

1 that good cause has been presented for reconsideration of the
2 Decision of February 23, 1994, for the limited purpose of
3 determining whether the disciplinary action therein imposed on
4 Respondent VETERAN HOME LOANS should be reduced.

5 I have reconsidered said Decision and it is hereby
6 ordered that the disciplinary action therein imposed against the
7 corporate real estate broker license of Respondent VETERAN HOME
8 LOANS be reduced by modifying the Order of said Decision as to
9 Respondent VETERAN HOME LOANS to read as follows:

10 ORDER

11 I

12 All licenses and licensing rights of Respondent
13 VETERAN HOME LOANS under the Real Estate Law are revoked;
14 provided, however, a restricted corporate real estate broker
15 license shall be issued to Respondent VETERAN HOME LOANS pursuant
16 to Section 10156.5 of the Business and Professions Code if
17 Respondent VETERAN HOME LOANS makes application therefor and pays
18 to the Department of Real Estate the appropriate fee for the
19 restricted license within 90 days from the effective date of this
20 Decision. The restricted license issued to Respondent VETERAN
21 HOME LOANS shall be subject to all of the provisions of Section
22 10156.7 of the Business and Professions Code and to the following
23 limitations, conditions and restrictions imposed under authority
24 of Section 10156.6 of that Code:

- 25 1. The restricted license issued to Respondent VETERAN HOME
26 LOANS may be suspended prior to hearing by Order of the Real
27 Estate Commissioner in the event of Respondent VETERAN HOME
LOANS' conviction or plea of nolo contendere to a crime which
is substantially related to Respondent VETERAN HOME LOANS'
fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent VETERAN HOME
LOANS may be suspended prior to hearing by Order of the Real
Estate Commissioner on evidence satisfactory to the
Commissioner that Respondent VETERAN HOME LOANS has violated
provisions of the California Real Estate Law, the Subdivided
Lands Law, Regulations of the Real Estate Commissioner or
conditions attaching to the restricted license.
3. Respondent VETERAN HOME LOANS shall not be eligible to apply
for the issuance of an unrestricted real estate license nor
for the removal of any of the conditions, limitations or

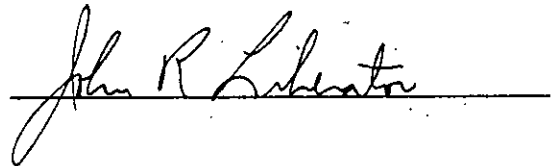
1 restrictions of a restricted license until two years have
2 elapsed from the effective date of this Decision.

3 4. Pursuant to Section 10148 of the Business and Professions
4 Code, Respondent VETERAN HOME LOANS shall pay the
5 Commissioner's reasonable cost for an audit to determine if
6 Respondent VETERAN HOME LOANS has corrected the trust fund
7 violation(s) found in paragraph I of the Determination of
8 Issues. In calculating the amount of the Commissioner's
9 reasonable cost, the Commissioner may use the estimated
10 average hourly salary for all persons performing audits of
11 real estate brokers, and shall include an allocation for
12 travel time to and from the auditor's place of work.
13 Respondent VETERAN HOME LOANS shall pay such cost within 45
14 days of receiving an invoice from the Commissioner detailing
15 the activities performed during the audit and the amount of
16 time spent performing those activities. The Commissioner may
17 suspend the restricted license issued to Respondent VETERAN
18 HOME LOANS pending a hearing held in accordance with Section
19 11500, et seq., of the Government Code, if payment is not
20 timely made as provided for herein, or as provided for in a
21 subsequent agreement between the Respondent VETERAN HOME
22 LOANS and the Commissioner. The suspension shall remain in
23 effect until payment is made in full or until Respondent
24 VETERAN HOME LOANS enters into an agreement satisfactory to
25 the Commissioner to provide for payment, or until a decision
26 providing otherwise is adopted following a hearing held
27 pursuant to this condition.

16 As hereby modified and amended, the Decision of _____
17 February 23, 1994, shall become effective as to Respondent VETERAN
18 HOME LOANS at 12 o'clock noon on _____ May 16, 1994
19 1994.

20 IT IS SO ORDERED _____ April 21 _____, 1994.

21 CLARK WALLACE
22 Real Estate Commissioner

23
24 

25 BY: John R. Liberator
26 Chief Deputy Commissioner
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
MAR 17 1994
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-2903 SAC
))
FLOYD JESSE JONES,)	CAH NO. N-07100
VETERAN HOME LOANS,))
)	<u>ORDER STAYING</u>
Respondents.)	<u>EFFECTIVE DATE</u>
))

On February 23, 1994, a Decision was rendered in the above-entitled matter to become effective March 28, 1994.

