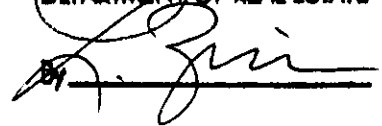


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FEB 18 2011

DEPARTMENT OF REAL ESTATE



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

LAFAYETTE CAPITAL GROUP, INC.
and STEVEN LATAPIE RUEGG,

Respondents.

No. H-9809 SF

ORDER GRANTING REINSTATEMENT OF LICENSES

On November 6, 2007, in Case No. H-9809 SF, a Decision was rendered revoking the real estate broker and real estate corporation licenses of Respondents effective December 31, 2007, but granting Respondents the right to the issuance of a restricted real estate broker license and a restricted real estate corporation license. A restricted real estate broker license and a restricted real estate corporation license were issued to Respondents on December 31, 2007, and Respondents have operated as restricted licensees since that time.

On February 22, 2010, Respondents petitioned for the removal of restrictions attaching to Respondents' real estate broker and real estate corporation licenses, and the Attorney General of the State of California has been given notice of the filing of the petitions.

///

1 I have considered Respondents' petitions and the evidence and arguments in
2 support thereof. Respondents have demonstrated to my satisfaction that Respondents meets the
3 requirements of law for the issuance to Respondents of an unrestricted real estate broker license
4 and an unrestricted real estate corporation license, and that it would not be against the public
5 interest to issue said licenses to Respondents.

6 NOW, THEREFORE, IT IS ORDERED that Respondents' petitions for
7 reinstatement are granted and that real estate broker and real estate corporation licenses be issued
8 to Respondents if Respondents satisfy the following requirements:

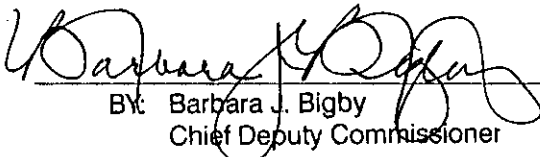
9 1. Submit a completed application and pay the fee for a real estate broker
10 license and a real estate corporation license within the 12 month period following the date of this
11 Order; and

12 2. Submit proof that Respondent STEVEN LATAPIE RUEGG has
13 completed the continuing education requirements for renewal of the license sought. The
14 continuing education courses must be completed either (i) within the 12 month period preceding
15 the filing of the completed application, or (ii) within the 12 month period following the date of
16 this Order.

17 This Order shall become effective immediately.

18 DATED: 2/17/11

19 JEFF DAVI
20 Real Estate Commissioner

21 
22 BY: Barbara J. Bigby
23 Chief Deputy Commissioner
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FLAG

FILED

DEC 27 2007

DEPARTMENT OF REAL ESTATE
By L. Frost

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-9809 SF
)	
LAFAYETTE CAPITAL GROUP, INC.,)	OAH NO. N-2007050225
STEVEN LATAPIE RUEGG, and)	
DAVID SCOTT RUEGG,)	
)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On November 6, 2007, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on November 29, 2007.

On November 27, 2007, Respondent LAFAYETTE CAPITAL GROUP and Respondent STEVEN LATAPIE RUEGG requested a stay of thirty (30) days to petition for reconsideration of the Decision of November 6, 2007. Respondents submitted their petition for reconsideration on December 10, 2007.

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Pursuant to Government Code section 11521(b), the reconsideration has been limited to the record presented at the administrative hearing.

I have given due consideration to the petition of Respondents. I find no good cause to reconsider the Decision of November 6, 2007, and reconsideration is hereby denied.

IT IS HEREBY ORDERED 12/20/07

JEFF DAVI
Real Estate Commissioner



A handwritten signature in cursive script, appearing to read 'Jeff Davi', is written over a horizontal line.

FILED

NOV 28 2007

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-9809 SF
)	
LAFAYETTE CAPITAL GROUP, INC.)	OAH No. N2007050225
and STEVEN LATAPIE RUEGG only,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On November 6, 2007, a Decision was rendered in the above-entitled matter to become effective November 29, 2007.

IT IS HEREBY ORDERED that the effective date of the Decision of the Real Estate Commissioner of November 6, 2007, is stayed for a period of thirty (30) days, as to LAFAYETTE CAPITAL GROUP, INC. and STEVEN LATAPIE RUEGG only.

The Decision of the Real Estate Commissioner of November 6, 2007, as to LAFAYETTE CAPITAL GROUP, INC. and STEVEN LATAPIE RUEGG only, shall become effective at 12 o'clock noon on December 31, 2007.

DATED: NOV 28 2007

JEFF DAVI
Real Estate Commissioner

[Signature]

FILED

NOV 09 2007

DEPARTMENT OF REAL ESTATE

By L. Frost

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
LAFAYETTE CAPITAL GROUP, INC.,)
STEVEN LATAPIE RUEGG,)
DAVID SCOTT RUEGG,)
Respondents.)

NO. H-9809 SF

OAH NO. N2007050225

DECISION

The Proposed Decision dated October 5, 2007, 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 NOV 29 2007.

IT IS SO ORDERED _____

11-6/07

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

LAFAYETTE CAPITAL GROUP, INC.,
STEVEN LATAPIE RUEGG and
DAVID SCOTT RUEGG,

Respondents.

No. H-9809 SF

OAH No. N2007050225

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on September 4 and 5, 2007, in Oakland, California.

