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FILED  
MAY - 3 1996

DEPARTMENT OF REAL ESTATE

By *Laurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
AUGUST LIEBELT, ) No. H-5798 SF  
Respondent. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 15, 1987, a Decision was rendered herein  
revoking the real estate broker license of Respondent, but  
granting Respondent the right to the issuance of a restricted real  
estate broker license. A restricted real estate broker license  
was issued to Respondent on August 17, 1987, and Respondent has  
operated as a restricted licensee without cause for disciplinary  
action against Respondent since that time.

On June 9, 1995, Respondent petitioned for reinstatement  
of said real estate broker license, and the Attorney General of  
the State of California has been given notice of the filing of  
said petition.

///

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 him.

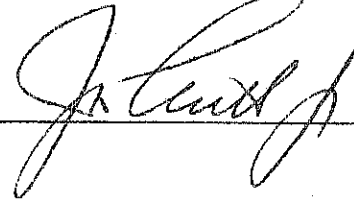
8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition  
9 for reinstatement is granted and that a real estate broker license  
10 be issued to Respondent if Respondent satisfies the following  
11 condition within six (6) months from the date of this Order:

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

14 This Order shall be effective immediately.

15 DATED: 4/30/96

16 JIM ANTT, JR.  
17 Real Estate Commissioner

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FILED  
AUG 13 1992

DEPARTMENT OF REAL ESTATE

By Lynda Montiel

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	No. H-5798 SF
AUGUST LIEBELT,	)	
	)	
Respondent.	)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 15, 1987, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on August 17, 1987 and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On September 12, 1991, Respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition .

///

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 him.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's petition  
9 for reinstatement is granted and that a real estate broker license  
10 be issued to Respondent if Respondent satisfies the following  
11 condition within six (6) months from the date of this Order:

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

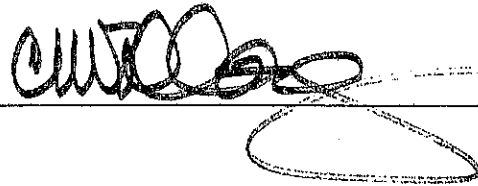
14 2. Submittal of evidence of having, since the most  
15 recent issuance of an original or renewal real estate license,  
16 taken and successfully completed the continuing education  
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
18 for renewal of a real estate license.

19 This Order shall be effective immediately.

20 DATED: \_\_\_\_\_

6/18/92

21 CLARK WALLACE  
22 Real Estate Commissioner

23   
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COPY

FILED  
APR 13 1989

DEPARTMENT OF REAL ESTATE

By *Lynnda Montiel*  
Lynnda Montiel

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of ) No. H-5798 SF  
)  
)  
AUGUST LIEBELT, )  
)  
Respondent. )  
\_\_\_\_\_ )

ORDER DENYING REINSTATEMENT OF LICENSE

On July 15, 1987, a Decision was rendered herein  
revoking the real estate broker license of respondent.

On August 26, 1988, respondent petitioned for  
reinstatement of said real estate broker license and the Attorney  
General of the State of California has been given notice of the  
filing of said petition.

I have considered respondent's petition and the  
evidence and arguments in support thereof. Insufficient time has  
elapsed since the revocation of respondent's broker license for  
him to demonstrate to my satisfaction that he has undergone  
sufficient rehabilitation to warrant the reinstatement of his  
real estate broker license.

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NOW, THEREFORE, IT IS ORDERED that respondent's  
petition for reinstatement of his real estate broker license is  
denied.

This Order shall be effective at 12 o'clock noon on  
May 3rd, 1989.

DATED: April 6, 1989

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

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

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FILED  
SEP 15 1987

DEPARTMENT OF REAL ESTATE

By C. Westbrook  
C. Westbrook

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )	NO. H-5798 SF
)	
AUGUST LIEBELT, )	N 29216
LIEBELT CORPORATION, and )	
ALI AMIDY KHAJE, )	
)	
Respondents .)	

