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FILED

AUG - 6 2009

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
ALAMEDA MORTGAGE CORPORATION,
Respondent.

No. H-8564 SF

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 5, 2004, in Case No. H-8564 SF, a Decision was rendered revoking the corporate real estate broker license of Respondent effective June 9, 2004, but granting Respondent the right to the issuance of a restricted corporate real estate broker license. A restricted corporate real estate broker license was issued to Respondent on June 9, 2004, and Respondent has operated as a restricted licensee since that time.

On July 8, 2008, 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 the petition of Respondent and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted corporate real estate broker license and that it would not be against the public interest to issue said license to Respondent.

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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
reinstatement is granted and that a corporate real estate broker license be issued to Respondent if
Respondent satisfies the following conditions within twelve (12) months from the date of this

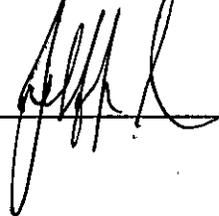
Order:

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

This Order shall be effective immediately.

DATED: 7/28/09

JEFF DAVI
Real Estate Commissioner



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.

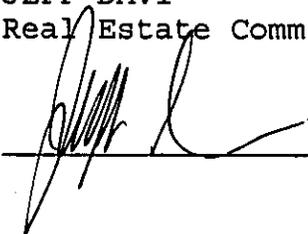
7 NOW, THEREFORE, IT IS ORDERED that Respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies
10 the following conditions within nine (9) months from the date of
11 this Order:

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: 4-30-08

21 JEFF DAVI
22 Real Estate Commissioner
23 
24 _____
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FILED
MAY 19 2004

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By *Laurie B. Z...*

* * *

In the Matter of the Accusation of)
ANDREW PETER KARLESKIND,) NO. H-8564 SF
ALAMEDA MORTGAGE CORPORATION, AND) OAH NO. N-2003120530
JOHN PETER KARLESKIND, JR.,)
Respondents.)

DECISION

The Proposed Decision dated April 14, 2004, 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 9, 2004.

IT IS SO ORDERED May 5, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

ANDREW PETER KARLESKIND,
ALAMEDA MORTGAGE
CORPORATION, and
JOHN PETER KARLESKIND, JR.,

Respondents.

No. H-8564 SF

OAH No. N 2003120530

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on March 4, 5 and 15, 2004, in Oakland, California.

Real Estate Counsel III James L. Beaver represented complainant Les R. Bettencourt, Deputy Real Estate Commissioner, State of California.

Steven D. Woodson, Attorney at Law, represented respondent Andrew Peter Karleskind, who was present.

David R. Medlin, Attorney at Law, represented respondent John Peter Karleskind, Jr., who was present, and respondent Alameda Mortgage Corporation.

The matter was submitted on March 15, 2004.

FACTUAL FINDINGS

1. Respondents Andrew Peter Karleskind, John Peter Karleskind, Jr., (John Karleskind) and Alameda Mortgage Corporation are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

2. Andrew Karleskind obtained a real estate broker license in 1985. His license expired on March 2, 2001, and he did not renew it until January 15, 2003. Following an accusation filed on February 6, 2003 and an administrative hearing held on September 3, 2003, the Real Estate Commissioner revoked Andrew Karleskind's license effective December 5, 2003 but allowed him to apply for and obtain a restricted real estate broker license. He now holds such a restricted license. The basis for license discipline was the conviction described in Finding 5 below.

3. John Karleskind, Andrew Karleskind's father, has held a real estate broker license since 1972. His license has never been disciplined.

4. Alameda Mortgage Corporation (AMC) holds a real estate broker corporation license with no record of discipline. John Karleskind is the designated broker officer, chairman of the board of directors and a major stockholder. Andrew Karleskind has been president of AMC since July 1999. His siblings, Patricia Szabo and Eric Karleskind, hold the positions of vice-president and secretary, respectively. Andrew Karleskind believes he and his sister Patricia and brother Eric each have one share of stock in the corporation.

5. On February 7, 2000, in the United States District Court, Northern District of California, Andrew Karleskind was convicted on a plea of guilty of a violation of 18 U.S.C. section 371 (conspiracy to commit bank fraud), a felony and a crime involving moral turpitude which bears a substantial relationship to the qualifications, functions or duties of a real estate licensee.

