

FILED

JAN 03 2006

DEPARTMENT OF REAL ESTATE

By

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-7387 SF

OMER AHMED SALEM,

Respondent.

ORDER DENYING RECONSIDERATION

On November 1, 2005, an Order Denying Reinstatement of License was signed in the above-entitled matter. Said Order which was to become effective on November 22, 2005, was stayed by separate Orders to January 3, 2006.

On November 7, 2005, Respondent petitioned for reconsideration of the Order of November 1, 2005.

I have given due consideration to the petition of Respondent and the arguments and evidence submitted in support thereof. I find no good cause to reconsider the Decision of November 1, 2005, and reconsideration is hereby denied.

IT IS SO ORDERED

1-3-06

JEFF DAVIS
Real Estate Commissioner

[Signature]

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FILED
NOV 30 2005
DEPARTMENT OF REAL ESTATE
By Juan Arment

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
OMER AHMED SALEM,) NO. H-7387 SF
Respondent.)

ORDER FURTHER STAYING EFFECTIVE DATE

On November 1, 2005, an Order Denying Reinstatement of License was rendered in the above-entitled matter to become effective on November 22, 2005.

On November 7, 2005, Respondent petitioned for reconsideration of the Decision of November 1, 2005. On November 7, 2005 an Order Staying the Effective Date was filed staying the Decision to December 22, 2005.

On November 29, 2005, Respondent requested additional time to obtain documents in support of Respondent's argument.

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FILED

NOV 07 2005

DEPARTMENT OF REAL ESTATE

By *John R. Liberato*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
OMER AHMED SALEM,)
Respondent.)

NO. H-7387 SF

ORDER STAYING EFFECTIVE DATE

On November 1, 2005, an Order Denying Reinstatement of License was rendered in the above-entitled matter to become effective on November 22, 2005. On November 7, 2005, Respondent requested a stay for the purpose of filing a petition for reconsideration of the Order Denying Reinstatement of License of November 1, 2005.

IT IS HEREBY ORDERED that the effective date of the Order Denying Reinstatement of License be stayed for a period of thirty (30) days. The Order Denying Reinstatement of License of November 1, 2005, shall become effective at 12 o'clock noon on December 22, 2005.

DATED: November 7, 2005.

JEFF DAVI
Real Estate Commissioner

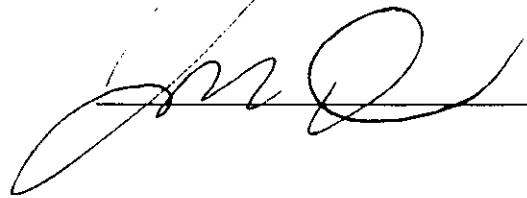
John R. Liberato

BY: John R. Liberato
Chief Deputy Commissioner

1 IT IS HEREBY ORDERED that the effective date of the
2 Decision is stayed for an additional ten (10) days. The Decision
3 of November 1, 2005, shall become effective at 12 o'clock noon on
4 January 3, 2006.

5 DATED: NOV 30 2005, 2005.

6 JEFF DAVI
7 Real Estate Commissioner

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FILED

NOV 01 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-7387 SF
OMER AHMED SALEM,)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On June 4, 1997, a Decision was rendered in H-7387 SF
revoking the real estate broker license of Respondent OMER AHMED
SALEM.

On November 16, 2004, 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. Respondent has failed
to demonstrate to my satisfaction that Respondent has undergone
sufficient rehabilitation to warrant the reinstatement of
Respondent's real estate broker license.

1 The burden of proving rehabilitation rests with the
2 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
3 petitioner is required to show greater proof of honesty and
4 integrity than an applicant for first time licensure. The proof
5 must be sufficient to overcome the prior adverse judgment on the
6 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
7 395).

8 The Department has developed criteria in Section 2911
9 of Title 10, California Code of Regulations (Regulations) to
10 assist in evaluating the rehabilitation of an applicant for
11 reinstatement of a license. Among the criteria relevant in this
12 proceeding are:

13 Section 2911(c). Expungement of criminal convictions
14 resulting from immoral or antisocial acts. On March 5, 1980, in
15 Santa Clara County Municipal Court Case No. C8010686, Respondent,
16 using the name "Ashraf Abbas Mohamed", was convicted on his nolo
17 contendere plea of the crime of Petty Theft in violation of Penal
18 Code Sections 484 and 488, a misdemeanor. On August 30, 1993, in
19 the Municipal Court of the State of California, County of Fresno,
20 Case No. M93025490-4, Respondent was convicted of False
21 Information To Police Officer in violation of Penal Code Section
22 148.9(a), a misdemeanor. On August 20, 1998, in the Superior
23 Court of the State of California, County of Santa Clara, Case No.
24 B9522136, Respondent was convicted of Disturbing the Peace in
25 violation of Penal Code Section 415.1, a misdemeanor. Although
26 evidence has been submitted that the conviction in Fresno County

