

FILED

JUN 07 2006

DEPARTMENT OF REAL ESTATE

By Jean Arnold

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-8146 SF
JOHN H. DONG,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 25, 2003, in Case No. H-8146 SF, a Decision was rendered revoking the real estate broker license of Respondent effective May 27, 2003, 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 May 27, 2003, and Respondent has operated as a restricted licensee since that time.

On August 4, 2005, 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. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be
6 against the public interest to issue said license to Respondent.

7 NOW, THEREFORE, IT IS ORDERED that Respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies
10 the following conditions within nine (9) months from the date of
11 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: 5-10-06

21 JEFF DAVI
22 Real Estate Commissioner
23 
24
25
26
27

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789.

FILED
MAY - 6 2003

DEPARTMENT OF REAL ESTATE

By Laurie E. [Signature]

11
12 BEFORE THE DEPARTMENT OF REAL ESTATE
13 STATE OF CALIFORNIA

14 * * *

15 In the Matter of the Accusation of) DRE No. H-8146 SF
16 AMERICAN WESTERN FINANCIAL &)
17 INVESTMENTS INC., a Corporation,) STIPULATION AND AGREEMENT
18 and JOHN H. DONG,)
19 Respondents.)

20 It is hereby stipulated by and between Respondents
21 AMERICAN WESTERN FINANCIAL & INVESTMENTS, INC. (herein "AWFI"),
22 a corporation, and JOHN H. DONG (herein "DONG"), individually
23 and by and through Maxine Monaghan, Esq., attorney of record
24 herein for Respondents, and the Complainant, acting by and
25 through James L. Beaver, Counsel for the Department of Real
26 Estate (herein "the Department"), as follows for the purpose of

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 settling and disposing of the Accusation filed on July 25, 2002
2 in this matter (herein "the Accusation"):

3 1. All issues which were to be contested and all
4 evidence which was to be presented by Complainant and
5 Respondents at a formal hearing on the Accusation, which
6 hearing was to be held in accordance with the provisions of the
7 Administrative Procedure Act (APA), shall instead and in place
8 thereof be submitted solely on the basis of the provisions of
9 this Stipulation and Agreement.

10 2. Respondents have received, read and understand
11 the Statement to Respondent, the Discovery Provisions of the
12 APA and the Accusation filed by the Department in this
13 proceeding.

14 3. On August 8, 2002, Respondents filed a Notice of
15 Defense pursuant to Section 11505 of the Government Code for
16 the purpose of requesting a hearing on the allegations in the
17 Accusation. Respondents each hereby freely and voluntarily
18 withdraw said Notice of Defense. Respondents acknowledge that
19 Respondents understand that by withdrawing said Notice of
20 Defense Respondents will thereby waive Respondents' right to
21 require the Real Estate Commissioner (herein "the
22 Commissioner") to prove the allegations in the Accusation at a
23 contested hearing held in accordance with the provisions of the
24 APA and that Respondents will waive other rights afforded to
25 Respondents in connection with the hearing such as the right to
26 present evidence in defense of the allegations in the

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 Accusation and the right to cross-examine witnesses.

2 4. Respondents, pursuant to the limitations set
3 forth below, hereby admit that the factual allegations in the
4 Accusation are true and correct and stipulate and agree that
5 the Real Estate Commissioner shall not be required to provide
6 further evidence of such allegations.

7 5. It is understood by the parties that the
8 Commissioner may adopt the Stipulation and Agreement as her
9 decision in this matter, thereby imposing the penalty and
10 sanctions on Respondents' real estate license and license
11 rights as set forth in the "Order" below. In the event that
12 the Commissioner in her discretion does not adopt the
13 Stipulation and Agreement, it shall be void and of no effect,
14 and Respondents shall retain the right to a hearing and
15 proceeding on the Accusation under all the provisions of the
16 APA and shall not be bound by any admission or waiver made
17 herein.

18 6. This Stipulation and Agreement shall not
19 constitute an estoppel, merger or bar to any further
20 administrative or civil proceedings by the Department with
21 respect to any matters which were not specifically alleged to
22 be causes for accusation in this proceeding.

23 7. Respondent DONG understands that by agreeing to
24 this Stipulation and Agreement, such Respondent agrees to pay,
25 pursuant to Section 10148 of the California Business and
26 Professions Code, the cost of the audit which resulted in the

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 determination that Respondent AWWFI committed the trust fund
2 violation(s) found in paragraph I, below, of the Determination
3 of Issues. The amount of said costs is \$3,146.77.

