermott were the owners of
18 Simpson.

19 CHLI, Hicks, Gearhart and Cardoza knew or should have
20 known that these statements were not true.

21 CHLI, Hicks, Gearhart and Cardoza concealed from and
22 failed to disclose to Refinery that a substantial portion of the
23 loan proceeds would be used by Lindblom and McDermott to purchase
24 Simpson and that \$60,000.00 of the loan proceeds purportedly to be
25 held in trust for improvements and repairs would be released by
26 CHLI to Lindblom and McDermott at or immediately after close of
27 escrow.

1 CHLI, Hicks, Gearhart and Cardoza further concealed
2 from and failed to disclose to Refinery that the loan proceeds
3 would not be disbursed under construction progress disbursement
4 controls but would be entirely released to Lindblom and McDermott
5 at or immediately after close of escrow. These undisclosed facts
6 were material for Refinery to determine whether to make the loan
7 and in what amount.

8 LIV

9 On or about January 29, 1986, CHLI, Hicks and Gearhart
10 undertook to serve as the agent to find a \$275,000.00 loan for
11 Lindblom and McDermott. On or about February 3, 1986, CHLI,
12 Hicks and Gearhart undertook to acts as agents of Refinery in
13 connection with "all matters relating to" the \$275,000.00 loan.
14 CHLI, Hicks and Gearhart did not disclose at any time to Refinery
15 that they were at the same time acting as agents for Lindblom and
16 McDermott, and that CHLI, Hicks and Gearhart were to receive a
17 commission of \$13,750.00 from the loan proceeds. CHLI, Hicks and
18 Gearhart did not obtain the consent of Refinery to the dual
19 agency.

20 LV

21 In connection with the escrow for the \$275,000.00 loan
22 from Refinery, CHLI, Hicks and Gearhart knew that a substantial
23 part of the loan proceeds (approximately \$93,000.00) would not be
24 used for the purchase of Simpson by Lindblom and McDermott and
25 would be paid in cash to Lindblom and McDermott. This fact was
26 material for an informed decision by Refinery whether to make the
27 loan and in what amount.

1 Hicks and Gearhart did not disclose this fact to
2 Refinery before Refinery made the loan, or at any time.

3 LVI

4 Prior to close of escrow, CHLI, Hicks and Gearhart knew
5 or should have known that Lindblom and McDermott were purchasing
6 Simpson without making any down payment and were paying the entire
7 cash portion of the purchase price out of the \$275,000.00 loan
8 proceeds, while the seller took back a third deed of trust note of
9 \$60,000.00. These facts were material for an informed decision by
10 Refinery whether to make the loan and in what amount. CHLI,
11 Hicks and Gearhart did not disclose these facts to Refinery before
12 Refinery made the loan, or at any time.

13 LVII

14 In connection with soliciting the \$275,000.00 loan from
15 Refinery, CHLI, Hicks, Gearhart and Cardoza presented to Refinery
16 two appraisals of Simpson (one of real property and improvements,
17 one of machinery and equipment) which stated a total fair market
18 value of \$402,500.00.

19 CHLI, Hicks, Gearhart and Cardoza did not disclose to
20 Refinery and did not explain to Refinery that these opinions of
21 value expressed the fair market value of the property after
22 improvements and renovation work would be completed, and that the
23 appraisals did not specify in detail the improvements and
24 renovation work necessary to support the fair market value
25 stated.

26 These facts were material for an informed decision by
27 Refinery whether to make the loan and in what amount.

1 LVIII

2 CHLI, Hicks and Gearhart knew or should have known prior
3 to close of the escrow for the loan and the sale of Simpson to
4 Lindblom and McDermott, and knew at the closing of said escrow the
5 following facts material for an informed decision by Refinery
6 whether to make the loan and in what amount:

7 (1) The purchase price of Simpson was approximately
8 \$260,000.00. The amount of \$60,000.00 had been estimated for
9 renovation of the improvements on Simpson.

10 (2) The appraised value of Simpson based on completed
11 renovation of the improvements on Simpson was \$402,500.00.

12 Thus, a \$60,000.00 renovation was supposed to increase
13 the fair market value of the property by \$142,500.00.

14 CHLI, Hicks and Gearhart did not disclose these facts to
15 Refinery at or prior to close of escrow or at any time.

16 LIX

17 Before close of escrow on the sale of Simpson from
18 Willard and Pamela Wilkins (Wilkins) to Lindblom and McDermott,
19 Roy Eaves (Eaves) held a \$170,000.00 first deed of trust against
20 Simpson, securing a portion of the purchase price of Simpson by
21 Wilkins from Eaves in a prior transaction. Respondent Troler was
22 the agent of Wilkins in the sale of Simpson to Lindblom and
23 McDermott. During December 1985 and January 1986, respondents
24 Troler and Lindblom represented to Eaves, in order to induce
25 Eaves to agree to subordinate his first deed of trust to the new
26 \$275,000.00 loan of Lindblom and McDermott as follows:

27 ///

1 accept a purchase money note secured by third deed of trust
2 of \$60,000.00 as partial payment of the purchase price as
3 follows:

4 (1) That Lindblom was credit worthy and that Wilkins
5 would have no problems regarding payments from Lindblom; and

6 (2) that Lindblom would use all of the loan proceeds
7 not used for cash payment to Wilkins and Eaves to renovate and
8 restore Simpson.

9 Wilkins relied on these representations in agreeing to
10 accept a \$60,000.00 third trust deed note as partial payment of
11 the purchase price and Wilkins relied in part on Trolrier's status
12 as a Century 21 real estate broker in agreeing to accept said
13 third trust deed note.

14 These representations were false and Lindblom and
15 Trolrier knew or should have known them to be false.

16 Lindblom and Trolrier concealed from Wilkins and failed
17 to disclose to Wilkins that Lindblom would receive approximately
18 \$93,000.00 in cash from the loan proceeds, that only \$60,000.00 of
19 the loan proceeds were scheduled for improvements, and that the
20 \$60,000.00 would be released to Lindblom at or immediately after
21 close of escrow and would not be disbursed through a control
22 account on a work progress basis. All of said facts were material
23 to Wilkins' decision whether or not to accept a \$60,000.00 third
24 trust deed note as part of the purchase price.

25 LXI

26 The acts and/or omissions of Respondents described above
27 are grounds for the suspension or revocation of Respondents'

1 licenses under the following sections of the Business and
2 Professions Code of the State of California:

3 (1) As to paragraph LIII and respondents CHLI, Hicks,
4 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
5 Section 10177(g).

6 (2) As to paragraph LIV and respondents CHLI, Hicks and
7 Gearhart under Sections 10176(a), (d), (g), and (i) and/or Section
8 10177(g).

9 (3) As to paragraph LV and respondents CHLI, Hicks and
10 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

11 (4) As to paragraph LVI and respondents CHLI, Hicks and
12 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

13 (5) As to paragraph LVII and respondents CHLI, Hicks,
14 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
15 Section 10177(g).

16 (6) As to paragraph LVIII and respondents CHLI, Hicks
17 and Gearhart under Sections 10176(a) and (i) and/or Section
18 10177(g).

19 (7) As to paragraphs LIII through LVIII and respondents
20 CHLI and Hicks under Section 10177(h).

21 (8) As to paragraph LIX under Sections 10176(a) and (i)
22 and/or Section 10177(g) as to respondent Troler and under Section
23 10177(j) as to respondent Lindblom.

24 (9) As to paragraph LX under Sections 10176(a) and (i)
25 and/or Section 10177(g) as to respondent Troler and under Section
26 10177(j) as to respondent Lindblom.

