

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
4
5 Telephone (213) 897-3937
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FILED
SEP 20 1996
DEPARTMENT OF REAL ESTATE

By C. Bay

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11	In the Matter of the Accusation of)	No. H-1935 SA
12	M-WEST MORTGAGE CORPORATION)	L-9507159
13	and DEAN MILO REPPE,)	
14	individually and as designated)	
15	officer of M-West Mortgage)	<u>STIPULATION AND AGREEMENT</u>
16	Corporation,)	<u>IN SETTLEMENT AND ORDER</u>
17)	
18	Respondents.)	

17 It is hereby stipulated by and between Respondent
18 DEAN MILO REPPE, individually and as designated officer of
19 M-West Mortgage Corporation ("Respondent"), acting by and
20 through Rose Pothier, Attorney at Law, and the Complainant,
21 acting by and through Darlene Averetta, Counsel for the
22 Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation filed on January 18,
24 1995, in this matter (referred to herein as the "Accusation"):
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1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation.

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

3. On January 24, 1995, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense, Respondent will thereby waive his right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to him in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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1 (a) Respondent REPPE's conviction (including a plea of
2 nolo contendere) to a crime which is substantially related to
3 Respondent's qualifications, functions, duties, fitness or
4 capacity as a real estate licensee.

5 (b) The receipt of evidence satisfactory to the
6 Commissioner that, subsequent to the effective date of this Order,
7 Respondent REPPE has violated provisions of the California Real
8 Estate Law, the Subdivided Lands Law, Regulations of the Real
9 Estate Commissioner, or the conditions attaching to this
10 restricted license.

11 2. Respondent REPPE shall not petition the Commissioner
12 for the removal of any of the conditions, limitations or
13 restrictions attaching to the restricted license or be eligible to
14 apply for the issuance of an unrestricted real estate license
15 until one (1) year has elapsed from the date of issuance of the
16 restricted license to Respondent.

17 3. Respondent REPPE shall within nine (9) months from
18 the effective date of this Order, present evidence satisfactory to
19 the Real Estate Commissioner that he has, since October 25, 1995,
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. If Respondent fails to
23 satisfy this condition, the Commissioner may order the suspension
24 of any restricted license issued to Respondent until Respondent
25 presents such evidence. The Commissioner shall afford Respondent
26 the opportunity for a hearing pursuant to the Administrative
27 Procedure Act to present such evidence.

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


DATED: 8/20/96


DEAN MILO REPPE, Respondent

DATED: 8/27/96


ROSE POTHIER, Attorney at Law
Counsel for Respondent REPPE,
Approved as to Form

DATED: August 29, 1996


DARLENE AVERETTA, Counsel for
the Complainant, the Department
of Real Estate

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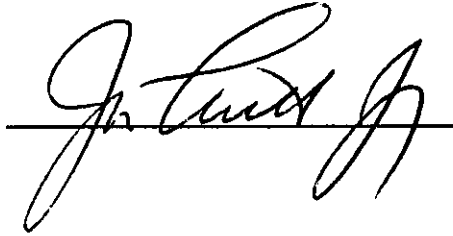
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The foregoing Stipulation and Agreement in Settlement is
hereby adopted as my Decision and Order and shall become effective
at 12 o'clock noon on October 10, 1996.

IT IS SO ORDERED 9-17-96.

JIM ANTT, JR.
Real Estate Commissioner



DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 19 1996
DEPARTMENT OF REAL ESTATE

* * * * *

By C. By

In the Matter of the Accusation of)
)
M-WEST MORTGAGE CORPORATION)
and DEAN MILO REPPE,)
individually and as designated)
officer of M-West Mortgage)
Corporation,)
)
Respondents.)

No. H-1935 SA

DECISION

The Proposed Decision dated July 30, 1996,
of Randolph Brendia, 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
Respondent, M-WEST MORTGAGE CORPORATION, only.

This Decision shall become effective at 12 o'clock
noon on September 10, 1996.

IT IS SO ORDERED 8-12, 1996.

