

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

FILED
MAY 15 2007

DEPARTMENT OF REAL ESTATE

By Anne Shanon

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) No. H-9859 SF
13 CALNET FINANCE & INVESTMENT, INC.,) STIPULATION AND AGREEMENT
14 and, MARKS HUNG SING LAM)
15 Respondents.)

16 In the Matter of the Accusation of)
17) No. H-9860 SF
18 CALNET FINANCE & INVESTMENT SAN) STIPULATION AND AGREEMENT
19 FRANCISCO, INC., MARKS HUNG SING)
20 LAM, and JACKIE NGOC HUYNH,)
21 Respondents.)

21 It is hereby stipulated by and between Respondent
22 CALNET FINANCE & INVESTMENT, INC., Respondent CALNET FINANCE &
23 INVESTMENT SAN FRANCISCO, INC., and Respondent MARKS HUNG SING
24 LAM (hereinafter "Respondents"), acting in pro per, and the
25 Complainant, acting by and through Michael B. Rich, Counsel for
26 the Department of Real Estate, as follows for the purpose of
27 settling and disposing of the Accusations filed on January 18,

H-9859 SF - CALNET FINANCE & INVESTMENT, INC., et al.
H-9860 SF - CALNET FINANCE & INVESTMENT SAN FRANCISCO, et al.

1 2007, in this matter (hereinafter "the Accusation"):

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

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

13 3. On February 5, 2007, Respondents, respectively,
14 filed Notices of Defense pursuant to Section 11505 of the
15 Government Code for the purpose of requesting a hearing on the
16 allegations in the Accusation. Respondents hereby freely and
17 voluntarily withdraw said Notices of Defense. Respondents
18 acknowledge that Respondents understand that by withdrawing said
19 Notice of Defense Respondents will thereby waive Respondents'
20 right to require the Commissioner to prove the allegations in
21 the Accusation at a contested hearing held in accordance with
22 the provisions of the APA and that Respondents will waive other
23 rights afforded to Respondents in connection with the hearing
24 such as the right to present evidence in defense of the
25 allegations in the Accusation and the right to cross-examine
26 witnesses.

27 ///

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

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

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

21 7. Respondents understand that by agreeing to this
22 Stipulation and Agreement in Settlement, Respondents agree to
23 pay, pursuant to Section 10148 of the Business and Professions
24 Code, the cost of the audit that led to this disciplinary
25 action. The amount of said costs for Respondent CALNET FINANCE
26 & INVESTMENT, INC., and Respondent MARKS HUNG SING LAM is
27 \$4,796.50. The amount of said costs for Respondent CALNET

1 FINANCE & INVESTMENT SAN FRANCISCO and Respondent MARKS HUNG
2 SING LAM is \$3,966.90.

3 8. Respondents have received, read, and understand
4 the "Notice Concerning Costs of Audits". Respondents further
5 understand that by agreeing to this Stipulation and Agreement
6 in Settlement, the findings set forth below in the
7 DETERMINATION OF ISSUES become final, and that the Commissioner
8 may charge Respondents for the costs of any subsequent audit
9 conducted pursuant to Section 10148 of the Business and
10 Professions Code to determine if the violations have been
11 corrected. The maximum costs of said audit for Respondent
12 CALNET FINANCE & INVESTMENT, INC., and Respondent MARKS HUNG
13 SING LAM would not exceed \$4,796.50. The maximum costs of said
14 audit for Respondent CALNET FINANCE & INVESTMENT SAN FRANCISCO
15 and Respondent MARKS HUNG SING LAM would not exceed \$3,966.90.

16 DETERMINATION OF ISSUES

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

21 I

22 The acts and omissions of Respondent CALNET FINANCE &
23 INVESTMENT, INC., as described in the Accusation [H-9859 SF] are
24 grounds for the suspension or revocation of the licenses and
25 license rights of Respondent CALNET FINANCE & INVESTMENT, INC.
26 under the provisions of: Sections 2831.1, 2831.2 and 2834 of
27 Chapter 6, Title 10, California Code of Regulations (hereinafter

1 "Regulations"), and Section 10137 of the Business and
2 Professions Code (hereinafter "the Code") in conjunction with
3 10177(d) of the Code; Section 10161.8 of the Code and Section
4 2752 of the Regulations in conjunction with Section 10177(d) of
5 the Code; Sections 10240 and 10241 of the Code in conjunction
6 with Section 10177(d) of the Code; and, Section 10160 of the
7 Code and Section 2753 of the Regulations in conjunction with
8 Section 10177(d). The acts and omissions of Respondent MARKS
9 HUNG SING LAM as described in the Accusation [H-9859 SF] are
10 grounds for the suspension or revocation of the licenses and
11 license rights of Respondent MARKS HUNG SING LAM under the
12 provisions of Sections 10177(h) and 10159.2(a) of the Code in
13 conjunction with 10177(d) of the Code.