27 ///

1 EIGHTH CAUSE OF ACCUSATION

2 LXI-A

3 From time to time during 1985 and 1986, Lindblom,
4 Gearhart and CHLI, conspired and agreed to permit Lindblom to
5 receive funds earmarked for construction and/or repairs of the
6 properties described in the Second, Third, Fourth, Fifth, Sixth
7 and Seventh Cause of Accusation, without disbursement controls and
8 prior to the completion of such construction and/or repairs. As
9 part of this conspiracy and agreement, Gearhart and CHLI
10 instructed the escrow holder to pay such funds to CHLI. Gearhart
11 then deposited such funds into one bank account of CHLI and
12 immediately withdrew an equal amount payable directly to Lindblom
13 from the same or from another bank account of CHLI, or endorsed
14 the check received from the escrow holder directly to Lindblom.
15 The amounts of such funds were as follows:

16	<u>Tucker Street:</u>	\$ 10,000.00
17	<u>McCall Street:</u>	\$ 35,000.00
18	<u>John Street:</u>	\$ 50,000.00
19	<u>Broadway:</u>	\$ 6,000.00
20	<u>North Fifth Street:</u>	\$ 7,000.00
21	<u>Simpson Street:</u>	\$ 60,000.00
22	Total:	\$168,000.00

23 Gearhart and CHLI failed to disclose these arrangements
24 to the investors who had lent these funds and to the persons who
25 had agreed to subordinate their liens of higher priority.

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LXI-B

Lindblom received \$168,000.00 or more of such funds and Lindblom used all or part of the \$168,000.00 for purposes other than the construction and/or repair for which the funds were earmarked, designated or intended, which purposes were known to Lindblom. Lindblom used portions of said funds for his own advantage and benefit including but not limited to the following:

McCall Street: Lindblom used \$20,000.00 to pay off a balance due on a "line of credit" Lindblom then held with a bank.

John Street: Lindblom used \$17,090.90 to pay off a balance due from Lindblom to a bank.

North Fifth Street: Lindblom deposited \$7,000.00 into a "Rental Account" he held at a bank.

Simpson Street: Lindblom deposited \$60,000.00 into a "certificate of deposit" and used said certificate of deposit as security for a "line of credit" Lindblom opened with a bank.

LXI-C

Lindblom failed to expend \$168,000.00 in whole or in part for the purposes of construction and/or repairs, resulting in mechanics' liens filed against the properties as follows:

<u>Tucker Street</u> :	\$ 428.41
<u>McCall Street</u> :	887.05
<u>John Street</u> :	11,194.24
<u>Broadway</u> :	4,303.76
<u>Simpson Street</u> :	<u>43,389.62</u>
Total	\$60,203.08

///

LXI-D

The acts and/or omissions of respondents described above are grounds for the suspension or revocation of respondents' licenses as follows:

(1) As to paragraph LXI-A and as against respondents Gearhart and CHLI under Sections 10176(a) and (i), Section 10177(d) in conjunction with Section 10145, and Section 10177(j) of the Code, and as against Lindblom under Section 10177(j) of the Code.

(2) As to paragraph LXI-B and as against respondent Lindblom under Section 10177(j) of the Code.

(3) As to paragraph LXI-C and as against respondent Lindblom under Section 10177(j) of the Code.

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1 BREACH OF CONTRACT [GOVERNMENT CODE SECTION 11519(d)]

2 LXII

3 In all of the transactions alleged in the Second, Third,
4 Fourth, Fifth, Sixth and Seventh Causes of Accusation, respondents
5 CHLI and Hicks were the agents of the investors or lenders and
6 owed to all of the investors or lenders a fiduciary duty. In each
7 of these transactions, CHLI and Hicks intentionally or negligently
8 breached their fiduciary duty to the investors or lenders and
9 caused substantial economic loss to the investors or lenders.
10 This Accusation will be amended pursuant to Government Code,
11 Section 11507 to state the amounts of such losses when they have
12 been ascertained.

13 LXIII

14 In the transactions alleged in the Sixth and Seventh
15 Causes of Accusation, respondent Trolrier was the agent of the
16 sellers of North Fifth Street and Simpson Street to Lindblom and
17 McDermott, and owed to each of the sellers a fiduciary duty. In
18 each of these transactions Trolrier intentionally or negligently
19 breached his fiduciary duty to the sellers and caused substantial
20 economic loss to each of the sellers. This Accusation will be
21 amended pursuant to Government Code Section 11507 to state the
22 amounts of such losses when they have been ascertained.

23 LXIV

24 In the transactions alleged in the Sixth and Seventh
25 Causes of Accusation, Lindblom intentionally or negligently
26 breached his contracts with the sellers of North Fifth Street and
27 Simpson Street and his contracts with the investors or lenders in

1 North Fifth Street and Simpson Street, and caused substantial
2 economic loss to each of the sellers and to each of the investors
3 or lenders. This Accusation will be amended pursuant to
4 Government Code Section 11507 to state the amounts of such losses
5 when they have been ascertained.

6 WHEREFORE, complainant prays that a hearing be conducted
7 on the allegations of this Accusation and that upon proof thereof,
8 a decision be rendered imposing disciplinary action against all
9 licenses and license rights of Respondents, under the Real Estate
10 Law (Part 1 of Division 4 of the Business and Professions Code),
11 including orders of restitution against the appropriate
12 Respondents and for such other and further relief as may be proper
13 under the provisions of law.

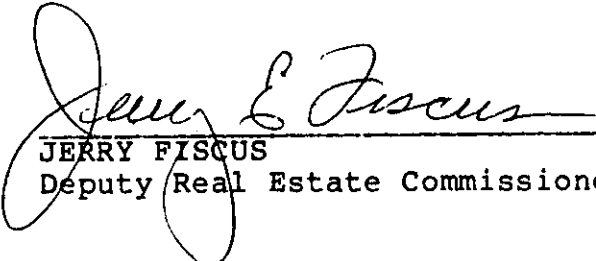
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JERRY FISCUS
Deputy Real Estate Commissioner

19 Dated at Fresno, California

20 this 4th day of August, 1987.

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1 ROLAND ADICKES, Counsel
Department of Real Estate
2 2201 Broadway
P. O. Box 187000
3 Sacramento, CA 95818-7000
4 (916) 739-3607

FILED
AUG 21 1987

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 COUNTY HOME LOAN, INC.,)
DAVID LEROY HICKS,)
13 KAREN GEARHART,)
KATHI CARDOZA,)
14 ADELE ROBINSON,)
RONALD MARVIN LINDBLOM,)
15 ERNEST TROLIER,)
MARY STOTT,)
16 Respondents.)
17 _____)

NO. H-857 FRESNO

ACCUSATION

18 The Complainant, Jerry Fiscus, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against COUNTY HOME LOAN, INC.; DAVID LEROY HICKS; KAREN GEARHART;
21 KATHY CARDOZA; ADELE ROBINSON; RONALD MARVIN LINDBLOM; ERNEST
22 TROLIER; and MARY STOTT (hereinafter referred to as Respondents)
23 is informed and alleges as follows:

24 I

25 The Complainant, Jerry Fiscus, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27 his official capacity.

II

1

2 Respondents are presently licensed and/or have license
3 rights under the Real Estate Law (Part 1 of Division 4 of the
4 Business and Professions Code, hereinafter "the Code"), as
5 follows:

6

(1) County Home Loan, Inc., as a real estate broker
7 through David Leroy Hicks as designated broker-officer.

