

JAN 25 2001

By Shelly Ely

* * *

No. H-2954 SAC

///

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

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 broker license be issued to Respondent if Respondent satisfies
11 the following conditions within nine months from the date of this
12 Order:

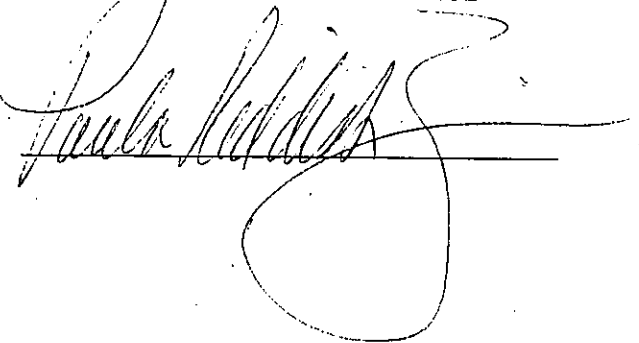
13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

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

20 This Order shall be effective immediately.

21 DATED: DECEMBER 13, 2000

22 PAULA REDDISH ZINNEMANN
23 Real Estate Commissioner

24 
25
26
27

FILED
AUG - 8 1994
DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zian

* * *

In the Matter of the Accusation of)
CALIFORNIA EQUITY)
FUNDING CORPORATION,)
DWIGHT RAYMOND BABCOCK,)
Respondents.)

NO. H-2954 SAC
OAH NO. N-9311090

DECISION

The Proposed Decision dated July 26, 1994, 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.

This Decision shall become effective at 12 o'clock noon
on August 29, 1994.

IT IS SO ORDERED August 2, 1994.

JOHN R. LIBERATOR
Interim Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. H-2954 SAC
)	
CALIFORNIA EQUITY)	OAH No. N-9311090
FUNDING CORPORATION,)	
DWIGHT RAYMOND BABCOCK,)	
)	
)	
Respondents.)	

PROPOSED DECISION

On May 18, 1994, in Sacramento, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by David A. Peters, Counsel, Department of Real Estate.

Respondent Dwight Babcock represented himself.

Respondent Equity Funding Corporation did not appear and it's matter was handled as a default.

Evidence was received, a stipulation of facts was entered into, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Complainant Charles W. Koeing made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

A. At all times herein mentioned, respondent California Equity was licensed as a real estate broker corporation. Beginning on July 16, 1991, and continuing through March 17, 1992, respondent California Equity acted by and through its designated broker-officer respondent Babcock. It's license was cancelled on March 17, 1992.

B. At all times herein mentioned, respondent Babcock was licensed as a real estate broker. He was the designated broker-officer of respondent California Equity as set forth above. His broker license will expire on May 28, 1996, unless reissued.

III

At all times herein mentioned, respondents 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 Business and Professions Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collateral by liens on real property, and wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation.

IV

Beginning on July 16, 1991, and continuing through March 17, 1992, in connection with the above described mortgage loan brokerage business, respondent Babcock, acting directly or through his agents or employees, operated a mortgage loan brokerage business through respondent California Equity. This business was owned by Todd Leslie Johnson and/or Richard Reyes Huizar.

Respondent Babcock lent his real estate broker license to respondent California Equity to create the appearance of a lawful business. He did not maintain or control the records of the business, did not supervise its employees in the performance of acts for which a license was required, and permitted Johnson and Huizar to perform acts for which a real estate license is required, including the negotiation of loans secured by liens on real property. Respondent Babcock permitted Johnson and Huizar to operate a business as if Johnson and Huizar were licensed real estate brokers. In fact, Johnson's salesperson license had been revoked on September 12, 1989. Huizar's salesperson license had been revoked on April 5, 1989. They were not licensed as either brokers or salespersons. Respondent Babcock's conduct constitutes both negligence and incompetence.

V

Beginning on July 16, 1991, and continuing through March 17, 1992, respondent Babcock, while employed by respondent California Equity, failed to exercise reasonable supervision and control of the activities of respondent California Equity as it's designated broker-officer by allowing Johnson and Huizar, while in the employ of respondent California Equity, to perform acts for which a real estate license is required without first having obtained a real estate license. Said failure to supervise included respondent Babcock allowing Johnson and Huizar, while unlicensed, to negotiate the following two mortgage loan transactions:

<u>DATE FUNDED</u>	<u>BORROWER</u>	<u>LENDER</u>	<u>PROPERTY</u>
11/19/91	Gloria Mackie	David & Loretta Drew	7367 Fallwood Way Citrus Heights, CA
01/15/92	James Cheney	David & Loretta Drew	7597 Madison Ave. Citrus Heights, CA

Respondent Babcock's failure to exercise reasonable supervision, as set forth above, constitutes negligence and incompetence.

