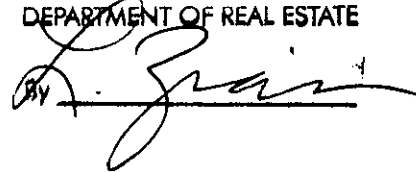


1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
MAR 14 2005

DEPARTMENT OF REAL ESTATE

BY 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of) DRE No. H-8856 SF
13 JOHN F. VALDEZ,) OAH No. N-2004110003
14 Respondent.) STIPULATION AND AGREEMENT
15

16 It is hereby stipulated by and between Respondent JOHN
17 F. VALDEZ ("VALDEZ"), and the Complainant, acting by and through
18 James L. Beaver, Counsel for the Department of Real Estate ("the
19 Department"), as follows for the purpose of settling and
20 disposing of the First Amended Accusation filed on October 7,
21 2004 in this matter ("the Accusation"):

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 MACHADO ("Respondent") at a formal hearing on the Accusation,
25 which hearing was to be held in accordance with the provisions of
26

27 DRE No. H-8856 SF

JOHN F. VALDEZ

1 the Administrative Procedure Act (APA), shall instead and in
2 place thereof be submitted solely on the basis of the provisions
3 of this Stipulation and Agreement.

4 2. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation filed by the Department in this proceeding.

7 3. On August 26, 2004, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense Respondent
13 will thereby waive Respondent's right to require the Real Estate
14 Commissioner ("the Commissioner") to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that Respondent will waive other rights
17 afforded to Respondent in connection with the hearing such as the
18 right to present evidence in defense of the allegations in the
19 Accusation and the right to cross-examine witnesses.
20

21 4. This Stipulation is based on Respondent's decision
22 not to contest the allegations set forth in the Accusation as a
23 result of the agreement negotiated between the parties. This
24 Stipulation is expressly limited to this proceeding and any
25 further proceeding initiated by or brought before the Department
26

27 DRE No. H-8856 SF

JOHN F. VALDEZ

1 of Real Estate based upon the facts and circumstances alleged in
2 the Accusation and is made for the sole purpose of reaching an
3 agreed disposition of this proceeding without a hearing. The
4 decision of Respondent not to contest the allegations is made
5 solely for the purpose of effectuating this Stipulation. It is
6 the intent and understanding of the parties that this Stipulation
7 shall not be binding or admissible against Respondent in any
8 actions against Respondent by third parties.

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

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

24
25 ///

26
27 DRE No. H-8856 SF

JOHN F. VALDEZ

DETERMINATION OF ISSUES

1 By reason of the foregoing stipulations, admissions and
2 waivers and solely for the purpose of settlement of the pending
3 Accusation without hearing, it is stipulated and agreed that the
4 following Determination of Issues shall be made:
5

I

6 The acts and omissions of Respondent JOHN F. VALDEZ as
7 described in the Accusation are grounds for the suspension or
8 revocation of the licenses and license rights of Respondent
9 VALDEZ under the following provisions of the California Business
10 and Professions Code ("Code") and/or Chapter 6, Title 10,
11 California Code of Regulations ("Regulations"):
12

13 (a) As to Paragraphs V, VI, and XVII through XIX,
14 inclusive, of the Accusation under Section 2746 of the
15 Regulations in conjunction with Section 10177(d) of the Code;
16

17 (b) As to Paragraphs V, VI, XVII, XVIII and XX through
18 XXII, inclusive, of the Accusation under Section 10177(a) of the
19 Code.

ORDER

I

20 A. All licenses and licensing rights of Respondent
21 JOHN F. VALDEZ under the Real Estate Law are suspended for a
22 period of sixty (60) days from the effective date of the Decision
23 herein; provided, however:
24

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26
27 DRE No. H-8856 SF

JOHN F. VALDEZ

1 1. If Respondent VALDEZ petitions, thirty (30) days
2 of said sixty (60) day suspension (or a portion thereof) shall be
3 stayed upon condition that:

4 (a) Respondent VALDEZ pays a monetary penalty pursuant
5 to Section 10175.2 of the Code at the rate of \$100.00 for each
6 day of the suspension for a total monetary penalty of \$3,000.00.

7 (b) Said payment shall be in the form of a cashier's
8 check or certified check made payable to the Recovery Account of
9 the Real Estate Fund. Said check must be received by the
10 Department prior to the effective date of the Decision in this
11 matter.

12 (c) If Respondent VALDEZ fails to pay the monetary
13 penalty in accordance with the terms and conditions of the
14 Decision, the Commissioner may, without a hearing, vacate and set
15 aside the stay order, and order the immediate execution of all or
16 any part of the stayed suspension.

17 (d) No final subsequent determination be made, after
18 hearing or upon stipulation, that cause for disciplinary action
19 against Respondent VALDEZ occurred within two (2) years of the
20 effective date of the Decision herein. Should such a
21 determination be made, the Commissioner may, in his or her
22 discretion, vacate and set aside the stay order, and order the
23 execution of all or any part of the stayed suspension, in which
24 event the Respondent shall not be entitled to any repayment nor
25

26
27 DRE No. H-8856 SF

JOHN F. VALDEZ

1 credit, prorated or otherwise, for money paid to the Department
2 under the terms of this Decision.

3 (e) If Respondent VALDEZ pays the monetary penalty and
4 if no further cause for disciplinary action against the real
5 estate license of Respondent VALDEZ occurs within two (2) years
6 from the effective date of the Decision herein, then the stay
7 hereby granted shall become permanent.

8 2. Thirty (30) days of said sixty (60) day
9 suspension shall be stayed upon condition that:

10 (a) No final subsequent determination be made, after
11 hearing or upon stipulation, that cause for disciplinary action
12 against Respondent occurred within two (2) years of the
13 effective date of the Decision herein.

14 (b) Should such a determination be made, the
15 Commissioner may, in his or her discretion, vacate and set
16 aside the stay order, and order the execution of all or any
17 part of the stayed suspension, in which event the Respondent
18 shall not be entitled to any repayment nor credit, prorated or
19 otherwise, for money paid to the Department under the terms of
20 this Decision.

21 (c) If no order vacating the stay is issued, and if
22 no further cause for disciplinary action against the real
23 estate license of Respondent occurs within two (2) years from
24 the effective date of the Decision, then the stay hereby
25

26
27 DRE No. H-8856 SF

JOHN F. VALDEZ

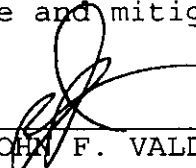
1 granted shall become permanent.

2 Jan 31, 2005
3 DATED
4 JAMES L. BEAVER, Counsel
Department of Real Estate
* * *

5 I have read the Stipulation and Agreement and its terms
6 are understood by me and are agreeable and acceptable to me. I
7 understand that I am waiving rights given to me by the California
8 Administrative Procedure Act (including but not limited to
9 Sections 11506, 11508, 11509, and 11513 of the Government Code),
10 and I willingly, intelligently, and voluntarily waive those
11 rights, including the right of requiring the Commissioner to
12 prove the allegations in the Accusation at a hearing at which I
13 would have the right to cross-examine witnesses against me and to
14 present evidence in defense and mitigation of the charges.