8

(2) David Leroy Hicks as a real estate broker.

9

(3) Karen Gearhart as a real estate salesperson.

10

(4) Kathi Cardoza as a real estate salesperson.

11

(5) Adele Robinson as a real estate salesperson.

12

(6) Ronald Marvin Lindblom as a real estate broker.

13

(7) Ernest Trolhier as a real estate broker.

14

(8) Mary Stott as a real estate salesperson.

15

FIRST CAUSE OF ACCUSATION

16

III

17

From time to time during 1984, 1985, 1986 and 1987,
18 Hicks was the designated broker-officer of County Home Loan, Inc.,
19 a corporation acting as a mortgage loan broker in Fresno,
20 California (hereinafter "CHLI"). Hicks was the chief executive
21 officer and the chief financial officer of the corporation.
22 Gearhart was a vice-president and the secretary of the
23 corporation. Hicks and Gearhart were directors of the
24 corporation.

25

During the period stated above, Hicks did not exercise
26 reasonable supervision over the activities of the real estate
27 salespersons employed by the corporation including Gearhart,

1 Cardoza and Robinson and over the activities of the corporation
2 for which a real estate license is required. Hicks permitted
3 Gearhart and others to act as if Gearhart or others were the
4 licensed broker for the corporation.

5 IV

6 CHLI's and Hicks' failure to exercise reasonable
7 supervision included, but was not limited to, the matters and
8 transactions alleged as to CHLI and Hicks in the Second, Third,
9 Fourth, Fifth, Sixth and Seventh Causes of Accusation below. In
10 each of these matters and transactions, CHLI and Hicks caused or
11 permitted the respective violation of the Real Estate Law or the
12 Regulations by his failure to exercise reasonable supervision.

13 V

14 During the period April 1986 through August 1986, CHLI
15 and Hicks employed Karen McDermott for a compensation to perform
16 acts for which a real estate license is required including solic-
17 iting lenders to make loans secured by lien on real property and
18 negotiating such loans. CHLI and Hicks knew or should have known
19 that McDermott did not have a real estate license at that time.

20 VI

21 From time to time during 1984, 1985, 1986 and 1987,
22 CHLI and Hicks failed to comply with Section 2725, Title 10,
23 California Administrative Code (herein "Regulations") in that CHLI
24 and Hicks did not review and initial all investment proposals,
25 lenders' escrow instructions, investors' loan service agreements
26 and other instruments which had a material effect on the rights
27 and obligations of the parties and which were prepared or signed

1 by or under the direction of real estate salespersons employed by
2 CHLI and Hicks, including such documents used in connection with
3 loans solicited by CHLI and Hicks from Refinery Maintenance
4 Corporation Retirement Trust; Reimer; Webb; Bassett; McMicken;
5 Schaffer; Santa Maria Electric, Inc. Defined Benefit Plan;
6 Russell; and others.

VII

From time to time during 1984, 1985, 1986 and 1987, CHLI
cks failed to comply with Section 10145 of the Code and

tion 2830 in that CHLI and Hicks were using interest-bearing
11 trust accounts not requested by the owners of the trust funds or
12 the principals to the transactions and without disclosing to such
13 persons how interest would be calculated and paid and whether and
14 by whom service charges would be paid.

VIII

From time to time during 1984, 1985, 1986 and 1987, CHLI
17 and Hicks failed to comply with Regulation 2831 in that CHLI and
18 Hicks did not keep records of trust funds not deposited in a bank
19 trust account.

IX

As of February 11, 1986, CHLI and Hicks had negotiated
22 five "new loans" of an aggregate amount of more than \$500,000.00
23 in the three successive months of December, 1985; January, 1986;
24 and February, 1986. Pursuant to Section 10232(b) of the Code, CHLI
25 and Hicks were therefore required to comply with Sections 10232(e)
26 (30-day written notice to Department of Real Estate), 10232.1
27 (advertising clearance), 10232.2 (annual reports), 10232.25

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1 (trust fund reports), 10232.4 (disclosure statement) of the Code.
2 Respondents CHLI and Hicks did not comply with any of said
3 sections within the time period required, or at any time.

4 X

5 During the period February, 1986 through July, 1986,
6 CHLI and Hicks employed William LeBlanc for a compensation to
7 perform acts for which a real estate license is required including
8 soliciting lenders to make loans secured by lien on real property
9 and negotiating such loans. CHLI and Hicks knew or should have
10 known that LeBlanc did not have a real estate license at that
11 time.

12 XI

13 From time to time during 1986, CHLI and Hicks, acting
14 directly or through agents, performed acts for which a real estate
15 license is required under the fictitious business name Cherokee
16 Properties. These activities included the negotiation and/or sale
17 of real property known as 205 West Hawes Street, Fresno,
18 California and 10781 Fourteenth Street, Armona, California. At
19 the time these activities took place, CHLI and Hicks were not the
20 holders of a license bearing the fictitious business name as
21 required by Regulation 2731.

22 XII

23 From time to time during 1984, 1985, 1986 and 1987, CHLI
24 and Hicks failed to comply with Section 10145 of the Code and
25 Regulation 2830 in that CHLI and Hicks permitted trust funds to be
26 deposited in trust accounts which could not be controlled by CHLI
27 acting through Hicks or by Hicks, in that Hicks was not an

1 authorized signatory on these accounts. These trust accounts
2 include the following:

3 (1) Bank of Fresno Account No. 01223720-70.

4 (2) Bank of Fresno Account No. 02224224-70.

5 XIII

6 From time to time during 1984, 1985 and 1986, CHLI and
7 Hicks permitted Gearhart, Cardoza and others to solicit from
8 various persons loans secured by liens on real estate by means of
9 a printed form of "Investment Proposal" a copy of which form is
10 attached as Exhibit "A", which form did not provide for disclosure
11 of material facts necessary to any prospective lender for making
12 an informed decision whether to make a loan and in what amount, as
13 follows:

14 (1) The "Investment Proposal" form provided no space
15 for disclosure of the purpose of the loan, e.g., acquisition,
16 construction of improvements, etc.

17 (2) The "Investment Proposal" form provided no space
18 for disclosure of the sales price and terms, e.g., amount of down
19 payment, purchase money, trust deeds, etc.

20 (3) The "Investment Proposal" form provided no space
21 for disclosure of the commission payable to CHLI and Hicks.

22 XIV

23 The acts and/or omissions of respondents CHLI and Hicks
24 described above are grounds for the suspension or revocation of
25 these Respondents' licenses under the following sections of the
26 Business and Professions Code of the State of California and of
27 Title 10, California Administrative Code (Regulations):

- 1 (1) As to paragraph III under Section 10177(h).
2 (2) As to paragraph IV under Section 10177(h).
3 (3) As to paragraph V under Section 10137.
4 (4) As to paragraph VI under Section 10177(d) in
5 conjunction with Regulation 2725.
6 (5) As to paragraph VII under Section 10177(d) in
7 conjunction with Section 10145 and Regulation 2830.
8 (6) As to paragraph VIII under Section 10177(d) in
9 conjunction with Regulation 2831.
10 (7) As to paragraph IX under Section 10177(d) in
11 conjunction with Sections 10232(e), 10232.1, 10232.2, 10232.25,
12 and 10232.4.
13 (8) As to paragraph X under Section 10137.
14 (9) As to paragraph XI under Section 10177(d) in
15 conjunction with Regulation 2731.
16 (10) As to paragraph XII under Section 10177(d) in
17 conjunction with Section 10145 and Regulation 2830.
18 (11) As to paragraph XIII under Section 10176(a) and/or
19 Section 10177(g) and/or (h).