ORDER DENYING RECONSIDERATION

On July 15, 1987, a Decision was rendered in the above-entitled matter. The Decision is to become effective at 12 o'clock noon on September 16, 1987.

On August 14, 1987, respondent Khaje only petitioned for reconsideration of the Decision of July 15, 1987.

I have given due consideration to the petition of respondent. I find no good cause to reconsider the Decision of July 15, 1987, and reconsideration is hereby denied.

IT IS SO ORDERED September 14, 1987.

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

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

COPY

FILED  
AUG 14 1987

DEPARTMENT OF REAL ESTATE

By C. Westbrook  
C. Westbrook

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )	
AUGUST LIEBELT, )	NO. H-5798 SF
LIEBELT CORPORATION, and )	
ALI AMIDY KHAJE, )	OAH NO. N-29216
Respondents. )	

ORDER STAYING EFFECTIVE DATE

On July 15, 1987, a Decision was rendered in the above-entitled matter to become effective August 17, 1987.

IT IS HEREBY ORDERED that the effective date of the Decision of July 15, 1987 with respect to ALI AMIDY KHAJE only is stayed for a period of 30 days.

The Decision of July 15, 1987 shall become effective at 12 o'clock noon on September 16, 1987.

DATED: August 14, 1987.

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

Edward V. Chio

By: EDWARD V. CHIOLO  
Real Estate Manager III



**FILED**  
JUL 27 1987

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By Reshni R. Kalidin  
Reshni R. Kalidin

In the Matter of the Accusation of )  
 )  
AUGUST LIEBELT, )  
LIEBELT CORPORATION, and )  
ALI AMIDY KHAJE, )  
 )  
Respondents. )

No. H-5798 SF  
N 29216

DECISION

The Proposed Decision dated June 22, 1987, 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 17th, 1987.

IT IS SO ORDERED - 2-15, 1987.

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

[Signature]

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
of: )  
 )  
AUGUST LIEBELT, )  
LIEBELT CORPORATION, and )  
ALI AMIDY KHAJE )  
 )  
Respondents. )  
\_\_\_\_\_ )

CASE NO. H-5798 SF  
OAH NO. N-29216

PROPOSED DECISION

This matter was heard before Ruth S. Astle,  
Administrative Law Judge, Office of Administrative Hearings,  
State of California on June 16, 1987, in San Francisco,  
California.

Vera Winter Lee, Staff Counsel, represented the Complainant.

Respondents were present and represented by James V.  
Lee, Attorney at Law, Suite 13, Winslow Building, 234 Marshall  
Street, Redwood City, California 94063.

The matter was consolidated for hearing with case No.  
29217.

FINDINGS OF FACT

I

August Liebelt (respondent Liebelt), Liebelt Corporation  
(respondent corporation), and Ali Amidy Khaje (respondent Khaje )  
are presently licensed and have license rights under the Real  
Estate Law (Part 1 of Division 4 of the Business and Professions  
Code\*).

II

At all times herein mentioned respondent Liebelt was  
licensed by the Department of Real Estate of the State of  
California (Department) as a real estate broker, both in his  
individual capacity and as designated officer of respondent

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\*All references are to said code unless otherwise stated.

corporation, a California corporation. The individual license will expire on July 12, 1989. The license as designated officer of respondent corporation will expire January 9, 1989.

At all times herein mentioned respondent corporation, a California corporation was licensed by the Department as a real estate broker by and through respondent Liebelt as designated officer. The license will expire on January 6, 1989.

At all times herein mentioned respondent Khaje was licensed by the Department as a real estate salesperson. The license will expire on December 6, 1988.

### III

Edward V. Chiolo made the Accusation as a Deputy Real Estate Commissioner of the State of California, acting in his official capacity and not otherwise.

### FIRST CAUSE OF ACTION

#### IV

On July 14, 1986, an investigative audit was made by the Department of the books and records of respondent corporation, doing business under the fictitious business name of Better Business Broker.

#### V

Respondent Liebelt, as designated officer of respondent corporation, failed and continues to fail to apply to the Department for a real estate broker license issued under the fictitious business name of Better Business Broker.