27 ///

1 Case No. M93025490-4 has been expunged, no evidence has been
2 submitted of expungement of the other two convictions.

3 Section 2911(k). Correction of business practices
4 resulting in injury to others or with the potential to cause such
5 injury. On July 26, 1989, before the Department of Real Estate,
6 State of California, Case No. H-6204 SF, the Real Estate
7 Commissioner issued an order finding that Respondents First
8 Financial Network and Omer Ahmed Salem had violated the
9 provisions of Section 10085, 10145, 10148, 10176(e), 10176(i),
10 10177(f), 10177(g), 10177(j), 10232.1, 10232.2, 10232.25, 10232.4,
11 and 10240 and Sections 2830, 2831, 2831.1, 2831.2, 2832, 2840,
12 2970, and 2972 of the Regulations and ordered such Respondents to
13 desist and refrain from such violations. On March 25, 1991,
14 before the Department of Real Estate, State of California, Case
15 No. H-6188 SF, the Real Estate Commissioner found that
16 Respondents First Financial Network and Omer Ahmed Salem had
17 violated the provisions of Section 10176(e) of the Code and
18 Sections 2830 and 2832 of the Regulations in conjunction with
19 Section 10177(d) of the Code. On May 15, 1997, before the
20 Department of Real Estate, State of California, Case No. H-7387
21 SF, a Proposed Decision was issued by the assigned Administrative
22 Law Judge. The Proposed Decision found cause to discipline the
23 licenses and license rights of First Financial Network and Omer
24 Ahmed Salem pursuant to the provisions of Section 10148 of the
25 Code and Sections 2831, 2831.1 and 2831.2 of the Regulations in
26 conjunction with Section 10177(d) of the Code. In view of these
27 violations, it is incumbent upon Respondent to provide

1 trustworthy evidence that he has corrected his mortgage loan
2 brokerage, trust fund handling and record keeping practices.
3 Respondent has failed to provide this evidence. Respondent did
4 provide reference letters from Akram Ghazal, Kevin Salem, Lamyle
5 Porter, Randy Feriante, Dick Goodell, David Meir-Levi, Cordell
6 Olive, Rodney Mann and Leonard Davis reflecting favorably on his
7 personal and business character, but none of these letters
8 suggest awareness of Respondent's current business practices, or
9 any understanding of the practices that resulted in the
10 revocation of Respondent's license. In part this is because
11 Respondent states that between April 1998 and April 2000, he was
12 sojourning in India doing volunteer work for the Tablighi
13 Foundation, and that between May, 2000 and May, 2005 Respondent
14 was employed full time in Giza, Egypt. Thus, since the revocation
15 Respondent has not acted in a fiduciary capacity or conducted any
16 real estate business in this country.

17 Section 2911(l). Significant or conscientious
18 involvement in community, church or privately-sponsored programs
19 designed to provide social benefits or to ameliorate social
20 problems. Respondent states that between April 1998 and April
21 2000, he was in India doing volunteer work for the Tablighi
22 Foundation, but no trustworthy evidence has been submitted to
23 support any claim that this activity involved programs designed
24 to provide social benefits or to ameliorate social problems.

25 Section 2911(m). New and different social and business
26 relationships from those which existed at the time of the conduct
27 that is the basis for denial of the departmental action sought.

1 The reference letters and other information submitted do not
2 suggest that there has been any relevant change in Respondent's
3 social and business relationships.

4 Section 2911(n). Change in attitude from that which
5 existed at the time of the conduct in question as evidenced by
6 any or all of the following: (1) Testimony of applicant. (2)
7 Evidence from family members, friends or other persons familiar
8 with applicant's previous conduct and with his subsequent
9 attitudes and behavioral patterns. (3) Evidence from probation or
10 parole officers or law enforcement officials competent to testify
11 as to applicant's (4) Evidence from psychiatrists or other
12 persons competent to testify with regard to neuropsychiatric or
13 emotional disturbances. (5) Absence of subsequent felony or
14 misdemeanor convictions that are reflective of an inability to
15 conform to societal rules when considered in light of the conduct
16 in question. Respondent has not submitted evidence justifying the
17 conclusion that there has been a favorable change in his
18 attitude.