JIM ANTT, JR.
Real Estate Commissioner

Jm Antt Jr

FINDINGS OF FACT

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

M-WEST MORTGAGE CORPORATION (hereinafter "M-WEST") 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 "Code").

III

At all times material herein, M-WEST was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through Dean Milo Reppe (hereinafter "Reppe"), a licensed real estate broker, as the designated officer and broker responsible pursuant to the provisions of Code Section 10159.2 for supervising the activities requiring a real estate license conducted on behalf M-WEST, by M-WEST's officers, agents and employees. From September 15, 1994 to present, M-WEST has not been licensed through a broker.

IV

All further references to "M-WEST", unless otherwise specified, includes the party identified in Finding II, above, and also includes the officers, directors, managers, employees, agents and real estate licensees employed by or associated with said party, who at all times herein mentioned were engaged in the furtherance of the business or operations of M-WEST and who were acting within the course and scope of their authority, agency, or employment.

V

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

VI

At all times material herein, in connection with the activities described in Finding V, above, M-WEST accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual and prospective borrowers, lenders, investors and/or parties to mortgage loan transactions handled by M-WEST and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, said trust funds were deposited and/or maintained by M-WEST, in bank accounts, including but not necessarily limited to approximately Two Hundred and Thirteen (213) trust accounts, which included a credit report/appraisal fees trust account, a newly opened escrow trust account, and a clearing account at each bank. The main lock box/clearing account into which all borrower payments were first deposited was at National Bank of Southern California. The trust accounts were maintained at the following banks: Chase Manhattan Bank, Wilmington, Delaware (12 Trust Accounts); Chase Manhattan Bank, New York, New York (41 Trust Accounts); Harbor Bank, 9 Executive Circle, Irvine, California (10 Trust Accounts); First Los Angeles Bank, 4685 MacArthur Blvd., Newport Beach, California (36 Trust Accounts); National Bank of Southern California, 625 The City Drive South, Orange, California (114 Trust Accounts).

VII

As of February 28, 1994, bank reconciliations were performed on the following two trust accounts. M-West Mortgage Corporation, ITF-Appraisal Fees, "Credit/Appraisal Account", Account Number 3004023 (hereinafter "T/A #1"), at National Bank of Southern California, 625 The City Drive South, Orange, CA (hereinafter ("National Bank")); and M-West Mortgage Corporation, ITF Various Investors and Mortgagors, "Payment Clearing Account", Account Number 3004007 (hereinafter "T/A #2"), at National Bank.

VIII

On or about April 13, 1994, the Department completed an examination of M-WEST's books and records, pertaining to the real estate and trust fund handling activities described in Findings V through VII, above, covering a period from approximately March 1, 1993 through February 28, 1994. Said examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter "Regulations"), as set forth below.

IX

In the course of activities described in Findings V through VII, above, and during the examination period described in Finding VIII, M-WEST acted in violation of the Code and the Regulations in that:

(a) as of February 28, 1994, T/A #1 had a shortage in the amount of approximately Seven Thousand Five Hundred Ninety-Seven Dollars and Eleven Cents (\$7,597.11). M-WEST caused, permitted and/or allowed, the withdrawal or disbursement of trust funds from T/A #1, without the prior written consent of every principal who then was an owner of funds in the account, thereby reducing the balance of funds in the said account to an amount less than the existing aggregate trust fund liability of the broker to all owners of said trust funds;

(b) M-WEST failed to place all trust funds received by M-WEST into a neutral escrow depository, or into the hands of the principal on whose behalf the funds were received, or into a trust account in the name of the broker as trustee in a bank or other financial institution, in that M-WEST deposited, allowed, permitted or caused the deposit of trust funds into trust accounts, which accounts were not maintained in M-WEST's name as broker and trustee, or "In Trust For" or as a trust account or custodial account, but were set up as "ITF" accounts;

(c) M-WEST failed to maintain a columnar record for T/A #1;

(d) M-WEST failed to maintain a separate record for each borrower who had funds in T/A #1;

(e) M-WEST, failed to maintain a reconciliation for T/A #1;

(f) M-WEST, failed to deliver to borrowers, a statement in writing, containing all the information required by Code Section 10241.