#### VI

It was ascertained by the audit that the trust liability of respondent corporation as of June 30, 1986, was in the aggregate amount of Five Thousand Dollars (\$5,000).

#### VII

It was further ascertained by the audit that respondent Liebelt, as designated officer of respondent corporation, failed to retain the aggregate sum in a trust account and as of June 30, 1986, the adjusted trust fund balance was Ten Dollars (\$10) causing a trust fund shortage of Four Thousand Nine Hundred Ninety Dollars (\$4,990).

VIII

It was further ascertained by the audit that respondent Liebelt, as designated officer of respondent corporation was not a signatory on the trust account.

IX

It was further ascertained by the audit that the records of respondent corporation did not include a record of all trust funds received by respondent corporation as required by law in that respondent Liebelt, as designated officer of respondent corporation, failed to set forth in columnar form:

- (1) Date fund received.
- (2) From whom funds received.
- (3) Amount received.
- (4) With respect to funds deposited in trust bank account, date of said deposit.
- (5) With respect to funds previously deposited to trust bank account, check number and date of related disbursement.
- (6) With respect to funds not deposited in trust bank account, identity of other depository and date funds were forwarded.
- (7) Daily balance of trust bank account.

SECOND CAUSE OF ACTION

X

At all times mentioned herein, Charito Serrano (Seller) was the owner of the Arco Gas Station, located at 10550 De Anza Boulevard, Cupertino, California (Property). Prior to December 24, 1985, Seller had listed the Property for sale with respondent Khaje.

XI

On December 24, 1985, respondent Khaje, while licensed and acting in the capacity of a real estate salesperson in the employ of respondent corporation, prepared a Deposit Receipt/Earnest Money Agreement (Deposit Receipt) that contained an offer by Hector and Aida Cerezo (Buyer) to purchase the

Property for One Hundred Ninety-Four Thousand Dollars (\$194,000). Respondent Khaje also received from Buyer the sum of Five Thousand Dollars (\$5,000) (deposit) in the form of a personal check, executed by Buyer as a deposit on the purchase of the Property.

XII

On December 30, 1985, Seller executed a counteroffer and the counteroffer was accepted by Buyer on the same date.

XIII

Respondent Khaje failed to place the deposit into a neutral escrow depository or into the hands of his principal or into a trust account but instead deposited it in his business account No. 019-005884, Bank of the West, San Jose, California.

XIV

On April 18, 1986, Seller and Buyer executed a release of deposit (release) wherein they mutually agreed to release each other from the sale and purchase of the Property and Seller also authorized the return of the deposit to Buyer.

XV

On April 24, 1986, respondent Khaje, following notice of the release and a demand from Buyer for the return of the deposit, pursuant to the terms of the release, refused to return the deposit to the Buyer.

XVI

On April 24, 1986, respondent Khaje represented to Buyer that the Buyer owed respondent Khaje a commission in the amount of Eighteen Thousand Dollars (\$18,000) for failing to purchase the Property. That matter is still being litigated in Civil Court.

THIRD CAUSE OF ACTION

XVII

Respondent Liebelt, as designated officer of respondent corporation, failed to review, initial and date the Deposit Receipt prepared by respondent Khaje on December 24, 1985.

XVIII

Respondent Liebelt, as designated officer of respondent corporation, failed to ascertain that respondent Khaje did not

place the deposit into a neutral escrow depository, or into the hands of his principal, or into a trust account but deposited it into his business account, and he failed to ascertain that respondent Khaje refused to return the Deposit to Buyer.

#### OTHER MATTERS

#### XIX

Respondent Liebelt has been licensed for 18 years with no prior problems. Respondent Liebelt agreed to have respondent Khaje act as a salesperson under his broker license until respondent Khaje became a broker for which respondent Khaje filed an application January 9, 1987. Respondent Liebelt did not know (although he should have known) and therefore did not condone that respondent Khaje had begun transacting business under the fictitious business name of Better Business Brokers; nor did respondent Liebelt know that respondent Khaje had opened a trust account for which he (respondent Liebelt) was not a signator. Respondent Liebelt was not informed by respondent Khaje of the transaction between the Buyer and Seller nor did he receive any portion of the \$5,000 deposit for purposes of placing the money in escrow or a trust account.