On September 18, 2000, Andrew Karleskind was sentenced to two years' probation, with six months in home confinement with electronic monitoring. He was required to pay \$100,000 in restitution, a \$10,000 fine and a \$100 special assessment. Andrew Karleskind made all these payments, and his probation was terminated early, on November 6, 2001.

6. The facts and circumstances of the conviction are that from 1995 to 1997 Andrew Karleskind participated in a scheme instigated by real estate salesperson Jim Daman to obtain mortgage loans for homebuyers who did not have sufficient money for the downpayment or sufficient income to qualify for the loan. In his capacity as a loan officer at AMC, Andrew Karleskind filled out and assisted borrowers in filling out loan applications with false information. He and others loaned money to Daman to be used for downpayments on the transactions. (These funds were paid back after the purchase closed and the homeowner obtained a Title 1 home improvement loan.) Andrew Karleskind altered borrowers' bank statements to show higher balances and created false pay stubs and W-2 forms to reflect the higher income required to qualify for the loan. He submitted falsified loan applications to lenders knowing that the borrowers could not legitimately qualify for the loans. No one else at AMC knew about or participated in the fraud. When the fraud came to light Andrew Karleskind cooperated fully with the criminal investigation.

7. In the proposed decision adopted by the Real Estate Commissioner disciplining Andrew Karleskind's real estate license, the administrative law judge made the following legal conclusion:

Notwithstanding respondent's conviction, it is determined that it would not be against the public interest to permit respondent to retain his real estate broker license upon appropriate terms and conditions. In this regard it is noted that respondent was a real estate broker for many years before engaging in the illegal con-

duct that resulted in his conviction, and he has no prior history of license discipline. At hearing respondent accepted responsibility for his actions and seemed to sincerely regret his illegal conduct. He has not engaged in any known criminal conduct since 1999 and he is no longer in contact with Daman. His extensive involvement with his family and church also suggests respondent has a very stable lifestyle and good support network. It thus appears unlikely that respondent will engage in criminal conduct in the future. All of these factors support the determination that respondent's conviction does not require revocation of his real estate broker license. However, respondent clearly exercised poor judgment when he engaged in bank fraud, which is a very serious offense. Therefore, a period of probation to permit the Department to monitor respondent's actions appears appropriate.

8. During the period from March 2001 to January 2003, when his broker license was expired, Andrew Karleskind continued to be in charge of administrative matters at AMC. During this time AMC moved from Castro Valley to a building it had purchased in Danville. Andrew Karleskind was involved in getting part of the building remodeled for a tenant. He received no salary or commissions from AMC. (He had income from developing custom homes.) Andrew Karleskind had an agreement with his father to try to right the wrong he had done to AMC with his criminal conduct, and he worked to rebuild the relationships with financial institutions that had been damaged. He helped his sister Patricia by doing some desktop underwriting, and he performed other loan-related activities for which a real estate license is not required. Andrew Karleskind asserts that when his clients from previous transactions contacted him to refinance their loans he gave this business to Patricia or Eric.

9. Patricia Szabo has worked for AMC for 25 years, and she has held a real estate salesperson license since 1985. She is the office manager and has primary responsibility for underwriting. For the period from about November 2001 to November 2002 John Karleskind suffered from serious health problems that limited his involvement in the day-to-day operations of AMC. During this time he delegated many of his supervisory responsibilities to Szabo. She reviewed loan packages, assisted loan officers and worked with loan processors. Szabo frequently consulted her father by phone for advice. After about Christmas 2001 through November 2002 she and Eric Karleskind were the only real estate licensees at AMC. Szabo's compensation is by salary.

10. Eric Karleskind has held a real estate salesperson license since about 1995, and he has been employed full-time as a loan officer at AMC since 1997. His compensation is by commission.

11. In January 2002 Tammy and Rossano Balan started working with Jim Daman to buy a house. On January 23, 2002 the Balans made an offer on a house located at 5217

Pasatiempo Drive, Salida. The offer was accepted. Daman contacted Andrew Karleskind about working with the Balans to get a loan. Although he had stopped doing business with Daman Karleskind agreed to work with the Balans because he had previously handled loan transactions for one of the Balans' family members. Apparently, Daman had tried to obtain a loan for the Balans through Countrywide Home Loans, but they had been turned down because of a bankruptcy and derogatory items on their credit history.