19 (a) Respondent has a record of providing in
20 insufficient and unreliable information to the Department:

21 (1) On October 17, 1985, Respondent made application
22 to the Department of Real Estate of the State of California
23 (herein "the Department") for the issuance to Respondent of a
24 real estate salesperson license. In response to Question 15 in
25 said application, to wit: "Have you used any other names?",
26 Respondent answered "No", thereby concealing and failing to
27 disclose that Respondent had previously been known by the name

1 "Ashraf Abbas Mohamed". In response to Question 22 of said
2 application, to wit: "Have you ever been convicted of any
3 violation of law?", Respondent answered "No", thereby concealing
4 and failing to disclose that on March 5, 1980, in Santa Clara
5 County Municipal Court Case No. C8010686, Respondent, using the
6 name "Ashraf Abbas Mohamed", was convicted on his nolo contendere
7 plea of the crime of Petty Theft in violation of Penal Code
8 Sections 484 and 488, a misdemeanor. On November 15, 1985, the
9 Department issued a license to Respondent as a real estate
10 salesperson in reliance on the information provided by Respondent
11 in the application. Respondent's February 14, 1986 application
12 for a real estate broker license, and his subsequent application
13 for a corporate license for First Financial Network suffered from
14 the same deficiencies, with the same results.

15 (2) In finding cause to revoke Respondent's license in
16 Case No. H-7387 SF, the Proposed Decision found in part: (a) "The
17 records provided by Salem were insufficient and unreliable..."
18 [p. 5, ¶X]; (b) "Respondents' records for Trust 2 were also
19 incomplete and unreliable..." (p. 5, ¶XI); (c) "Because
20 respondents did not maintain and provide adequate and reliable
21 records, the Department was unable to establish accountability
22 and the adjusted bank balance for Trust 1." [p. 5, ¶XII].

23 (b) Respondent's petition contains insufficient and
24 unreliable information.

25 (1) In response to Question 3 in the Petition, to wit:
26 "Have you ever been convicted of any violation of law?...List all
27 arrests and convictions of law.", Respondent failed to disclose

1 that on March 5, 1980, in Santa Clara County Municipal Court Case
2 No. C8010686, Respondent was convicted of Petty Theft in
3 violation of Penal Code Sections 484 and 488, and that on
4 August 30, 1993, in the Municipal Court of the State of
5 California, County of Fresno, Case No. M93025490-4, Respondent
6 was convicted of False Information To Police Officer in violation
7 of Penal Code Section 148.9(a). Respondent also failed to
8 disclose the arrests resulting in these convictions.

9 (2) In response to Question 4 of said Petition, to
10 wit: "Have you ever been a defendant in any civil court
11 litigation?...If yes, give details below....", Respondent failed
12 to disclose San Mateo County Case No. CIV86271 filed May 30,
13 1989, and the following Santa Clara County Cases: No. CV036787
14 filed January 13, 1987; No. CV298220 filed October 7, 1994; No.
15 CV310231 filed May 18, 1995; No. CV332047 filed July 5, 1996;
16 No. CV341078 filed January 3, 1997; No. CV363751 filed May 4,
17 1998; No. CV159240 filed April 1, 1991; No. CV062809 filed April
18 14, 1993; No. CV737498 filed January 10, 1994; No. CV066352 filed
19 June 7, 1994; and No. CV751405 filed August 2, 1995.

20 (c) Respondent's concealment of facts and lack of
21 candor demonstrate that Respondent has not changed his attitude
22 from that which existed at the time the grounds for disciplinary
23 action occurred.

24 (d) As noted, the Administrative Law Judge found that
25 the trust account records were insufficient to permit the
26 Department to establish accountability and the significance of
27 this finding, Respondent claims in his petition that no one was

1 hurt, no money was lost in course of the conduct resulting in the
2 disciplinary action in this case. Respondent's argument attempts
3 to minimize the nature of his misconduct. Thus, Respondent has
4 not demonstrated that he understands or appreciates the
5 obligations imposed upon a real estate broker when handling funds
6 held in trust for another. Consequently, Respondent has not
7 demonstrated a change in attitude from that which existed at the
8 time of the conduct in question.