15 1-15-05

16 DATED

17 
18 JOHN F. VALDEZ
19 Respondent

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DRE No. H-8856 SF

JOHN F. VALDEZ

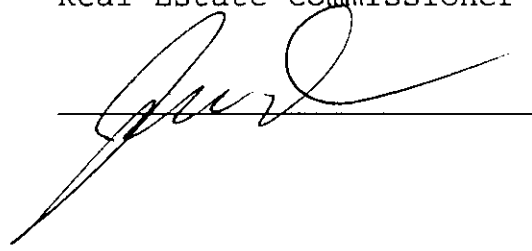
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* * *

The foregoing Stipulation and Agreement is hereby
adopted by me as my Decision in this matter as to Respondent JOHN
F. VALDEZ and shall become effective at 12 o'clock noon on
APRIL 4, 2005.

IT IS SO ORDERED 3-1-, 2005.

JEFF DAVI
Real Estate Commissioner



DRE No. H-8856 SF

JOHN F. VALDEZ

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
MAR 14 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of) DRE No. H-8856 SF
13 eCASHOUSE, INC.,) OAH No. N-2004110003
14 a California Corporation,)
15 Respondent.) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondent
17 eCASHOUSE, INC., a California Corporation, acting by and through
18 its officer and director, Donald R. Lew, and the Complainant,
19 acting by and through James L. Beaver, Counsel for the Department
20 of Real Estate ("the Department"), as follows for the purpose of
21 settling and disposing of the First Amended Accusation filed on
22 October 7, 2004 in this matter ("the Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent

25
26
27 DRE No. H-8856 SF eCASHOUSE, INC.

1 MACHADO ("Respondent") at a formal hearing on the Accusation,
2 which hearing was to be held in accordance with the provisions of
3 the Administrative Procedure Act (APA), shall instead and in
4 place thereof be submitted solely on the basis of the provisions
5 of this Stipulation and Agreement.

6 2. Respondent has received, read and understands the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department in this proceeding.

9 3. On September 10, 2004, Respondent filed a Notice
10 of Defense pursuant to Section 11505 of the Government Code for
11 the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondent hereby freely and voluntarily withdraws
13 said Notice of Defense. Respondent acknowledges that Respondent
14 understands that by withdrawing said Notice of Defense Respondent
15 will thereby waive Respondent's right to require the Real Estate
16 Commissioner ("the Commissioner") to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that Respondent will waive other rights
19 afforded to Respondent in connection with the hearing such as the
20 right to present evidence in defense of the allegations in the
21 Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on Respondent's decision
23 not to contest the allegations set forth in the Accusation as a
24 result of the agreement negotiated between the parties. This
25

26
27 DRE No. H-8856 SF

eCASHOUSE, INC.

1 Stipulation is expressly limited to this proceeding and any
2 further proceeding initiated by or brought before the Department
3 of Real Estate based upon the facts and circumstances alleged in
4 the Accusation and is made for the sole purpose of reaching an
5 agreed disposition of this proceeding without a hearing. The
6 decision of Respondent not to contest the allegations is made
7 solely for the purpose of effectuating this Stipulation. It is
8 the intent and understanding of the parties that this Stipulation
9 shall not be binding or admissible against Respondent in any
10 actions against Respondent by third parties.

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

21 6. This Stipulation and Agreement shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department with
24 respect to any matters which were not specifically alleged to be
25

26
27 DRE No. H-8856 SF

eCASHOUSE, INC.

1 causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and
4 waivers and solely for the purpose of settlement of the pending
5 Accusation without hearing, it is stipulated and agreed that the
6 following Determination of Issues shall be made:

7 I

8 The acts and omissions of Respondent eCASHOUSE, INC. as
9 described in the Accusation are grounds for the suspension or
10 revocation of the licenses and license rights of Respondent
11 eCASHOUSE, INC. under the following provisions of the California
12 Business and Professions Code ("Code") and/or Chapter 6, Title
13 10, California Code of Regulations ("Regulations"):

14 (a) As to Paragraphs IV, V and VI under Sections 10177
15 and 10177(b) of the Code;

16 (b) As to Paragraphs IX through XIV, inclusive, under
17 Sections 10130 and 10137 of the Code in conjunction with Section
18 10177(d) of the Code; and

19 (c) As to Paragraph XV under Section 10159.5 of the
20 Code and Section 2731 of the Regulations in conjunction with
21 Section 10177(d) of the Code.

22 ORDER

23 I

24 All licenses and licensing rights of Respondent

25
26
27 DRE No. H-8856 SF

eCASHOUSE, INC.

1 eCASHOUSE, INC. under the Real Estate Law are revoked.

2 James L. Beaver, 31, 2005
3 DATED JAMES L. BEAVER, Counsel
4 Department of Real Estate

* * *

5 I have read the Stipulation and Agreement and its terms
6 are understood by me and are agreeable and acceptable to me. I
7 understand that I am waiving rights given to me by the California
8 Administrative Procedure Act (including but not limited to
9 Sections 11506, 11508, 11509, and 11513 of the Government Code),
10 and I willingly, intelligently, and voluntarily waive those
11 rights, including the right of requiring the Commissioner to
12 prove the allegations in the Accusation at a hearing at which I
13 would have the right to cross-examine witnesses against me and to
14 present evidence in defense and mitigation of the charges.

15 1/31/05
16 DATED

eCASHOUSE, INC.
A California Corporation

17 Donald R. Lew
18 By DONALD R. LEW
19 Officer and Director

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27 DRE No. H-8856 SF

eCASHOUSE, INC.

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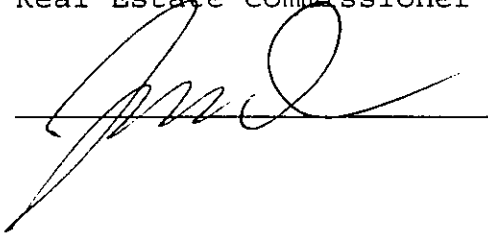
* * *

The foregoing Stipulation and Agreement is hereby
adopted by me as my Decision in this matter as to Respondent
eCASHOUSE, INC. and shall become effective at 12 o'clock noon on

APRIL 4 , 2005.

IT IS SO ORDERED 3-1- , 2005.

JEFF DAVI
Real Estate Commissioner



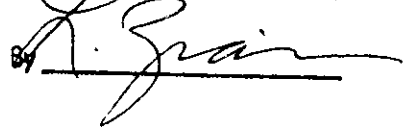
DRE No. H-8856 SF

eCASHOUSE, INC.