On March 17, 1994, Respondent VETERAN HOME LOANS petitioned for reconsideration of the Decision of February 23, 1994. IT IS HEREBY ORDERED that the effective date of the Order of the Commissioner of February 23, 1994, as to VETERAN HOME LOANS only, is stayed for a period of thirty (30) days.

The Order of the Commissioner of February 23, 1994, shall become effective at 12 o'clock noon on April 27, 1994.

DATED: March 17, 1994

CLARK WALLACE
Real Estate Commissioner

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

II

At all times mentioned herein, respondent Floyd Jesse Jones was and is licensed by the Department of Real Estate of the State of California as a real estate broker. His license expires on March 31, 1994, unless renewed.

Respondent Veteran Home Loans was and is licensed by the Department as a real estate corporation by and through respondent Jones as the designated officer. Its license and respondent Jones' officer license expire March 12, 1996.

III

At all times mentioned herein, respondent Jones, as the designated officer of Veteran Home Loans, was responsible for the supervision and control of the activities conducted on behalf of Veteran Home Loans by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

IV

At all times mentioned herein, respondents, and each of them, 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 of the Business and Professions Code for or in expectation of compensation.

V

That at all times mentioned herein, respondents accepted or received funds in trust from and on behalf of their principals placing them in trust fund accounts and at times thereafter made disbursements of such funds.

VI

For the period from February 27, 1992 to February 27, 1993, an investigative audit was made by the Department of the records and bank records of respondent Veteran Home Loans, as said records related to its activities as a real estate broker.¹ During this period, respondent Veteran Home Loans maintained a

¹ Whenever reference is made in a finding to an act or omission of Veteran Home Loans, such finding means that the officers, directors, employees, agents and real estate licensees employed by or associated with Veteran Home Loans committed such act or omissions while engaged in furtherance of the business or operation of Veteran Home Loans and while acting within the course and scope of their corporate authority and employment.

trust account, into which trust funds were placed, at Great Western Bank, 5051 Auburn Boulevard, Sacramento, California, Account No. 368-8065964. The adjusted balance of this account as of February 27, 1993, was a negative \$489.70.

VII

Respondent Veteran Home Loans' trust fund accountability in the above account as of February 27, 1993 was \$5,591. Therefore, Veteran Home Loans, as of February 27, 1993, had a trust fund shortage of \$6,080.70.

The shortage was caused by negative balances in 29 accounts totalling \$6,550, with \$469.30 unidentified.

VIII

During the above audit period, respondent Veteran Home Loans did not reconcile the individual beneficiary records with the record of trust funds received and paid out on a monthly basis.

IX

During the above audit period, respondent Veteran Home Loans failed to provide mortgage loan disclosure statements to its borrowers in violation of section 10240 of the Business and Professions Code.

X

During the above audit period, Loredana Kelly, Francis Kelly, and Stephen Croff were all signatories on the trust account referred to above which account only required one signature. However, Loredana Kelly, Francis Kelly, and Stephen Croff were unlicensed by the Department and unbonded.

XI

Respondent Floyd Jesse Jones failed to exercise reasonable supervision and control over the acts of respondent Veteran Home Loans in such a manner as to allow the acts described in Findings VI through X to occur.

XII

The trust fund shortage found in Finding VII resulted from depositing trust funds into Veteran Home Loans' general account rather than its trust account. This was done over a long period of time in small increments. Funds received from borrowers and potential borrowers for the purpose of credit

reports and appraisals were sometimes put into Veteran Home Loans' general account while the credit reports and appraisals were paid from the trust account. Also, mortgage packages received from other mortgage agents were forwarded to respondent Veteran Home Loans with funds for credit reports and appraisals. These funds went into the general account. If the loan package was returned, the funds were reimbursed out of the trust fund account.

XIII

Respondent Jones has taken steps to correct Veteran Home Loans' accounting. The shortage was corrected immediately by a transfer of funds from the general account to the trust account. Checks for appraisal and credit reporting services are now drawn by the borrowers when these services are required and are made payable directly to those providing the services.