#### XX

Respondent Liebelt was gone in September of 1984 on vacation and then again in the summer of 1985 on a vacation/business trip. Respondent Liebelt did not leave another broker in charge of supervising respondent Khaje or checking his transactions.

#### XXI

Respondent Khaje was attempting to act as a broker before he was licensed. He did not have respondent Liebelt supervise his work. Respondent Khaje converted the deposit for his own use without having it in a neutral depository while litigation is pending.

#### XXII

Respondent Khaje claims he did not know that he could not deposit the deposit money in his general account. Lack of knowledge of such a basic responsibility of a real estate licensee is inexcusable.

DETERMINATION OF ISSUES

FIRST CAUSE OF ACTION (Re: Liebelt or Corp.)

I

By reason of the matters set forth in Finding V, cause for disciplinary action exists pursuant to sections 10159.5 and 10177(d) of the Code.

II

By reason of the matters set forth in Findings VI and VII, cause for disciplinary action exists pursuant to sections 10145 and 10177(d) of the Code.

III

By reason of the matters set forth in Finding VIII, cause for disciplinary action exists pursuant to section 2830 of Title 10, California Administrative Code (Regulations) and 10177(d) of the Code.

IV

By reason of the matters set forth in Finding IX, cause for disciplinary action exists pursuant to section 2831 of the Regulations and 10177(d) of the Code.

SECOND CAUSE OF ACTION (Re: Khaje)

V

By reason of the matters set forth in Finding XIII, cause for disciplinary action exists pursuant to sections 10145 and 10177(d) of the Code.

VI

By reason of the matters set forth in Finding XIII, cause for disciplinary action exists pursuant to section 10176(e) of the Code.

VII

By reason of the matters set forth in Findings XV and XVI, cause for disciplinary action exists pursuant to sections 10176(a), 10176(i) and 10177(f) of the Code.

THIRD CAUSE OF ACTION (Re: Liebelt)

VIII

By reason of the matters set forth in Finding XVII, cause for disciplinary action exists pursuant to section 2725 of the Regulations and section 10177(d) of the Code.

IX

By reason of the matters set forth in Finding XVIII, cause for disciplinary action exists pursuant to section 10177(h) of the Code.

OTHER MATTERS

X

The matters set forth in Findings XIX and XX have been considered in making the following order re: respondent Liebelt and Liebelt Corporation.

XI

The matters set forth in Findings XXI and XXII have been considered in making the following order re: respondent Khaje.

ORDER

I

The license and license rights of Ali Amidy Khaje are hereby revoked as to Determinations V, VI, and VII, separately and severally.

II

1. The license and license rights of August Liebelt and Liebelt Corporation are hereby revoked as to Determinations I, II, III, IV, VIII, and IX, collectively.

2. A restricted real estate broker license and designated officer license shall be issued to respondent Liebelt and a restricted real estate broker license shall be issued to respondent corporation under Business and Professions Code section 10156.5 if respondent Liebelt and respondent corporation make application therefor and pay to the Department of Real Estate the appropriate fees for said licenses within ninety (90) days of this Decision.



3. The restricted licenses issued to respondents shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following conditions:

- A. An actual suspension of five (5) days.
- B. Each restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent Liebelt's conviction or plea of nolo contendere to a crime which bears a significant relation to respondent Liebelt's fitness or capacity as a real estate licensee.
- C. Each restricted license may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that respondents have violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to the restricted licenses.
- D. Respondents shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions of a restricted license until one (1) year has elapsed from the date of issuance of the restricted licenses to them.
- E. Respondent Liebelt shall, within six (6) months from the effective date of this Decision, present evidence satisfactory to the Commissioner that he has since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements under 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 licenses of respondent Liebelt and respondent corporation until respondent Liebelt presents such evidence. The Commissioner shall afford respondents the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: July 3, 1987