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
MAR 14 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of) DRE No. H-8856 SF
13)
14 SAN FRANCISCO TRUST) OAH No. N-2004110003
15 MORTGAGE BROKERS, INC.)
16 a California Corporation,)
17 Respondent.) STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between Respondent SAN
18 FRANCISCO TRUST MORTGAGE BROKERS, INC., a California Corporation,
19 acting by and through its officer and director, Donald R. Lew,
20 and the Complainant, acting by and through James L. Beaver,
21 Counsel for the Department of Real Estate ("the Department"), as
22 follows for the purpose of settling and disposing of the First
23 Amended Accusation filed on October 7, 2004 in this matter ("the
24 Accusation"):

25 1. All issues which were to be contested and all

26
27 DRE No. H-8856 SF

SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.

1 evidence which was to be presented by Complainant and Respondent
2 MACHADO ("Respondent") at a formal hearing on the Accusation,
3 which hearing was to be held in accordance with the provisions of
4 the Administrative Procedure Act (APA), shall instead and in
5 place thereof be submitted solely on the basis of the provisions
6 of this Stipulation and Agreement.

7 2. Respondent has received, read and understands the
8 Statement to Respondent, the Discovery Provisions of the APA and
9 the Accusation filed by the Department in this proceeding.

10 3. On September 10, 2004, Respondent filed a Notice
11 of Defense pursuant to Section 11505 of the Government Code for
12 the purpose of requesting a hearing on the allegations in the
13 Accusation. Respondent hereby freely and voluntarily withdraws
14 said Notice of Defense. Respondent acknowledges that Respondent
15 understands that by withdrawing said Notice of Defense Respondent
16 will thereby waive Respondent's right to require the Real Estate
17 Commissioner ("the Commissioner") to prove the allegations in the
18 Accusation at a contested hearing held in accordance with the
19 provisions of the APA and that Respondent will waive other rights
20 afforded to Respondent in connection with the hearing such as the
21 right to present evidence in defense of the allegations in the
22 Accusation and the right to cross-examine witnesses.

23 4. This Stipulation is based on Respondent's decision
24 not to contest the allegations set forth in the Accusation as a
25
26

27 DRE No. H-8856 SF

SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.

1 result of the agreement negotiated between the parties. This
2 Stipulation is expressly limited to this proceeding and any
3 further proceeding initiated by or brought before the Department
4 of Real Estate based upon the facts and circumstances alleged in
5 the Accusation and is made for the sole purpose of reaching an
6 agreed disposition of this proceeding without a hearing. The
7 decision of Respondent not to contest the allegations is made
8 solely for the purpose of effectuating this Stipulation. It is
9 the intent and understanding of the parties that this Stipulation
10 shall not be binding or admissible against Respondent in any
11 actions against Respondent by third parties.

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

22 6. This Stipulation and Agreement shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25

26
27 DRE No. H-8856 SF

SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.

1 respect to any matters which were not specifically alleged to be
2 causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, admissions and
5 waivers and solely for the purpose of settlement of the pending
6 Accusation without hearing, it is stipulated and agreed that the
7 following Determination of Issues shall be made:

8 I

9 The acts and omissions of Respondent SAN FRANCISCO
10 TRUST MORTGAGE BROKERS, INC. as described in the Accusation are
11 grounds for the suspension or revocation of the licenses and
12 license rights of Respondent SAN FRANCISCO TRUST MORTGAGE
13 BROKERS, INC. under the following provisions of the California
14 Business and Professions Code ("Code") and/or Chapter 6, Title
15 10, California Code of Regulations ("Regulations"):

16 (a) As to Paragraphs V, VI, XVII, XVIII and XX through
17 XXII, inclusive, under Section 10177(a) of the Code; and

18 (b) As to Paragraphs XXIV through XXVII, inclusive,
19 under Sections 10130 and 10137 of the Code in conjunction with
20 Section 10177(d) of the Code.

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26 DRE No. H-8856 SF

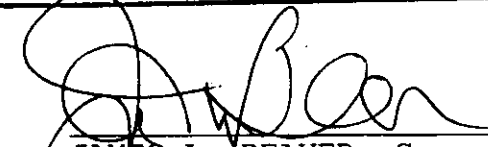
SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.

ORDER

I

All licenses and licensing rights of Respondent SAN FRANCISCO TRUST MORTGAGE BROKERS, INC. under the Real Estate Law are revoked.


January 31, 2005
DATED


JAMES L. BEAVER, Counsel
Department of Real Estate

* * *

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

1/31/05
DATED

SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.
A California Corporation

By DONALD R. LEW
Officer and Director

///

///

DRE No. H-8856 SF

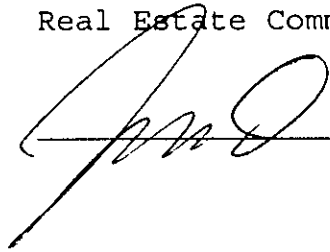
SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.

* * *

1 The foregoing Stipulation and Agreement is hereby
2
3 adopted by me as my Decision in this matter as to Respondent SAN
4 FRANCISCO TRUST MORTGAGE BROKERS, INC. and shall become effective
5 at 12 o'clock noon on APRIL 4 , 2005.

6 IT IS SO ORDERED 3-1-05 , 2005.

7 JEFF DAVI
8 Real Estate Commissioner

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27 DRE No. H-8856 SF

SAN FRANCISCO TRUST
MORTGAGE BROKERS, INC.

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

4 Telephone: (916) 227-0789

FILED
MAR 14 2005

DEPARTMENT OF REAL ESTATE

By J. Stein

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-8856 SF
12 JOHN STEVENSON MORKEN,) OAH No. N-2004110003
13 Respondent.) STIPULATION AND AGREEMENT
14)

15 It is hereby stipulated by and between Respondent JOHN
16 STEVENSON MORKEN ("MORKEN"), individually and by and through John
17 S. Morken Jr., Esq., Respondent's attorney of record herein, and
18 the Complainant, acting by and through James L. Beaver, Counsel
19 for the Department of Real Estate ("the Department"), as follows
20 for the purpose of settling and disposing of the First Amended
21 Accusation filed on October 7, 2004 in this matter ("the
22 Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26

27 DRE No. H-8856 SF

JOHN STEVENSON MORKEN

1 held in accordance with the provisions of the Administrative
2 Procedure Act (APA), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement.

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department in this proceeding.

8 3. On September 3, 2004, Respondent filed a Notice
9 of Defense pursuant to Section 11505 of the Government Code for
10 the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner ("the Commissioner") to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that Respondent will waive other rights
18 afforded to Respondent in connection with the hearing such as the
19 right to present evidence in defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on Respondent's decision
22 not to contest the allegations set forth in the Accusation as a
23 result of the agreement negotiated between the parties. This
24 Stipulation is expressly limited to this proceeding and any
25 further proceeding initiated by or brought before the Department
26

27 DRE No. H-8856 SF

JOHN STEVENSON MORKEN

1 of Real Estate based upon the facts and circumstances alleged in
2 the Accusation and is made for the sole purpose of reaching an
3 agreed disposition of this proceeding without a hearing. The
4 decision of Respondent not to contest the allegations is made
5 solely for the purpose of effectuating this Stipulation. It is
6 the intent and understanding of the parties that this Stipulation
7 shall not be binding or admissible against Respondent in any
8 actions against Respondent by third parties.