14 II

15 The acts and omissions of Respondent CALNET FINANCE &
16 INVESTMENT SAN FRANCISCO as described in the Accusation [H-9860
17 SF] are grounds for the suspension or revocation of the licenses
18 and license rights of Respondent CALNET FINANCE & INVESTMENT SAN
19 FRANCISCO under the provisions of Sections 2831, 2831.1, 2831.2,
20 2832.1, and 2834 of the Regulations and Section 10145 of the
21 Code in conjunction with Section 10177(d) of the Code; Section
22 10137 of the Code in conjunction with Section 10177(d) of the
23 Code; Section 10161.8 of the Code and Section 2752 of the
24 Regulations in conjunction with Section 10177(d) of the Code;
25 Sections 10240 and 10241 of the Code in conjunction with
26 10177(d) of the Code; and, Section 10177(h) and 10159.2 in
27 conjunction with Section 10177(d) of the Code. The acts and

1 omissions of Respondent MARKS HUNG SING LAM as described in the
2 Accusation [H-9860 SF] are grounds for the suspension or
3 revocation of the licenses and license rights of Respondent
4 MARKS HUNG SING LAM under the provisions of Sections 10177(h)
5 and 10159.2(a) of the Code in conjunction with 10177(d) of the
6 Code.

7 ORDER

8 I

9 The corporate real estate broker licenses and all
10 license rights of Respondent CALNET FINANCE & INVESTMENT, INC.,
11 under the Real Estate Law is revoked; provided, however, a
12 restricted corporate real estate broker license shall be issued
13 to Respondent CALNET FINANCE & INVESTMENT, INC., pursuant to
14 Section 10156.5 of the Business and Professions Code if
15 Respondent makes application therefor and pays to the
16 Department of Real Estate the appropriate fee for the
17 restricted license within ninety (90) days from the effective
18 date of this Decision. The restricted license issued to
19 Respondent CALNET FINANCE & INVESTMENT, INC., (permitting
20 Respondent to conduct all activities permitted by a broker
21 license) shall be subject to all of the provisions of Section
22 10156.7 of the Business and Professions Code and to the
23 following limitations, conditions and restrictions imposed
24 under authority of Section 10156.6 of that Code:

25 1. The restricted license issued to Respondent
26 CALNET FINANCE & INVESTMENT, INC., may be suspended prior to
27 hearing by Order of the Real Estate Commissioner in the event

1 of Respondent's conviction or plea of nolo contendere to a
2 crime which is substantially related to Respondent's fitness or
3 capacity as a real estate licensee.

4 2. The restricted license issued to Respondent
5 CALNET FINANCE & INVESTMENT, INC., may be suspended prior to
6 hearing by Order of the Real Estate Commissioner on evidence
7 satisfactory to the Commissioner that Respondent has violated
8 provisions of the California Real Estate Law, the Subdivided
9 Lands Law, Regulations of the Real Estate Commissioner or
10 conditions attaching to the restricted license.

11 3. Respondent CALNET FINANCE & INVESTMENT, INC.,
12 shall not be eligible to apply for the issuance of an
13 unrestricted real estate license nor for the removal of any of
14 the conditions, limitations, or restrictions of a restricted
15 license until two (2) years have elapsed from the effective
16 date of this Decision.

17 4. Pursuant to Section 10148 of the Business and
18 Professions Code, Respondent CALNET FINANCE & INVESTMENT, INC.,
19 shall pay the Commissioner's reasonable cost for: a) the audit
20 which led to this disciplinary action and, b) a subsequent
21 audit to determine if Respondent has corrected the trust fund
22 violations found in paragraph I of the Determination of Issues
23 not to exceed \$4,796.50. In calculating the amount of the
24 Commissioner's reasonable cost, the Commissioner may use the
25 estimated average hourly salary for all persons performing
26 audits of real estate brokers, and shall include an allocation
27 for travel time to and from the auditor's place of work.