XIV

Respondent Jones has been licensed by the Department since 1962. He has been active in the real estate business since that time. In the past, he has been responsible for the supervision of many real estate offices in several states. Although he regularly supervised Veteran Home Loans he admits his responsibility for the acts in the above Findings. He intends to sever his relationship with Veteran Home Loans as of January 1, 1994.

With respect to Finding IX, respondent Jones admits his fault. He believed that VA and HUD disclosures were sufficient.

With respect to Finding X, respondent Jones corrected this before the audit was complete.

Respondent Jones has reconciled borrower's accounts with Veteran Home Loans' trust account. He did not financially benefit from the trust account accounting errors. He is remorseful, and he has taken the necessary steps to correct the accounting system of Veteran Home Loans prior to terminating his relationship with that corporation. Respondent Jones is rehabilitating himself.

DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Cause for discipline of both respondents' licenses was established pursuant to section 10177(d) of the Business and Professions Code as follows:

1. For violation of section 10145 of the Business and Professions Code, and section 2832.1, title 10, of the California Code of Regulations, by reason of Findings VI and VII.
2. For violation of section 10145(a) of the Business and Professions Code, by reason of Finding VII.
3. For violation of section 2831.2, title 10, of the California Code of Regulations, by reason of Finding VIII.
4. For violation of section 10240 of the Business and Professions Code, by reason of Finding IX.
5. For violation of section 2834, title 10, of the California Code of Regulations, by reason of Finding X.

II

Said cause was established for violation of sections 10177(h) and 10159.2 of the Business and Professions Code in conjunction with section 10177(d) of said Code, by reason of Finding XI.

III

Although both respondents' licenses should be revoked by reason of the above violations, respondent Jones should be permitted a restricted broker's license with the conditions set forth in the following Order, by reason of his rehabilitation set forth in Finding XIV.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All real estate licenses and licensing rights issued to respondent Veteran Home Loans by the Department of Real Estate are revoked.

II

All licenses and licensing rights of respondent Floyd Jesse Jones under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent 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 the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of 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 that Code:


1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner 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 the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the

Administrative Procedure Act to present such evidence.

5. Respondent shall, within six months from the effective date of this Decision, 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.

Dated:

February 4, 1994



JOHN D. WAGNER
Administrative Law Judge
Office of Administrative Hearings

FILED
JUL 30 1993

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Kathleen Conteras

In the Matter of the Accusation of
FLOYD JESSE JONES,
VETERAN HOME LOANS;

Case No. H-2903 SAC
OAH No. N-07100

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 501 J Street, Suite 220,
Second Floor Hearing Rooms, Sacramento, California 95814

on Tuesday -- December 28, 1993, 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.

Dated: July 30, 1993

DEPARTMENT OF REAL ESTATE
By David B. Seals
DAVID B. SEALS Counsel

1 DAVID B. SEALS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
JUN 29 1993
DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

6
7
8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 FLOYD JESSE JONES,) NO. H-2903 SAC
14 VETERAN HOME LOANS,) ACCUSATION
15 Respondents.)

16 The Complainant, Charles W. Koenig, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against FLOYD JESSE JONES and VETERAN HOME LOANS, a
19 California corporation (Respondents), is informed and alleges as
20 follows:

21 I

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

25 II

26 The Complainant, Charles W. Koenig, a Deputy Real Estate
27 Commissioner of the State of California, makes this Accusation

1 against Respondents in his official capacity as such and not
2 otherwise.

3 III

4 At all times mentioned herein, Respondent **FLOYD JESSE**
5 **JONES** was and is licensed by the Department of Real Estate of the
6 State of California (the Department) as a real estate broker and
7 Respondent **VETERAN HOME LOANS**, was and is licensed by the
8 Department as a real estate corporation by and through Respondent
9 **JONES** as the designated officer.

10 IV

11 At all times mentioned herein as the designated officer
12 of **VETERAN HOME LOANS**, **JONES** was responsible for the
13 supervision and control of the activities conducted on behalf of
14 **VETERAN HOME LOANS** by its officers and employees as necessary to
15 secure full compliance with the provisions of the Real Estate Law.

16 V

17 Whenever reference is made in an allegation in this
18 Accusation to an act or omission of **VETERAN HOME LOANS**, such
19 allegation shall be deemed to mean that the officers, directors,
20 employees, agents and real estate licensees employed by or
21 associated with **VETERAN HOME LOANS** committed such act or
22 omissions while engaged in furtherance of the business or
23 operation of **VETERAN HOME LOANS** and while acting within the
24 course and scope of their corporate authority and employment.