4 8. Respondents DONG further understand that by
5 agreeing to this Stipulation and Agreement in Settlement, the
6 findings set forth below in the Determination Of Issues become
7 final, and that the Commissioner may charge said Respondents,
8 jointly and severally, for the costs of any audit conducted
9 pursuant to Section 10148 of the California Business and
10 Professions Code to determine if the trust fund violation(s)
11 found in paragraph I, below, of the Determination of Issues have
12 been corrected. The maximum costs of said audit shall not exceed
13 \$4,154.70.

14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations, admissions
16 and waivers and solely for the purpose of settlement of the
17 pending Accusation without hearing, it is stipulated and agreed
18 that the following Determination of Issues shall be made:

19 I

20 The acts and omissions of Respondents as described in
21 the Accusation are grounds for the suspension or revocation of
22 the licenses and license rights of Respondents under the
23 following provisions of the California Business and Professions
24 Code (herein "the Code") and/or Chapter 6, Title 10, California
25 Code of Regulations (herein "the Regulations"):

26 (a) As to Paragraphs V through VIII, inclusive, above,

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 and Respondent AWF^I under Section 10177(f) of the Code;

2 (b) as to Paragraph XVI and Respondent AWF^I under
3 Section 2831 of the Regulations in conjunction with Sections
4 10145 and 10177(d) of the Code;

5 (c) as to Paragraph XVII(a) and Respondent AWF^I under
6 Section 2832(a) of the Regulations in conjunction with Sections
7 10145 and 10177(d) of the Code;

8 (d) as to Paragraph XVII(b) and Respondent AWF^I under
9 Section 2832.1 of the Regulations in conjunction with Sections
10 10145 and 10177(d) of the Code;

11 (e) as to Paragraph XVII(c) and Respondent AWF^I under
12 Section 2834 of the Regulations in conjunction with Sections
13 10145 and 10177(d) of the Code;

14 (f) as to Paragraph XVII(d) and Respondent AWF^I under
15 Section 10176(e) of the Code;

16 (g) as to Paragraph XVIII and Respondent AWF^I under
17 Section 10137 of the Code in conjunction with Section 10177(d) of
18 the Code;

19 (h) as to Paragraph XIX and Respondent AWF^I under
20 Section 10240 of the Code in conjunction with Section 10177(d) of
21 the Code; and

22 (i) as to Paragraph XX and Respondent DONG under
23 Section 10177(g) and Section 10177(h) of the Code and Section
24 10159.2 of the Code in conjunction with Section 10177(d) of the
25 Code.

26 ///

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

ORDER

I

All licenses and licensing rights of Respondent
AMERICAN WESTERN FINANCIAL & INVESTMENTS, INC. under the Real
Estate Law are revoked.

II

All licenses and licensing rights of Respondent JOHN
H. DONG under the Real Estate Law are revoked; provided,
however, a restricted real estate broker license shall be
issued to Respondent pursuant to Section 10156.5 of the
Business and Professions Code if, within 90 days from the
effective date of the Decision entered pursuant to this Order,
the Respondent, prior to and as a condition of the issuance of
said restricted license:

(a) makes application for the restricted license and
pays to the Department of Real Estate the appropriate fee
therefor;

(b) submits proof satisfactory to the Commissioner
of having taken and completed at an accredited institution the
continuing education course on trust fund accounting and
handling specified in paragraph (3) of subdivision (a) of
Section 10170.5 of the Business and Professions Code. Said
course must have been completed within 120 days prior to the
issuance of the restricted license;

(c) submits proof satisfactory to the Commissioner
that, as of a date within 120 days prior to the effective date

DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 of the decision herein: (i) the balance of funds held by
2 Respondent AWFI in trust equaled the aggregate liability of
3 Respondent AWFI to all owners of such funds; and (ii) such
4 funds were distributed to the owners thereof;

5 (d) pay the sum of \$3,146.77 to the Department
6 pursuant to Section 10148 of the Business and Professions Code
7 as and for the Commissioner's cost of the audit which led to
8 this disciplinary action.