Department of Real Estate Counsel Michael B. Rich represented complainant E.J. Haberer II, Deputy Real Estate Commissioner, State of California.

Frank M. Buda, Attorney at Law, represented respondents Lafayette Capital Group, Inc., Steven Latapie Ruegg and David Scott Ruegg. Steven Latapie Ruegg and David Scott Ruegg were both present.

The matter was submitted for decision on September 5, 2007.

FACTUAL FINDINGS

License History and Background

1. Respondents Lafayette Capital Group, Inc. (LCG), Steven Latapie Ruegg (Steven Ruegg) and David Scott Ruegg (David Ruegg) 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. LCG has been licensed by the Department of Real Estate as a real estate broker corporation since July 15, 2003. The designated broker officer was, prior to March 18, 2004, David Ruegg, and on and after March 18, 2004, Steven Ruegg.

3. At all times mentioned herein, David Ruegg and Steven Ruegg were each licensed individually by the department as a real estate broker. During the time each of them

was licensed as the designated broker officer of LCG, he was responsible for the supervision of the activities of LCG officers, agents, real estate licensees and employees for which a license is required. (Bus. & Prof. Code, § 10159.2.)

4. At all times mentioned herein, LCG engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the State of California within the meaning of Business and Professions Code section 10131, subdivision (d). LCG operated a mortgage loan brokerage business in which lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property; loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation; and such loans were serviced and loan payments were collected on behalf of others.

Trust Accounts and Recordkeeping

5. In acting as a mortgage loan broker and as a loan servicing agent, LCG accepted or received funds in trust from and on behalf of lenders or investors, borrowers and others in connection with the solicitation, negotiation, processing, packaging, consummation and servicing of mortgage loans.

6. LCG maintained the following bank accounts for the handling of trust funds:

Trust Account #1: First Republic Bank, 101 Pine Street, San Francisco, California, Account No. 995-0081-4068, entitled "Lafayette Capital Group, Inc Trust Servicing Account." This account was opened on April 26, 2004, and LCG began using it in July 2004.

Trust Account #2: First Republic Bank, 101 Pine Street, San Francisco, California, Account No. 995-0081-4050, entitled "Lafayette Capital Group, Inc Trust Funding Account." This account was opened on April 26, 2004, and LCG began using it in June 2004.

Trust Account #3: The Mechanics Bank, address unknown, Account No. 38001667, entitled "Lafayette Capital Group, Inc Trust Account." This account was closed on February 4, 2005.

Bank Account #1: The Mechanics Bank, address unknown, Account No. 38001659, entitled "Lafayette Capital Group, Inc Funding Account." This account was closed on September 15, 2004.

Bank Account #2: Bank of America, 3530 Mt. Diablo Blvd., Lafayette, California, Account No. 12332 08546, entitled "First Republic Bank for Lafayette Capital Group, Inc Trust Funding Account." This was a pass-through account from which only the bank could make withdrawals pursuant to a third party depository services agreement. Funds deposited in this account were immediately transferred into Trust Account #2.

Bank Account #3: Bank of America, 3530 Mt. Diablo Blvd., Lafayette, California, Account No. 12335 07281, entitled "First Republic Bank for Lafayette Capital Group, Inc Trust Servicing Account." This was a pass-through account from which only the bank could make withdrawals pursuant to a third party depository services agreement. Funds deposited in this account were immediately transferred into Trust Account #1.

7. Because LCG meets the "threshold" criteria of Business and Professions Code section 10232, subdivisions (a) and (b), it is required to file a trust account review report with the department within 90 days after the end of its fiscal year. (Bus. & Prof. Code, § 10232.2.) LCG's trust account review report for the fiscal year ending December 31, 2004, apparently caused the department's mortgage loan section to recommend an audit of the broker.

8. From June 30 through December 8, 2005, department auditor Robert Leonard conducted an audit of LCG's books and records for the period of January 1, 2004, to June 30, 2005. During the 18-month audit period, LCG arranged 73 private investor loans with a total value of \$49,146,500. Approximately 70 percent of these loans involved multiple lenders. LCG serviced 71 loans during the audit period, receiving loan payments of approximately \$9,000,000.

9. The department's audit revealed that as of December 31, 2004, there was a trust fund shortage in Trust Account #1. Robert Leonard determined the amount of the shortage to be \$17,070.08, but he relied on information in LCG's trust account review report, only sampling separate records to test the validity of the balances shown in the report. Keith Loughran, a former department auditor retained by LCG after Leonard's audit, reviewed the accounting records and monthly reconciliations and found bookkeeping errors that caused the information in the trust account review report to be incorrect. Loughran determined that there was a trust fund shortage in the amount of \$5,111.99. This shortage was caused by negative balances in three beneficiary accounts. One of the negative balances, in the amount of \$4,971.05, was corrected on January 5, 2005. The other two negative balances, totaling \$140.94, were corrected in July 2005.

10. In the department's audit, Robert Leonard determined that as of December 31, 2004, there was a trust fund shortage of \$10,008.34 in Trust Account #3. However, Keith Loughran found that when bookkeeping errors in the underlying records were corrected, there was no shortage in this trust account. Because Loughran's determination was based on a more thorough review of LCG's records than Leonard performed in his audit, it cannot be found that there was a trust fund shortage in Trust Account #3.

11. LCG failed to obtain the written consent of the principals for the reduction of the balance of the funds in Trust Account #1 to an amount less than the existing aggregate trust fund liability to the owners of the funds.