25 VI

26 That at all times herein mentioned, Respondents, and
27 each of them, engaged in the business of, acted in the capacity

1 of, advertised, or assumed to act as real estate brokers in the
2 State of California within the meaning of Section 10131 of the
3 Code for or in expectation of compensation.

4 VII

5 That at all times mentioned herein, Respondents accepted
6 or received funds in trust (hereafter trust funds) from and on
7 behalf of their principals placing them in trust fund accounts and
8 at times thereafter made disbursements of such funds.

9 VIII

10 That during the period from March 12, 1993 to March 30,
11 1993, an investigative audit was made by the Department of the
12 records and bank records of Respondent **VETERAN HOME LOANS** for
13 the period from February 27, 1992 to February 27, 1993 as said
14 records related to their activities as a real estate broker.

15 IX

16 That it was ascertained by said audit that the
17 Respondent **VETERAN HOME LOANS** maintained a trust account
18 into which trust funds were placed, at Great Western Bank,
19 5051 Auburn Boulevard, Sacramento, CA, Account No. 368-8065964,
20 and that the adjusted balance of the account as of February 27,
21 1993 was a negative Four Hundred Eighty-nine and 70/100 Dollars
22 (-\$489.70).

23 X

24 That it was further ascertained by said audit that the
25 Respondent **VETERAN HOME LOANS'** trust fund accountability in the
26 account as of February 27, 1993 was Five Thousand Five Hundred
27 Ninety-one and 00/100 Dollars (\$5,591.00) and that therefore

1 VETERAN HOME LOANS, as of February 27, 1993, had a trust fund
2 shortage of Six Thousand Eighty and 70/100 Dollars (\$6,080.70).

3 The shortage was caused by negative balances in 29
4 accounts (\$6,555.00) and (\$469.30) was unidentified.

5 XI

6 It was also ascertained by the audit that Respondent
7 VETERAN HOME LOANS did not reconcile the individual beneficiary
8 records with the record of trust funds received and paid out on a
9 monthly basis.

10 XII

11 That it was further ascertained by the audit that
12 Respondent VETERAN HOME LOANS failed to provide mortgage loan
13 disclosure statements to its borrowers during the period of the
14 audit in violation of Section 10240 of the Code.

15 XIII

16 It was further ascertained by said audit that Loredana
17 Kelly, Francis Kelly, and Stephen Croff were all signatories on
18 the trust account referred to above which account only required
19 one signature. However, Loredana Kelly, Francis Kelly, and
20 Stephen Croff were also all unlicensed by the Department and
21 unbonded.

22 XIV

23 Respondent FLOYD JESSE JONES failed to exercise
24 reasonable supervision and control over the acts of Respondent
25 VETERAN HOME LOANS in such a manner as to allow the acts
26 described in Paragraphs IX through XIII to occur.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

XV

That by reason of the facts as alleged in Paragraphs IX and X above, Respondents, and each of them, violated Section 10145 of the Code and Section 2832.1, Title 10, California Code of Regulations (Regulations), and said acts and/or omissions constitute grounds for disciplinary action under the provisions of Section 10177(d) of the Code.

XVI

By reason of the facts as alleged in Paragraph X above, Respondents, and each of them, violated Section 10145(a) of the Code and said acts and/or omissions constitute grounds for disciplinary action under the provisions of Section 10177(d) of the Code.

XVII

By reason of the facts as alleged in Paragraph XI above, Respondents, and each of them, violated Section 2831.2 of the Regulations, and said acts and/or omissions constitute grounds for disciplinary action under the provisions of Section 10177(d) of the Code.

XVIII

That by reason of the acts and/or omissions as alleged in Paragraph XII, Respondents, and each of them, was in violation of Section 10240 of the Code and said acts and/or omissions constitute grounds for disciplinary action pursuant to Section 10177(d) of the Code.

///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

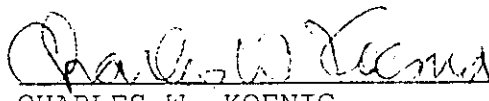
XIX

That by reason of the acts and/or omissions as alleged in Paragraph XIII, Respondents, and each of them, was in violation of Section 2834 of the Regulations and said acts and/or omissions constitute grounds for disciplinary action pursuant to Section 10177(d) of the Code.

XX

That by reason of the acts and/or omissions as alleged in Paragraph XIV, Respondent **FLOYD JESSE JONES** was in violation of 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, and each of them, 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.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 24th day of June, 1993.