9 The restricted license issued to such Respondent
10 shall be subject to all of the provisions of Section 10156.7 of
11 the Business and Professions Code and to the following
12 limitations, conditions and restrictions imposed under
13 authority of Section 10156.6 of that Code:

14 1. The restricted license issued to such Respondent
15 may be suspended prior to hearing by Order of the Real Estate
16 Commissioner in the event of the Respondent's conviction or
17 plea of nolo contendere to a crime which is substantially
18 related to Respondent's fitness or capacity as a real estate
19 licensee.

20 2. The restricted license issued to such Respondent
21 may be suspended prior to hearing by Order of the Real Estate
22 Commissioner on evidence satisfactory to the Commissioner that
23 the Respondent has violated provisions of the California Real
24 Estate Law, the Subdivided Lands Law, Regulations of the Real
25 Estate Commissioner or conditions attaching to the restricted
26 license.

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 3. Respondent shall NOT be eligible to apply for the
2 issuance of an unrestricted real estate license or for the
3 removal of any of the conditions, limitations or restrictions
4 of a restricted license until two (2) years have elapsed from
5 the effective date of this Decision.

6 4. Respondent shall, within six (6) months from the
7 issuance of the restricted license, take and pass the
8 Professional Responsibility Examination administered by the
9 Department, including the payment of the appropriate
10 examination fee. If Respondent fails to satisfy this
11 condition, the Commissioner may order the suspension of the
12 restricted license until Respondent passes the examination.

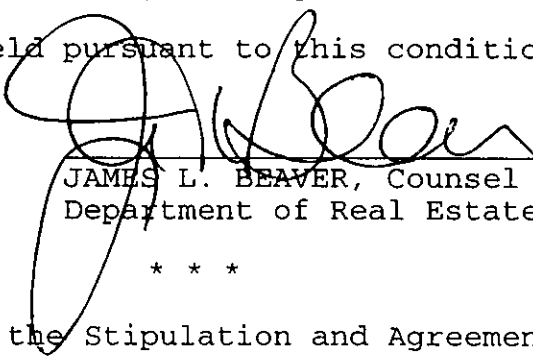
13 5. Pursuant to Section 10148 of the Business and
14 Professions Code, Respondent shall pay the Commissioner's
15 reasonable cost, not to exceed \$4,154.70, for an audit to
16 determine if Respondent has corrected the trust fund
17 violation(s) found in paragraph I of the Determination of
18 Issues. In calculating the amount of the Commissioner's
19 reasonable cost, the Commissioner may use the estimated average
20 hourly salary for all persons performing audits of real estate
21 brokers, and shall include an allocation for travel time to and
22 from the auditor's place of work. Respondent shall pay such
23 cost within 45 days of receiving an invoice therefor from the
24 Commissioner detailing the activities performed during the
25 audit and the amount of time spent performing those activities.
26 The Commissioner may suspend the restricted license issued to

27 DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

1 respondent pending a hearing held in accordance with Section
2 11500, et seq., of the Government Code, if payment is not
3 timely made as provided for herein, or as provided for in a
4 subsequent agreement between the Respondent and the
5 Commissioner. The suspension shall remain in effect until
6 payment is made in full or until Respondent enters into an
7 agreement satisfactory to the Commissioner to provide for
8 payment, or until a decision providing otherwise is adopted
9 following a hearing held pursuant to this condition.

10 April 2, 2003
11 DATED


12 JAMES L. BEAVER, Counsel
13 Department of Real Estate

14 * * *

15 I have read the Stipulation and Agreement and have
16 discussed its terms with my attorney and its terms are
17 understood by me and are agreeable and acceptable to me. I
18 understand that I am waiving rights given to me by the
19 California Administrative Procedure Act (including but not
20 limited to Sections 11506, 11508, 11509, and 11513 of the
21 Government Code), and I willingly, intelligently, and
22 voluntarily waive those rights, including the right of
23 requiring the Commissioner to prove the allegations in the
24 Accusation at a hearing at which I would have the right to
25 cross-examine witnesses against me and to present evidence in
26 defense and mitigation of the charges.

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DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

3/27/03

DATED

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC.
Respondent

By John H. Dong
JOHN H. DONG
Designated Officer - Broker

3/27/03

DATED

John H. Dong
JOHN H. DONG
Respondent

* * *

I have reviewed the Stipulation and Agreement as to
form and content and have advised my clients accordingly.

3/27/03

DATED

Maxine Monaghan
MAXINE MONAGHAN
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted by as my Decision in this matter and shall become
effective at 12 o'clock noon on MAY 27, 2003.