SECOND CAUSE OF ACCUSATION - (TUCKER STREET)

XV

22 During July 1985, CHLI and Hicks, acting through
23 Gearhart and Cardoza, solicited and negotiated a loan secured by
24 lien on real estate from John and Mary Ann Mussell (Mussell) to
25 Ron Lindblom (Lindblom) and Karen L. McDermott (McDermott) in the
26 amount of \$136,500.00. The property which was to secure the loan
27 is known as 1404 Tucker Street, Selma, California (herein
28 "Tucker") a 10-unit apartment.

1

XVII

2 In connection with the escrow for the \$136,500.00 loan
3 from Mussell, CHLI, Hicks and Gearhart knew that a substantial
4 part of the loan proceeds (approximately \$14,000.00) would not be
5 used for the purchase of Tucker by Lindblom and McDermott and
6 would be paid in cash to Lindblom and McDermott. These facts were
7 material for an informed decision by Mussell whether to make the
8 loan and in what amount. CHLI, Hicks and Gearhart did not
9 disclose this fact to Mussell before Mussell made the loan, or at
10 any time.

11

XVIII

12 Prior to close of escrow, CHLI, Hicks and Gearhart knew
13 or should have known that Lindblom and McDermott were purchasing
14 Tucker without making any down payment and were paying the entire
15 cash portion of the purchase price (including a cash payment of
16 \$2,000.00 to the seller) out of the \$136,500.00 loan proceeds,
17 while the seller took back a second deed of trust note of
18 \$21,500.00. These facts were material for an informed decision by
19 Mussell whether to make the loan and in what amount. CHLI, Hicks
20 and Gearhart did not disclose all of these facts to Mussell before
21 Mussell made the loan, or at any time.

22

XIX

23 CHLI, Hicks, and Gearhart knew or should have known
24 prior to close of the escrow for the loan and the sale of Tucker
25 to Lindblom and McDermott and knew at the closing of said escrow
26 the following facts material for an informed decision by Mussell
27 whether to make the loan and in what amount:

1 of the \$136,500.00 first trust deed note. Lindblom and McDermott
2 declined to identify the holder and referred Parrish to CHLI,
3 Hicks and Gearhart, who refused to disclose the holder's identity.
4 As a result, Parrish was unable to negotiate with Mussell for
5 preserving the \$21,500.00 trust deed note of Parrish.

6 XXI

7 In connection with soliciting the \$136,500.00 loan from
8 Mussell, CHLI, Hicks, Gearhart and Cardoza presented to Mussell an
9 appraisal of Tucker which stated a fair market value of
10 \$195,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose
11 to Mussell and did not explain to Mussell that this opinion
12 expressed the fair market value of the property after improvements
13 and renovation work would be completed, and that the appraisal,
14 or any other document submitted to Mussell, did not specify in
15 detail the improvements and renovation work necessary to support
16 the fair market value stated.

17 These facts were material for an informed decision by
18 Mussell whether to make the loan and in what amount.

19 XXII

20 The acts and/or omissions of Respondents described above
21 are grounds for the suspension or revocation of Respondents'
22 licenses under the following sections of the Business and
23 Professions Code of the State of California:

24 (1) As to paragraph XV and respondents CHLI, Hicks and
25 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

26 (2) As to paragraph XVI and respondents CHLI, Hicks and
27 Gearhart under Sections 10176(a), (d), (g) and (i) and/or Section
28 10177(g).

1 repairs". This representation was false in that CHLI, Hicks and
2 Gearhart had no intention of causing this money to be held in
3 escrow for the purposes represented, but CHLI, Hicks and Gearhart
4 provided by written instructions in the name of CHLI, given to the
5 escrow holder (Lawyer Title Insurance Company), that the
6 \$35,000.00 were to be disbursed to CHLI upon close of escrow.
7 CHLI, Hicks and Gearhart did not disclose these conflicting escrow
8 instructions to Santa Maria. After receiving the \$35,000.00 at
9 close of escrow, CHLI, Hicks and Gearhart made this money
10 available to Lindblom and McDermott without any disbursement
11 controls.

12 XXIV

13 During October 1985, CHLI, Hicks and Gearhart undertook
14 to serve as the agents to find a \$138,000.00 loan for Lindblom and
15 McDermott. On or about October 16, 1985, CHLI, Hicks and Gearhart
16 undertook to act as agents of Santa Maria in connection with "all
17 matters relating to" the \$138,000.00 loan. CHLI, Hicks and
18 Gearhart did not disclose at any time to Santa Maria that they
19 were at the same time acting as agents for Lindblom and McDermott,
20 and that CHLI, Hicks and Gearhart were to receive a commission of
21 \$5,520.00 from the loan proceeds. CHLI, Hicks and Gearhart did
22 not obtain the consent of Santa Maria to the dual agency.

23 XXV

24 In connection with the escrow for the \$138,000.00 loan
25 from Santa Maria, CHLI, Hicks and Gearhart knew or should have
26 known that a substantial part of the loan proceeds (approximately
27 \$14,000.00) would not be used for the purchase of McCall by

1 Lindblom and McDermott and would be paid in cash to Lindblom and
2 McDermott. These facts were material for an informed decision by
3 Santa Maria whether to make the loan and in what amount. CHLI,
4 Hicks and Gearhart did not disclose these facts to Santa Maria
5 before Santa Maria made the loan, or at any time.

6 XXVI

7 Prior to close of escrow, CHLI, Hicks and Gearhart knew
8 or should have known that Lindblom and McDermott were purchasing
9 McCall without making any down payment, and were paying the entire
10 purchase price out of the \$138,000.00 loan proceeds. These facts
11 were material for an informed decision by Santa Maria whether to
12 make the loan and in what amount. CHLI, Hicks and Gearhart did
13 not disclose all of these facts to Santa Maria before Santa Maria
14 made the loan, or at any time.

15 XXVII

16 CHLI, Hicks and Gearhart knew or should have known prior
17 to close of the escrow for the \$138,000.00 loan and the sale of
18 McCall to Lindblom and McDermott and knew at the closing of said
19 escrow the following facts material for an informed decision by
20 Santa Maria whether to make the loan and in what amount:

21 (1) The purchase price of McCall was approximately
22 \$82,500.00. The amount of \$35,000.00 was estimated to renovate
23 the improvements on McCall.

24 (2) The appraised value of McCall based on completed
25 renovation of the improvements on McCall was \$197,000.00. Thus, a
26 \$35,000.00 renovation was supposed to increase the fair market
27 value of the property by \$114,500.00. CHLI, Hicks and Gearhart

1 did not disclose these facts to Santa Maria at or prior to close
2 of escrow, or at any time.

3

XXVIII

4 The acts and/or omissions of Respondents described above
5 are grounds for the suspension or revocation of Respondents'
6 licenses under the following sections of the Business and
7 Professions Code of the State of California:

8 (1) As to paragraph XXIII and respondents CHLI, Hicks
9 and Gearhart under Sections 10176(a) and (i) and/or Section
10 10177(g).

11 (2) As to paragraph XXIV and respondents CHLI, Hicks
12 and Gearhart under Sections 10176(a), (d), (g), and (i) and/or
13 Section 10177(g).

14 (3) As to paragraph XXV and respondents CHLI, Hicks and
15 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

16 (4) As to paragraph XXVI and respondents CHLI, Hicks
17 and Gearhart under Sections 10176(a) and (i) and/or Section
18 10177(g).