12. During the audit period, LCG deposited client trust funds into Bank Account #1, Bank Account #2 and Bank Account #3, when those accounts were not properly designated as trust accounts in the name of the broker as trustee. There is hearsay evidence that these accounts were set up as trust accounts, but the documents pertaining to the accounts do not so indicate.

13. During the audit period, LCG maintained written control records of trust funds received and disbursed, but the control records for Trust Account #1, Trust Account #2 and Trust Account #3 were missing a few entries or items of information required by California Code of Regulations, title 10, section 2831. LCG did not maintain control records for Bank Account #2 and Bank Account #3, although the deposits into these pass-through accounts were reflected in the records for Trust Account #2 and Trust Account #1, respectively.

14. During the audit period, LCG failed to maintain for Trust Account #2 a separate record for each beneficiary or transaction, as required by California Code of Regulations, title 10, section 2831.1.

15. During the audit period, LCG failed, for Trust Account #1, Trust Account #2, Trust Account #3 and Bank Account #1, to reconcile at least once a month the balance of all separate beneficiary or transaction records with the control record of all trust funds received and disbursed, and failed to maintain a record of the reconciliations as required by California Code of Regulations, title 10, section 2831.2. LCG did perform periodic reconciliations of their bank accounts, but these reconciliations did not meet the requirements of the regulation.

16. LCG permitted Amy Price to be a signatory on Trust Account #3 and to make withdrawals from this account when she was an unlicensed employee without fidelity bond coverage. Price signed numerous checks on this account in and before January 2004, before Steven Ruegg learned that a broker is prohibited from allowing an unlicensed employee without fidelity bond coverage to make withdrawals from a trust fund account. (Cal. Code Regs., tit. 10, § 2834.) Price obtained a real estate salesperson license on May 13, 2004. She signed no checks on Trust Account #3 after January 2004.

17. During the audit period, LCG failed to maintain complete copies of all canceled checks for Trust Account #3. LCG maintained copies of the face side of all canceled checks, which the bank supplied with the monthly statements, but LCG did not maintain copies of the reverse side of the checks. Steven Ruegg only learned at the conclusion of the department's audit that LCG should have been maintaining copies of both sides of canceled checks. Ruegg promptly ordered and obtained complete copies of all canceled checks for the audit period. (Trust Account #3 had been closed on February 4, 2005.)

Callahan Loan Transaction

18. In December 2004, LCG made a loan to borrowers Deidre Perridon Callahan and her mother, Marion L. Perridon, on real property located at 7366 Thousand Oaks Drive,

Lincoln, California. The loan amount was \$125,000, the loan term was 24 months, and the loan was payable in installment payments of interest only with a "balloon" payment of principal and accrued interest due at the end of the 24-month term. The loan was paid off in November 2006.

19. The accusation alleges that the Callahan loan was a "covered loan" within the meaning of Financial Code section 4970 and that LCG violated provisions of Financial Code sections 4973 and 4979.6 setting forth limitations on the terms of covered loans. The definition of a covered loan under Financial Code section 4970 has several elements, including that the loan amount not exceed \$250,000, but the critical one in this matter is the requirement that the loan be secured by real property used, or intended to be used or occupied, as the principal dwelling of the borrower (a so-called "owner-occupied loan").

20. The evidence does not establish that at the time the Callahan loan was made either of the borrowers lived or intended to live in the house at 7366 Thousand Oaks Drive in Lincoln. Deidre Perridon Callahan, Marion L. Perridon, and Callahan's ex-husband, Richard Davis, were joint owners of the property. Attorney Timothy Clack represented Callahan and Perridon, and he arranged for LCG to make a loan to his clients on their undivided two-thirds interest in the property to stave off a foreclosure pending his filing a partition action for a court-ordered sale of the property. LCG called Clack as a witness in this proceeding, and he testified that neither Callahan nor Perridon lived in the Lincoln house or intended to do so. Clack was informed by Callahan that when her marriage to Davis was dissolved (about 10 years earlier), Davis was allowed to continue living in the Lincoln house. Clack met with Callahan at her home in San Ramon, and he understood that she had been living there for 10 years. He understood that Perridon lived in Sacramento. In connection with the partition action, Clack conducted an inspection of the Lincoln property accompanied by Callahan, Perridon, Davis's attorney and a real estate broker. Davis was in the house, he had other women there, and the house was in total disrepair. Eventually, the property was sold and the LCG loan was paid off.

On the LCG loan application signed by Callahan and Perridon on December 10, 2004, and December 13, 2004, respectively, the "no" box is checked for both borrowers after the statement "I (we) live in the property being pledged for the subject loan." Although auditor Robert Leonard has no recall of seeing this document in the Callahan loan file, it appears to be authentic and Steven Ruegg testified that the document was part of the loan file. What caused Leonard to believe that this was an owner-occupied loan was the fact that the lender/purchaser disclosure statement provided to investors so states. In Part 7 of this lengthy document, the "yes" box is checked after "owner occupied." Steven Ruegg asserts that this was a mistake that he did not catch when he reviewed the disclosure statement, but that he communicated to investors that the borrowers did not live in the property and that the loan was on the borrowers' two-thirds interest. Hearsay letters from the six investor-lenders in the Callahan loan support Ruegg's assertion that they were aware that this was not an owner-occupied loan. Furthermore, if Ruegg had thought that this was an owner-occupied loan, LCG would not have made the loan. LCG has a policy of not making owner-occupied

loans under \$250,000, to avoid the Financial Code restrictions on covered loans. To Ruegg's knowledge, LCG has never made a covered loan.