IT IS SO ORDERED April 25, 2003.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner

Paula Reddish

DRE No. H-8146 SF

AMERICAN WESTERN FINANCIAL
& INVESTMENTS, INC. and
JOHN H. DONG

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

FILED

NOV 23 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

AMERICAN WESTERN FINANCIAL
& INVESTMENTS INC., AND
JOHN H. DONG,

Case No. H-8146 SF

OAH No. N-2002100275

Respondents

**FIRST AMENDED
NOTICE OF HEARING ON ACCUSATION**

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **FRIDAY, JANUARY 31, 2003**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 23, 2002

By

James L. Beaver
JAMES L. BEAVER, Counsel

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

FILED
NOV - 8 2002

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

AMERICAN WESTERN FINANCIAL
& INVESTMENTS INC., AND
JOHN H. DONG,

Case No. H-8146 SF

OAH No. N-2002100275

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at

**OFFICE OF ADMINISTRATIVE HEARING, THE ELIHU HARRIS STATE BUILDING,
1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612**

on **MONDAY, DECEMBER 30, 2002**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 8, 2002

By James L. Beaver
JAMES L. BEAVER, COUNSEL (L2)

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED
JUL 25 2002

DEPARTMENT OF REAL ESTATE

Laurie P. Zai

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 AMERICAN WESTERN FINANCIAL &) No. H-8146 SF
13 INVESTMENTS INC., a Corporation,) ACCUSATION
14 and JOHN H. DONG,)
Respondent.

15
16 The Complainant, Charles W. Koenig, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against AMERICAN WESTERN FINANCIAL & INVESTMENTS,
19 INC. (herein "AWFI"), a corporation, and JOHN H. DONG (herein
20 "DONG"), is informed and alleges as follows:

21 FIRST CAUSE OF ACCUSATION

22 I

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

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II

At all times herein mentioned, Respondents AWFI and DONG were and now are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code").

III

At all times herein mentioned, Respondent AWFI was and now is licensed by the Department of Real Estate of the State of California (hereinafter "the Department") as a corporate real estate broker by and through Respondent DONG as designated officer-broker of said corporation to qualify said corporation and to act for said corporation as a real estate broker,

IV

At all times herein mentioned, Respondent DONG was licensed by the Department as a real estate broker, individually and as designated officer-broker of Respondent AWFI. As said designated officer-broker, Respondent DONG was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent AWFI for which a license is required.

V

At all times mentioned herein until on or about August 10, 2000, Bonnie Yeung was the president, treasurer and sole shareholder of Respondent AWFI, and Vicki Nga Lai Yue (hereinafter "Yue") was the secretary of Respondent AWFI. At all

///

1 times mentioned herein to and until August 16, 1999, Yue was
2 licensed by the Department as a real estate salesperson.

3 VI

4 Effective August 16, 1999, in Case No. H-7665 SF,
5 before the Department, Yue caused, suffered and/or permitted her
6 license as a real estate salesperson to be revoked by order of
7 the Real Estate Commissioner pursuant to the provisions of
8 Sections 490, and 10177(b) of the Code on the ground that, on or
9 about July 16, 1997, in the Superior Court of the State of
10 California, County of Los Angeles, Central Judicial District,
11 Yue was convicted of the crime of Insurance Fraud in violation
12 of Penal Code Section 550(a)(1), and the crime of Conspiring To
13 Commit Insurance Fraud in violation of Penal Code Section
14 182(a)(1), each a felony and a crime involving moral turpitude
15 which bears a substantial relationship under Section 2910,
16 Title 10, California Code of Regulations (herein "the
17 Regulations"), to the qualifications, functions or duties of a
18 real estate licensee.

19 VII

20 In causing, suffering and/or permitting her license as
21 a real estate salesperson to be revoked, as described in
22 Paragraph XIII, above, Yue acted or conducted herself in a
23 manner that would have warranted the denial of her application
24 for a real estate license pursuant to the provisions of Sections
25 480(a) and 10177(b) of the Code.

26 ///

27 ///

1 VIII

2 At all times mentioned herein since on or about
3 August 10, 2000, Yue has been and now is the president,
4 secretary, treasurer, sole director and sole shareholder of
5 Respondent AWFI.