12. On January 31, 2002 the Balans and Daman came to the AMC office to meet with Andrew Karleskind. With information the Balans gave him he filled out a Uniform Residential Loan Application (1003 form). The Balans signed the application. According to Andrew Karleskind he took the Balans' credit report (which had been obtained by Countrywide) and the loan application to his sister Patricia for her to review. She did some rough calculations and suggested a certain type of loan. They also discussed some of the issues raised by the Balans' credit problems. Andrew Karleskind claims that he then conveyed to the Balans the information his sister had given him regarding different loan programs and what documents the Balans needed to get to him, e.g., pay stubs, W-2's and bank statements. Tammy Balan recalls him discussing the Balans' bankruptcy and the fact that their poor credit left them few options for financing. He also gave them an estimated payment amount.

13. Andrew Karleskind "didn't get around" to filling in the spaces at the bottom of the Balans' 1003 form for the interviewer's name and signature.

14. On February 1, 2002 Tammy Balan faxed Andrew Karleskind her W-2's. In her cover sheet to him she wrote: "Please try to get that payment down. Let me know what my options are to lower the payment." Andrew Karleskind thinks he probably did not read this message or respond to it.

15. The Balans originally wanted an FHA loan because that would enable them to make a downpayment of only 3% of the purchase price. At some point early in the process Patricia Szabo discovered that an FHA loan was not available because the property was in Stanislaus County and the FHA loan limit for that county was too low. Andrew Karleskind informed Jim Daman of this, and Daman said "Now what are we going to do?" Karleskind replied that Szabo was looking at other alternatives if the Balans could put up a 5% downpayment. Daman told him to go ahead. Szabo had identified several lenders who might be able to make a 95% conventional loan to the Balans, and she and Andrew Karleskind got busy assembling the loan application package.

16. On February 7, 2002 Andrew Karleskind filled out a fax appraisal order form ordering an appraisal on the Balan property in which he wrote "Andy" in the space for "loan officer." He claims he did so because there was no other space to indicate the contact person at AMC. On February 11, 2002 AMC loan processor Darlene Martin sent the Balans three letters, two of which were form letters accompanying the Good Faith Estimate of Settlement charges and Advanced Disclosure Statement, and in these letters she identified Andrew Karleskind as the Balans' loan officer. Andrew Karleskind denies any knowledge of these letters or why Martin identified him as the loan officer. Patricia Szabo was Martin's super-

visor. On February 26, 2002 Transaction Coordinator Anita Prescott of United Transactions in Modesto sent a fax to "Andy" asking that he fax the loan approval and give her an estimate of when the loan documents would be ready.

17. AMC submitted the Balan loan package to Ameriquest Mortgage, which turned down a 95% loan. AMC submitted the package to Liberty American, which turned down a 95% loan but approved a 90% loan. The third lender the package was submitted to was Novastar Mortgage, Inc. On the Novastar loan submission form Darlene Martin wrote Andrew Karleskind's name in the space for "Contact Name." Novastar apparently informed Andrew Karleskind that a 95% loan might be available if certain conditions were met, including that the Balans resolve a number of derogatory items on their credit. Throughout this time Jim Daman was calling Andrew Karleskind every day to find out the status of the loan application, so Karleskind kept him informed of what was going on. After Daman talked to the Balans about clearing the derogatory items from their credit Tammy Balan faxed Andrew Karleskind documentation resolving some of the problems. She also talked to him on the phone a few times to discuss how she was doing. It turned out, however, that the Balans were unable to resolve all the derogatory items on their credit. According to Andrew Karleskind Novastar was still willing to approve the loan at 90%. There were some efforts by Daman, and perhaps by the Balans, to secure additional funds for the larger downpayment required, but the evidence on this is sketchy. (At one point Daman asked Andrew Karleskind if he would loan the extra money needed, but Karleskind refused.) It appears that Andrew Karleskind thought the Balans would be able to come up with 10% although the reality was that the Balans never had more than 3% of the purchase price. On March 13, 2002 he requested that Novastar "lock in" the interest rate for the Balan loan, signing a confirmation form in the space for the requesting "Broker/Correspondent." The Balans were under the mistaken impression that they had been approved for a larger loan and would be able to close escrow on the deal. Ultimately the deal fell through when the funds required for the downpayment could not be produced. In a July 24, 2002 declaration he provided to Deputy Commissioner Charlotte Bernard Andrew Karleskind stated: "We even offered to give up my commission so the deal could go together. The Balans were just too far from having the \$24,000 they needed to close the deal so it failed." (At the hearing Andrew Karleskind clarified that he communicated AMC's offer to give up the company's commission.) Toward the end Andrew Karleskind had some phone conversations with Tammy Balan about what was going on. He found out that Daman had not passed on to her all the information about the terms and conditions of the Novastar loan approval.