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

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

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations, admissions and
26

1 waivers and solely for the purpose of settlement of the pending
2 Accusation without hearing, it is stipulated and agreed that the
3 following Determination of Issues shall be made:

4 I

5 The acts and omissions of Respondent JOHN STEVENSON
6 MORKEN as described in the Accusation are grounds for the
7 suspension or revocation of the licenses and license rights of
8 Respondent MORKEN under Section 10177(h) of the California
9 Business and Professions Code ("Code").

10 ORDER

11 I

12 A. All licenses and licensing rights of Respondent
13 JOHN STEVENSON MORKEN under the Real Estate Law are suspended for
14 a period of sixty (60) days from the effective date of the
15 Decision herein; provided, however:

16 1. If Respondent MORKEN petitions, thirty (30) days
17 of said sixty (60) day suspension (or a portion thereof) shall be
18 stayed upon condition that:

19 (a) Respondent MORKEN pays a monetary penalty pursuant
20 to Section 10175.2 of the Code at the rate of \$100.00 for each
21 day of the suspension for a total monetary penalty of \$3,000.00.

22 (b) Said payment shall be in the form of a cashier's
23 check or certified check made payable to the Recovery Account of
24 the Real Estate Fund. Said check must be received by the
25 Department prior to the effective date of the Decision in this
26 matter.

27 DRE No. H-8856 SF

JOHN STEVENSON MORKEN

1 (c) If Respondent MORKEN fails to pay the monetary
2 penalty in accordance with the terms and conditions of the
3 Decision, the Commissioner may, without a hearing, vacate and set
4 aside the stay order, and order the immediate execution of all or
5 any part of the stayed suspension.

6 (d) No final subsequent determination be made, after
7 hearing or upon stipulation, that cause for disciplinary action
8 against Respondent MORKEN occurred within two (2) years of the
9 effective date of the Decision herein. Should such a
10 determination be made, the Commissioner may, in his or her
11 discretion, vacate and set aside the stay order, and order the
12 execution of all or any part of the stayed suspension, in which
13 event the Respondent shall not be entitled to any repayment nor
14 credit, prorated or otherwise, for money paid to the Department
15 under the terms of this Decision.

16 (e) If Respondent MORKEN pays the monetary penalty and
17 if no further cause for disciplinary action against the real
18 estate license of Respondent MORKEN occurs within two (2) years
19 from the effective date of the Decision herein, then the stay
20 hereby granted shall become permanent.

21 2. Thirty (30) days of said sixty (60) day
22 suspension shall be stayed upon condition that:

23 (a) No final subsequent determination be made, after
24 hearing or upon stipulation, that cause for disciplinary action
25 against Respondent occurred within two (2) years of the
26 effective date of the Decision herein.

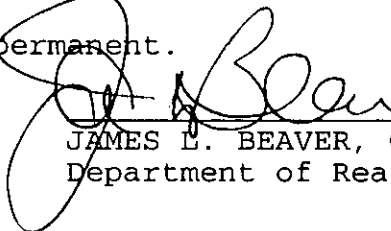
27 DRE No. H-8856 SF

JOHN STEVENSON MORKEN

1 (b) Should such a determination be made, the
2 Commissioner may, in his or her discretion, vacate and set
3 aside the stay order, and order the execution of all or any
4 part of the stayed suspension, in which event the Respondent
5 shall not be entitled to any repayment nor credit, prorated or
6 otherwise, for money paid to the Department under the terms of
7 this Decision.

8 (c) If no order vacating the stay is issued, and if
9 no further cause for disciplinary action against the real
10 estate license of Respondent occurs within two (2) years from
11 the effective date of the Decision, then the stay hereby
12 granted shall become permanent.

13 January 31, 2005
14 DATED



JAMES L. BEAVER, Counsel
Department of Real Estate

15 * *

16 I have read the Stipulation and Agreement and discussed
17 it with my attorney and its terms are understood by me and are
18 agreeable and acceptable to me. I understand that I am waiving
19 rights given to me by the California Administrative Procedure Act
20 (including but not limited to Sections 11506, 11508, 11509, and
21 11513 of the Government Code), and I willingly, intelligently,
22 and 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 cross-
25 examine witnesses against me and to present evidence in defense
26

27 DRE No. H-8856 SF

JOHN STEVENSON MORKEN

1 and mitigation of the charges.

2 1-31-2005 *John Stevenson Morken*
3 DATED JOHN STEVENSON MORKEN
4 Respondent

* * *

5 I have reviewed the Stipulation and Agreement as to
6 form and content and have advised my client accordingly.

7 1-31-2005 *J. Davi*
8 DATED JOHN B. MORKEN, Jr.
9 Attorney for Respondent

* * *

10 The foregoing Stipulation and Agreement is hereby
11 adopted by me as my Decision in this matter as to Respondent JOHN
12 STEVENSON MORKEN and shall become effective at 12 o'clock noon on
13 APRIL 4, 2005.

14 IT IS SO ORDERED *B-1*, 2005.

15
16 JEFF DAVI
17 Real Estate Commissioner
18 *Jeff Davi*
19
20
21
22
23
24
25
26

27 DRE No. H-8856 SF JOHN STEVENSON MORKEN

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

FILED
NOV 23 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Z...

In the Matter of the Accusation of

SAN FRANCISCO TRUST MORTGAGE
BROKERS, INC., eCASHOUSE, INC.,
JOHN F. VALDEZ, and
JOHN STEVENSON MORKEN,

}
}

Case No. H-8856 SF

OAH No. N-2004110003

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 **JANUARY 31, 2005 AND FEBRUARY 1, 2005**, 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, 2004

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 187007
4 Sacramento, CA 95818-7007

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

FILED
OCT - 7 2004

DEPARTMENT OF REAL ESTATE

By Laurel J. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
12 SAN FRANCISCO TRUST MORTGAGE)	No. H-8856 SF
13 BROKERS INC., a California)	<u>FIRST AMENDED</u>
14 Corporation, eCASHOUSE, INC.,)	<u>ACCUSATION</u>
15 a California Corporation,)	
16 JOHN F. VALDEZ, and)	
17 JOHN STEVENSON MORKEN,)	
18 Respondents.)	

17 The Complainant, Les R. Bettencourt, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Accusation against Respondents SAN FRANCISCO TRUST MORTGAGE
20 BROKERS, INC., a California corporation (herein "SFT"),
21 eCASHOUSE, INC. (herein "ECI"), a California corporation, JOHN
22 V. VALDEZ (herein "VALDEZ"), and JOHN STEVENSON MORKEN (herein
23 "MORKEN") (herein collectively "Respondents"), is informed and
24 alleges as follows:

25 ///
26 ///
27 ///

1 FIRST CAUSE OF ACCUSATION

2 I

3 The Complainant, Les R. Bettencourt, a Deputy Real
4 Estate Commissioner of the State of California, makes this
5 Accusation in his official capacity.