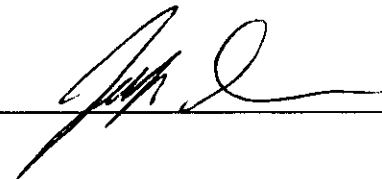
9 Since Respondent has not established that he has
10 complied with Sections 2911(c), (k), (l), (m), and (n) of Title
11 10, California Code of Regulations, I am not satisfied that
12 Respondent is sufficiently rehabilitated to receive a real estate
13 broker license.

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

17 This Order shall become effective at 12 o'clock
18 noon NOV 22 2005, 2005.

19 Dated: 11-1, 2005.

20 JEFF DAVI
21 Real Estate Commissioner

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FILED
JUL 28 1997
DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
FIRST FINANCIAL NETWORK,) NO. H-7387 SF.
OMER AHMED SALEM,) OAH No. N-9609091
Respondent.)

ORDER DENYING RECONSIDERATION

On June 4, 1997, a Decision was rendered in the above-entitled matter. The Decision is to become effective July 28, 1997.

On June 24, 1997, Respondents petitioned for reconsideration of the Decision of June 4, 1997.

I have given due consideration to Respondents' written argument in support of their Petition for Reconsideration received by the Department on July 18, 1997. I did not consider the Declarations of Omer Salem and Mark Hosking submitted with Respondents' argument. I find no good cause to reconsider the Decision of June 4, 1997 and reconsideration is hereby denied.


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IT IS HEREBY ORDERED

7/28

, 1997.

JIM ANTT, JR.
Real Estate Commissioner



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FILED
JUN 25 1997
DEPARTMENT OF REAL ESTATE

By Laurie A. Zain

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
FIRST FINANCIAL NETWORK,) NO. H-7387 SF
OMER AHMED SALEM,) OAH NO. N-9609091
Respondents.)

ORDER STAYING EFFECTIVE DATE

On June 4, 1997, a Decision was rendered in the above-entitled matter to become effective June 27, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of June 4, 1997 is stayed for a period of thirty (30) days.

The Decision of June 4, 1997 shall become effective at 12 o'clock noon on July 28, 1997.

DATED: June 24, 1997 JIM ANTT, JR.
Real Estate Commissioner

Jim R. Liberator

FILED
JUN - 9 1997
DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

Laurie A. Zain

* * *

In the Matter of the Accusation of)
FIRST FINANCIAL NETWORK,)
OMER AHMED SALEM,)
Respondents.)
_____)

NO. H-7387 SF
OAH NO. N-9609091

DECISION

The Proposed Decision dated May 15, 1997, 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 June 27, 1997.

IT IS SO ORDERED 6/9, 1997.

JIM ANTT, JR.
Real Estate Commissioner

Jim Antt, Jr.

In the Matter of the Accusation of)
)
) No. H-7387 SF
)
) FIRST FINANCIAL NETWORK,)
) OMER AHMED SALEM,)
) OAH No. N 9609091
)
) Respondents.)
)

-1-

b) Salem was licensed as of January 1, 1993, as a real estate broker. This license expires April 20, 1998.

II

Effective April 17, 1991, the Real Estate Commissioner, following a hearing on the merits, found cause for disciplinary action against respondents under Business and Professions Code sections 10177(d) and 10176(e)¹ for violating sections 10145 and Title 10, California Code of Regulations, sections 2830, 2831 and 2832.² The period covered by the accusation was the calendar year 1987. The Commissioner did not impose any discipline.

On July 26, 1989, the Commissioner issued an ORDER TO DESIST AND REFRAIN to respondents for violating Sections 10145, 10146, 17176(e), 10085, 10240, 10232.1, 10232.2, 10232.25, 10232.4, 10148, 10177(f), (g) and (j) and 10176(i) and Regulations 2830, 2832, 2972, 2831, 2831.1, 2970 and 2840.

III

Within the three years immediately before the filing of this accusation, respondents engaged in the business of, acted or assumed to act in the capacity of, and advertised as real estate brokers in California within the meaning of Section 10131(d).

This activity included the operation and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property. These loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and were serviced. Payments made thereon were collected on behalf of others.

IV

During the course of such activities, respondents received and disbursed funds held in trust for others.

V

Within the three year period immediately preceding the filing of the accusation, respondents maintained the following trust accounts:

¹ All statutory references are to said Code unless otherwise noted.

² Hereinafter referred to as Regulation(s).

First Financial Network Assn., Inc.
Client Trust Account
Account No. 01582-04218
(hereinafter Trust 1)

Bank of America
San Jose, CA

First Financial Network-Trust Account
Account No. 0277-154431
(hereinafter Trust 2)

Wells Fargo Bank
Palo Alto, CA

VI

The Department conducted an audit of FFN's trust accounts from December 15, 1995 to January 18, 1996, for the period November 30, 1992 to November 30, 1995. The audit disclosed that FFN was a mortgage loan packager that closed, on the average, four loans per month totaling 1.4 million dollars per month.