The Callahan loan was not a covered loan within the meaning of Financial Code section 4970.

21. LCG failed to provide to investors on the Callahan loan a statement containing accurate information on provisions for servicing the loan. The lender/purchaser disclosure statement provided to investors reflected "\$0.00" as the "cost to lender for servicing arrangements," when the loan servicing agreement stated that LCG would be paid a loan servicing fee of one percent of the total loan amount, paid monthly. It is noted that the lender/purchaser disclosure statement disclosed that the borrower's interest rate was 11.50 percent and the lender's interest rate was 10.50 percent. (The one percent yield spread is the source of the loan servicing fee.)

22. LCG failed to provide on the Callahan loan a loan servicing agreement containing a statement that payments received on the note or notes shall be immediately deposited to a trust account and that payments received on the note or notes shall be transmitted to the purchasers or lenders pro rata according to their respective interests within 25 days after receipt thereof by the agent.

Supervision by Designated Broker Officer

23. David Ruegg failed to exercise reasonable supervision and control over the mortgage brokering activities of LCG prior to March 18, 2004, in that he permitted, ratified and/or caused the acts or omissions set forth in Factual Findings 12, 13, 15, 16 and 17 that occurred while he was the designated broker officer of LCG.

24. Steven Ruegg failed to exercise reasonable supervision and control over the mortgage brokering activities of LCG on and after March 18, 2004, in that he permitted, ratified and/or caused the acts or omissions set forth in Factual Findings 9, 11 through 15, 17, 21 and 22 that occurred while he was the designated broker officer of LCG.

Correction of Deficiencies

25. On the recommendation of Keith Loughran, Steven Ruegg retained certified public accountant David Duner, a specialist in the computer software used by LCG. Duner corrected the errors in LCG's accounting system and prepared a revised trust account review report for the fiscal year ending December 31, 2004. Duner completed this report on May 12, 2006, and LCG submitted it to the department. LCG changed its lender/purchaser disclosure statements to reflect the one percent loan servicing fee, and changed the loan servicing agreement to include all the required language. Ruegg and LCG continue to use the services of Loughran and Duner to review accounting records and trust account reconciliations, and Duner prepares all the quarterly and annual reports LCG is required to submit to the department. LCG has a bookkeeper and an accountant who handle checks and

keep trust account records on a day-to-day basis. Steven Ruegg reviews trust account records with the assistance of his staff, and he is committed to making sure that LCG complies with all requirements for trust accounts, recordkeeping and loan disclosures.

Other Matters

26. David Ruegg received a real estate salesperson license in 1985 and a real estate broker license in 1992. Since he resigned as the designated officer of LCG effective March 18, 2004, he has not been engaged in any activities for which a real estate license is required.

27. Steven Ruegg was licensed as a real estate salesperson for 16 years before he received his real estate broker license in March 2004. Since March 18, 2004, Steven Ruegg has worked full-time at LCG and actively supervised its operations. He and Lloyd J. Torchio II each own 50 percent of LCG. Torchio is the corporate secretary and a licensed real estate salesperson.

28. Both David Ruegg and Steven Ruegg regret the errors that occurred at LCG.

29. Respondents submitted letters of reference from a managing director of First Republic Bank, an LCG investor and an LCG vendor. All praise the principals of LCG for their integrity, trustworthiness and professionalism.

LEGAL CONCLUSIONS

Trust Accounts and Recordkeeping

1. Finding 9: By allowing there to be a trust fund shortage in Trust Account #1, LCG violated Business and Professions Code section 10145, which requires a real estate broker to deposit and maintain all trust funds in a trust account or neutral escrow depository (or to deliver the funds into the hands of the owners of the funds). Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d) (willful disregard or violation of the Real Estate Law or the regulations promulgated under the Real Estate Law).

2. Finding 11: LCG violated California Code of Regulations, title 10, section 2832.1, which requires a real estate broker to obtain the written consent of the principals for the reduction of the balance of the funds in a trust account to an amount less than the existing aggregate trust fund liability to the owners of the funds. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

3. Finding 12: LCG violated California Code of Regulations, title 10, section 2832, which requires, in relevant part, that a trust account be "in the name of the broker . . . as trustee." Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

4. Finding 13: LCG violated California Code of Regulations, title 10, section 2831, which sets forth detailed requirements for trust fund records. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

5. Finding 14: LCG violated California Code of Regulations, title 10, section 2831.1, which requires a real estate broker to maintain a separate record for each beneficiary or transaction. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

6. Finding 15: LCG violated California Code of Regulations, title 10, section 2831.2, which requires a real estate broker to reconcile at least once a month the balance of all separate beneficiary or transaction records with the control record of all trust funds received and disbursed, and to maintain a record of the reconciliations. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

7. Finding 16: LCG violated California Code of Regulations, title 10, section 2834, which specifies the persons who may make withdrawals from a trust account. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

8. Finding 17: LCG violated Business and Professions Code section 10148, subdivision (a), which requires a real estate broker to retain for three years copies of all "canceled checks," among other things. Since the information pertaining to the canceling of a check appears on the reverse side of the check, retaining a copy of only the face side does not constitute compliance with this requirement. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

Respondents contend, citing *De La Cruz v. Quackenbush* (2000) 80 Cal.App.4th 775, that LCG may not be disciplined because the department did not serve LCG with an administrative subpoena for copies of the checks. This contention is without merit (and the cited case not on point), because the issue here is not whether LCG produced complete copies of its canceled checks during the department's audit but whether it retained complete copies in its records. It is undisputed that LCG did not retain copies of both sides of canceled checks from Trust Account #3 until the department's auditor informed Steven Ruegg that LCG needed to do so.