6 II

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

11 III

12 At all times herein mentioned:

13 (a) From May 18, 2000 to and until May 17, 2004,
14 Respondent ECI was licensed by the Department of Real Estate of
15 the State of California (herein "the Department") as a corporate
16 real estate broker;

17 (b) From January 31, 2002 to September 20, 2002,
18 Respondent ECI was so licensed by and through Victor Gess as
19 designated officer-broker of ECI to qualify said corporation and
20 to act for said corporation as a real estate broker;

21 (c) Effective September 20, 2002, Victor Gess
22 resigned as designated officer without replacement;

23 (d) At no time mentioned herein after September 20,
24 2002 was ECI affiliated with any designated officer - broker to
25 qualify said corporation and to act for said corporation as a
26 real estate broker; and

27 ///

1 (e) On May 17, 2004, Respondent ECI's corporate real
2 estate broker license expired and has not been renewed.

3 IV

4 At all times mentioned herein Donald R. Lew (herein
5 "Lew") has been and now is an officer and/or director of
6 Respondent ECI and/or a shareholder owning 10% or more of the
7 stock of Respondent ECI.

8 V

9 Between February 1, 1990 and June 24, 1993, Lew
10 suffered convictions, described below, for the following crimes
11 involving moral turpitude which bear a substantial relationship
12 under Section 2910, Title 10, California Code of Regulations
13 (herein "the Regulations"), to the qualifications, functions or
14 duties of a real estate licensee:

15 (a) On or about February 1, 1990, in the United
16 States District Court, Northern District of California, Lew was
17 convicted of the crime of False Statement On Loan Application in
18 violation of Title 18 United States Code Section 1014, a felony;

19 (b) On or about April 16, 1991, in the Superior Court
20 of the State of California, County of Contra Costa, Lew was
21 convicted of four counts of Preparing False Documentary Evidence
22 in violation of Penal Code Section 134, each a felony;

23 (c) on or about April 19, 1990, in the Superior Court of the
24 State of California, County of Santa Clara, Lew was convicted of
25 the crime of Forgery in violation of Penal Code Section 470 and
26 of the crime of Attempted Obtaining Money By False Pretenses in
27 violation of Penal Code Sections 664 and 532, each a felony; and

1 (c) On or about February 11, 1993, in the United
2 States District Court, Northern District of California, Lew was
3 convicted of the crime of Bank Fraud in violation of Title 18
4 United States Code Section 1344(2), a felony.

5 VI

6 Effective December 9, 1996, in Case No. H-7363 SF
7 before the Department, the Real Estate Commissioner denied the
8 application of Lew for a real estate salesperson license
9 pursuant to the provisions of Sections 480(a), 480(c), 10177(a)
10 and 10177(c) of the Code on the ground Lew has been convicted of
11 the crimes described in Paragraph V, above.

12 VII

13 Whenever reference is made in an allegation in this
14 Accusation to an act or omission of Respondent ECI, such
15 allegation shall be deemed to mean that the officers, directors,
16 employees, agents and real estate licensees employed by or
17 associated with Respondent ECI committed such act or omission
18 while engaged in the furtherance of the business or operations
19 of Respondent ECI and while acting within the course and scope
20 of their corporate authority and employment.

21 VIII

22 At all times herein mentioned, Respondent ECI engaged
23 in the business of, acted in the capacity of, advertised, or
24 assumed to act as a real estate broker within the State of
25 California within the meaning of Section 10131(d) of the Code,
26 including the operation and conduct of a mortgage loan brokerage
27 business with the public wherein, on behalf of others, for

1 compensation or in expectation of compensation, such Respondent
2 solicited lenders and borrowers for loans secured directly or
3 collaterally by liens on real property, and wherein such
4 Respondent arranged, negotiated, processed, and consummated such
5 loans.

6 IX

7 At all times mentioned herein between on or about
8 March 1, 2003 and on or about May 31, 2003, and at other times
9 known to Respondent ECI but not known to the Department,
10 Respondent ECI employed and compensated Lew to perform the acts
11 and conduct the activities described in Paragraph VIII, above,
12 including but not limited to employing and compensating Lew as
13 the agent of Respondent ECI to negotiate and arrange the
14 mortgage loan transactions described below in Paragraphs X
15 through XII, inclusive, below.

16 X

17 On or about March 3, 2003, in course of the agency and
18 employment described in Paragraph IX, above, Lew solicited and
19 obtained an application by Bruce Blankenhorn for a \$267,225 loan
20 to be secured by a deed of trust encumbering real property at
21 455 Cross Street, Napa, California to be arranged by ECI to
22 finance the purchase and rehabilitation of the Cross Street
23 property.

24 XI

25 On or about March 24, 2003, in course of the agency
26 and employment described in Paragraph IX, above, Lew solicited
27 and obtained an application by Dan R. Peter for a \$423,770 loan

1 to be secured by a deed of trust encumbering real property at
2 1271 Audubon Avenue, Montara, California to be arranged by ECI
3 to refinance an existing loan encumbering the Audubon Avenue
4 property.

5 XII

6 On or about May 4, 2003, in course of the agency and
7 employment described in Paragraph XI, above, Lew solicited and
8 obtained an application by Min Ho Kim for a \$250,000 loan to be
9 secured by a deed of trust encumbering real property at Rae
10 Drive, Orinda, California to be arranged by ECI to refinance an
11 existing loan encumbering the Rae Drive property.

12 XIII

13 At no time mentioned herein was Lew licensed by the
14 Department as either a real estate broker or as a real estate
15 salesperson.

16 XIV

17 In acting as described in Paragraphs VIII through
18 XIII, inclusive, above, Respondent ECI violated Section 10137 of
19 the Code and, in willful disregard of the provisions of Section
20 10130 of the Code, caused suffered and permitted Lew to violate
21 Section 10130 of the Code.

22 XV

23 At all times mentioned herein between on or about
24 March 1, 2003 and on or about May 31, 2003, and at other times
25 known to Respondent ECI but not known to the Department,
26 Respondent ECI used the fictitious name "San Francisco Trust
27 Mortgage" without first obtaining a license bearing such

1 fictitious name in violation of the provisions of Section
2 10159.5 of the Code and Section 2731 of Chapter 6, Title 10,
3 California Code of Regulations (herein "the Regulations").

4 SECOND CAUSE OF ACCUSATION

5 XVI

6 All of the allegations contained in Paragraphs I
7 through XV, inclusive, of the First Cause of Accusation are
8 hereby incorporated in this Second, separate and distinct Cause
9 of Accusation, as if herein fully set forth.