Trust 1, used for credit and appraisal fees, was closed December 12, 1994. Trust 2 was then opened for the same purpose.

VII

On December 15, 1995, the auditor met with Salem to obtain records for the audit of Trust 1. Salem informed the auditor that Rodney Mann had been the designated officer of FFN during the audit period. The Department's records show Mann as an additional officer of FFN as of March 3, 1993. His designation expired October 3, 1995. The Department's records show Salem as the designated officer during the audit period.

Salem also informed the auditor that the records for the audit period had been placed in storage. When Salem examined what was in storage, he discovered several files were missing. He filed a "Citizen's Crime Report" with the local police department listing the following items as stolen:

"Employee file for Ray Wells
Bank statements for 1993 and 1994 Bank of America
Client files for loans processed in 1994 (Approx)"

Salem provided most of the 1995 records required by the auditor and offered to make available whatever 1993 and 1994 files were in storage. An appointment made for December 21, 1995, was later cancelled by Salem and rescheduled for January 3, 1996.

VIII

On January 3, Salem produced the 1994 bank statements for Trust 1. He informed the auditor that his accountant was still working with the Trust 1 records. The auditor went to

the storage facility and observed some 15 boxes containing loan files. The auditor was unable to examine these boxes because Salem had another commitment. Salem agreed to provide any other files requested after the remainder of his trust records was produced.

By letter dated January 5, the auditor notified Salem of records not yet provided and gave him until January 15 to produce them. Salem responded by letter dated January 9 reiterating that certain records were missing from storage and referred the auditor to the police report on file.

On January 16, the auditor contacted Salem's accountant. The following day, the auditor received from the accountant a one page spreadsheet.

IX

As of January 24, 1996, Salem had not provided the following records for the audit period:

Bank statements for Trust 1 for period 11-30-92 to 12-31-93.

Any cancelled checks for Trust 1 save check No. 1336.

Record of all trust funds received and paid out for Trust 1.

Separate records containing entries prior to 1994.

Any loan files pertaining to the Scott and Caldwell and the M. Beddoes/L. Joaquin transactions.³

Any loan documents pertaining to the Paul Wasserman, Harry Schubel, William Hodges, Sharon Steward⁴ and Ray Wells transactions.⁵

Regarding Trust 2, the separate record for Webb/Sharon.⁶

³ These were files that were missing according to Salem.

⁴ 1994 and 1995 loan files were provided.

⁵ Salem indicated these files were among those missing.

⁶ Salem could not find this record.

X

The records provided by Salem were insufficient and unreliable. For instance, the records lacked a balance after each transaction that was posted. Checks did not show the payee. Some were written for "other" expenses which were unidentified. The documents acquired from Salem's accountant did not include the control record required under Regulation 2831 or the separate records required under Regulation 2831.1 for the pre-1994 years.

Check Nos. 107 and 108 are shown on Trust 1 but are dated three months after this trust account was closed. When Trust 1 was closed on November 16, 1994 (per Salem), there was \$918.12 remaining. According to Salem, \$400 was disbursed to Caldwell, \$375 to Beddoes with FFN retaining the balance of \$143.12. Separate records show the Caldwell and Beddoes disbursements were made on March 17, 1995 (checks 107 and 108). The bank statement shows check No. 8303 for \$918.12 cleared on November 16, 1994. Separate records show this check paid three different appraisal fees totaling \$170. Records do not show what happened with the balance of \$748.12.

Check No. 8455, in the amount of \$900, was for payment to Swayne (\$375), Cook (\$424) and FFN (\$100). It is described as "other." There is nothing to indicate these disbursements were for appraisal or credit fees.

XI

Respondents' records for Trust 2 were also incomplete and unreliable. Each posting did not carry a resultant balance. Check numbers were missing. A disbursement was not recorded on the Jamil separate record. The date and amount of neither the Watson nor Jamil deposits appear in respondents' records. Records showing from whom trust funds were received and the dates of deposit are incomplete. FFN did not maintain any reconciliations between the its control and separate records.

XII

Because respondents did not maintain and provide adequate and reliable records, the Department was unable to establish accountability and the adjusted bank balance for Trust 1.