19 (5) As to paragraph XXVII and respondents CHLI, Hicks,
20 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
21 Section 10177(g).

22 (6) As to paragraphs XXIII through XXVII and
23 respondents CHLI and Hicks under Section 10177(h).

24 FOURTH CAUSE OF ACCUSATION - (JOHN STREET)

25

XXIX

26 During November and December, 1985, CHLI and Hicks
27 acting through Gearhart and Cardoza solicited and negotiated a

1 loan secured by lien on real estate from Dale and Dorothy Bassett
2 (Bassett) and Dave and Peggy McMicken (McMicken) to Ron Lindblom
3 (Lindblom) and Karen L. McDermott (McDermott) in the total amount
4 of \$235,000.00. The property which was to secure the loan is
5 known as 1932 - 1940-1/2 John Street, Selma, California (herein
6 "John Street") a nine-unit apartment project. In connection with
7 soliciting and negotiating the \$235,000.00 loan, CHLI, Hicks,
8 Gearhart and Cardoza represented to Bassett and McMicken that the
9 borrowers, Lindblom and McDermott, were independently wealthy,
10 were involved only with projects with positive cash flows, and had
11 had a "long relationship" with CHLI in which Lindblom and
12 McDermott always paid on time, that the rental income of John
13 Street was \$3,800.00 per month, that Lindblom and McDermott had
14 put or would put \$100,000.00 of their own money into John Street,
15 that Lindblom and McDermott had obtained a special approval for
16 low income housing from the County of Fresno for the John Street
17 improvement and renovation, and that the County of Fresno dealt
18 primarily with Lindblom and McDermott for supplying low income
19 housing. CHLI, Hicks, Gearhart and Cardoza either knew these
20 representations to be false or had no reasonable grounds for
21 believing them to be true.

22 In the same connection, CHLI, Hicks, Gearhart and
23 Cardoza represented to Bassett and McMicken that loan funds as
24 necessary for improvements and renovations on John Street would be
25 held in trust by CHLI and that CHLI would control the disbursement
26 of these funds to the contractors who did the work stage by stage
27 as the work was being completed. This representation was false in

1 that CHLI, Hicks and Gearhart, after receiving \$50,000.00 at close
2 of escrow for this purpose, made this money available to Lindblom
3 and McDermott without any disbursement controls.

4 XXX

5 During November and December, 1985, CHLI, Hicks and
6 Gearhart undertook to serve as the agents to find a \$235,000.00
7 loan for Lindblom and McDermott. On or about December 5 and 9,
8 1985, CHLI, Hicks and Gearhart undertook to act as agents of
9 McMicken and Bassett in connection with "all matters relating to"
10 the \$235,000.00 loan. CHLI, Hicks and Gearhart did not disclose
11 at any time to Bassett and McMicken that they were at the same
12 time acting as agents for Lindblom and McDermott, and that CHLI,
13 Hicks and Gearhart were to receive a commission of \$11,790.00 from
14 the loan proceeds. CHLI, Hicks and Gearhart did not obtain the
15 consent of Bassett and McMicken to the dual agency.

16 XXXI

17 In connection with the escrow for the \$235,000.00 loan
18 from Bassett and McMicken, CHLI, Hicks and Gearhart knew that a
19 substantial part of the loan proceeds (approximately \$28,000.00)
20 would not be used for the purchase of John Street by Lindblom and
21 McDermott and would be paid in cash to Lindblom and McDermott.
22 These facts were material for an informed decision by Bassett and
23 McMicken whether to make the loan and in what amount. CHLI, Hicks
24 and Gearhart did not disclose these facts to Bassett and McMicken
25 before Bassett and McMicken made the loan, or at any time.

26 ///

27 ///

1 XXXII

2 CHLI, Hicks and Gearhart knew or should have known prior
3 to close of the escrow for the loan and the sale of John Street to
4 Lindblom and McDermott, and knew at the closing of said escrow,
5 the following facts material for an informed decision by Bassett
6 and McMicken whether to make the loan and in what amount:

7 (1) The purchase price of John Street was approximately
8 \$145,000.00. The amount of \$50,000.00 was estimated to be needed
9 to build and to renovate the improvements on John Street.

10 (2) The appraised value of John Street based on
11 completed construction and renovation of the improvements on John
12 Street was \$335,000.00.

13 Thus, a \$50,000.00 improvement and renovation was
14 supposed to increase the fair market value of the property by
15 \$190,000.00. CHLI, Hicks and Gearhart did not disclose these
16 facts to Bassett or McMicken at or prior to close of escrow, or at
17 any time.

18 XXXIII

19 In connection with soliciting the \$235,000.00 loan from
20 Bassett and McMicken, CHLI, Hicks, Gearhart and Cardoza presented
21 to Bassett and McMicken an appraisal of John Street which stated a
22 fair market value of \$335,000.00. CHLI, Hicks, Gearhart and
23 Cardoza did not disclose to Bassett and McMicken and did not
24 explain to Bassett and McMicken that this opinion expressed the
25 fair market value of the property after improvements and
26 renovation work would be completed and that the appraisal, nor any
27 other document submitted to Bassett and McMicken, did not specify

1 in detail the cost of the improvement and renovation work
2 necessary to support the fair market value stated, so that it
3 could not be determined by reference to the cost of the proposed
4 improvement and renovation work, whether the appraiser's opinion
5 of fair market value was sound. These facts were material for an
6 informed decision by Bassett and McMicken whether to make the loan
7 and in what amount.

8 XXXIV

9 During November, 1986 and/or December, 1986, prior to
10 December 24, 1986, CHLI, Hicks and Gearhart represented to
11 McMicken and Bassett that John Street had been reappraised, that
12 all proposed improvements had been completed, and that the fair
13 market value of John Street at this time was \$335,000.00. Those
14 representations were false and CHLI, Hicks and Gearhart knew or
15 should have known them to be false in that the improvements had in
16 fact not been completed and were still uncompleted as of
17 December 24, 1986.

18 XXXV

19 The acts and/or omissions of Respondents described above
20 are grounds for the suspension or revocation of Respondents'
21 licenses under the following sections of the Business and
22 Professions Code of the State of California:

23 (1) As to paragraph XXIX and respondents CHLI, Hicks
24 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
25 Section 10177(g).

26 (2) As to paragraph XXX and respondents CHLI, Hicks and
27 Gearhart under Sections 10176(a), (d), (g) and (i) and/or Section
28 10177(g).

1 (3) As to paragraph XXXI and respondents CHLI, Hicks
2 and Gearhart under Sections 10176(a) and (i) and/or Section
3 10177(g)..

4 (4) As to paragraph XXXII and respondents CHLI, Hicks
5 and Gearhart under Sections 10176(a) and (i) and/or Section
6 10177(g).

7 (5) As to paragraph XXXIII and respondents CHLI, Hicks
8 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
9 Section 10177(g).

10 (6) As to paragraph XXXIV and respondents CHLI, Hicks,
11 and Gearhart under Sections 10176(a) and (i) and/or Section
12 10177(g).

13 (7) As to paragraph XXXV and respondents CHLI, Hicks
14 and Gearhart under Sections 10176(a) and (i) and/or Section
15 10177(g).

16 (8) As to paragraphs XXIX through XXXIV and respondents
17 CHLI and Hicks under Section 10177(h).