18. The Department of Real Estate (Department) investigated the transaction after Tammy Balan filed a complaint against Jim Daman. Complainant alleges in the accusation that Andrew Karleskind engaged in activities for which a real estate license was required at a time when his license was expired. No other wrongdoing is alleged against him with respect to the Balan transaction.

19. Andrew Karleskind claims he wanted his brother Eric to handle the Balan transaction because of the license issue, but he explains that he (Andrew) interviewed the Balans to fill out the 1003 form because he knew their family and because Eric did not like

dealing with Jim Daman. Other than helping to assemble the loan package, it does not appear that Eric had anything to do with the Balans transaction. But the AMC file contains two typed 1003 forms, one for the first mortgage and one for the second mortgage, on which Eric Karleskind's name appears in the space for interviewer. Also, the boxes are checked to indicate the application was taken "by mail" and "by telephone." One of these forms is signed by Eric Karleskind and dated March 1, 2002, but neither form is signed by the Balans. It was not established why these forms were prepared, although one of the conditions on Novastar's loan approval required submission of: "Original completed signed and dated 1003 loan application. ... Must also be signed by the interviewer." Eric Karleskind's false claim to have been the interviewer for the 1003 is certainly suspicious in view of Andrew Karleskind's omission of his name as the interviewer on the original handwritten 1003 form that he completed with the Balans on January 31, 2002.

20. Andrew Karleskind claims he did not engage in activities for which a real estate license is required because he provided no advice or counseling to the prospective borrowers or their agent – that in all his contacts with the Balans and Daman he, in essence, served only as a conduit for information between them and licensee Patricia Szabo.

21. Under Business and Professions Code section 10131, subdivision (d),¹ a real estate broker is defined, in relevant part, as someone who "[s]olicits borrowers or lenders for or negotiates loans...for borrowers or lenders...in connection with loans secured...by liens on real property..." Section 10133.1, subdivision (c)(1), contains an exemption from this provision for "an employee of a real estate broker who, on behalf of the broker, assists the broker in meeting the broker's obligations to its customers in residential mortgage loan transactions...where the lender is an institutional lender..., provided the employee does not participate in any negotiations occurring between the principals." Title 10, California Code of Regulations section 2841, subdivision (a), describes activities that do not constitute "negotiation" when done by a broker's employee under his or her control, direction and supervision. Such activities include the following:

(3) Providing written factual information about loan terms, conditions or qualification requirements to a prospective borrower that has been either prepared by the broker, or reviewed and approved in writing by the broker. A nonlicensed employee may discuss such information with a prospective borrower in general terms, but may not provide counseling or advice to a prospective borrower.

(4) Notifying a prospective borrower of the information needed in order to complete a loan application without providing counseling or advice to a prospective borrower.

¹ All further statutory references are to the Business and Professions Code unless otherwise indicated.

(5) Entering information provided by the prospective borrower on a preprinted application form without providing counseling or advice to a prospective borrower.

(8) Preparing and mailing requests for verification of employment, verification of deposits, credit reports or appraisal reports. Obtaining such reports for transmission to the broker.

(9) Assembling, under the direction of the broker, materials obtained in the course of a loan transaction for submission to a prospective lender or loan committee, providing the final determination as to completeness or compliance is made by the broker.

(10) Communicating with a service provider in connection with a loan transaction to determine when reports or other information needed concerning any aspect of the transaction will be delivered, or when certain services will be performed or completed.

(12) Contacting a prospective lender to determine the status of a loan application.