Callahan Loan Transaction

9. Findings 18, 19 and 20: No violations of Financial Code sections 4973 and 4979.6 were established.

10. Finding 21: LCG violated Business and Professions Code section 10232.5, subdivision (a)(7), which requires a lender disclosure statement to include provisions for

servicing of the loan. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

11. Finding 22: LCG violated Business and Professions Code section 10238, subdivisions (k)(1) and (2), which require a loan servicing agreement to contain a statement that payments received on the note or notes shall be immediately deposited to a trust account and that payments received on the note or notes shall be transmitted to the purchasers or lenders pro rata according to their respective interests within 25 days after receipt thereof by the agent. Cause for license discipline exists under Business and Professions Code section 10177, subdivision (d).

Supervision by Designated Broker Officer

12. Finding 23: Business and Professions Code section 10177, subdivision (h), authorizes the suspension or revocation of a corporate broker license if the licensee has failed to exercise reasonable supervision and control over the licensed activities of the corporation. Cause to discipline David Ruegg's license exists under this section as well as under Business and Professions Code section 10177, subdivision (d), for Ruegg's willful disregard of his responsibility under Business and Professions Code section 10159.2, subdivision (a), to supervise and control the licensed activities of LCG as necessary to secure full compliance with the Real Estate Law.

13. Finding 24: Cause to discipline Steven Ruegg's license exists under Business and Professions Code section 10177, subdivision (h), as well as under Business and Professions Code section 10177, subdivision (d), for Ruegg's willful disregard of his responsibility under Business and Professions Code section 10159.2, subdivision (a), to supervise and control the licensed activities of LCG as necessary to secure full compliance with the Real Estate Law.

Appropriate Discipline

14. Although LCG's trust fund violations are relatively minor and Steven Ruegg acted promptly to correct the deficiencies when they were brought to his attention, some disciplinary oversight is warranted to protect the public. Imposing restrictions on LCG's license and Steven Ruegg's license would be appropriate. Because David Ruegg's tenure as LCG's designated broker officer ended early in the 18-month audit period, his responsibility for the violations is limited. Protection of the public does not require that David Ruegg's broker license be disciplined.

ORDER

David Scott Ruegg

No disciplinary action shall be imposed upon the license and licensing rights of respondent David Scott Ruegg.

Lafayette Capital Group, Inc., and Steven Latapie Ruegg

All licenses and licensing rights of respondent Lafayette Capital Group, Inc., and respondent Steven Latapie Ruegg under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to each respondent pursuant to section 10156.5 of the Business and Professions Code if respondent 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 licenses issued to respondents 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:

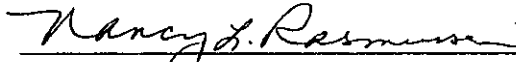
1. The restricted license issued to respondent Lafayette Capital Group, Inc., may be suspended prior to hearing by order of the Real Estate Commissioner in the event an officer, director or person owning or controlling 10 percent or more of respondent's stock is convicted of or enters a plea of nolo contendere to a crime which is substantially related to the activities of a real estate licensee.

The restricted license issued to respondent Steven Latapie Ruegg may be suspended prior to hearing by order of the Real Estate Commissioner in the event that respondent is convicted of or enters a plea of nolo contendere to a crime which is substantially related to the activities of a real estate licensee.

2. The restricted license issued to each 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. Neither respondent shall 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 Steven Latapie Ruegg 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.

5. Pursuant to section 10148 of the Business and Professions Code, respondent Lafayette Capital Group, Inc., shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action; and b) a subsequent audit to determine if respondent has corrected the trust fund violations found in Legal Conclusions 1 through 6, if the Commissioner determines that such an audit is warranted. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with section 11500, et seq., of the Government Code, if payment is not timely made as provided herein, or as provided in a subsequent agreement between respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: October 5, 2007



NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings

FILED

DEC 15 2008

DEPARTMENT OF REAL ESTATE

By S. Ce

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State Bar No. 84257
2 Department of Real Estate
P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-9809 SF
)	
LAFAYETTE CAPITAL GROUP, INC.,)	
STEVEN LATAPIE RUEGG and)	<u>ACCUSATION</u>
DAVID SCOTT RUEGG,)	
)	
Respondents.)	

17 The Complainant, E. J. HABERER II, a Deputy Real Estate
18 Commissioner of the State of California, for Causes of Accusation
19 against LAFAYETTE CAPITAL GROUP, INC., STEVEN LATAPIE RUEGG and
20 DAVID SCOTT RUEGG, is informed and alleges as follows:

21 FIRST CAUSE OF ACTION

22 I

23 Respondents LAFAYETTE CAPITAL GROUP, INC., (hereafter
24 referred to as "Respondent LCG") and STEVEN LATAPIE RUEGG
25 (hereinafter "Respondent STEVEN RUEGG") and DAVID SCOTT RUEGG
26 (hereinafter "Respondent DAVID RUEGG"), are presently licensed
27 and/or have license rights under the Real Estate Law, Part 1 of

1 Division 4 of the California Business and Professions Code
2 (hereafter "the Code").

3 II

4 The Complainant, E. J. HABERER II, a Deputy Real Estate
5 Commissioner of the State of California, makes this Accusation
6 against Respondents in his official capacity and not otherwise.