Respondent shall, jointly and severally with Respondent MARKS HUNG SING LAM, pay such cost within sixty (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 CALNET FINANCE & INVESTMENT, INC., pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondents 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.

16 5. Any restricted real estate broker license issued
17 to Respondent CALNET FINANCE & INVESTMENT, INC., may be
18 suspended or revoked for a violation by Respondent of any of
19 the conditions attaching to the restricted license.

II

21 All real estate licenses and license rights of
22 Respondent CALNET FINANCE & INVESTMENT SAN FRANCISCO under the
23 Real Estate Law are revoked.

III

25 The real estate broker license and all license rights
26 of Respondent MARKS HUNG SING LAM under the Real Estate Law are
27 revoked; provided, however, a restricted real estate broker

1 license shall be issued to Respondent MARKS HUNG SING LAM
2 pursuant to Section 10156.5 of the Business and Professions Code
3 if Respondent makes application therefor and pays to the
4 Department of Real Estate the appropriate fee for the restricted
5 license within ninety (90) days from the effective date of this
6 Decision. The restricted license issued to Respondent shall be
7 subject to all of the provisions of Section 10156.7 of the
8 Business and Professions Code and to the following limitations,
9 conditions and restrictions imposed under authority of Section
10 10156.6 of that Code:

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

17 2. The restricted license issued to Respondent MARKS
18 HUNG SING LAM may be suspended prior to hearing by Order of the
19 Real Estate Commissioner on evidence satisfactory to the
20 Commissioner that Respondent has violated any provision of the
21 California Real Estate Law, the Subdivided Lands Law,
22 Regulations of the Real Estate Commissioner or conditions
23 attaching to the restricted license.

24 3. Respondent MARKS HUNG SING LAM shall not be
25 eligible to apply for the issuance of an unrestricted real
26 estate license nor for the removal of any of the conditions,
27

1 limitations, or restrictions of a restricted license until two
2 (2) years have elapsed from the effective date of this Decision.

3 4. Respondent MARKS HUNG SING LAM shall, within nine
4 (9) months from the effective date of this Decision, present
5 evidence satisfactory to the Real Estate Commissioner that
6 Respondent has, since the most recent issuance of an original or
7 renewal real estate license, taken and successfully completed
8 the continuing education requirements of Article 2.5 of Chapter
9 3 of the Real Estate Law for renewal of a real estate license.
10 If Respondent fails to satisfy this condition, the Commissioner
11 may order the suspension of the restricted license until
12 Respondent presents such evidence. The Commissioner shall
13 afford Respondent the opportunity for a hearing pursuant to the
14 Administrative Procedure Act to present such evidence.

15 5. Pursuant to Section 10148 of the Business and
16 Professions Code, Respondent MARKS HUNG SING LAM shall pay the
17 Commissioner's reasonable cost for: a) the audits which led to
18 this disciplinary action of \$4,796.50 [in H-9859 SF] and
19 \$3,966.90 [in H-9860 SF] and, b) a subsequent audit to determine
20 if Respondent has corrected the trust fund violations found in
21 Paragraph I of the Determination of Issues not to exceed
22 \$4,796.50 [concerning H-9859 SF] and Paragraph II of the
23 Determination of Issues not to exceed \$3,966.90 [concerning H-
24 9860 SF]. In calculating the amount of the Commissioner's
25 reasonable cost, the Commissioner may use the estimated average
26 hourly salary for all persons performing audits of real estate
27 brokers, and shall include an allocation for travel time to and

1 from the auditor's place of work. Respondent MARKS HUNG SING
2 LAM shall pay such costs within sixty (60) days of receiving an
3 invoice from the Commissioner detailing the activities performed
4 during the audit and the amount of time spent performing those
5 activities. The Commissioner may suspend the restricted license
6 issued to Respondent pending a hearing held in accordance with
7 Section 11500, et seq., of the Government Code, if payment is
8 not timely made as provided for herein, or as provided for in a
9 subsequent agreement between the Respondent and the
10 Commissioner. The suspension shall remain in effect until
11 payment is made in full or until Respondent enters into an
12 agreement satisfactory to the Commissioner to provide for
13 payment, or until a decision providing otherwise is adopted
14 following a hearing held pursuant to this condition.