18 FIFTH CAUSE OF ACCUSATION - (BROADWAY)

19 XXXVI

20 During December, 1985 and January, 1986, CHLI and Hicks,
21 acting through Gearhart and Cardoza, solicited and negotiated a
22 loan secured by a lien on real estate from Charles and Eileen
23 Schaffer (Schaffer) in the amount of \$77,000.00. The property
24 which was to secure the loan is known as 147-149 N. Broadway,
25 Fresno, California, a residential four-plex (herein "Broadway").
26 In connection with soliciting and negotiating this loan, CHLI,
27 Hicks and Gearhart did not disclose to Schaffer that \$6,000.00 of

1 the loan proceeds were to be paid to CHLI to insure necessary
2 repairs to Broadway but would in fact be made available to
3 Lindblom and McDermott at or shortly after close of escrow and
4 would not be disbursed directly to the contractors through a
5 control account. This fact was material for an informed decision
6 by Schaffer whether to make the loan and in what amount.

7

XXXVII

8 On or about January 7, 1986, CHLI, Hicks and Gearhart
9 undertook to serve as the agents to find a \$77,000.00 loan for
10 Lindblom and McDermott. On or about January 13, 1986, CHLI, Hicks
11 and Gearhart undertook to act as agents of Schaffer in connection
12 with "all matters relating to" the \$77,000.00 loan. CHLI, Hicks
13 and Gearhart did not disclose at any time to Schaffer that they
14 were at the same time acting as agents for Lindblom and McDermott,
15 and that CHLI, Hicks and Gearhart were to receive a commission of
16 \$3,850.00 from the loan proceeds. CHLI, Hicks and Gearhart did
17 not obtain the consent of Schaffer to the dual agency.

18

XXXVIII

19 In connection with the escrow for the \$77,000.00 loan
20 from Schaffer, CHLI, Hicks and Gearhart knew or should have known
21 that a substantial part of the loan proceeds (approximately
22 \$14,000.00) would not be used for the purchase of Broadway by
23 Lindblom and McDermott and would be paid in cash to Lindblom and
24 McDermott. This fact was material for an informed decision by
25 Schaffer whether to make the loan and in what amount. CHLI,
26 Hicks and Gearhart did not disclose this fact to Schaffer before
27 Schaffer made the loan, or at any time.

1

XXXIX

2

Prior to close of escrow, CHLI, Hicks and Gearhart knew or should have known that Lindblom and McDermott were purchasing Broadway without making any down payment, and were paying the entire purchase price out of the \$77,000.00 loan proceeds. These facts were material for an informed decision by Schaffer whether to make the loan and in what amount. CHLI, Hicks and Gearhart did not disclose all of these facts to Schaffer before Schaffer made the loan, or at any time.

10

XXXX

11

CHLI, Hicks and Gearhart knew or should have known prior to close of the escrow for the \$77,000.00 loan and the sale of Broadway to Lindblom and McDermott and knew at the closing of said escrow the following facts material for an informed decision by Schaffer whether to make the loan and in what amount:

16

(1) The purchase price of Broadway was approximately \$50,000.00. The amount of \$6,000.00 was estimated to renovate the improvements on Broadway.

19

(2) The appraised value of Broadway based on completed renovation of the improvements on Broadway was \$110,000.00. Thus, a \$6,000.00 renovation was supposed to increase the fair market value of the property by \$60,000.00. CHLI, Hicks and Gearhart did not disclose these facts to Schaffer at or prior to close of escrow, or at any time.

25

XXXXI

26

In connection with soliciting the \$77,000.00 loan from Schaffer, CHLI, Hicks, Gearhart and Cardoza presented to Schaffer

27

1 an appraisal of Broadway which stated a fair market value of
2 \$110,000.00. CHLI, Hicks, Gearhart and Cardoza did not disclose
3 to Schaffer and did not explain to Schaffer that this opinion
4 expressed the fair market value of the property after improvements
5 and renovation work would be completed and that the appraisal, or
6 any other document submitted to Schaffer, did not specify in
7 detail the improvements and renovation work necessary to support
8 the fair market value stated. These facts were material for an
9 informed decision by Schaffer whether to make the loan and in what
10 amount.

11 XXXXII

12 The acts and/or omissions of Respondents described above
13 are grounds for the suspension or revocation of Respondents'
14 licenses under the following sections of the Business and
15 Professions Code of the State of California:

16 (1) As to paragraph XXXVI and respondents CHLI, Hicks
17 and Gearhart under Sections 10176(a) and (i) and/or Section
18 10177(g).

19 (2) As to paragraph XXXVII and respondents CHLI, Hicks,
20 and Gearhart under Sections 10176(a), (d), (g), and (i) and/or
21 Section 10177(g).

22 (3) As to paragraph XXXVIII and respondents CHLI, Hicks
23 and Gearhart under Sections 10176(a) and (i) and/or Section
24 10177(g).

25 (4) As to paragraph XXXIX and respondents CHLI, Hicks
26 and Gearhart under Sections 10176(a) and (i) and/or Section
27 10177(g).

1

XXXXIV

2 On or about January 22, 1986, CHLI, Hicks and Gearhart
3 undertook to serve as the agents to find a \$35,700.00 loan for
4 Lindblom and McDermott. On or about January 21, 1986, CHLI,
5 Hicks and Gearhart undertook to act as agents of Reimer and Webb
6 in connection with "all matters relating to" the \$35,700.00 loan.
7 CHLI, Hicks and Gearhart did not disclose at any time to Reimer
8 and Webb that they were at the same time acting as agents for
9 Lindblom and McDermott, and that CHLI, Hicks and Gearhart were to
10 receive a commission of \$1,785.00 from the loan proceeds. CHLI,
11 Hicks and Gearhart did not obtain the consent of Reimer and Webb
12 to the dual agency.

13

XXXXV

14 In connection with the escrow for the \$35,700.00 loan
15 from Reimer and Webb, CHLI, Hicks and Gearhart knew or should
16 have known that a substantial part of the loan proceeds
17 (approximately \$11,000.00) would not be used for the purchase
18 of North Fifth by Lindblom and McDermott and would be paid in
19 cash to Lindblom and McDermott. This fact was material for an
20 informed decision by Reimer and Webb whether to make the loan
21 and in what amount. CHLI, Hicks and Gearhart did not disclose
22 this fact to Reimer and Webb before Reimer and Webb made the
23 loan, or at any time.

24

XXXXVI

25 Prior to close of escrow, CHLI, Hicks and Gearhart knew
26 or should have known that Lindblom and McDermott were purchasing
27 North Fifth without making any down payment, and were paying the

1 entire cash portion of the purchase price out of the \$35,700.00
2 loan proceeds, while the seller took back a second deed of trust
3 note of \$12,500.00. These facts were material for an informed
4 decision by Reimer and Webb whether to make the loan and in what
5 amount. CHLI, Hicks and Gearhart did not disclose these facts to
6 Reimer and Webb before Reimer and Webb made the loan, or at any
7 time.

8 XXXXVII

9 CHLI, Hicks and Gearhart knew or should have known
10 prior to close of the escrow for the \$77,000.00 loan and the sale
11 of North Fifth to Lindblom and McDermott and knew at the closing
12 of said escrow the following facts material for an informed
13 decision by Reimer and Webb whether to make the loan and in what
14 amount:

15 (1) The purchase price of North Fifth was approximately
16 \$27,500.00. The amount of \$7,000.00 was estimated to renovate the
17 improvements on North Fifth.

18 (2) The appraised value of North Fifth based on
19 completed renovation of the improvements on North Fifth was
20 \$51,000.00. Thus, a \$7,000.00 renovation was supposed to increase
21 the fair market value of the property by \$23,500.00. CHLI, Hicks
22 and Gearhart did not disclose these facts to Reimer and Webb at or
23 prior to close of escrow, or at any time.