7 III

8 At all times herein mentioned, Respondent LCG was and
9 is licensed by the Department of Real Estate (hereafter "the
10 Department") as a real estate broker corporation and through
11 Respondent DAVID RUEGG and, on and after March 18, 2004, through
12 Respondent STEVEN RUEGG as its designated broker officer.

13 IV

14 At all times herein mentioned, Respondent DAVID RUEGG
15 was and is licensed by the Department as a real estate broker,
16 individually and, prior to March 18, 2004, as the designated
17 broker officer of Respondent LCG. As said designated
18 officer/broker, Respondent DAVID RUEGG was at all times
19 mentioned herein responsible pursuant to Section 10159.2 of the
20 Code for the supervision of the activities of the officers,
21 agents, real estate licensees and employees of Respondent LCG
22 for which a license is required.

23 V

24 At all times herein mentioned, Respondent STEVEN RUEGG
25 was and is licensed by the Department as a real estate broker,
26 individually and, on and after March 18, 2004, as the designated
27 broker officer of Respondent LCG. As said designated

1 officer/broker, Respondent STEVEN RUEGG was at all times
2 mentioned herein responsible pursuant to Section 10159.2 of the
3 Code for the supervision of the activities of the officers,
4 agents, real estate licensees and employees of Respondent LCG
5 for which a license is required.

6 VI

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

15 VII

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

1 VIII

2 At all times herein mentioned Respondent LCG was and
3 now is a real estate broker:

- 4 (a) Meeting the "threshold" criteria of Section
5 10232(a) and (b) of the Code with a fiscal year
6 ending each year on the last day of December; and,
7 (b) Meeting the "multilender" criteria of Section 10238
8 of the Code, in that at all times mentioned herein
9 Respondent was a servicing agent meeting the
10 criteria of Section 10238(j) and (k) of the Code
11 with respect to notes or interest sold pursuant to
12 Section 10238 of the Code.

13 IX

14 In so acting as a mortgage loan broker, and as loan
15 servicing agent, Respondent LCG accepted or received funds in
16 trust (hereinafter "trust funds") from or on behalf of lenders or
17 investors, borrowers, and others in connection with the
18 solicitation, negotiation, processing, packaging, consummation,
19 and servicing of mortgage loans by Respondent LCG as alleged
20 herein.

21 X

22 The aforesaid trust funds accepted or received by
23 Respondent LCG were deposited or caused to be deposited by
24 Respondent LCG into one or more bank accounts maintained by
25 Respondent LCG for the handling of trust funds at:

- 26 (a) First Republic Bank, 101 Pine Street, San
27 Francisco, California, Account No. 995-0081-4068,

1 entitled "Lafayette Capital Group, Inc Trust
2 Servicing Account" (hereinafter "Trust Account
3 #1");

4 (b) First Republic Bank, 101 Pine Street, San
5 Francisco, California, Account No. 995-0081-4050,
6 entitled "Lafayette Capital Group, Inc Trust
7 Funding Account" (hereinafter "Trust Account #2");

8 (c) The Mechanics Bank, address unknown, Account No.
9 38001667, entitled "Lafayette Capital Group, Inc
10 Trust Account" (hereinafter "Trust Account #3");

11 (d) The Mechanics Bank, address unknown, Account No.
12 38001659, entitled "Lafayette Capital Group, Inc
13 Funding Account" (hereinafter "Bank Account #1");

14 (e) Bank of America, 3530 Mt. Diablo Blvd., Lafayette,
15 California, Account No. 12332 08546, entitled
16 "First Republic Bank for Lafayette Capital Group,
17 Inc Funding Account" from which only the bank could
18 make withdrawals pursuant to a third party
19 depository services agreement (hereinafter "Bank
20 Account #2"); and,

21 (f) Bank of America, 3530 Mt. Diablo Blvd., Lafayette,
22 California, Account No. 12335 07281, entitled
23 "First Republic Bank for Lafayette Capital Group,
24 Inc Trust Servicing Account" from which only the
25 bank could make withdrawals pursuant to a third
26 party depository services agreement (hereinafter
27 "Bank Account #3");

1 XI

2 Within the three year period next preceding to the
3 filing of this Accusation, in connection with the collection and
4 disbursement of trust funds, Respondent LCG failed to deposit and
5 maintain the trust funds in a trust account or neutral escrow
6 depository, or to deliver them into the hands of the owners of
7 the funds, as required by Section 10145 of the Code, in such a
8 manner that as of December 31, 2004, there was a trust fund
9 shortage in the approximate sum of \$17,070.08 in Trust Account
10 #1; and, in the approximate sum of \$10,008.34 in Trust Account
11 #3. In so doing, Respondent LCG failed to obtain the prior
12 written consents of the principals for the reduction of the
13 aggregate balance of trust funds in Trust Account #1 and Trust
14 Account #3 to an amount less than the existing aggregate trust
15 fund liability to the owners of said funds in conformance with
16 Section 2832.1 of Chapter 6, Title 10, California Code of
17 Regulations (hereinafter "Regulations").