XIII

Between May 16 and 21, 1996, the Department examined additional accounting records provided by respondents following the previous audit for the same period. This audit covered

mortgage loan activities handled through Trust 2, the Webb/ Sharon separate record for Trust 2 and documents relating to the Schubel, Wasserman and Steward transactions.

XIV

This examination showed respondents did not maintain or provide numerous cancelled checks for Trust 1, recorded two checks on Trust 1 which were not, in fact, from Trust 1, did not maintain control or separate records for Trust 1 from September 11, 1993 to December 31, 1993 and not maintain invoices for Trust 1.

Respondents did not maintain any records of the Caldwell and Beddoes/Joaquin transactions and the Hodges and Wells transactions.

XV

FFN's master record was an inadequate record of all trust funds received and paid out. There was no daily account balance. The record was not in chronological order. Numerous checks which cleared on the bank statement were not recorded on the record. Some were only partially recorded.

FFN's master record was inadequate as a separate beneficiary record. It did not include a balance after posting each transaction. It did not identify the payee on checks. Checks are identified for credit fees, appraisal fees or "other." "Other" is not further defined.

FFN did not provide or maintain reconciliations between the separate records and the control record.

XVI

Due to respondents' inadequate record keeping, the audit could not reconcile Trust 1.

XVII

Salem was raised in Egypt and came to the United States in 1979 where he obtained a degree in engineering from the University of California, Berkeley. He worked for two years as an engineer and then for one year with two mortgage companies. He was an independent contractor loan officer for both entities. He started FFN in 1986 with help from his family.

Salem obtained a real estate salesperson license in 1985 and his real estate broker license in 1986.

XVIII

As a result of findings following a hearing in 1991, Salem engaged a real estate consultant to review respondents' records to assure compliance the Regulations. Salem repeated this practice in 1993. In each instance, Salem was assured by his consultants that respondents were in conformance with the Department's requirements.

Early in 1994, Salem left the country due to a family emergency. When he returned after a month, he asserts he learned that Mann, an officer of the company, had left taking some key employees with him to start his own business. As a result of a downturn in the market, Salem began to close FFN. By June, he was operating from his home. Eventually, Salem merged the business with Bayshore Mortgage. He removed all his accountant's records and disks and placed them in storage.

XIX

Six months after the merger, Salem decided to reopen FFN. In December 1995, when he first learned of the Department's pending audit, Salem requested a postponement to allow him time to find the required records in storage. He filed the police report with the Redwood City Police Department on December 14, 1995.

Salem also discovered that his accounting disks, which had been in storage, were also missing. Salem asserts that Wells took the Beddoes/Joaquin and Wasserman files when he left FFN and never returned them. Salem contacted his former company officer and other employees about the missing files but was informed by each of their lack of knowledge. He believes the files were taken by Mann when he left FFN to start his own business.

XX

In late 1995, Salem contacted his bookkeeper for the audit period and asked for his help in completing and bringing to date the records for the pending audit. Salem asked him to update the spreadsheet the accountant had been maintaining to cover events after June 1994 when the accountant last performed work for FFN. The spreadsheet prepared by the accountant was based upon information provided by Salem including copies of bank statements, cancelled checks and a check register.

The spreadsheet contained no beginning or ending balance. The accountant's report was designed to show where each client's money went. There was no computer document that contained a balance.

DETERMINATION OF ISSUES

I

Regulations 2831(c) and 2831.1(c) authorize a broker to maintain required information on a computer system according to generally accepted accounting principles in lieu of maintaining manual reports. Though Salem asserts his record keeping was in conformance with the two regulations, competent evidence does not support his contention. The evidence does not show that respondents complied with Regulations 2831 and 2831.1.

II

Respondents did not maintain adequate columnar records of all trust funds received and disbursed in according to Regulation 2831.

III

Respondents did not maintain adequate separate records for each beneficiary or transaction accounting for trust funds received, deposited and disbursed as required by Regulation 2831.1.

IV

Respondents did not maintain and perform an adequate reconciliation with the records of all trust funds received and disbursed at least once yearly as required by Regulations 2831.1 and 2831.2.

V

Though the evidence does show that Salem filed a police report regarding alleged missing files, the evidence does not show that the files sought by the Department in the conduct of its audit were, in fact, missing or even maintained by respondents. The evidence did show that Salem made an effort to obtain required documentation and, in fact, some documentation was forthcoming from Salem's sources. However, it was clearly and convincingly shown that respondents did not retain all the records they were required to maintain.

VI

Cause for disciplinary action exists under Section 10177(d)⁷ in conjunction with Section 10148 and Regulations 2831, 2831.1 and 2831.2.

