

October 21, 2011

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DEPARTMENT OF REAL ESTATE

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7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)
11)
12 KAWEAH FINANCIAL GROUP INC.,)
13 and ERNIE BYRON SHANES,)
14 Respondents.)

No. H-2683 FR
ACCUSATION

15 The Complainant, Luke Martin, a Deputy Real Estate Commissioner of the State
16 of California, for cause of Accusation against KAWEAH FINANCIAL GROUP INC., and
17 ERNIE BYRON SHANES (hereinafter "Respondents"), are informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant makes this Accusation against the Respondents in his official
21 capacity.

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23 Respondents are presently licensed and/or have license rights under the Real
24 Estate Law, Part 1 of Division 4, of the Business and Professions Code (hereinafter "the Code").

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2 At all times mentioned, Respondent KAWEAH FINANCIAL GROUP INC.
3 (hereinafter "KAWEAH"), was and is licensed by the State of California Department of Real
4 Estate (hereinafter "Department") as a real estate broker corporation.

5 4

6 At all times mentioned, Respondent ERNIE BYRON SHANES (hereinafter
7 "SHANES"), was and is licensed by the Department individually as a real estate broker, and as
8 the designated officer-broker of KAWEAH. As said designated officer-broker, SHANES was
9 responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the
10 officers, agents, real estate licensees, and employees of KAWEAH for which a license is
11 required.

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13 Whenever reference is made in an allegation in this Accusation to an act or
14 omission of KAWEAH, such allegation shall be deemed to mean that the officers, directors,
15 employees, agents and/or real estate licensees employed by or associated with KAWEAH,
16 committed such act or omission while engaged in the furtherance of the business or operations
17 of corporate Respondent and while acting within the course and scope of their authority and
18 employment.

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20 At all times mentioned, Respondents engaged in the business of, acted in the
21 capacity of, advertised or assumed to act as a real estate broker in the State of California within
22 the meaning of Sections 10131(d) and 10131(e) of the Code, including the operation and
23 conduct of a mortgage loan brokerage business with the public wherein Respondents solicited
24 lenders and borrowers for loans secured directly or collaterally by liens on real property or a
25 business opportunity, and wherein such loans were arranged, negotiated, processed, and
26 consummated by Respondents on behalf of others and wherein promissory notes or interests

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1 therein were sold or purchased on behalf of another or others for compensation or in expectation
2 of compensation.

3 FIRST CAUSE OF ACTION

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5 Each and every allegation in Paragraphs 1 through 6 inclusive, above, are
6 incorporated by this reference as if fully set forth herein.

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9 On or about February 20, 2007, Respondents entered into a Loan Servicing
10 Agreement with Cal Name Plate Inc. to service a Deed of Trust and Note secured by the real
11 property located at 30733 Effie Drive, Goshen, California. Respondents, as the servicer of the
12 loan, agreed to perform the following functions, including, but not limited to: "... (c) demand,
13 receive and collect all Loan payments, deposit them by the next business day into Servicer's trust
14 account and pay them to Lender within 30 days of receipts ... (i) receive notices of property tax
15 delinquencies ..."

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17 From on or about February 20, 2007, through April 15, 2011, Respondents failed
18 to properly service the loan in that Respondents failed to demand, receive, and collect all loan
19 payments, and failed to receive notices of property tax delinquencies.

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21 The facts alleged in Paragraphs 7 through 9 are grounds for suspension or
22 revocation of Respondents' licenses and license rights under Section 10177(g) of the Code.

23 SECOND CAUSE OF ACTION

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25 Each and every allegation in Paragraphs 1 through 10, inclusive, above are
26 incorporated by this reference as if fully set forth herein.

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SHANES failed to exercise reasonable supervision over the acts of KAWEAH in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of SHANES described in Paragraph 12 constitute failure on the part of SHANES, as designated officer-broker for KAWEAH, to exercise reasonable supervision and control over the licensed activities of KAWEAH as required by Section 10159.2 of the Code.

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The facts described in Paragraphs 11 through 13 constitute cause for the suspension or revocation of the licenses and license rights of Respondent SHANES under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code, in conjunction with Section 10177(d) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.



LUKE MARTIN
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 18th day of October, 2011.

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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.

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