(13) Responding to an inquiry or notifying a prospective borrower or his or her agent of the status of the loan application as long as the nonlicensed employee does not interpret or explain the relevance, significance or effect of that status. A nonlicensed employee may communicate omissions to a party or principal as long as the nonlicensed employee does not interpret or explain the relevance or significance of those omissions.

22. If Andrew Karleskind's activities in the Balan transaction had been limited to the activities described above, he would have been exempt from licensure requirements. While some of his activities were of the type that may be performed by a nonlicensed assistant or loan processor, e.g., filling out a preprinted application form, and preparing and faxing a request for an appraisal, Andrew Karleskind's activities on the whole went beyond the limits of what a nonlicensed employee is allowed to do. When he met with the Balans on January 31, 2002, he provided counseling or advice to them regarding the impact of their credit problems, the type of loan they should seek and the payment they could expect. Andrew Karleskind consulted with Patricia Szabo on these matters (probably because she was more knowledgeable than he about FHA loans and underwriting requirements), but there is no evidence that he provided to the Balans written factual information she had prepared or that his discussion of the loan information was limited to general terms as opposed to the particular circumstances of the prospective borrowers. (See Cal. Code Regs., tit. 10, § 2841, subd. (a)(3).) After he took the loan application Andrew Karleskind had daily communica-

tions with Daman about the status of the application. One of their conversations concerned the unavailability of an FHA loan and whether to pursue a 95% conventional loan, a matter that involved providing counseling and advice. Andrew Karleskind had been an experienced loan officer, and the notion that he would not utilize his knowledge and experience unless he had first checked with Szabo seems highly implausible. Andrew Karleskind's mistake was in agreeing to work with the Balans in the first place – after that it was virtually impossible to avoid falling down the slippery slope of engaging in activities for which he needed a real estate license.

23. There is no evidence that while his broker license was expired Andrew Karleskind engaged in activities for which he needed a real estate license in any loan transactions other than the one involving the Balans.

24. By allowing Andrew Karleskind to act as a loan officer in the Balan transaction AMC and John Karleskind employed an unlicensed person to perform activities for which a real estate license is required. (It was not established that John Karleskind had actual knowledge of his son's unlicensed activities, but he had constructive knowledge.)

25. It was permissible for John Karleskind to delegate to Patricia Szabo many of his supervisory responsibilities as AMC's designated broker officer, because he did not relinquish overall responsibility for supervision and control. However, the fact that non-licenssee Andrew Karleskind was allowed to act as a loan officer in the Balan transaction is, per se, evidence of a failure to exercise reasonable supervision and control over the activities of AMC for which a license is required.

LEGAL CONCLUSIONS

Andrew Karleskind

1. Cause to suspend or revoke Andrew Karleskind's real estate license exists under section 10177, subdivision (d), by reason of his violation of section 10130 (engaging in activities for which a real estate license is required without having a license).

John Karleskind

2. Cause to suspend or revoke John Karleskind's real estate license exists under section 10177, subdivision (d), by reason of his violation of section 10137 (employing an unlicensed person to perform activities for which a real estate license is required).

3. Cause to suspend or revoke John Karleskind's real estate license exists under section 10177, subdivision (d), by reason of his violation of Title 10, California Code of Regulations section 2725 (failure to exercise reasonable supervision over licensed activities), and section 10177, subdivision (h).

Alameda Mortgage Corporation

4. Cause to suspend or revoke AMC's real estate license exists under section 10177, subdivision (b), by reason of corporate officer Andrew Karleskind's conviction of a felony and a crime involving moral turpitude.

5. Cause to suspend or revoke AMC's real estate license exists under section 10177, subdivision (d), by reason of its violation of section 10137 (employing an unlicensed person to perform activities for which a real estate license is required).

* * * * *

6. In view of the fact that Andrew Karleskind's unlicensed activity was an isolated violation and there was no harm to the public, it would not be contrary to the public interest to allow him to keep his restricted real estate license subject to a short suspension. John Karleskind's and AMC's violations warrant the imposition of a stayed revocation with the right to obtain a restricted license.