DETERMINATION OF ISSUES

I

The conduct, acts and/or omissions of M-WEST described in Finding IX(a) violated Code Section 10145 and Regulation 2832.1.

II

The conduct, acts and/or omissions of M-WEST described in Finding IX(b) violated Code Section 10145 and Regulation 2830.

III

The conduct, acts and/or omissions of M-WEST described in Finding IX(c) violated Regulation 2831.

IV

The conduct, acts and/or omissions of M-WEST described in Finding IX(d) violated Regulation 2831.1.

V

The conduct, acts and/or omissions of M-WEST described in Finding IX(e) violated Regulation 2831.2.

VI

The conduct, acts and/or omissions of M-WEST described in Finding IX(f) violated Code Section 10240 and Regulation 2840.

VII

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all real estate licenses and license rights of M-WEST under the provisions of Code Section 10177(d).

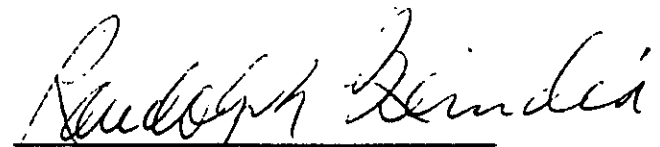
VIII

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and license rights of Respondent M-WEST MORTGAGE CORPORATION, under the provisions of Part 1 of Division 4 of the Business and Professions Code, are hereby revoked.

DATED: 30 July 96.



RANDOLPH BRENDIA
Regional Manager
Department of Real Estate

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) Case No. H-1935 SA
)
M-WEST MORTGAGE CORPORATION,) OAH No. L-9507159
)
and DEAN MILO REPPE, individually)
)
and as designated officer of)
)
M-West Mortgage Corporation,)
)
Respondent (s)

FILED
AUG 10 1995
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent (s):

By C. Zy

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on AUGUST 13 and 14, 1996 at the hour of 9:00 A.M., 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: August 10, 1995

By Darlene Averetta
DARLENE AVERETTA, Counsel

cc: M-West Mortgage Corporation
Dean Milo Reppe
Rose Pothier, Esq.
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DARLENE AVERETTA, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
JAN 18 1995
DEPARTMENT OF REAL ESTATE

By *C. Bay*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-1935 SA
)	
M-WEST MORTGAGE CORPORATION)	<u>ACCUSATION</u>
and DEAN MILO REPPE,)	
individually and as designated)	
officer of M-West Mortgage)	
Corporation,)	
)	
Respondents.)	
)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against M-WEST MORTGAGE CORPORATION and DEAN MILO REPPE, individually and as designated officer of M-West Mortgage Corporation, is informed and alleges in his official capacity as follows:

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1 FIRST CAUSE OF ACCUSATION

2 (Audit Findings)

3 1.

4 M-WEST MORTGAGE CORPORATION (hereinafter "M-WEST")
5 and DEAN MILO REPPE (hereinafter "REPPE") individually, and as
6 designated officer of M-West Mortgage Corporation, sometimes
7 collectively referred to herein as "Respondents") are presently
8 licensed and/or have license rights under the Real Estate Law,
9 Part 1 of Division 4 of the California Business and Professions
10 Code (hereinafter "the Code").

11 2.

12 At all times material herein, M-WEST was licensed by the
13 Department of Real Estate of the State of California (hereinafter
14 "the Department") as a corporate real estate broker by and through
15 REPPE as the designated officer and broker responsible pursuant to
16 the provisions of Section 10159.2 of the Code for supervising the
17 activities requiring a real estate license conducted on behalf of
18 M-WEST, by M-WEST's officers, agents and employees.

19 3.