VI

In connection with the loan described in Finding V made by David and Loretta Drew to Gloria Mackie and secured by real property commonly know as 7367 Fallwood Way, Citrus Heights, California, respondents charged the borrower Gloria Mackie, more than \$700 for costs and expenses covered by section 10242(a) of the Business and Professions. The costs and expenses totalled approximately \$825.

VII

In connection with the loan described in Finding VI, respondents charged the borrower, Gloria Mackie, a commission of more than 5 percent of the principle amount of the loan. The principle amount of the loan was \$18,000, secured by a second deed of trust. The period of the loan was one year. Respondent California Equity received a commission of \$4,590. The net proceeds received by the borrower, Gloria Mackie, was \$10,010.05.

VIII

Respondent Babcock is 36 years old, single and lives in Santa Monica. He is employed as a property manager as a broker associate for another real estate broker. He manages residential and commercial real estate.

In 1989, respondent Babcock moved to Sacramento. He met Mr. Huizar in 1990. On June 13, 1991, he submitted a corporate license application in the name of California Equity Funding Corporation to the Department of Real Estate. The corporation was controlled and operated by Mr. Johnson and Mr. Huizar. Respondent had no control over the operation of the corporation. He did not supervise Johnson's and Huizar's loan brokerage activity. He did not review loan files that were completed by them. He visited the corporation's office in Sacramento approximately 25 times to go to lunch or pick up check or payment for use of his license. He received a total of approximately \$2,000 as commissions for the use of his license. When he visited the corporation's office, he did not discuss its operation.

Respondent Babcock fully admits that he made "stupid" mistake. He admits all of the above. He knows that he should have reviewed all documents and made sure the corporation was run properly. He admits that his conduct was irresponsible. Respondent Babcock however, is not sufficiently rehabilitated to have a real estate broker's license.

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 as follows:

1. For violation of sections 10177(h) and 10177(g) of the Business and Professions Code, by reason of Findings IV and V;
2. For violation of section 10242(a) of said code, in conjunction with section 10177(d) of said code, by reason of Finding VI; and
3. For violation of section 10242(b)(2) of said code, in conjunction with section 10177(d) of said code, by reason of Finding VII.

II

In view of the seriousness of the above violations set forth in Determination of Issues I-2 and I-3, the license of respondent California Equity Funding Corporation should be revoked.

III

In view of the seriousness of the violations set forth in Determination of Issues I, the broker's license of respondent Dwight Raymond Babcock should be revoked. In view of the respondent Babcock's acceptance of his responsibility for the conduct set forth in Findings IV through VII and the partial rehabilitation this acceptance indicates, respondent Babcock should be given an opportunity to apply for a restricted salesperson's license.

ORDER

Wherefore, the following order is hereby made:

I

All real estate licenses and licensing rights issued to respondent California Equity Funding Corporation by the Department of Real Estate are revoked.

II

All licenses and licensing rights of respondent Dwight Raymond Babcock under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson 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 5 years have elapsed from the effective date of this Decision.
4. 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 on a form approved by the Department of Real Estate which shall certify:
 - a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and
 - b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. 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.

6. 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: July 26, 1994

John D. Wagner
JOHN D. WAGNER
Administrative Law Judge
Office of Administrative Hearings

FILED
DEC 14 1993
DEPARTMENT OF REAL ESTATE

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

By Laurie A. Zian

In the Matter of the Accusation of

CALIFORNIA EQUITY
FUNDING CORPORATION,
DWIGHT RAYMOND BABCOCK,

Case No. H-2954 SAC

OAH No. N9311090

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, CA 95814

on Wednesday and Thursday, May 18th and 19th, 1994, 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: December 14, 1993

By David A. Peters
DAVID A. PETERS Counsel

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

5 Telephone: (916) 227-0789

FILED
OCT 21 1993

DEPARTMENT OF REAL ESTATE

By Laurie A. Zier

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

11 * * *

12 In the Matter of the Accusation of)
13 CALIFORNIA EQUITY) No. H-2954 SAC
14 FUNDING CORPORATION,) ACCUSATION
15 DWIGHT RAYMOND BABCOCK,)
16 Respondents.)

17 The Complainant, Charles W. Koenig, a Deputy Real Estate
18 Commissioner of the State of California for cause of Accusation
19 against CALIFORNIA EQUITY FUNDING CORPORATION (hereinafter
20 "respondent FUNDING") and DWIGHT RAYMOND BABCOCK (hereinafter
21 "respondent BABCOCK") is informed and alleges as follows:

22 I

23 The Complainant, Charles W. Koenig, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation
25 against Respondents in his official capacity.

26 ///

27 ///

1 II

2 Respondent FUNDING and respondent BABCOCK are presently
3 licensed and/or have license rights under the Real Estate Law
4 (Part 1 of Division 4 of the California Business and Professions
5 Code) (hereinafter "Code").