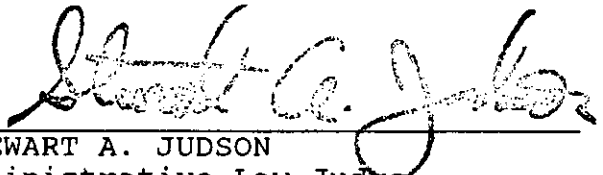
VI

Considered are the findings and conclusions made by the Commissioner in the 1991 disciplinary action against respondents.

ORDER

The real estate licenses and license rights of First Financial Network and Omer Ahmed Salem are revoked under Determination VI.

DATED: May 15, 1997



STEWART A. JUDSON
Administrative Law Judge
Office of Administrative Hearings

⁷ Salem asserts he did not wilfully violate or disregard provisions of the Real Estate Law. This argument was resolved by Handleland v. Department of Real Estate (1976) 58 Cal.App.3d 513, 518-519.

FILED
JAN 10 1997

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zain

In the Matter of the Accusation of

FIRST FINANCIAL NETWORK,
OMER AHMED SALEM,

Case No. H-7387 SF

OA# No. N-9609091

Respondent

FIRST AMENDED
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, World Savings Tower, 1970 Broadway,
Second Floor, Oakland, CA 94612

on Wednesday, February 19th, 1997, 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: January 10, 1997

By David A. Peters
DAVID A. PETERS Counsel

TO: FLAG SECTION
FROM: SACTO. LEGAL

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
DEC 30 1996

DEPARTMENT OF REAL ESTATE

Lucie A. Zain

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 FIRST FINANCIAL NETWORK,) No. H-7387 SF
13 OMER AHMED SALEM,) FIRST AMENDED
14 Respondent.) ACCUSATION

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against FIRST FINANCIAL NETWORK (hereinafter "Respondent NETWORK")
18 and OMER AHMED SALEM (hereinafter "Respondent SALEM"), is informed
19 and alleges as follows:

20 I

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

24 II

25 Respondents NETWORK and SALEM are licensed and/or have
26 license rights under the Real Estate Law (Part 1 of Division 4 of

27 ///



1 the Business and Professions Code) (hereinafter "the Code") as
2 follows:

3 FIRST FINANCIAL NETWORK - as a real estate broker
4 corporation acting by and through Respondent SALEM as designated
5 broker-officer.

6 OMER AHMED SALEM - as a real estate broker and as
7 designated broker-officer for Respondent NETWORK.

8 III

9 Within the three years immediately preceding the filing
10 of this Accusation, Respondents NETWORK and SALEM engaged in the
11 business of, acted in the capacity of, advertised, or assumed to
12 act as real estate brokers within the State of California within
13 the meaning of Section 10131(d) of the Code, including the
14 operation and conduct of a mortgage loan brokerage business with
15 the public wherein lenders and borrowers were solicited for loans
16 secured directly or collaterally by liens on real property,
17 wherein such loans were arranged, negotiated, processed, and
18 consummated on behalf of others for compensation or in expectation
19 of compensation, and wherein such loans were serviced and payments
20 thereon were collected on behalf of others.

21 IV

22 During the course of the mortgage loan brokerage
23 activities described in Paragraph III above, Respondents NETWORK
24 and SALEM received and disbursed funds held in trust on behalf of
25 another or others.

26 ///

27 ///



V

Within the three-year period immediately preceding the filing of this Accusation and continuing thereafter, Respondents NETWORK and SALEM maintained the following trust accounts:

<u>Account Name & No.</u>	<u>Bank</u>
First Financial Network Assn., Inc. Client Trust Account Account No. 01582-04218 (hereinafter "Trust 1")	Bank of America San Jose, California
First Financial Network - Trust Acct. Account No. 0277-154431 (hereinafter "Trust 2")	Wells Fargo Bank Palo Alto, California

VI

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondents NETWORK and SALEM failed to maintain adequate columnar records of all trust funds received and disbursed in the manner required by Section 2831 of Title 10, California Code of Regulations (hereinafter "Regulations").

VII

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondents NETWORK and SALEM failed to adequately maintain a separate record for each beneficiary or transaction, accounting therein for all said trust funds received, deposited, and disbursed in the manner required by Section 2831.1 of the Regulations.