Ruth S. Astle  
RUTH S. ASTLE  
Administrative Law Judge

RSA:hrs

1 JOSEPH McGOVERN, Counsel  
2 DEPARTMENT OF REAL ESTATE  
3 185 Berry Street, Room 5816  
4 San Francisco, California 94107

5 Telephone: (415) 557-3220

FILED  
JAN 14 1987

DEPARTMENT OF REAL ESTATE

By Reshni R. Kalidin  
Reshni R. Kalidin

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 -----  
11 In the Matter of the Accusation of ) NO. H-5798 SF  
12 AUGUST LIEBELT, )  
13 LIEBELT CORPORATION, and ) ACCUSATION  
14 ALI AMIDY KHAJE, )  
15 Respondents. )

16 The complainant, EDWARD V. CHIOLO, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of accusation  
18 against AUGUST LIEBELT, LIEBELT CORPORATION, and ALI AMIDY KHAJE,  
19 is informed and alleges as follows:

20 FIRST CAUSE OF ACTION

21 I

22 That AUGUST LIEBELT, LIEBELT CORPORATION, and ALI AMIDY  
23 KHAJE (hereinafter respondents) are presently licensed and/or  
24 has license rights under the Real Estate Law (Part 1 of Division  
25 4 of the Business and Professions Code of the State of  
26 California).

27 / / / / /

II

1 That at all times herein mentioned respondent AUGUST  
2 LIEBELT (hereinafter respondent Liebelt) was licensed by the  
3 Department of Real Estate of the State of California (hereinafter  
4 the Department) as a real estate broker, both in his individual  
5 capacity and as designated officer of Liebelt Corporation, a  
6 California corporation. Said individual license will expire on  
7 July 12, 1989; said license as designated officer of Liebelt  
8 Corporation will expire January 6, 1989.

9 That at all times herein mentioned respondent LIEBELT  
10 CORPORATION, a California corporation (hereinafter respondent  
11 Corporation) was licensed by the Department as a real estate  
12 broker by and through respondent Liebelt as designated officer;  
13 that said license will expire on January 6, 1989.

14 That at all times herein mentioned, respondent ALI  
15 AMIDY KHAJE (hereinafter respondent Khaje) was licensed by the  
16 Department as a real estate salesperson; that said license will  
17 expire on December 6, 1988.

18 III

19 The complainant EDWARD V. CHILOLO, a Deputy Real  
20 Estate Commissioner of the State of California, acting in his  
21 official capacity as such and not otherwise, makes this  
22 accusation against respondent.

23 IV

24 That on or about July 14, 1986, an investigative audit  
25 was made by the Department of the books and records of respondent  
26 Corporation, doing business under the fictitious business name of  
27

1 Better Business Broker.

2 V

3 That respondent Liebelt, as designated officer of  
4 respondent Corporation, failed and continues to fail to apply to  
5 the Department for a real estate broker license issued under the  
6 fictitious business name Better Business Broker.

7 VI

8 That it was ascertained by said audit that the trust  
9 liability of respondent Corporation as of June 30, 1986, was in  
10 the aggregate amount of FIVE THOUSAND DOLLARS (\$5,000).

11 VII

12 That it was further ascertained by said audit that  
13 respondent Liebelt, as designated officer of respondent  
14 Corporation, failed to retain said aggregate sum in a trust  
15 account and that as of June 30, 1986, the adjusted trust fund  
16 balance was TEN DOLLARS (\$10.00) causing a trust fund shortage of  
17 FOUR THOUSAND NINE HUNDRED NINETY DOLLARS (\$4,990.00).

18 VIII

19 That it was further ascertain by said audit that  
20 respondent Liebelt, as designated officer of respondent  
21 Corporation, was not a signatory on the trust account referred to  
22 in Paragraph VII.