10 XVII

11 At all times herein mentioned:

12 (a) From January 16, 2002 to and until August 19,
13 2003, Respondent SFT was licensed by the Department as a
14 corporate real estate broker by and through Respondent VALDEZ as
15 designated officer-broker of SFT to qualify said corporation and
16 to act for said corporation as a real estate broker;

17 (b) From and after August 19, 2003, Respondent SFT
18 was and now is so licensed by and through Respondent MORKEN as
19 such designated officer-broker;

20 (c) Respondent VALDEZ was and now is licensed by the
21 Department as a real estate broker, individually and, to and
22 until August 19, 2003, as designated officer-broker of SFT; and

23 (d) Respondent MORKEN was and now is licensed by the
24 Department as a real estate broker, individually and, from and
25 after August 19, 2003, as designated officer-broker of SFT.

26 ///

27 ///

1 XVIII

2 At all times mentioned herein Lew has been and now is
3 an officer and/or director of Respondent SFT and/or a
4 shareholder owning 10% or more of the stock of Respondent SFT.

5 XIX

6 At no time mentioned herein has Respondent VALDEZ
7 filed with the Department the Corporation Background Statement
8 (RE 212) for Lew required by subdivision (c) of Section 2746 of
9 the Regulations.

10 XX

11 On or about November 19, 2001, Respondent SFT, and
12 Respondent VALDEZ to qualify Respondent SFT as its designated
13 officer - broker and to act for said corporation as a real
14 estate broker, made application (herein "the Application") to
15 the Department for the issuance to Respondent SFT of a corporate
16 real estate broker license and for the issuance to VALDEZ of a
17 real estate broker license as an officer of SFT, and on or about
18 January 16, 2002, in reliance upon the statements in said
19 application, the Department issued said licenses to Respondents
20 SFT and VALDEZ.

21 XXI

22 In the application, Respondent VALDEZ, individually
23 and on behalf of Respondent SFT, stated: "I also certify that a
24 Corporation Background Statement (RE 212) is not needed for any
25 officer or persons owning or controlling more than ten percent
26 of the corporation shares including myself", thereby concealing

27 ///

1 and failing to disclose the facts described in Paragraphs V and
2 VI, above.

3 XXII

4 In failing to reveal the facts described in Paragraphs
5 V and VI, above, in said application, Respondents SFT and VALDEZ
6 attempted to and did procure real estate licenses by fraud,
7 misrepresentation, or deceit, or by making a material
8 misstatement of fact in said application.

9 XXIII

10 Whenever reference is made in an allegation in this
11 Accusation to an act or omission of Respondent SFT, such
12 allegation shall be deemed to mean that the officers, directors,
13 employees, agents and real estate licensees employed by or
14 associated with Respondent SFT committed such act or omission
15 while engaged in the furtherance of the business or operations
16 of Respondent SFT and while acting within the course and scope
17 of their corporate authority and employment.

18 XXIV

19 At all times herein mentioned, Respondent SFT engaged
20 in the business of, acted in the capacity of, advertised, or
21 assumed to act as a real estate broker within the State of
22 California within the meaning of Section 10131(d) of the Code,
23 including the operation and conduct of a mortgage loan brokerage
24 business with the public wherein, on behalf of others, for
25 compensation or in expectation of compensation, such Respondent
26 solicited lenders and borrowers for loans secured directly or
27 collaterally by liens on real property, and wherein such

1 Respondent arranged, negotiated, processed, and consummated such
2 loans.

3 XXV

4 On or about November, 2003, and at other times known
5 to Respondent SFT but not known to the Department, Respondent
6 SFT employed and compensated Lew to perform the acts and conduct
7 the activities described in Paragraph XXIV, above, including but
8 not limited to employing and compensating Lew as the agent of
9 Respondent SFT to negotiate and arrange the mortgage loan
10 transaction described in Paragraph XXV below.

11 XXVI

12 On or about November 17, 2003, in course of Lew's
13 agency and employment described in Paragraph XXV, above, Lew
14 solicited and obtained an application by Won Mo Kim for a
15 \$268,000 loan to be secured by a deed of trust encumbering real
16 property at 4020 Balboa Street, San Francisco, California, to be
17 arranged by SFT to refinance an existing loan encumbering the
18 Balboa Street property.

19 XXVII

20 In acting as described in Paragraphs XXV and XXVI,
21 above, Respondent SFT violated Section 10137 of the Code and, in
22 willful disregard of the provisions of Section 10130 of the
23 Code, caused suffered and permitted Lew to violate Section 10130
24 of the Code.

25 XXVIII

26 Respondent MORKEN failed to exercise reasonable
27 supervision over the acts of Respondent SFT in such a manner as

1 to allow the acts and events described in Paragraphs XXV through
2 XXVII, inclusive, above, to occur.

3 XXIX

4 The facts alleged above are grounds for the suspension
5 of all licenses and license rights of Respondents under the Real
6 Estate Law under the following provisions of the Code and/or the
7 Regulations:

8 (a) As to Paragraphs IV, V and VI and Respondent ECI,
9 under Sections 10177 and 10177(b) of the Code;

10 (b) As to Paragraphs IX through XIV, inclusive, and
11 Respondent ECI, under Sections 10130 and 10137 of the Code in
12 conjunction with Section 10177(d) of the Code;

13 (c) As to Paragraph XV and Respondent ECI, under
14 Section 10159.5 of the Code and Section 2731 of the Regulations
15 in conjunction with Section 10177(d) of the Code;

16 (d) As to Paragraphs V, VI, XVII and XVIII,
17 inclusive, above, and Respondent SFT, under Sections 10177 and
18 10177(b) of the Code;

19 (e) As to Paragraphs V, VI, and XVII through XIX,
20 inclusive, and Respondent VALDEZ, under Section 2746 of the
21 Regulations in conjunction with Section 10177(d) of the Code;

22 (f) As to Paragraphs V, VI, XVII, XVIII and XX
23 through XXII, inclusive, and Respondents SFT and VALDEZ, under
24 Section 10177(a) of the Code;

25 (g) As to Paragraphs XXIV through XXVII, inclusive,
26 and Respondent SFT, under Sections 10130 and 10137 of the Code
27 in conjunction with Section 10177(d) of the Code; and

1 (h) As to Paragraph XXVIII and Respondent MORKEN,
2 under Section 10177(g) and/or Section 10177(h) of the Code and
3 Section 10159.2 of the Code in conjunction with Section 10177(d)
4 of the Code.

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

12
13 
14 LES R. BETTENCOURT
Deputy Real Estate Commissioner

15 Dated at Oakland, California,
16 this 5th day of October, 2004.

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FILED
SEP 09 2004

DEPARTMENT OF REAL ESTATE
By Laurie [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) No. H-8856 SF
SAN FRANCISCO TRUST MORTGAGE)
BROKERS INC., a California)
Corporation, eCASHOUSE, INC.,)
a California Corporation,)
VICTOR GESS,)
JOHN F. VALDEZ, and)
JOHN STEVENSON MORKEN,)
Respondents.)

DISMISSAL

The Accusation as to Respondent VICTOR GESS only
herein filed on August 9, 2004, is DISMISSED.