18 XII

19 Within the three year period next preceding the filing
20 of this Accusation, in connection with the receipt and
21 disbursement of trust funds as above alleged, Respondent LCG:

- 22 (a) Failed to properly designate Bank Account #1, Bank
23 Account #2, and Bank Account #3 as trust accounts
24 in the name of the broker as trustee and deposited
25 client trust funds into those accounts in violation
26 of Section 2832 of the Regulations;

27 ///

1 (b) Failed to maintain a written control record of all
2 trust funds received and disbursed containing all
3 information required by Section 2831 of the
4 Regulations, including but not limited to
5 recordation of all deposits, from whom received,
6 amount of deposit, check numbers and dates of
7 disbursements, recordation of dates of receipt, and
8 recordation of accurate dates of deposit of trust
9 funds for Trust Account #1, Trust Account #2, Trust
10 Account #3, Bank Account #2, and Bank Account #3;

11 (c) Failed to keep a separate record for each
12 beneficiary or transaction, accounting for all
13 funds that have been deposited to the broker's
14 trust account, containing all of the information
15 required by Section 2831.1 of the Regulations,
16 including, but not limited to an accurate daily
17 balance after posting transactions for Trust
18 Account #2;

19 (d) Failed to reconcile the balance of separate
20 beneficiary or transaction records with the
21 control records of trust funds received and
22 disbursed at least once a month, and/or failed
23 to maintain a record of such reconciliations
24 as required by Section 2831.2 of the Regulations
25 for Trust Account #1, Trust Account #2, Trust
26 Account #3, and Bank Account #1;

27 (e) Permitted Amy Price, a person who neither held a

1 California real estate license nor who was bonded,
2 to be a signatory on Trust Account #3 in violation
3 of Section 2834 of the Regulations.

4 (f) Failed to maintain copies of all canceled checks
5 executed by Respondent or obtained by Respondent in
6 connection with transactions for which a real
7 estate license is required for a period of three
8 years as required by Section 10148 of the Code.

9 XIII

10 The acts and/or omissions of Respondent LCG as alleged
11 above constitute grounds for disciplinary action under the
12 following provisions:

- 13 (a) As to Respondent LCG as alleged in Paragraph XI,
14 under Section 10145 of the Code and under Section
15 2832.1 of the Regulations in conjunction with
16 Section 10177(d) of the Code;
- 17 (b) As to Respondent LCG as alleged in Paragraph
18 XII(a), under Section 2832 of the Regulations in
19 conjunction with Section 10177(d) of the Code;
- 20 (c) As to Respondent LCG as alleged in Paragraph
21 XII(b), under Section 2831 of the Regulations in
22 conjunction with Section 10177(d) of the Code;
- 23 (d) As to Respondent LCG as alleged in Paragraph
24 XII(c), under Section 2831.1 of the Regulations in
25 conjunction with Section 10177(d) of the Code;
- 26 (e) As to Respondent LCG as alleged in Paragraph
27 XII(d), under Section 2831.2 of the Regulations

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in conjunction with Section 10177(d) of the Code;
(f) As to Respondent LCG as alleged in Paragraph XII(e), under Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code;
and,
(g) As to Respondent LCG as alleged in Paragraph XII(f), under Section 10148 of the Code in conjunction with Section 10177(d) of the Code;

SECOND CAUSE OF ACTION

XIV

There is hereby incorporated in this Second, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs I through VIII, inclusive, of the First Cause of Action with the same force and effect as if herein fully set forth.

XV

In so acting as a mortgage loan broker and agent as set forth in Paragraphs VII and VIII, above, Respondent LCG, failed to provide, in accordance with Section 10232.5(a)(7) of the Code, the lender purchaser disclosure statement containing an accurate cost to the lender for serving arrangements, stating the "cost to lender for servicing arrangements" as "\$0.00" when the servicing agreement stated "one percent (1%) of the total loan amount paid monthly" in the following transaction:

- 1.) Real Property: 7366 Thousand Oaks Dr., Lincoln, California

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Borrower: Deidre Perridon Callahan, Marion L.
Perridon

Loan Amount: \$125,000.00

XVI

In so acting as a mortgage loan broker and agent as set forth in Paragraphs VII and VIII, above, Respondent LCG, failed to provide, in accordance with Section 10238(k)(7) of the Code, a loan servicing agreement containing a statement that payments received on the note or notes shall be immediately deposited to a trust account maintained in accordance with Sections 10145 and 10238 of the Code and that payments received on the note or notes shall be transmitted to the purchasers or lenders pro rata according to their respective interests within 25 days after receipt thereof by the agent, in the following transaction:

1.) Real Property: 7366 Thousand Oaks Dr., Lincoln, California

Borrower: Deidre Perridon Callahan, Marion L.
Perridon

Loan Amount: \$125,000.00

XVII

The acts and/or omissions of Respondent LCG as alleged above constitute grounds for disciplinary action under the following provisions:

(a) As to Respondent LCG as alleged in Paragraph XV, under Section 10232.5 of the Code in conjunction with Section 10177(d) of the Code; and,

///

1 (b) As to Respondent LCG as alleged in Paragraph XVI,
2 under Section 10238(k) in conjunction with Section
3 10177(d) of the Code.

4 THIRD CAUSE OF ACTION

5 XVIII

6 There is hereby incorporated in this Third, separate
7 and distinct, Cause of Action, all of the allegations contained
8 in Paragraphs I through VIII, inclusive, of the First Cause of
9 Action with the same force and effect as if herein fully set
10 forth.