20 At all times material herein, REPPE was licensed by the
21 Department as a real estate broker, and as the designated broker-
22 officer of M-WEST. As the designated broker-officer, REPPE is
23 and, at all times material herein, was responsible for the
24 supervision and control of the activities requiring a real estate
25 license conducted on behalf of M-WEST by its officers, agents and
26 employees, as necessary to secure full compliance with the
27 provisions of the Real Estate Law as required pursuant to the

1 provisions of Section 10159.2 of the Code.

2 4.

3 All further references to "Respondents", unless
4 otherwise specified, includes the parties identified in Paragraphs
5 1 through 3 above, and also includes the officers, directors,
6 managers, employees, agents and real estate licensees employed by
7 or associated with said parties, who at all times herein mentioned
8 were engaged in the furtherance of the business or operations of
9 said parties and who were acting within the course and scope of
10 their authority, agency, or employment.

11 5.

12 At all times material herein, Respondents engaged in the
13 business of, acted in the capacity of, advertised or assumed to
14 act as real estate brokers in the State of California, within the
15 meaning of Section 10131(d) of the Code, including the operation
16 and conduct of a mortgage loan brokerage business with the public
17 wherein Respondents solicited prospective borrowers, lenders or
18 investors, for, and/or negotiated, serviced, processed, and/or
19 arranged loans secured directly or collaterally by liens on real
20 property for another or others, for or in expectation of
21 compensation.

22 6.

23 At all times material herein, in connection with the
24 activities described in Paragraph 5, above, Respondents accepted
25 or received funds including funds in trust (hereinafter "trust
26 funds") from or on behalf of actual and prospective borrowers,
27 lenders, investors and/or parties to mortgage loan transactions

1 handled by Respondents and thereafter made deposits and or
2 disbursements of such funds. From time to time herein mentioned,
3 said trust funds were deposited and/or maintained by Respondents,
4 in bank accounts, including but not necessarily limited to
5 approximately Two Hundred and Thirteen (213) trust accounts, which
6 included a credit report/appraisal fees trust account, a newly
7 opened escrow trust account, and a clearing account at each bank.
8 The main lock box/clearing account into which all borrower
9 payments were first deposited was at National Bank of Southern
10 California. The trust accounts were maintained at the following
11 banks: Chase Manhattan Bank, Wilmington, Delaware (12 Trust
12 Accounts); Chase Manhattan Bank, New York, New York (41 Trust
13 Accounts); Harbor Bank, 9 Executive Circle, Irvine, California (10
14 Trust Accounts); First Los Angeles Bank, 4685 MacArthur Blvd.,
15 Newport Beach, California (36 Trust Accounts); National Bank of
16 Southern California, 625 The City Drive South, Orange, California
17 (114 Trust Accounts).

18 7.

19 As of February 28, 1994, bank reconciliations were
20 performed on the following two trust accounts. M-West Mortgage
21 Corporation, ITF-Appraisal Fees, "Credit/Appraisal Account",
22 Account Number 3004023 (hereinafter "T/A # 1"), at National Bank
23 of Southern California, 625 The City Drive South, Orange, CA
24 (hereinafter ("National Bank")); and M-West Mortgage Corporation,
25 ITF Various Investors and Mortgagors, "Payment Clearing Account",
26 Account Number 3004007 (hereinafter "T/A # 2"), at National Bank.

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2 On or about April 13, 1994, the Department completed an
3 examination of the books and records of Respondents, pertaining to
4 the real estate and trust fund handling activities described in
5 Paragraphs 5 through 7, above, covering a period from
6 approximately March 1, 1993 through February 28, 1994, which
7 examination revealed violations of the Code and of Title 10,
8 Chapter 6, California Code of Regulations (hereinafter the
9 "Regulations") as set forth below.

10 9.