15 6. Respondent MARKS HUNG SING LAM shall prior to the
16 effective date of the Decision provide evidence satisfactory to
17 the Commissioner that Respondent has cured the trust fund
18 shortages alleged in the Accusation against CALNET FINANCE &
19 INVESTMENT SAN FRANCISCO [H-9860 SF].

20 7. Any restricted real estate broker license issued
21 to Respondent MARKS HUNG SING LAM may be suspended or revoked
22 for a violation by Respondent of any of the conditions attaching
23 to the restricted license.

24 8. Respondent shall, prior to and as a condition of
25 the issuance of the restricted license, submit proof
26 satisfactory to the Commissioner of having taken and
27 successfully completed the continuing education course on trust

1 fund accounting and handling specified in subdivision (a) of
2 Section 10170.5 of the Business and Professions Code. Proof of
3 satisfaction of this requirement includes evidence that
4 Respondent has successfully completed the trust fund account
5 and handling continuing education course within 120 days prior
6 to the effective date of the Decision in this matter.

7
8 April 10, 2007
9 DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

10
11 * * *

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

23
24 3/6/07
25 DATED

Marks Hung Sing Lam
CALNET FINANCE & INVESTMENT, INC.,
Respondent
By: MARKS HUNG SING LAM

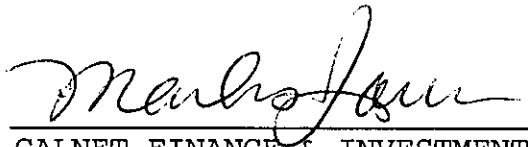
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3/6/07

DATED



CALNET FINANCE & INVESTMENT SAN
FRANCISCO
Respondent
By: MARKS HUNG SING LAM

3/6/07

DATED



MARKS HUNG SING LAM
Respondent

* * *

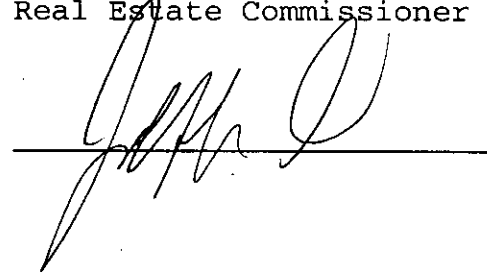
The foregoing Stipulation and Agreement is hereby
adopted by me as my Decision in these matters as to Respondent
CALNET FINANCE & INVESTMENT, INC., Respondent CALNET FINANCE &
INVESTMENT SAN FRANCISCO, and Respondent MARKS HUNG SING LAM and
shall become effective at 12 o'clock noon on

JUN 04 2007

IT IS SO ORDERED

5/21/07, 2007.

JEFF DAVI
Real Estate Commissioner



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

FILED

APR 10 2007

DEPARTMENT OF REAL ESTATE

By AE

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-9860 SF
13 CALNET FINANCE & INVESTMENTS SAN,)
14 FRANCISCO, MARKS HUNG SING LAM,) STIPULATION AND AGREEMENT
15 and JACKIE NGOC HUYNH,)
16 Respondents.)

17 It is hereby stipulated by and between Respondent
18 JACKIE NGOC HUYNH (hereinafter referred to as "Respondent"),
19 acting in pro per, and the Complainant, acting by and through
20 Michael B. Rich, Counsel for the Department of Real Estate, as
21 follows for the purpose of settling and disposing of the
22 Accusation filed on January 18, 2007, in this matter
23 (hereinafter "the Accusation"):

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

H-9860 SF

JACKIE NGOC HUYNH

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

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

8 3. On January 5, 2007, Respondent filed a Notice of
9 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
13 Respondent understands that by withdrawing said Notice of
14 Defense Respondent will thereby waive Respondent's right to
15 require 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
18 rights afforded to Respondent in connection with the hearing
19 such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. Respondent, pursuant to the limitations set forth
23 below, hereby admits that the factual allegations in the
24 Accusation pertaining to Respondent are true and correct and
25 stipulates and agrees that the Real Estate Commissioner shall
26 not be required to provide further evidence of such
27 allegations.

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his decision in this matter, thereby imposing the penalty and
4 sanctions on Respondent's real estate license and license
5 rights as set forth in the "Order" below. In the event that
6 the Commissioner in his discretion does not adopt the
7 Stipulation and Agreement, it shall be void and of no effect,
8 and Respondent shall retain the right to a hearing and
9 proceeding on the Accusation under all the provisions of the
10 APA and shall not be bound by any admission or waiver made
11 herein.