ORDER

Andrew Karleskind

All licenses and licensing rights of respondent Andrew Peter Karleskind under the Real Estate Law are suspended for a period of 15 days from the effective date of this decision; provided, however, that upon a petition by respondent said suspension (or a portion thereof) shall be stayed upon condition that:

1. Respondent pays a monetary penalty pursuant to Business and Professions Code section 10175.2 at the rate of \$200 for each day of the suspension, for a total monetary penalty of \$3,000.
2. Payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. The check must be delivered to the Department prior to the effective date of the decision in this matter.
3. Respondent incurs no further cause for disciplinary action against his real estate license of within one year from the effective date of the decision in this matter.
4. If respondent fails to pay the monetary penalty in accordance with the terms and conditions of the decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the respondent shall not be entitled to any repayment nor credit,

prorated or otherwise, for money paid to the Department under the terms of this decision.

5. If respondent pays the monetary penalty and if respondent incurs no further cause for disciplinary action against his real estate license within one year from the effective date of the decision, the stay hereby granted shall become permanent.

John Karleskind

All licenses and licensing rights of respondent John Peter Karleskind, Jr., 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 he makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

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

Alameda Mortgage Corporation

All licenses and licensing rights of respondent Alameda Mortgage Corporation 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 it makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner in the event that an officer, director or person owning or controlling 10 percent or more of respondent's stock is convicted, including by a plea of nolo contendere, of a crime which is substantially related to the qualifications, functions or duties of a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this decision.
4. Respondent shall, within nine months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that respondent's designated broker officer has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until it presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: April 14, 2004

Nancy L. Rasmussen
NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JAN 05 2004

DEPARTMENT OF REAL ESTATE

Laurie A. Zain

In the Matter of the Accusation of

ANDREW PETER KARLESKIND,
ALAMEDA MORTGAGE CORPORATION, AND
JOHN PETER KARLESKIND, JR.,

Case No. H-8564 SF

OAH No. N-2003120530

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 THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612 on MARCH 4 & 5, 2004, 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: JANUARY 5, 2004

By *James L. Beaver*
JAMES L. BEAVER, Counsel (L2)

1 DAVID A. PETERS, Counsel (SBN 99528)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
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FILED

NOV - 6 2003

DEPARTMENT OF REAL ESTATE

By Laurie A. Jones

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ANDREW PETER KARLESKIND,)
13 ALAMEDA MORTGAGE CORPORATION, AND)
14 JOHN PETER KARLESKIND, JR.,)
15 Respondents.)

No. H-8564 SF

ACCUSATION

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against ANDREW PETER KARLESKIND (hereinafter
19 "Respondent ANDREW KARLESKIND"), ALAMEDA MORTGAGE CORPORATION
20 (hereinafter "Respondent ALAMEDA"), and JOHN PETER KARLESKIND
21 (hereinafter "Respondent JOHN KARLESKIND") is informed and
22 alleges as follows:

23 FIRST CAUSE OF ACCUSATION

24 I.

25 The Complainant, Les R. Bettencourt, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation against Respondent in his official capacity.

1 II

2 Respondents are presently licensed and/or have license
3 rights under the Real Estate Law, Part 1 of Division 4 of the
4 California Business and Professions Code (hereinafter "Code"),
5 as follows:

6 ANDREW PETER KARLESKIND - as a real estate broker.

7 ALAMEDA MORTGAGE CORPORATION - as a real estate broker
8 corporation.

9 JOHN PETER KARLESKIND, JR. - as a real estate broker
10 and as designated broker-officer for Respondent ALAMEDA.

11 III

12 Within the three-year period immediately preceding the
13 filing of this Accusation, Respondent ANDREW KARLESKIND was an
14 officer, director, or person owning or controlling ten percent
15 (10%) or more of Respondent ALAMEDA's corporate stock.

16 IV

17 On or about October 25, 2000, Respondent ANDREW
18 KARLESKIND was convicted of a violation of 18 U.S.C. Section 371
19 (Conspiracy to Commit Bank Fraud), a crime involving moral
20 turpitude which bears a substantial relationship under Section
21 2910, Title 10, California Code of Regulations, to the
22 qualifications, functions or duties of a real estate licensee.