6 IX

7 The events and circumstances described in Paragraphs
8 VI through VIII, inclusive, above, constitute a change, within
9 the meaning of subdivision (c) of Section 2746 of Chapter 6,
10 Title 10, California Code of Regulations (hereinafter "the
11 Regulations") as to Yue in the persons whose background
12 statements are required to be on file with the Department for a
13 corporate licensee pursuant to subdivision (a) of Section 2746
14 of the Regulations.

15 X

16 At no time mentioned herein since August 16, 1999 has
17 Respondent DONG filed with the Department the background
18 statement for Yue required by subdivision (c) of Section 2746 of
19 the Regulations.

20 SECOND CAUSE OF ACCUSATION

21 XI

22 There is hereby incorporated in this Second, separate
23 and distinct Cause of Accusation, all of the allegations
24 contained in Paragraphs I through X, inclusive of the First
25 Cause of Accusation with the same force and effect as if herein
26 fully set forth.

27 ///

1 XII

2 Whenever reference is made in an allegation in this
3 Accusation to an act or omission of Respondent AWF, such
4 allegation shall be deemed to mean that the officers, directors,
5 employees, agents and real estate licensees employed by or
6 associated with Respondent AWF committed such act or omission
7 while engaged in the furtherance of the business or operations
8 of Respondent AWF and while acting within the course and scope
9 of their corporate authority and employment.

10 XIII

11 At all times herein mentioned, Respondents engaged in
12 the business of, acted in the capacity of, advertised, or
13 assumed to act as real estate brokers within the State of
14 California within the meaning of:

15 (a) Section 10131(a) of the Code, including the
16 operation and conduct of a real estate resale brokerage with the
17 public wherein, on behalf of others, for compensation or in
18 expectation of compensation, Respondents sold and offered to
19 sell, bought and offered to buy, solicited prospective sellers
20 and purchases of, solicited and obtained listings of, and
21 negotiated the purchase and sale of real property; and

22 (b) Section 10131(d) of the Code, including the
23 operation and conduct of a mortgage loan brokerage business with
24 the public wherein, on behalf of others, for compensation or in
25 expectation of compensation, Respondents solicited lenders and
26 borrowers for loans secured directly or collaterally by liens on

27 ///

1 real property, and wherein Respondents arranged, negotiated,
2 processed, and consummated such loans.

3 XIV

4 In course of Respondents' activities as real estate
5 brokers, as described in Paragraph XIII, above, Respondents
6 accepted or received funds in trust (hereinafter "trust funds")
7 from or on behalf of buyers, sellers, lenders or investors,
8 borrowers, and others.

9 XV

10 The aforesaid trust funds accepted or received by
11 Respondents were deposited or caused to be deposited by
12 Respondents into one or more bank accounts (hereinafter "trust
13 fund accounts") maintained by Respondents for the handling of
14 trust funds, including but not necessarily limited to the
15 following "American Western Financial & Investments, Inc."
16 accounts maintained by Respondents at the San Mateo, California,
17 branch of CAL FED:

18 (a) Account Number 015-429998-6 (hereinafter "Bank
19 Account #1"); and

20 (b) Account Number 015-433296-9 (hereinafter "Bank
21 Account #2").

22 XVI

23 Between on or about June 1, 2001 and on or about
24 May 31, 2002, in course of the activities described in Paragraph
25 XIII, above, and in connection with the collection and
26 disbursement of said trust funds, Respondent AWFI failed to keep
27 a columnar record in chronological sequence of all trust funds

1 received but not deposited in a trust account, in violation of
2 Section 2831 of the Regulations.

3 XVII

4 Between on or about June 1, 2001 and on or about
5 May 31, 2002, in course of the activities described in Paragraph
6 XIII, above, and in connection with the collection and
7 disbursement of said trust funds in said trust fund accounts,
8 Respondent AWFI:

9 (a) Failed to place trust funds entrusted to
10 Respondent AWFI into the hands of a principal on whose behalf
11 the funds were received, into a neutral escrow depository, or
12 into a trust fund account in the name of Respondent AWFI as
13 trustee at a bank or other financial institution, in that
14 Respondent AWFI deposited such funds into Bank Account #1 and
15 Bank Account #2, which accounts were not maintained in the name
16 of Respondent AWFI as trustee, and in that Respondent AWFI
17 failed to so deposit such funds within three business days
18 following receipt of the funds, all in violation of Section
19 10145 of the Code and Section 2832(a) of the Regulations;