12 6. This Stipulation and Agreement shall not
13 constitute an estoppel, merger or bar to any further
14 administrative or civil proceedings by the Department of Real
15 Estate with respect to any matters which were not specifically
16 alleged to be causes for accusation in this proceeding.

17 DETERMINATION OF ISSUES

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

22 I

23 The acts and omissions of Respondent JACKIE NGOC HUYNH
24 described in the Accusation are grounds for the suspension or
25 revocation of the licenses and license rights of Respondent
26 under the provisions of Section 10137 of the Code in conjunction
27 with Section 10177(d) the Code.

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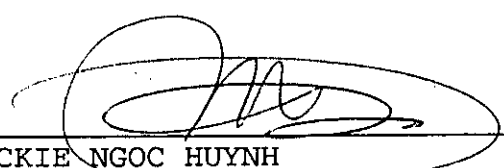
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1 California Administrative Procedure Act (including but not
2 limited to Sections 11506, 11508, 11509, and 11513 of the
3 Government Code), and I willingly, intelligently, and
4 voluntarily waive those rights, including the right of requiring
5 the Commissioner to prove the allegations in the Accusation at a
6 hearing at which I would have the right to cross-examine
7 witnesses against me and to present evidence in defense and
8 mitigation of the charges.

9
10 2/27/07
11 DATED

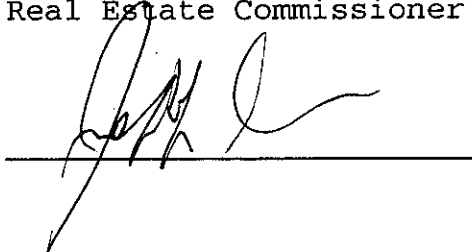

12 JACKIE NGOC HUYNH
13 Respondent

14 * * *

15 The foregoing Stipulation and Agreement is hereby
16 adopted by me as my Decision in this matter as to Respondent
17 JACKIE NGOC HUYNH and shall become effective at 12 o'clock
18 noon on APR 30, 2007.

19 IT IS SO ORDERED 4-3, 2007.

20 JEFF DAVI

21 Real Estate Commissioner
22 
23
24
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26
27

FILED
JAN 18 2007

DEPARTMENT OF REAL ESTATE

By J. E. [Signature]

1 MICHAEL B. RICH, Counsel
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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7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-9860 SF
13 CALNET FINANCE & INVESMENT SAN)
14 FRANCISCO, INC., MARKS HUNG SING) ACCUSATION
15 LAM, and JACKIE NGOC HUYNH)
Respondents.)
16

17 The Complainant, E. J. HABERER II, a Deputy Real
18 Estate Commissioner of the State of California, for Causes of
19 Accusation against CALNET FINANCE & INVESMENT SAN FRANCISCO,
20 INC., MARKS HUNG SING LAM, and against JACKIE NGOC HUYNH, is
21 informed and alleges as follows:

22 FIRST CAUSE OF ACTION

23 I

24 Respondents CALNET FINANCE & INVESMENT SAN FRANCISCO,
25 INC., (hereafter referred to as "Respondent CALNET S.F.") and
26 MARKS HUNG SING LAM (hereafter referred to as "Respondent LAM")
27 are presently licensed and/or have license rights under the Real

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

3 II

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

8 III

9 At all times herein mentioned, Respondent CALNET S.F.
10 was and is licensed by the Department of Real Estate (hereafter
11 "the Department") as a real estate broker corporation and
12 through Respondent LAM as its designated broker officer.

13 IV

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

23 V

24 Whenever reference is made in an allegation in this
25 Accusation to an act or omission of Respondent CALNET S.F., such
26 allegation shall be deemed to mean that the officers, directors,
27 employees, agents and real estate licensees employed by or

1 associated with Respondent CALNET S.F. committed such act or
2 omission while engaged in the furtherance of the business or
3 operations of Respondent CALNET S.F. and while acting within the
4 course and scope of their corporate authority and employment.