24 XXXXVIII

25 In connection with soliciting the \$35,700.00 loan from
26 Reimer and Webb, CHLI, Hicks, Gearhart and Robinson presented to
27 Reimer and Webb an appraisal of North Fifth which stated a fair

1 market value of \$51,000.00. CHLI, Hicks, Gearhart and Robinson
2 did not disclose to Reimer and Webb and did not explain to Reimer
3 and Webb that this opinion expressed the fair market value of the
4 property after improvements and renovation work would be complet-
5 ed and that the appraisal, or any other documents submitted to
6 Reimer and Webb, did not specify in detail the improvements and
7 renovation work necessary to support the fair market value stated.
8 These facts were material for an informed decision by Reimer and
9 Webb whether to make the loan and in what amount.

10

XXXXIX

11 The broker who held the listing of North Fifth was
12 respondent Ernest L. Troler, of Selma, California. The seller of
13 North Fifth was Gladys Pauline George (George). During the trans-
14 action, Troler acted from time to time through respondent Mary
15 Stott, a real estate salesperson employed by Troler. Troler
16 drafted or assisted in drafting a written offer for the purchase
17 of North Fifth by Lindblom and McDermott to George and developed
18 and/or negotiated the credit terms of this offer by which George
19 was to take back a \$12,500.00 deed of trust which was to be
20 subject to the \$35,700.00 loan obtained by Lindblom and McDermott
21 from Reimer and Webb. Troler did not disclose to George prior to
22 close of escrow or at any time the following material facts
23 necessary for George to make an informed decision whether or not
24 to accept the Lindblom and McDermott offer on the terms stated
25 therein or at all:

26 (1) That Lindblom and McDermott would be receiving
27 approximately \$11,000.00 cash from the loan to which George's
28 purchase money second trust deed was to be subordinated;

1 (1) As to paragraph XXXXIII and respondents CHLI, Hicks
2 and Gearhart under Sections 10176(a) and (i) and/or Section
3 10177(g).
4 (2) As to paragraph XXXXIV and respondents CHLI, Hicks
5 and Gearhart under Sections 10176(a), (d), (g), and (i) and/or
6 Section 10177(g).
7 (3) As to paragraph XXXXV and respondents CHLI, Hicks
8 and Gearhart under Sections 10176(a) and (i) and/or Section
9 10177(g).
10 (4) As to paragraph XXXXVI and respondents CHLI, Hicks
11 and Gearhart under Sections 10176(a) and (i) and/or Section
12 10177(g).
13 (5) As to paragraph XXXXVII and respondents CHLI,
14 Hicks, and Gearhart under Sections 10176(a) and (i) and/or Section
15 10177(g).
16 (6) As to paragraph XXXXVIII and respondents CHLI,
17 Hicks, Gearhart and Robinson under Sections 10176(a) and (i)
18 and/or Section 10177(g).
19 (7) As to paragraph XXXXIX and respondent Troler under
20 Sections 10176(a) and (i) and/or Section 10177(g).
21 (8) As to paragraph L and respondents Troler and Stott
22 under Sections 10176(a) and (i) and/or Section 10177(g) as to both
23 Troler and Stott and under Section 10177(h) as to Troler.
24 (9) As to paragraph LI and respondents CHLI, Hicks and
25 Cardoza under Section 10176(i) and/or Section 10177(g).
26 (10) As to paragraphs XXXXIII through XXXXVIII, and LI
27 and respondents CHLI and Hicks under Section 10177(h).

1 SEVENTH CAUSE OF ACCUSATION - (SIMPSON STREET)

2 LIII

3 During January and February, 1986, CHLI and Hicks,
4 acting through Gearhart and Cardoza solicited and negotiated a
5 \$275,000.00 loan from Refinery Maintenance Corporation
6 Retirement Trust, Bernard Huston, Trustee ("Refinery") to
7 Lindblom and McDermott. The property which was to secure
8 this loan is known as 1581-85 Simpson, Kingsburg, California,
9 a motel, tireshop, and bar-restaurant (herein "Simpson").
10 CHLI, Hicks and Gearhart, acting through Cardoza, represented
11 the following to Refinery:

12 (1) That the loan was a good investment and safe
13 because of the great financial strength of Lindblom and
14 McDermott;

15 (2) that the loan would be used entirely for
16 improvements, renovation and rehabilitation of Simpson; and

17 (3) that Lindblom and McDermott were the owners of
18 Simpson.

19 CHLI, Hicks, Gearhart and Cardoza knew or should have
20 known that these statements were not true.

21 CHLI, Hicks, Gearhart and Cardoza concealed from and
22 failed to disclose to Refinery that a substantial portion of the
23 loan proceeds would be used by Lindblom and McDermott to purchase
24 Simpson and that \$60,000.00 of the loan proceeds purportedly to be
25 held in trust for improvements and repairs would be released by
26 CHLI to Lindblom and McDermott at or immediately after close of
27 escrow.

1 CHLI, Hicks, Gearhart and Cardoza further concealed
2 from and failed to disclose to Refinery that the loan proceeds
3 would not be disbursed under construction progress disbursement
4 controls but would be entirely released to Lindblom and McDermott
5 at or immediately after close of escrow. These undisclosed facts
6 were material for Refinery to determine whether to make the loan
7 and in what amount.

8 LIV

9 On or about January 29, 1986, CHLI, Hicks and Gearhart
10 undertook to serve as the agent to find a \$275,000.00 loan for
11 Lindblom and McDermott. On or about February 3, 1986, CHLI,
12 Hicks and Gearhart undertook to acts as agents of Refinery in
13 connection with "all matters relating to" the \$275,000.00 loan.
14 CHLI, Hicks and Gearhart did not disclose at any time to Refinery
15 that they were at the same time acting as agents for Lindblom and
16 McDermott, and that CHLI, Hicks and Gearhart were to receive a
17 commission of \$13,750.00 from the loan proceeds. CHLI, Hicks and
18 Gearhart did not obtain the consent of Refinery to the dual
19 agency.

20 LV

21 In connection with the escrow for the \$275,000.00 loan
22 from Refinery, CHLI, Hicks and Gearhart knew that a substantial
23 part of the loan proceeds (approximately \$93,000.00) would not be
24 used for the purchase of Simpson by Lindblom and McDermott and
25 would be paid in cash to Lindblom and McDermott. This fact was
26 material for an informed decision by Refinery whether to make the
27 loan and in what amount.

1 Hicks and Gearhart did not disclose this fact to
2 Refinery before Refinery made the loan, or at any time.

3 LVI

4 Prior to close of escrow, CHLI, Hicks and Gearhart knew
5 or should have known that Lindblom and McDermott were purchasing
6 Simpson without making any down payment and were paying the entire
7 cash portion of the purchase price out of the \$275,000.00 loan
8 proceeds, while the seller took back a third deed of trust note of
9 \$60,000.00. These facts were material for an informed decision by
10 Refinery whether to make the loan and in what amount. CHLI,
11 Hicks and Gearhart did not disclose these facts to Refinery before
12 Refinery made the loan, or at any time.

13 LVII

14 In connection with soliciting the \$275,000.00 loan from
15 Refinery, CHLI, Hicks, Gearhart and Cardoza presented to Refinery
16 two appraisals of Simpson (one of real property and improvements,
17 one of machinery and equipment) which stated a total fair market
18 value of \$402,500.00.

