

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
4 (213) 897-3937

JUN 20 1994

DEPARTMENT OF REAL ESTATE
OF CALIFORNIA
C. Berg

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To:

FIDELITY SECURED MORTGAGE
CORPORATION and JOHN AUST,
individually and formerly as
designated officer of Fidelity
Secured Mortgage Corporation.

No. H-1713 SA

ORDER TO DESIST

AND REFRAIN

The Real Estate Commissioner of the State of California ("the Commissioner") has caused an investigation to be made of your activities as real estate brokers and based upon the findings of that investigation, as set forth below, is of the opinion that you, FIDELITY SECURED MORTGAGE CORPORATION, have violated Section 10130 of the Business and Professions Code (hereinafter "the Code") and you, JOHN AUST, individually and formerly as designated officer of Fidelity Secured Mortgage Corporation, have violated Section 2710(c) of Chapter 6, Title 10, California Code of Regulations (hereinafter "the Regulations").

I

From on or about February 27, 1990 through approximately February 3, 1993, you, FIDELITY SECURED MORTGAGE CORPORATION

1 (hereinafter "FIDELITY") were purportedly licensed by the
2 Department of Real Estate of the State of California (hereinafter
3 "the Department") as a corporate real estate broker allegedly
4 through JOHN AUST (hereinafter "AUST") as the designated officer
5 and broker responsible pursuant to the provisions of Code Section
6 10159.2 for the supervision and control of the activities
7 conducted on behalf of FIDELITY by FIDELITY's officers and
8 employees.

9 II

10 At all times material herein, you, AUST, were and now
11 are licensed by the Department as a real estate broker. From on
12 or about February 27, 1990 through on or about February 3, 1993,
13 you were purportedly licensed by the Department as the designated
14 officer of FIDELITY. As the designated officer-broker, you, AUST,
15 were responsible for the supervision and control of the activities
16 conducted on behalf of FIDELITY by FIDELITY's officers and
17 employees, pursuant to Code Section 10159.2.

18 III

19 All further references to "you", unless otherwise
20 specified, include the parties identified in Paragraphs I and II,
21 above, and also include the officers, directors, employees, agents
22 and real estate licensees employed by or associated with said
23 parties, and who at all times herein mentioned were engaged in the
24 furtherance of the business or operations of said parties and who
25 were acting within the course and scope of their authority and
26 employment.

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IV

At all times material herein, you engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein you solicited prospective borrowers or lenders for, or negotiated, serviced or arranged loans secured directly or collaterally by a lien on real property for another or others, for or in expectation of compensation.

V

In the course of activities described in Paragraph IV, above, you, AUST, acted in violation of the Regulations in that, in or about June 1991, you ceased to act as the designated officer and broker of FIDELITY pursuant to the provisions of Code Section 10159.2, and thereafter failed to notify the Department, in violation of Regulation 2710(c).

VI

In the course of activities described in Paragraph III, above, you, FIDELITY, continued to operate as a licensed real estate brokerage, after AUST ceased to act as the designated officer and broker of FIDELITY, in or about June 1991. Without being licensed by the Department through a designated officer and broker responsible pursuant to the provisions of Code Section 10159.2, you performed acts for which a real estate license is required as described in Code Section 10131(d), for another or others, including but not necessarily limited to soliciting

1 prospective borrowers or lenders for, or negotiating or servicing
2 loans secured directly or collaterally by a lien on real property,
3 for or in expectation of compensation, in violation of Code
4 Section 10130.

5 NOW, THEREFORE, YOU, JOHN AUST, ARE ORDERED TO DESIST
6 AND REFRAIN from activities within the meaning of Code Section
7 10131, unless and until you are in compliance with Regulation
8 2710(c).

9 FURTHERMORE, YOU, FIDELITY SECURED MORTGAGE
10 CORPORATION, ARE ORDERED TO DESIST AND REFRAIN from performing any
11 and all acts requiring a real estate broker license in the State
12 of California, within the meaning of Code Section 10131, unless
13 and until you are in compliance with Code Section 10130, and you
14 are licensed as a real estate broker through a designated officer
15 and broker responsible pursuant to the provisions of Code Section
16 10159.2.

17 DATED: January 14, 1994.

18 CLARK WALLACE
19 Real Estate Commissioner

20 
21 BY: John R. Liberator
22 Chief Deputy Commissioner

23 cc: Fidelity Secured
24 Mortgage Corporation
25 626 E. Chapman Avenue
Orange, CA 92666

John Aust
307 E. Chapman Avenue
Orange, CA 92666

26 Fidelity Secured
27 Mortgage Corporation
227B E. Chapman Ave.
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219 E. Chapman Avenue
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DA:CEV
da