23 V

24 The crime of which Respondent ANDREW KARLESKIND was
25 convicted as alleged in Paragraph IV above, are grounds for the
26 suspension or revocation of Respondent ALAMEDA's license and/or
27 license rights under Section 10177(b) of the Code.

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IX

Said mortgage loan brokerage activities conducted by Respondent ANDREW KARLESKIND as described in Paragraph VII above, included but is not limited to, the following transaction:

<u>DATE</u>	<u>BORROWERS</u>	<u>PROPERTY</u>
02/04/02	Rossano J. Balan & Tammy L. Balan	5217 Pasatiempo Drive Salida, California

X

The acts and/or omissions of Respondent ANDREW KARLESKIND described in this Second Cause of Accusation are grounds for the suspension or revocation of the license and/or license rights of Respondent ANDREW KARLESKIND under Section 10177(d) of the Code in conjunction with Section 10130 of the Code.

THIRD CAUSE OF ACCUSATION

XI

There is hereby incorporated into this third, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs I and II of the First Cause of Accusation with the same force and effect as if herein fully set forth.

XII

Beginning on or after March 2, 2001 and continuing through on or about January 15, 2003, at a time when Respondent ANDREW KARLESKIND's real estate broker license had expired as described in Paragraph VII above, Respondent ANDREW KARLESKIND

1 while in the employ of Respondent ALAMEDA, engaged in the
2 business of, acted in the capacity of, advertised, or assumed to
3 act as a real estate broker in the State of California as
4 described in Paragraph VIII and IX above.

5 XIII

6 Beginning on or after March 2, 2001 through on or
7 about January 15, 2003, in connection with the mortgage loan
8 brokerage activities described in Paragraphs VIII, IX, and XII
9 above, Respondent ALAMEDA and Respondent JOHN KARLESKIND
10 employed or compensated, directly or indirectly Respondent
11 ANDREW KARLESKIND to perform acts requiring a real estate
12 license at a time when Respondent ANDREW KARLESKIND's real
13 estate broker license was expired.

14 XIV

15 At various times beginning on or about March 2, 2001
16 and continuing through on or about January 15, 2003, Respondent
17 JOHN KARLESKIND, as the designated broker-officer for Respondent
18 ALAMEDA, failed to exercise reasonable supervision and control
19 over the licensed activities of Respondent ALAMEDA required by
20 Section 10159.2 of the Code in that Respondent JOHN KARLESKIND
21 permitted Respondent ANDREW KARLESKIND, a real estate broker
22 with an expired real estate license, to conduct the mortgage
23 loan brokerage activities described in Paragraphs VIII, IX and
24 XII above. Respondent JOHN KARLESKIND failed to exercise
25 reasonable supervision by failing to establish adequate
26 policies, rules, procedures and systems to review, oversee,
27 inspect and manage said activities.

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2 The acts and/or omissions of Respondent ALAMEDA and
3 Respondent JOHN KARLESKIND described in this Third Cause of
4 Accusation are grounds for the suspension or revocation of the
5 licenses and/or license rights of Respondent ALAMEDA and
6 Respondent JOHN KARLESKIND under the following sections of the
7 Code and of Title 10, California Code of Regulations
8 (hereinafter "Regulations").

9 (1) As to Paragraph XIII, under Section 10137 of the
10 Code as to Respondent ALAMEDA and Respondent JOHN KARLESKIND;
11 and

12 (2) As to as to Paragraph XIV, under Section 10177(h)
13 of the Code and Section 2725 of the Regulations in conjunction
14 with Section 10177(d) of the Code as to Respondent JOHN
15 KARLESKIND. In the alternative, the acts and/or omissions of
16 Respondent JOHN KARLESKIND described in Paragraph XIV are
17 grounds for the suspension or revocation of Respondent JOHN
18 KARLESKIND's license and/or license rights under Section
19 10177(g) of the Code.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 ANDREW PETER KARLESKIND, ALAMEDA MORTGAGE CORPORATION and JOHN
6 PETER KARLESKIND, JR. , under the Real Estate Law (Part 1 of
7 Division 4 of the Business and Professions Code), and for such
8 other and further relief as may be proper under the provisions
9 of law.

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11 
12 LES R. BETTENCOURT
13 Deputy Real Estate Commissioner

14 Dated at Oakland, California,
15 this 14th day of October, 2003.
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