5 VI

6 At all times herein mentioned, Respondent CALNET S.F.
7 engaged in the business of, acted in the capacity of,
8 advertised, or assumed to act as a real estate broker within the
9 State of California, and in so doing conducted its own escrows,
10 within the meaning of Section 10131(d) of the Code, including
11 the operation of and conduct of a mortgage loan brokerage
12 business with the public wherein lenders and borrowers were
13 solicited for loans secured directly or collaterally by liens on
14 real property, wherein such loans were arranged, negotiated,
15 processed, and consummated on behalf of others for compensation
16 or in expectation of compensation, and/or wherein such loans
17 were serviced and payments thereon were collected on behalf of
18 others.

19 VII

20 In so acting during the course of the activities
21 described in Paragraph VI, above, Respondent CALNET S.F.
22 accepted or received funds in trust (hereinafter "trust funds")
23 from or on behalf of lenders or investors, borrowers, and
24 others.

25 VIII

26 The aforesaid trust funds accepted or received by
27 Respondent CALNET S.F. were deposited or caused to be deposited

1 by Respondent CALNET S.F. into a bank account maintained by
2 Respondent CALNET S.F. for the handling of trust funds at
3 Innovative Bank, 360 - 14th Street, Oakland, California, Account
4 Number 0002008742, entitled "Calnet Finance & Investment Trust
5 Account" (hereinafter "Trust Account #1").

6 IX

7 Within the three year period next preceding to the
8 filing of this Accusation, in connection with the collection and
9 disbursement of trust funds, Respondent CALNET S.F. failed to
10 deposit and maintain the trust funds in a trust account or
11 neutral escrow depository, or to deliver them into the hands of
12 the owners of the funds, as required by Section 10145 of the
13 Code, in such a manner that as of February 6, 2004, there was a
14 trust fund shortage in the approximate sum of \$3,000.00 in Trust
15 Account #1. In so doing, Respondent CALNET S.F. failed to
16 obtain the prior written consents of the principals for the
17 reduction of the aggregate balance of trust funds in Trust
18 Account #1 to an amount less than the existing aggregate trust
19 fund liability to the owners of said funds in conformance with
20 Section 2832.1 of Chapter 6, Title 10, California Code of
21 Regulations (hereinafter "Regulations").

22 X

23 Within the three year period next preceding the filing
24 of this Accusation, in connection with the receipt and
25 disbursement of trust funds as above alleged, Respondent CALNET
26 S.F.:

- 1 (a) Failed to maintain an accurate written control
2 record of all trust funds received and disbursed
3 containing all information required by Section
4 2831 of the Regulations, including, but not
5 limited to, recordation of all deposits, from
6 whom received, amount of deposit, check numbers
7 and accurate dates of disbursements, recordation
8 of dates of receipt, and recordation of dates of
9 deposit of trust funds for Trust Account #1;
- 10 (b) Failed to keep a separate record for each
11 beneficiary or transaction, accounting for all
12 funds that have been deposited to the broker's
13 trust account, containing all of the information
14 required by Section 2831.1 of the Regulations;
- 15 (c) Failed to reconcile the balance of separate
16 beneficiary or transaction records with the
17 control records of trust funds received and
18 disbursed at least once a month, and/or failed
19 to maintain a record of such reconciliations
20 as required by Section 2831.2 of the Regulations
21 for Trust Account #1;
- 22 (d) Permitted Wai Nung Tang and Dan Yam, persons who
23 neither held a California real estate license nor
24 were bonded, to be signatories on Trust Account
25 #1 in violation of Section 2834 of the
26 Regulations; and,
27

1 (e) Permitted Jackie Huynh, a person who held a
2 California real estate salesperson license, but
3 who was not on record with the Department of Real
4 Estate as employed with Respondent, to be a
5 signatory on Trust Account #1 in violation of
6 Section 2834 of the Regulations.

7 XI

8 The acts and/or omissions of Respondent CALNET S.F. as
9 alleged above constitute grounds for disciplinary action under
10 the following provisions:

- 11 (a) As to Respondent CALNET S.F. as alleged in
12 Paragraph IX, under Section 10145 of the Code and
13 under Section 2832.1 of the Regulations in
14 conjunction with Section 10177(d) of the Code;
15 (b) As to Respondent CALNET S.F. as alleged in
16 Paragraph X(a), under Section 2831 of the
17 Regulations in conjunction with Section 10177(d)
18 of the Code;
19 (c) As to Respondent CALNET S.F. as alleged in
20 Paragraph X(b), under Sections 2831.1 of the
21 Regulations in conjunction with Section 10177(d)
22 of the Code;
23 (d) As to Respondent CALNET S.F. as alleged in
24 Paragraph X(c), under Section 2831.2 of the
25 Regulations in conjunction with Section 10177(d)
26 of the Code;
27 (e) As to Respondent CALNET S.F. as alleged in

1 Paragraph X(d), under Section 2834 of the
2 Regulations in conjunction with Section 10177(d)
3 of the Code; and,

4 (f) As to Respondent CALNET S.F. as alleged in
5 Paragraph X(e), under Section 2834 of the
6 Regulations in conjunction with Section 10177(d)
7 of the Code.