VIII

In connection with the receipt and disbursement of trust funds described in Paragraph IV above, Respondents NETWORK and



1 SALEM failed to adequately maintain and perform a reconciliation
2 with the records of all trust funds received and disbursed as
3 required by Section 2831.1 of the Regulations, at least once per
4 month, in conformance with Section 2831.2 of the Regulations.

5 IX

6 On or about March 20, 1996, a representative of the Real
7 Estate Commissioner, after service of a subpoena duces tecum on
8 Respondents NETWORK and SALEM, required that records, papers,
9 books, accounts and documents executed or obtained in connection
10 with transactions for which a real estate license is required by
11 made available for examination and inspection. Respondents
12 NETWORK and SALEM failed and refused to make said records
13 available for inspection and/or failed to retain said records.

14 X

15 The acts and/or omissions of Respondents described above
16 are grounds for the suspension or revocation of Respondents'
17 licenses and/or license rights under Section 10177(d) of the Code
18 in conjunction with Section 10148 of the Code and Sections 2831,
19 2831.1 and 2831.2 of the Regulations.

20 PRIOR DISCIPLINARY ACTION

21 On March 25, 1991, effective April 17, 1991, in Case No.
22 H-6188 SF, the Real Estate Commissioner imposed no discipline, but
23 made findings that Respondents NETWORK and SALEM violated Section
24 10176(e) of the Code and Section 10177(d) of the Code in
25 conjunction with Section 10145 of the Code and Sections 2830 and
26 2832 of the Regulations.

27



Charles W. Koenig
CHARLES W. KOENIG
Deputy Real Estate Commissioner

- 5 -

FILED
OCT - 1 1996

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zain

In the Matter of the Accusation of

FIRST FINANCIAL NETWORK,
OMER AHMED SALEM,

Case No. H-7387 SF

OAH No. N-9609091

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, World Savings Tower, 1970 Broadway,
Second Floor, Oakland, CA 94612

on Friday, January 3rd, 1997, 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: October 1, 1997

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
6
7

FILED
SEP - 6 1996
DEPARTMENT OF REAL ESTATE

Lucie A. Zia

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 FIRST FINANCIAL NETWORK,) No. H-7387 SF
13 OMER AHMED SALEM,) ACCUSATION
14 Respondent.)

15 The Complainant, Les R. Bettencourt, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against FIRST FINANCIAL NETWORK (hereinafter
18 "Respondent NETWORK") and OMER AHMED SALEM (hereinafter
19 "Respondent SALEM"), is informed and alleges as follows:

20 I

21 The Complainant, Les R. Bettencourt, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 II

25 Respondents NETWORK and SALEM are licensed and/or have
26 license rights under the Real Estate Law (Part 1 of Division 4 of

27 ///



1 the Business and Professions Code) (hereinafter "the Code") as
2 follows:

3 FIRST FINANCIAL NETWORK - as a real estate broker
4 corporation acting by and through Respondent SALEM as designated
5 broker-officer.

6 OMER AHMED SALEM - as a real estate broker and as
7 designated broker-officer for Respondent NETWORK.

8 III

9 Within the three years immediately preceding the filing
10 of this Accusation, Respondents engaged in the business of, acted
11 in the capacity of, advertised, or assumed to act as real estate
12 brokers within the State of California within the meaning of
13 Section 10131(d) of the Code, including the operation and conduct
14 of a mortgage loan brokerage business with the public wherein
15 lenders and borrowers were solicited for loans secured directly or
16 collaterally by liens on real property, wherein such loans were
17 arranged, negotiated, processed, and consummated on behalf of
18 others for compensation or in expectation of compensation, and
19 wherein such loans were serviced and payments thereon were
20 collected on behalf of others.

21 IV

22 On or about March 20, 1996, a representative of the Real
23 Estate Commissioner, after service of a subpoena duces tecum on
24 Respondents, required that records, papers, books, accounts and
25 documents executed or obtained in connection with transactions for
26 which a real estate license is required be made available for
27 examination and inspection. Respondents failed and refused to



1 make said records available for inspection and/or failed to retain
2 said records.


3 V

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 Section 10177(d) of the Code
7 in conjunction with Section 10148 of the Code.

8 PRIOR DISCIPLINARY ACTION

9 On March 25, 1991, effective April 17, 1991, in Case No.
10 H-6188 SF, the Real Estate Commissioner imposed no discipline, but
11 made findings that Respondents violated Sections 10177(d) and
12 10176(e) of the Code.

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

20 
21 LES R. BETTENCOURT
22 Deputy Real Estate Commissioner

23 Dated at San Francisco, California,
24 this 28th day of August, 1996.