6 III

7 At all times herein mentioned, respondent FUNDING was
8 licensed as a real estate broker corporation. Beginning on or
9 about July 16, 1991 and continuing through on or about March 17,
10 1992, respondent FUNDING acted by and through its designated
11 broker-officer respondent BABCOCK.

12 IV

13 At all times herein mentioned, respondent BABCOCK was
14 licensed as a real estate broker and beginning on or about
15 July 16, 1991 through on or about March 17, 1992 as the designated
16 broker-officer for respondent FUNDING.

17 V

18 Whenever reference is made in an allegation in this
19 Accusation to an act or omission of "Respondents", such allegation
20 shall be deemed to mean the act or omission of each of the
21 Respondents named in the caption hereof, acting individually,
22 jointly and severally.

23 VI

24 At all times herein mentioned, Respondents engaged in
25 the business of, acted in the capacity of, advertised, or assumed
26 to act as real estate brokers in the State of California, within
27 the meaning of Section 10131(d) of the Code, including the

1 operation and conduct of a mortgage loan brokerage business with
2 the public wherein lenders and borrowers were solicited for loans
3 secured directly or collaterally by liens on real property, and
4 wherein such loans were arranged, negotiated, processed, and
5 consummated on behalf of others for compensation or in expectation
6 of compensation.

7 VII

8 Beginning on or about July 16, 1991 and continuing
9 through on or about March 17, 1992, in connection with the
10 mortgage loan brokerage business described in Paragraph VI above,
11 respondent BABCOCK acting directly or through his agents or
12 employees operated a mortgage loan brokerage business through
13 respondent FUNDING. This business was owned by Todd Leslie
14 Johnson (hereinafter "Johnson") and/or Richard Reyes Huizar
15 (hereinafter "Huizar"). Respondent BABCOCK in substance lent his
16 real estate broker license to respondent FUNDING to create the
17 appearance of a lawful business. Respondent BABCOCK did not
18 maintain or control the records of the business, did not supervise
19 the employees of the business in the performance of acts for which
20 a license was required, and permitted Johnson and Huizar
21 (unlicensed persons) to perform acts for which a real estate
22 license is required, including the negotiation of loans secured by
23 liens on real property. Respondent BABCOCK permitted Johnson and
24 Huizar to, in fact, operate the business as if Johnson and Huizar
25 were licensed real estate brokers.

26 ///

27 ///

VIII

Beginning on or about July 16, 1991 and continuing through on or about March 17, 1992, respondent BABCOCK while employed by respondent FUNDING failed to exercise reasonable supervision and control of the activities of respondent FUNDING as its designated broker officer by allowing Johnson and Huizar, while in the employ of respondent FUNDING, to perform acts for which a real estate license is required without first having obtained a real estate license. Said failure to supervise included respondent BABCOCK allowing Johnson and Huizar while unlicensed to negotiate the following two mortgage loan transactions:

<u>DATE FUNDED</u>	<u>BORROWER</u>	<u>LENDER</u>	<u>PROPERTY</u>
11/19/91	Gloria Mackie	David & Loretta Drew	7367 Fallwood Way Citrus Heights, CA
01/15/92	James Cheney	David & Loretta Drew	7597 Madison Ave. Citrus Heights, CA

IX

Respondents, in connection with a loan described in Paragraph VIII above, made by David and Loretta Drew (hereinafter "Lenders") to Gloria Mackie (hereinafter "Borrower") secured by real property commonly known as 7367 Fallwood Way, Citrus Heights, California (hereinafter "the Property") and charged the Borrower more than \$700.00 for loan costs and expenses in violation of Section 10242(a) of the Code.

X

Respondents, in connection with the loan described in Paragraphs VIII and IX above, charged the Borrower a commission of

1 more than five percent (5%) of the principle amount of the loan in
2 violation of Section 10242(b)(2) of the Code.

3 XI

4 The acts and/or omissions of Respondents described above
5 are grounds for the suspension or revocation of Respondents'
6 licenses and/or license rights under the following sections of the
7 Code, as follows:

8 (1) As to Paragraphs VII and VIII under Sections
9 10177(h) of the Code, or in the alternative under Section 10177(g)
10 of the Code, as to respondent BABCOCK;

11 (2) As to Paragraph IX under Section 10242(a) of the
12 Code in conjunction with Section 10177(d) of the Code; and

13 (3) As to Paragraph X under Section 10242(b)(2) of the
14 Code in conjunction with Section 10177(d) of the Code.

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

22
23 
24 CHARLES W. KOENIG
Deputy Real Estate Commissioner

25 Dated at Sacramento, California,
26 this 19th day of October, 1993.

27