11 In the course of activities described in Paragraphs 5
12 through 7, above, and during the examination period described in
13 Paragraph 8, Respondents acted in violation of the Code and the
14 Regulations in that:

15 (a) as of February 28, 1994, T/A #1 had a shortage in
16 the amount of approximately Seven Thousand Five Hundred Ninety-
17 Seven Dollars and Eleven Cents (\$7,597.11). Respondents caused,
18 permitted and/or allowed, the withdrawal or disbursement of trust
19 funds from T/A #1, without the prior written consent of every
20 principal who then was an owner of funds in the account, thereby
21 reducing the balance of funds in the said account to an amount
22 less than the existing aggregate trust fund liability of the
23 broker to all owners of said trust funds, in violation of Code
24 Section 10145 and Regulation 2832.1;

25 (b) Respondent M-WEST failed to place all trust funds
26 received by respondents into a neutral escrow depository, or into
27 the hands of the principal on whose behalf the funds were

1 received, or into trust accounts in the name of the broker as
2 trustee in a bank or other financial institution, in that
3 Respondents deposited, allowed, permitted or caused the deposit of
4 trust funds into the trust accounts, which accounts was not
5 maintained in Respondent's name as broker and trustee, or "In
6 Trust For" or as a trust account or custodial account, but were
7 set up as "ITF" accounts, in violation of Code Section 10145 and
8 Regulation 2830;

9 (c) Respondent M-WEST failed to maintain a columnar
10 record for T/A # 1, in violation of Regulation 2831;

11 (d) Respondent M-WEST failed to maintain a separate
12 record for each borrower who had funds in T/A # 1, in violation
13 Regulation 2831.1;

14 (e) Respondent M-WEST, failed to maintain a
15 reconciliation for T/A # 1, in violation of Regulation 2831.2;

16 (f) Respondent M-WEST, failed to deliver to borrowers,
17 a statement in writing, containing all the information required by
18 Code Section 10241, in violation of Code Section 10240 and
19 Regulation 2840;

20 (g) Respondent REPPE failed to review, initial and date
21 every instrument prepared or signed by a real estate salesperson
22 in connection with transactions for which a real estate license is
23 required, which may have had a material effect upon the rights or
24 obligations of a party to the transaction; or, if Respondent REPPE
25 delegated said acts to a broker or a salesperson, he failed to
26 make certain that said review was properly completed, in violation
27 of Regulation 2725;

The conduct, acts and omissions of Respondents as described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6	9(a)	Code Section 10145 and Regulation 2832.1
8	9(b)	Code Section 10145 and Regulation 2830
9	9(c)	Regulation 2831
10	9(d)	Regulation 2831.1
11	9(e)	Regulation 2831.2
12	9(f)	Code Section 10240 and Regulation 2840
13	9(g)	Regulation 2725

Each of the foregoing violations constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10177(d).

SECOND CAUSE OF ACCUSATION

(Violation of Code Section 10159.2)

Complainant incorporates herein by reference the Preamble and the allegations of Paragraphs 1 through 10, inclusive, herein above.

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2 The conduct, acts and omissions, of Respondent REPPE, in
3 allowing M-WEST to violate the Real Estate Law as described herein
4 above, constitutes a failure by Respondent REPPE, as the officer
5 designated by a corporate broker licensee, to exercise the
6 supervision and control over the activities of M-WEST, as required
7 by Code Section 10159.2. Said conduct is cause to suspend or
8 revoke the real estate licenses and license rights of Respondent
9 REPPE under Code Section 10177(h).

10 WHEREFORE, Complainant prays that a hearing be conducted
11 on the allegations of this Accusation and that upon proof thereof,
12 a decision be rendered imposing disciplinary action against all
13 licenses and license rights of Respondents M-WEST MORTGAGE
14 CORPORATION and DEAN MILO REPPE, individually, and as designated
15 officer of M-West Mortgage Corporation, under the Real Estate Law
16 (Part 1 of Division 4 of the Business and Professions Code) and
17 for such other and further relief as may be proper under other
18 applicable provisions of law.

19 Dated at Los Angeles, California
20 this 18th day of January, 1995.

21
22 THOMAS McCRADY

23 Deputy Real Estate Commissioner

24
25 cc: M-West Mortgage Corporation.
26 Dean Milo Reppe
27 SACTO
DB