8 SECOND CAUSE OF ACTION

9 XII

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

15 XIII

16 At all times herein mentioned, Respondent JACKIE NGOC
17 HUYNH (hereinafter "Respondent HUYNH") was licensed by the
18 Department of Real Estate (hereafter "Department") as an
19 individual real estate salesperson in the employ of licensed
20 corporate real estate broker Calnet Finance & Investment, Inc.

21 XIV

22 At no time herein mentioned was Respondent HUYNH
23 licensed as an individual real estate salesperson in the employ
24 of Respondent CALNET S.F.

25 XV

26 Within the three year period next preceding to the
27 filing of this Accusation and at all times herein mentioned,

1 Respondent CALNET S.F. employed Respondent HUYNH to perform and
2 engage in the activities set forth in Paragraph VI, above, for
3 which a real estate license is required, for or in expectation
4 of compensation.

5 XVI

6 Within the three year period next preceding to the
7 filing of this Accusation and at all times herein mentioned, in
8 the course of the activities described in Paragraphs VI and XV,
9 above, Respondent HUYNH, for compensation or in expectation of
10 compensation, solicited lenders and borrowers for loans to be
11 secured directly or collaterally by liens on real property, and
12 arranged, negotiated and consummated such loans on behalf of
13 others, and/or serviced and collected payments thereon on behalf
14 of others pursuant to Section 10131(d) of the Code, for or in
15 expectation of compensation, including, but not limited to, the
16 following transactions:

17 1.) Real Property: 178 Shipley Ave., Daly City,
18 California

19 Borrowers: Robert Lo and Jennifer Pau

20 Application Date: On or about 3/9/04

21 Loan Amount: \$333,000.00

22 2.) Real Property: 908 Burkhart Ave., San Leandro,
23 California

24 Borrowers: Hong Lu and William K. Lee

25 Application Date: 9/7/04

26 Loan Amount: \$456,000.00

27 3.) Real Property: 2271 Fleetwood Dr., San Bruno,

1 California

2 Borrower: Louis Chang-Lo

3 Application Date: 12/22/04

4 Loan Amount: \$504,000.00

5 4.) Real Property: 2594 Kenny Dr., San Pablo,
6 California

7 Borrowers: Quay P. Hua and Zhong Yu Yong

8 Application Date: 8/28/04

9 Loan Amount: \$246,000.00

10 XVII

11 The facts alleged above constitute cause for the
12 suspension or revocation of the licenses and license rights of
13 Respondents under Section 10137 of the Code in conjunction with
14 and Section 10177(d) the Code.

15 THIRD CAUSE OF ACTION

16 XVIII

17 There is hereby incorporated in this Third, separate
18 and distinct Cause of Action, all of the allegations contained
19 in Paragraphs I through VI, inclusive, of the First Cause of
20 Action with the same force and effect as if herein fully set
21 forth.

22 XIX

23 Within the three year period next preceding to the
24 filing of this Accusation and at all times herein mentioned,
25 Respondent CALNET S.F. employed Brenda Chui Chan, a licensed
26 real estate salesperson to perform and engage in the activities
27 set forth in Paragraph VI, above.

1 XX

2 Within the three year period next preceding to the
3 filing of this Accusation and at all times herein mentioned, in
4 the course of the activities described in Paragraphs VI and XIX,
5 above, Brenda Chui Chan, for compensation or in expectation of
6 compensation, solicited lenders and borrowers for loans to be
7 secured directly or collaterally by liens on real property, and
8 arranged, negotiated and consummated such loans on behalf of
9 others, and/or serviced and collected payments thereon on behalf
10 of others pursuant to Section 10131(d) of the Code, for or in
11 expectation of compensation, including, but not limited to, the
12 following transactions:

13 1.) Real Property: 4741 Orville Ave., Santa Rosa,
14 California

15 Borrowers: Sui Sun Mak and Kim Hung Mak

16 Application Date: 2/25/04

17 Loan Amount: \$278,000.00

18 XXI

19 Respondent CALNET S.F. employed Brenda Chui Chan as a
20 licensed real estate salesperson beginning in or about December
21 2002. Respondent CALNET S.F. did not notify the Commissioner of
22 the Department of Real Estate until on or about August 1, 2005,
23 of its employment of Brenda Chui Chan.