23 IX

24 That it was further ascertained by said audit that said  
25 records of respondent Corporation did not include a record of all  
26 trust funds received by respondent Corporation as provided in  
27 Section 2831 of Title 10, California Administrative Code

1 (hereinafter referred to as Regulations), in that respondent  
2 Liebelt, as designated officer of respondent Corporation, failed  
3 to set forth in columnar form:

- 4 (1) Date fund received.
- 5 (2) From whom funds received.
- 6 (3) Amount received.
- 7 (4) With respect to funds deposited in trust bank account,  
8 date of said deposit.
- 9 (5) With respect to funds previously deposited to trust  
10 bank account, check number and date of related  
11 disbursement.
- 12 (6) With respect to funds not deposited in trust bank  
13 account, identity of other depository and date funds  
14 were forwarded.
- 15 (7) Daily balance of trust bank account.

16 X

17 That by reason of the facts as hereinabove alleged in  
18 Paragraphs VI and VII above, respondent Corporation and  
19 respondent Liebelt, as designated officer of respondent  
20 Corporation, have been guilty of acts or omissions, or both, in  
21 violation of Section 10145 of the Business and Professions Code  
22 of the State of California (hereinafter the Code) and said acts  
23 or omissions constitute grounds for disciplinary action under the  
24 provisions of Section 10177(d) of the Code.

25 That by reason of the facts as hereinabove alleged in  
26 Paragraph V, respondent Corporation and respondent Liebelt, as  
27 designated officer of respondent Corporation, have been guilty of

1 acts or omissions, or both, in violation of Section 10159.5 of  
2 the Code and said acts or omissions constitute grounds for  
3 disciplinary action under the provisions of Section 10177(d) of  
4 the Code.

5 That by reason of the facts as hereinabove alleged in  
6 Paragraph VIII, respondent Corporation and respondent Liebelt, as  
7 designated officer of respondent Corporation, have been guilty of  
8 acts or omissions, or both, in violation of Section 2830 of the  
9 Regulations and said acts or omissions constitute grounds for  
10 disciplinary action under the provisions of Section 10177(d) of  
11 the Code.

12 That by reason of the facts as hereinabove alleged in  
13 Paragraph IX, respondent Corporation and respondent Liebelt, as  
14 designated officer of respondent Corporation, have been guilty of  
15 acts and omissions, or both, in violation of Section 2831 of the  
16 Regulations and said acts or omissions constitute grounds for  
17 disciplinary action under the provisions of Section 10177(d) of  
18 the Code.

19 SECOND CAUSE OF ACTION

20 There is hereby incorporated into this second, separate  
21 and distinct cause of action all of the allegations contained in  
22 Paragraphs I, II and III of the First Cause of Action, with the  
23 same force and effect as if herein more fully set forth.

24 I

25 That at all times herein mentioned, Charito Serrano  
26 (hereinafter referred to as Seller) was the owner of the Arco  
27 Gas Station, located at 10550 De Anza Boulevard, Cupertino,

1 California (hereinafter the Property); that prior to December 24,  
2 1985, Seller had listed the Property for sale with Jack Tereza,  
3 real estate broker, dba Brooktree Realty (hereinafter Lister).

4 II

5 That on or about December 24, 1985, respondent Khaje,  
6 while licensed and acting in the capacity of a real estate  
7 salesperson in the employ of respondent Corporation, prepared a  
8 Deposit Receipt/Earnest Money Agreement (hereinafter Deposit  
9 Receipt) that contained an offer by Hector and Aida Cerezo  
10 (hereinafter Buyer) to purchase the Property for ONE HUNDRED  
11 NINETY FOUR THOUSAND DOLLARS (\$194,000); that respondent Khaje  
12 also received from Buyer the sum of FIVE THOUSAND DOLLARS  
13 (\$5,000) (hereinafter referred to as the Deposit) in the form of  
14 personal check, executed by Buyer as a deposit on the purchase of  
15 the Property.

16 III

17 That on or about December 30, 1985, Seller executed a  
18 counter-offer and said counter offer was accepted by Buyer on the  
19 same date.