11 XIX

12 Within the three year period next preceding to the
13 filing of this Accusation and at all times herein mentioned, for
14 or in expectation of compensation, on behalf of another or
15 others, Respondent LCG solicited for loans secured directly of
16 collaterally by liens on real property, wherein such loans were
17 arranged, negotiated, processed, and consummated and/or wherein
18 such loans were serviced and payments thereon were collected,
19 including, but not limited to, the following transaction:

20 1.) Real Property: 7366 Thousand Oaks Dr., Lincoln,
21 California

22 Borrower: Deidre Perridon Callahan, Marion L.
23 Perridon

24 Purpose of Property: Borrowers' primary residence

25 Purpose of Loan: Refinance.

26 Loan Amount: \$125,000.00.
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Closing Date: 12/20/04.

Interest Rate: 11.5%.

Points & Fees: 4.5 points or 4.5% of loan amount or \$5,625.00 plus \$750.00 broker document preparation, \$100.00 document preparation, and \$5,000.00 attorney's fees.

Advance loan Payment: \$14,375.00 interest reserve deducted from loan proceeds at closing.

Interest Only Installments: \$1,197.92 per month

Term: 24 months.

Balloon Payment: \$126,197.92 due 12/14/06

XX

The loan set forth in Paragraph XIX, above, is a "covered loan" within the meaning of Section 4970 of the Financial Code in that: 1.) the loan is secured by real property located in California used, intended to be used or occupied as the principal dwelling of the consumer as a one-to-four residential unit; 2.) the principal balance does not exceed \$250,000.00; 3.) the 11.5 per cent interest rate was more than 8 percentage points above the yield on Treasury securities having comparable periods of maturity on the 15th of the month immediately preceding the month in which the application for the extension of credit was received by the creditor; and/or, 4.) the total points and fees payable by the consumer at or before the closing for a mortgage or deed of trust will exceed 6 percent of the total loan amount.

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XXI

The loan set forth in Paragraph XIX, above, violated Section 4973(b)(1) of the Financial Code in that the loan covered a term of five years or less and provided at origination for a payment schedule with regular periodic payments that when aggregated did not fully amortize the principal balance as of the maturity date of the loan.

XXII

The loan set forth in Paragraph XIX, above, violated Section 4973(d) of the Financial Code in that the loan included terms under which periodic payments required under the loan were consolidated and paid in advance from the loan proceeds.

XXIII

Respondents originated the loan set forth in Paragraph XIX, above, financing points and fees in excess of \$1,000.00 or 6 percent of the original principal balance, exclusive of points and fees, in violation of Section 4979.6 of the Financial Code.

XXIV

The acts and/or omissions of Respondent LCG as described above are grounds for the suspension or revocation of Respondents' licenses and license rights under Sections 4975 subsection (a)(1), (a)(2) and (c) and Section 10176(i) or 10177(j) or 10177(g) of the Business and Professions Code.

FOURTH CAUSE OF ACTION

XXV

There is hereby incorporated in this Fourth, separate and distinct, Cause of Action, all of the allegations contained

1 in Paragraphs I through XXIV, inclusive, of the First, Second,
2 and Third Causes of Action with the same force and effect as if
3 herein fully set forth.

4 XXVI

5 At all times above mentioned, Respondent DAVID RUEGG
6 was responsible, as the designated broker officer of Respondent
7 LCG, for the supervision and control of the activities conducted
8 on behalf of the corporation by its officers and employees prior
9 to March 18, 2004. Respondent DAVID RUEGG failed to exercise
10 reasonable supervision and control over the mortgage brokering
11 activities of Respondent LCG prior to March 18, 2004. In
12 particular, Respondent DAVID RUEGG permitted, ratified and/or
13 caused the conduct described in the First Cause of Action, above,
14 to occur, and failed to take reasonable steps, including but not
15 limited to the handling of trust funds, supervision of employees,
16 and the implementation of policies, rules, procedures, and
17 systems to ensure the compliance of the corporation with the Real
18 Estate Law.

19 XXVII


20 At all times above mentioned, Respondent STEVE RUEGG
21 was responsible, as the designated broker officer of Respondent
22 LCG, for the supervision and control of the activities conducted
23 on behalf of the corporation by its officers and employees on and
24 after March 18, 2004. Respondent STEVE RUEGG failed to exercise
25 reasonable supervision and control over the mortgage brokering
26 activities of Respondent LCG on and after March 18, 2004. In
27 particular, Respondent STEVE RUEGG permitted, ratified and/or

1 caused the conduct described in the First, Second and Third
2 Causes of Action, above, to occur, and failed to take reasonable
3 steps, including but not limited to the handling of trust funds,
4 supervision of employees, and the implementation of policies,
5 rules, procedures, and systems to ensure the compliance of the
6 corporation with the Real Estate Law.

7 XXVIII

8 The above acts and/or omissions of Respondent DAVID
9 RUEGG and Respondent STEVE RUEGG constitute grounds for
10 disciplinary action under the provisions of Section 10177(h) of
11 the Code and/or Section 10159.2 of the Code in conjunction with
12 Section 10177(d) of the Code.

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

20
21 
22 E. J. HABERER II
23 Deputy Real Estate Commissioner

24 Dated at Oakland,
25 this 30th day of November, 2006.
26
27