24 XXII

25 The facts alleged above constitute cause for the
26 suspension or revocation of the licenses and license rights of
27 Respondent CALNET S.F. under Section 10161.8(a) of the Code and

1 Section 2752 of the Regulations in conjunction with and Section
2 10177(d) the Code.

3 FOURTH CAUSE OF ACTION

4 XXIII

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

10 XXIV

11 Within the three year period next preceding to the
12 filing of this Accusation, in connection with the loan brokerage
13 business described in Paragraph VI, above, Respondent CALNET
14 S.F. failed to provide, or failed to provide a fully completed,
15 and/or failed to retain for a period of three (3) years the
16 "Borrower Disclosure" statement, as signed by the borrowers and
17 by the broker, as required by Section 10240 of the Code, in
18 conformance with Section 10241 of the Code, including, but not
19 limited to, the following transactions:

20 1.) Real Property: 908 Burkhart Ave., San Leandro,
21 California

22 Borrowers: Hong Lu and William K. Lee

23 Application Date: 9/7/04

24 Loan Amount: \$456,000.00

25 XXV

26 Within the three year period next preceding to the
27 filing of this Accusation, in connection with the loan brokerage

1 business described in Paragraph VI, above, Respondent failed to
2 provide, or failed to provide a fully completed, and/or failed
3 to retain for a period of three (3) years the "Borrower
4 Disclosure" statement, as signed by the borrowers and by the
5 broker, as required by Section 10240 of the Code, containing the
6 broker's license number and a clear and conspicuous statement
7 stating that the "good faith estimate" does not constitute a
8 loan commitment, in conformance with Section 10241 of the Code,
9 including, but not limited to, the following transactions:

10 1.) Real Property: 4741 Orville Ave., Santa Rosa,
11 California

12 Borrowers: Sui Sun Mak and Kim Hung Mak

13 Application Date: 2/25/04

14 Loan Amount: \$278,000.00

15 2.) Real Property: 178 Shipley Ave., Daly City,
16 California

17 Borrowers: Robert Lo and Jennifer Pau

18 Application Date: On or about 3/9/04

19 Loan Amount: \$333,000.00

20 3.) Real Property: 908 Burkhart Ave., San Leandro,
21 California

22 Borrowers: Hong Lu and William K. Lee

23 Application Date: 9/7/04

24 Loan Amount: \$456,000.00

25 XXVI

26 The acts and/or omissions of Respondent CALNET S.F. as
27 alleged in Paragraphs XXIV and XXV, above, constitute grounds

1 for the disciplinary action under the following provisions under
2 Section 10240 and 10241 of the Code in conjunction with Section
3 10177(d) of the Code.

4 FIFTH CAUSE OF ACTION

5 XXVII

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

11 XXVIII

12 At all times above mentioned, Respondent LAM was
13 responsible, as the designated broker officer of Respondent
14 CALNET S.F., for the supervision and control of the activities
15 conducted on behalf of the corporation by its officers and
16 employees. Respondent LAM failed to exercise reasonable
17 supervision and control over the mortgage brokering activities
18 of Respondent CALNET S.F. In particular, Respondent LAM
19 permitted, ratified and/or caused the conduct described in the
20 First, Second, Third and Fourth Causes of Action, above, to
21 occur, and failed to take reasonable steps, including but not
22 limited to the handling of trust funds, supervision of
23 employees, and the implementation of policies, rules,
24 procedures, and systems to ensure the compliance of the
25 corporation with the Real Estate Law.

26 ///

27 ///

XXIX

The above acts and/or omissions of Respondent LAM constitute grounds for disciplinary action under the provisions of Section 10177(h) of the Code and/or Section 10159.2 of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code.

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


E. J. HABERER II
Deputy Commissioner

Dated at Oakland, California
this 8th day of December, 2006.