20 (b) Caused, suffered or permitted the balance of
21 funds in Bank Account #1 and Bank Account #2 to be reduced to an
22 amount which, as of February 28, 2002, was approximately
23 \$10,858.71 less than the aggregate liability of Respondent AWFI
24 to all owners of such funds, without the prior written consent
25 of the owners of such funds, in that Respondent AWFI caused,
26 suffered or permitted the balance of funds in the accounts
27 tabulated below to be reduced to an amount which, as of

February 28, 2002, was the amount tabulated below less than the liability of Respondent AWFI to all owners of such funds, without the prior written consent of the owners of such funds:

	<u>ACCOUNT</u>	<u>AMOUNT</u>
(1)	Bank Account #1	\$10,678.00
(2)	Bank Account #2	\$180.71

(c) Authorized Yue, an unlicensed person without fidelity bond coverage, to make disbursements from Bank Account #1 and Bank Account #2, and authorized Bonnie Yeung to make disbursements from Bank Account #1 and Bank Account #2 without making Respondent DONG an authorized signatory of said accounts; and

(d) Commingled funds received and held by Respondent AWFI in trust for others in Bank Account #1 and Bank Account #2 with funds belonging to Respondent AWFI deposited in said accounts.

XVIII

Between on or about June 1, 2001 and on or about May 31, 2002, in course of the activities described in Paragraph XIII, above, in at least two separate mortgage loan transactions, Respondent AWFI employed and compensated Chris Grotjahn, a person not then licensed as a broker or salesperson by the California Department of Real Estate, to solicit and obtain applications for mortgage loans to be arranged by Respondent AWFI.

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1 XIX

2 Between on or about June 1, 2001 and on or about
3 May 31, 2002, in course of the activities described in Paragraph
4 XIII, above, Respondent AWFI failed to comply with Section 10240
5 of the Code, in that Respondent AWFI:

6 (a) Failed to obtain the signature of the borrowers
7 on the statement required by Section 10240 (hereinafter "Written
8 Disclosure Statement");

9 (b) Failed to deliver a copy of the required Written
10 Disclosure Statement to the borrowers; and

11 (c) Failed to retain on file for a period of three
12 years a true and correct copy of the required Written Disclosure
13 Statement signed by the borrowers.

14 XX

15 Respondent DONG failed to exercise reasonable
16 supervision over the acts of Respondent AWFI in such a manner as
17 to allow the acts and events described in Paragraphs XVI through
18 XIX, inclusive, above, to occur.

19 XXI

20 The facts alleged above are grounds for the suspension
21 under the following provisions of the Code and/or the
22 Regulations:

23 (a) As to Paragraphs V through VIII, inclusive,
24 above, and Respondent AWFI, under Section 10177(f) of the Code;

25 (b) As to Paragraphs IX and X, inclusive, above and
26 Respondent DONG, under Section 2746(c) of the Regulations in
27 conjunction with Section 10177(d) of the Code;

1 (c) As to Paragraph XVI and Respondent AWFI, under
2 Section 2831 of the Regulations in conjunction with Sections
3 10145 and 10177(d) of the Code;

4 (d) As to Paragraph XVII(a) and Respondent AWFI,
5 under Section 2832(a) of the Regulations in conjunction with
6 Sections 10145 and 10177(d) of the Code;

7 (e) As to Paragraph XVII(b) and Respondent AWFI,
8 under Section 2832.1 of the Regulations in conjunction with
9 Sections 10145 and 10177(d) of the Code;

10 (f) As to Paragraph XVII(c) and Respondent AWFI,
11 under Section 2834 of the Regulations in conjunction with
12 Sections 10145 and 10177(d) of the Code;

13 (g) As to Paragraph XVII(d) and Respondent AWFI,
14 under Section 10176(e) of the Code;

15 (h) As to Paragraph XVIII and Respondent AWFI, under
16 Section 10137 of the Code in conjunction with Section 10177(d)
17 of the Code;

18 (i) As to Paragraph XIX and Respondent AWFI, under
19 Section 10240 of the Code in conjunction with Section 10177(d)
20 of the Code; and

21 (j) As to Paragraph XX and Respondent DONG, under
22 Section 10177(g) and/or Section 10177(h) of the Code and Section
23 10159.2 of the Code in conjunction with Section 10177(d) of the
24 Code.

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


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 24th day of July, 2002.