IT IS SO ORDERED this 2nd day of ^{September} ~~August~~, 2004.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

[Signature]

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

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

FILED

AUG - 9 2004

DEPARTMENT OF REAL ESTATE:

By Laurie G. Jr.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
12 SAN FRANCISCO TRUST MORTGAGE)	No. H-8856 SF
13 BROKERS INC., a California)	<u>ACCUSATION</u>
14 Corporation, eCASHOUSE, INC.,)	
15 a California Corporation,)	
16 VICTOR GESS,)	
17 JOHN F. VALDEZ, and)	
18 JOHN STEVENSON MORKEN,)	
19 Respondents.)	

18 The Complainant, Les R. Bettencourt, a Deputy Real
19 Estate Commissioner of the State of California, for cause of
20 Accusation against Respondents SAN FRANCISCO TRUST MORTGAGE
21 BROKERS, INC., a California corporation (herein "SFT"),
22 eCASHOUSE, INC. (herein "ECI"), a California corporation, VICTOR
23 GESS (herein "GESS"), JOHN F. VALDEZ (herein "VALDEZ"), and JOHN
24 STEVENSON MORKEN (herein "MORKEN") (herein collectively
25 "Respondents"), is informed and alleges as follows:

26 ///

27 ///

1 FIRST CAUSE OF ACCUSATION

2 I

3 The Complainant, Les R. Bettencourt, a Deputy Real
4 Estate Commissioner of the State of California, makes this
5 Accusation in his official capacity.

6 II

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

11 III

12 At all times herein mentioned:

13 (a) From May 18, 2000 to and until May 17, 2004,
14 Respondent ECI was licensed by the Department of Real Estate of
15 the State of California (herein "the Department") as a corporate
16 real estate broker;

17 (b) From and after January 31, 2002, Respondent ECI
18 was so licensed by and through Respondent GESS as designated
19 officer-broker of ECI; to qualify said corporation and to act
20 for said corporation as a real estate broker;

21 (c) Respondent GESS was and now is licensed by the
22 Department as a real estate broker, individually and, from
23 January 31, 2002 to and until May 17, 2004, as designated
24 officer-broker of ECI; and

25 (d) On May 17, 2004, Respondent ECI's corporate real
26 estate broker license expired and has not been renewed.

27 ///

1 IV

2 At all times mentioned herein Donald R. Lew (herein
3 "Lew") has been and now is an officer and/or director of
4 Respondent ECI and/or a shareholder owning 10% or more of the
5 stock of Respondent ECI.

6 V

7 Between February 1, 1990 and June 24, 1993, Lew
8 suffered convictions, described below, for the following crimes
9 involving moral turpitude which bear a substantial relationship
10 under Section 2910, Title 10, California Code of Regulations
11 (herein "the Regulations"), to the qualifications, functions or
12 duties of a real estate licensee:

13 (a) On or about February 1, 1990, in the United
14 States District Court, Northern District of California, Lew was
15 convicted of the crime of False Statement On Loan Application in
16 violation of Title 18 United States Code Section 1014, a felony;

17 (b) On or about April 16, 1991, in the Superior Court
18 of the State of California, County of Contra Costa, Lew was
19 convicted of four counts of Preparing False Documentary Evidence
20 in violation of Penal Code Section 134, each a felony;

21 (c) On or about April 19, 1990, in the Superior Court
22 of the State of California, County of Santa Clara, Lew was
23 convicted of the crime of Forgery in violation of Penal Code
24 Section 470 and of the crime of Attempted Obtaining Money By
25 False Pretenses in violation of Penal Code Sections 664 and 532,
26 each a felony; and

27 ///

1 (d) On or about February 11, 1993, in the United
2 States District Court, Northern District of California, Lew was
3 convicted of the crime of Bank Fraud in violation of Title 18
4 United States Code Section 1344(2), a felony.

5 VI

6 Effective December 9, 1996, in Case No. H-7363 SF
7 before the Department, the Real Estate Commissioner denied the
8 application of Lew for a real estate salesperson license
9 pursuant to the provisions of Sections 480(a), 480(c), 10177(a)
10 and 10177(c) of the Code on the ground Lew has been convicted of
11 the crimes described in Paragraph V, above.

12 VII

13 Whenever reference is made in an allegation in this
14 Accusation to an act or omission of Respondent ECI, such
15 allegation shall be deemed to mean that the officers, directors,
16 employees, agents and real estate licensees employed by or
17 associated with Respondent ECI committed such act or omission
18 while engaged in the furtherance of the business or operations
19 of Respondent ECI and while acting within the course and scope
20 of their corporate authority and employment.

21 VIII

22 At all times herein mentioned, Respondent ECI engaged
23 in the business of, acted in the capacity of, advertised, or
24 assumed to act as a real estate broker within the State of
25 California within the meaning of Section 10131(d) of the Code,
26 including the operation and conduct of a mortgage loan brokerage
27 business with the public wherein, on behalf of others, for

1 compensation or in expectation of compensation, such Respondent
2 solicited lenders and borrowers for loans secured directly or
3 collaterally by liens on real property, and wherein such
4 Respondent arranged, negotiated, processed, and consummated such
5 loans.

6 IX

7 At all times mentioned herein between on or about
8 March 1, 2003 and on or about May 31, 2003, and at other times
9 known to Respondent ECI but not known to the Department,
10 Respondent ECI employed and compensated Lew to perform the acts
11 and conduct the activities described in Paragraph VIII, above,
12 including but not limited to employing and compensating Lew as
13 the agent of Respondent ECI to negotiate and arrange the
14 mortgage loan transactions described below in Paragraphs X
15 through XII, inclusive, below.

16 X

17 On or about March 3, 2003, in course of the agency and
18 employment described in Paragraph IX, above, Lew solicited and
19 obtained an application by Bruce Blankenhorn for a \$267,225 loan
20 to be secured by a deed of trust encumbering real property at
21 455 Cross Street, Napa, California to be arranged by ECI to
22 finance the purchase and rehabilitation of the Cross Street
23 property.

24 XI

25 On or about March 24, 2003, in course of the agency
26 and employment described in Paragraph IX, above, Lew solicited
27 and obtained an application by DAN R. PETER for a \$423,770 loan

1 to be secured by a deed of trust encumbering real property at
2 1271 Audubon Avenue, Montara, California to be arranged by ECI
3 to refinance an existing loan encumbering the Audubon Avenue
4 property.

5 XII

6 On or about May 4, 2003, in course of the agency and
7 employment described in Paragraph XI, above, Lew solicited and
8 obtained an application by MIN HO KIM for a \$250,000 loan to be
9 secured by a deed of trust encumbering real property at Rae
10 Drive, Orinda, California to be arranged by ECI to refinance an
11 existing loan encumbering the Rae Drive property.

12 XIII

13 At no time mentioned herein was Lew licensed by the
14 Department as either a real estate broker or as a real estate
15 salesperson.

16 XIV

17 In acting as described in Paragraphs VIII through
18 XIII, inclusive, above, Respondent ECI violated Section 10137 of
19 the Code and, in willful disregard of the provisions of Section
20 10130 of the Code, caused suffered and permitted Lew to violate
21 Section 10130 of the Code.