19 CHLI, Hicks, Gearhart and Cardoza did not disclose to
20 Refinery and did not explain to Refinery that these opinions of
21 value expressed the fair market value of the property after
22 improvements and renovation work would be completed, and that the
23 appraisals did not specify in detail the improvements and
24 renovation work necessary to support the fair market value
25 stated.

26 These facts were material for an informed decision by
27 Refinery whether to make the loan and in what amount.

1

LVIII

2 CHLI, Hicks and Gearhart knew or should have known prior
3 to close of the escrow for the loan and the sale of Simpson to
4 Lindblom and McDermott, and knew at the closing of said escrow the
5 following facts material for an informed decision by Refinery
6 whether to make the loan and in what amount:

7 (1) The purchase price of Simpson was approximately
8 \$260,000.00. The amount of \$60,000.00 had been estimated for
9 renovation of the improvements on Simpson.

10 (2) The appraised value of Simpson based on completed
11 renovation of the improvements on Simpson was \$402,500.00.

12 Thus, a \$60,000.00 renovation was supposed to increase
13 the fair market value of the property by \$142,500.00.

14 CHLI, Hicks and Gearhart did not disclose these facts to
15 Refinery at or prior to close of escrow or at any time.

16

LIX

17 Before close of escrow on the sale of Simpson from
18 Willard and Pamela Wilkins (Wilkins) to Lindblom and McDermott,
19 Roy Eaves (Eaves) held a \$170,000.00 first deed of trust against
20 Simpson, securing a portion of the purchase price of Simpson by
21 Wilkins from Eaves in a prior transaction. Respondent Troler was
22 the agent of Wilkins in the sale of Simpson to Lindblom and
23 McDermott. During December 1985 and January 1986, respondents
24 Troler and Lindblom represented to Eaves, in order to induce
25 Eaves to agree to subordinate his first deed of trust to the new
26 \$275,000.00 loan of Lindblom and McDermott as follows:

27 ///

1 accept a purchase money note secured by third deed of trust
2 of \$60,000.00 as partial payment of the purchase price as
3 follows:

4 (1) That Lindblom was credit worthy and that Wilkins
5 would have no problems regarding payments from Lindblom; and

6 (2) that Lindblom would use all of the loan proceeds
7 not used for cash payment to Wilkins and Eaves to renovate and
8 restore Simpson.

9 Wilkins relied on these representations in agreeing to
10 accept a \$60,000.00 third trust deed note as partial payment of
11 the purchase price and Wilkins relied in part on Trolrier's status
12 as a Century 21 real estate broker in agreeing to accept said
13 third trust deed note.

14 These representations were false and Lindblom and
15 Trolrier knew or should have known them to be false.

16 Lindblom and Trolrier concealed from Wilkins and failed
17 to disclose to Wilkins that Lindblom would receive approximately
18 \$93,000.00 in cash from the loan proceeds, that only \$60,000.00 of
19 the loan proceeds were scheduled for improvements, and that the
20 \$60,000.00 would be released to Lindblom at or immediately after
21 close of escrow and would not be disbursed through a control
22 account on a work progress basis. All of said facts were material
23 to Wilkins' decision whether or not to accept a \$60,000.00 third
24 trust deed note as part of the purchase price..

25 LXI

26 The acts and/or omissions of Respondents described above
27 are grounds for the suspension or revocation of Respondents'

1 licenses under the following sections of the Business and
2 Professions Code of the State of California:

3 (1) As to paragraph LIII and respondents CHLI, Hicks,
4 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
5 Section 10177(g).

6 (2) As to paragraph LIV and respondents CHLI, Hicks and
7 Gearhart under Sections 10176(a), (d), (g), and (i) and/or Section
8 10177(g).

9 (3) As to paragraph LV and respondents CHLI, Hicks and
10 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

11 (4) As to paragraph LVI and respondents CHLI, Hicks and
12 Gearhart under Sections 10176(a) and (i) and/or Section 10177(g).

13 (5) As to paragraph LVII and respondents CHLI, Hicks,
14 Gearhart and Cardoza under Sections 10176(a) and (i) and/or
15 Section 10177(g).

16 (6) As to paragraph LVIII and respondents CHLI, Hicks
17 and Gearhart under Sections 10176(a) and (i) and/or Section
18 10177(g).

19 (7) As to paragraphs LIII through LVIII and respondents
20 CHLI and Hicks under Section 10177(h).

21 (8) As to paragraph LIX under Sections 10176(a) and (i)
22 and/or Section 10177(g) as to respondent Troler and under Section
23 10177(j) as to respondent Lindblom.

24 (9) As to paragraph LX under Sections 10176(a) and (i)
25 and/or Section 10177(g) as to respondent Troler and under Section
26 10177(j) as to respondent Lindblom.

27 ///

1 BREACH OF CONTRACT [GOVERNMENT CODE SECTION 11519(d)]

2 LXII

3 In all of the transactions alleged in the Second, Third,
4 Fourth, Fifth, Sixth and Seventh Causes of Accusation, respondents
5 CHLI and Hicks were the agents of the investors or lenders and
6 owed to all of the investors or lenders a fiduciary duty. In each
7 of these transactions, CHLI and Hicks intentionally or negligently
8 breached their fiduciary duty to the investors or lenders and
9 caused substantial economic loss to the investors or lenders.
10 This Accusation will be amended pursuant to Government Code,
11 Section 11507 to state the amounts of such losses when they have
12 been ascertained.

13 LXIII

14 In the transactions alleged in the Sixth and Seventh
15 Causes of Accusation, respondent Troler was the agent of the
16 sellers of North Fifth Street and Simpson Street to Lindblom and
17 McDermott, and owed to each of the sellers a fiduciary duty. In
18 each of these transactions Troler intentionally or negligently
19 breached his fiduciary duty to the sellers and caused substantial
20 economic loss to each of the sellers. This Accusation will be
21 amended pursuant to Government Code Section 11507 to state the
22 amounts of such losses when they have been ascertained.

23 LXIV

24 In the transactions alleged in the Sixth and Seventh
25 Causes of Accusation, Lindblom intentionally or negligently
26 breached his contracts with the sellers of North Fifth Street and
27 Simpson Street and his contracts with the investors or lenders in

1 North Fifth Street and Simpson Street, and caused substantial
2 economic loss to each of the sellers and to each of the investors
3 or lenders. This Accusation will be amended pursuant to
4 Government Code Section 11507 to state the amounts of such losses
5 when they have been ascertained.

6 WHEREFORE, complainant prays that a hearing be conducted
7 on the allegations of this Accusation and that upon proof thereof,
8 a decision be rendered imposing disciplinary action against all
9 licenses and license rights of Respondents, under the Real Estate
10 Law (Part 1 of Division 4 of the Business and Professions Code),
11 including orders of restitution against the appropriate
12 Respondents and for such other and further relief as may be proper
13 under the provisions of law.

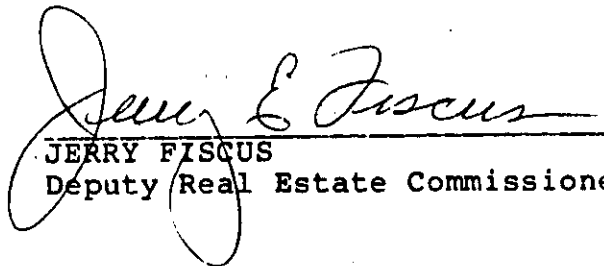
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JERRY FISCUS
Deputy Real Estate Commissioner

19 Dated at Fresno, California

20 this 4th day of August, 1987.

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