20 IV

21 That respondent Khaje failed to place the Deposit into  
22 a neutral escrow depository or into the hands of his principal or  
23 into a trust account but instead deposited it in his business  
24 account No. 019-005884, Bank of the West, San Jose, California.

25 V

26 That on or about April 18, 1986, Seller and Buyer  
27 executed a Release of Deposit (hereinafter the Release) wherein

1 they mutually agreed to release each other from the sale and  
2 purchase of the Property and Seller also authorized the return of  
3 the Deposit to Buyer.

4 VI

5 That on or about April 24, 1986, respondent Khaje,  
6 following notice of the Release and a demand from Buyer for the  
7 return of the Deposit, pursuant to the terms of the Release,  
8 refused to return the Deposit to Buyer.

9 VII

10 That on or about April 24, 1986, respondent Khaje  
11 falsely represented to Lister that Buyer owed respondent Khaje a  
12 commission in the amount of EIGHTEEN THOUSAND DOLLARS (\$18,000)  
13 for failing to purchase the Property.

14 VIII

15 That by reason of the facts as hereinabove alleged in  
16 Paragraph IV above, respondent Khaje has been guilty of acts or  
17 omissions, or both, in violation of Section 10145 of the Business  
18 and Professions Code of the State of California (hereinafter the  
19 Code) and said acts or omissions constitute grounds for  
20 disciplinary action under the provisions of Section 10177(d) of  
21 the Code.

22 IX

23 That by reason of the facts as hereinabove alleged in  
24 Paragraph VI, respondent Khaje has been guilty of acts or  
25 omissions, or both, in violation of Section 10176(e) of the  
26 Code.



1  
2 That by reason of the facts as hereinabove alleged in  
3 Paragraphs VI and VII above, respondent Khaje has been guilty of  
4 acts or omissions, or both, in violation of Sections 10176(a),  
5 10176(i) and 10177(f) of the Code.

6 THIRD CAUSE OF ACTION

7 There is hereby incorporated into this third, separate  
8 and distinct cause of action all of the allegations contained in  
9 Paragraphs I, II and III of the First Cause of Action and  
10 Paragraphs II, III, IV, VI and VII of the Second Cause of Action  
11 with the same force and effect as if herein more fully set forth.

12 I

13 That respondent Liebelt, as designated officer of  
14 respondent Corporation, failed to review, initial and date the  
15 Deposit Receipt prepared by respondent Khaje, on or about  
16 December 24, 1985, and referred to in Paragraph II of the Second  
17 Cause of Action.

18 II

19 That respondent Liebelt, as designated officer of  
20 respondent Corporation, failed to ascertain that respondent Khaje  
21 did not place the Deposit referred to in Paragraph IV of the  
22 Second Cause of Action into a neutral escrow depository, or into  
23 the hands of his principal, or into a trust account but deposited  
24 it into his business account, and he failed to ascertain that  
25 respondent Khaje refused to return the Deposit to Buyer as  
26 alleged in Paragraph VI of the Second Cause of Action.

27 / / / / /

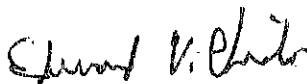
III

1  
2 That by reason of the facts as alleged in Paragraph I  
3 above, respondent Liebelt, as designated officer of respondent  
4 Corporation, has been guilty of acts or omissions, or both, in  
5 violation of Section 2725 of Title 10, California Administrative  
6 Code (hereinafter referred to as Regulations) and said acts or  
7 omissions, or both, constitute grounds for disciplinary action  
8 under Section 10177(d) of the Business and Professions Code of  
9 the State of California (hereinafter the Code).

IV

10  
11 That by reason of the facts as hereinabove alleged in  
12 Paragraph II above, respondent Liebelt, as designated officer of  
13 respondent Corporation, has been guilty of acts or omissions, or  
14 both, constituting grounds for disciplinary action under the  
15 provisions of Section 10177(h) of the Code.

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

23  
24 

25 \_\_\_\_\_  
26 EDWARD V. CHIOLO  
27 Deputy Real Estate Commissioner

28 Dated at San Francisco, California  
29 this 14th day of January, 1987.