22 XV

23 At all times mentioned herein between on or about
24 March 1, 2003 and on or about May 31, 2003, and at other times
25 known to Respondent ECI but not known to the Department,
26 Respondent ECI used the fictitious name "San Francisco Trust
27 Mortgage" without first obtaining a license bearing such

1 fictitious name in violation of the provisions of Section
2 10159.5 of the Code and Section 2731 of Chapter 6, Title 10,
3 California Code of Regulations (herein "the Regulations").

4 XVI

5 Respondent GESS failed to exercise reasonable
6 supervision over the acts of Respondent ECI in such a manner as
7 to allow the acts and events described in Paragraphs IX through
8 XV, inclusive, above, to occur.

9 SECOND CAUSE OF ACCUSATION

10 XVII

11 All of the allegations contained in Paragraphs I
12 through XVI, inclusive, of the First Cause of Accusation are
13 hereby incorporated in this Second, separate and distinct Cause
14 of Accusation, as if herein fully set forth.

15 XVIII

16 On or about November 19, 2001, Respondent SFT, and
17 Respondent VALDEZ to qualify Respondent SFT as its designated
18 officer - broker and to act for said corporation as a real
19 estate broker, made application (herein "the Application") to
20 the Department for the issuance to Respondent SFT of a corporate
21 real estate broker license and for the issuance to VALDEZ of a
22 real estate broker license as an officer of SFT.

23 XIX

24 At all times herein mentioned:

25 (a) From January 16, 2002 to and until August 19,
26 2003, Respondent SFT was licensed by the Department as a
27 corporate real estate broker by and through Respondent VALDEZ as

1 designated officer-broker of SFT to qualify said corporation and
2 to act for said corporation as a real estate broker;

3 (b) From and after August 19, 2003, Respondent SFT
4 was and now is so licensed by and through Respondent MORKEN as
5 such designated officer-broker;

6 (c) Respondent VALDEZ was and now is licensed by the
7 Department as a real estate broker, individually and, to and
8 until August 19, 2003, as designated officer-broker of SFT; and

9 (d) Respondent MORKEN was and now is licensed by the
10 Department as a real estate broker, individually and, from and
11 after August 19, 2003, as designated officer-broker of SFT.

12 XX

13 At all times mentioned herein Lew has been and now is
14 an officer and/or director of Respondent SFT and/or a
15 shareholder owning 10% or more of the stock of Respondent SFT.

16 XXI

17 At no time mentioned herein has Respondent VALDEZ
18 filed with the Department the background statement for Lew
19 required by subdivision (c) of Section 2746 of the Regulations.

20 XXII

21 Whenever reference is made in an allegation in this
22 Accusation to an act or omission of Respondent SFT, such
23 allegation shall be deemed to mean that the officers, directors,
24 employees, agents and real estate licensees employed by or
25 associated with Respondent SFT committed such act or omission
26 while engaged in the furtherance of the business or operations

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1 of Respondent SFT and while acting within the course and scope
2 of their corporate authority and employment.

3 XXIII

4 At all times herein mentioned, Respondent SFT engaged
5 in the business of, acted in the capacity of, advertised, or
6 assumed to act as a real estate broker within the State of
7 California within the meaning of Section 10131(d) of the Code,
8 including the operation and conduct of a mortgage loan brokerage
9 business with the public wherein, on behalf of others, for
10 compensation or in expectation of compensation, such Respondent
11 solicited lenders and borrowers for loans secured directly or
12 collaterally by liens on real property, and wherein such
13 Respondent arranged, negotiated, processed, and consummated such
14 loans.

15 XXIV

16 On or about November, 2003, and at other times known
17 to Respondent SFT but not known to the Department, Respondent
18 SFT employed and compensated Lew to perform the acts and conduct
19 the activities described in Paragraph XXIII, above, including
20 but not limited to employing and compensating Lew as the agent
21 of Respondent SFT to negotiate and arrange the mortgage loan
22 transaction described in Paragraph XXV below.

23 XXV

24 On or about November 17, 2003, in course of Lew's
25 agency and employment described in Paragraph XXIV, above, Lew
26 solicited and obtained an application by WON MO KIM for a
27 \$268,000 loan to be secured by a deed of trust encumbering real

1 property at 4020 Balboa Street, San Francisco, California, to be
2 arranged by SFT to refinance an existing loan encumbering the
3 Balboa Street property.

4 XXVI

5 In acting as described in Paragraphs XXIV and XXV,
6 above, Respondent SFT violated Section 10137 of the Code and, in
7 willful disregard of the provisions of Section 10130 of the
8 Code, caused suffered and permitted Lew to violate Section 10130
9 of the Code.

10 XXVII

11 Respondent MORKEN failed to exercise reasonable
12 supervision over the acts of Respondent SFT in such a manner as
13 to allow the acts and events described in Paragraphs XXIV
14 through XXVI, inclusive, above, to occur.

15 XXVIII

16 The facts alleged above are grounds for the suspension
17 of all licenses and license rights of Respondents under the Real
18 Estate Law under the following provisions of the Code and/or the
19 Regulations:

20 (a) As to Paragraphs V and VI and Respondent ECI,
21 under Sections 10177(a) and 10177(b) of the Code;

22 (b) As to Paragraphs IX through XIV, inclusive, and
23 Respondent ECI, under Sections 10130 and 10137 of the Code in
24 conjunction with Section 10177(d) of the Code;

25 (c) As to Paragraph XV and Respondent ECI, under
26 Section 10159.5 of the Code and Section 2731 of the Regulations
27 in conjunction with Section 10177(d) of the Code;

1 (d) As to Paragraph XVI and Respondent GESS, under
2 Section 10177(g) and/or Section 10177(h) of the Code and Section
3 10159.2 of the Code in conjunction with Section 10177(d) of the
4 Code;

5 (e) As to Paragraphs V, VI, XIX and XX, and
6 Respondent SFT, under Sections 10177(a) and 10177(b) of the
7 Code;

8 (f) As to Paragraphs XVIII through XX, inclusive, and
9 Respondent VALDEZ, under Section 2746 of the Regulations in
10 conjunction with Section 10177(d) of the Code;

11 (g) As to Paragraphs XXIV through XXVI, inclusive,
12 and Respondent SFT, under Sections 10130 and 10137 of the Code
13 in conjunction with Section 10177(d) of the Code; and

14 (h) As to Paragraph XVI and Respondent MORKEN, under
15 Section 10177(g) and/or Section 10177(h) of the Code and Section
16 10159.2 of the Code in conjunction with Section 10177(d) of the
17 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 action
4 against all licenses and license rights of Respondents under the
5 Real Estate Law (Part 1 of Division 4 of the Business and
6 Professions Code) and for such other and further relief as may be
7 proper under other applicable provisions of law.

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10 LES R. BETTENCOURT
11 Deputy Real Estate Commissioner

12 Dated at Oakland, California,
13 this 19th day of July, 2004.
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