

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED

NOV 23 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

\*\*\*

In the Matter of the Accusation of )  
 )  
FARSHID JEFF ASSIFI, )  
CALIFORNIA MUTUAL REAL ESTATE )  
INVESTMENTS, INC., )  
a California Corporation, and, )  
JAIME VITAL, )  
 )  
Respondents. )  
\_\_\_\_\_ )

NO. H-10383 SF  
OAH NO. 2009010199

**DECISION**

The Proposed Decision dated October 19, 2009, 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.

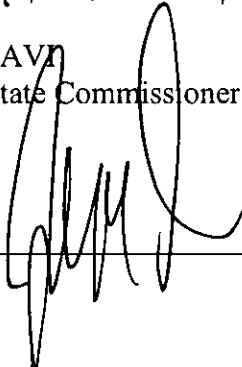
This Decision shall become effective at 12 o'clock noon on

December 14, 2009

IT IS SO ORDERED \_\_\_\_\_

11-19-09

JEFF DAVN  
Real Estate Commissioner

  
\_\_\_\_\_

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED

NOV 23 2009

DEPARTMENT OF REAL ESTATE

*K. Contreras*

In the Matter of the Accusation of:

FARSHID JEFF ASSIFI,  
CALIFORNIA MUTUAL REAL ESTATE  
INVESTMENTS, INC., a California  
Corporation, and  
JAIME VITAL,

Case No. H-10383

OAH No. 2009010199

Respondents.

**PROPOSED DECISION**

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on September 18, 2009.

Daniel E. Kehew, Counsel, represented complainant Charles W. Koenig, a Deputy Real Estate Commissioner of the State of California.

Mogeeb Weiss, Attorney at Law, represented respondents Farshid Jeff Assifi and California Mutual Real Estate Investments, Inc.

Respondent Jaime Vital was present and represented himself.

The matter was submitted for decision on September 18, 2009.

**FACTUAL FINDINGS**

*License History*

1. At all times relevant to this proceeding, respondent California Mutual Real Estate Investments, Inc., (California Mutual) has been licensed by the Department of Real Estate as a corporate real estate broker by and through respondent Farshid Jeff Assifi as designated officer-broker. Respondent California Mutual did business under the name of Realty World-Professional Negotiators. Its corporate license, number C/014360684, expired on October 20, 2008.

2. All times relevant to this proceeding, respondent Assifi has been licensed by the department as a real estate broker, individually under license number B/01357159, and as

designated officer-broker of respondent California Mutual. As a designated officer-broker, respondent is responsible for the supervision of the activities of the officers, agents, real estate licensees and employees of respondent California Mutual for which a license is required. The designation of respondent Assifi as officer-broker of respondent California Mutual expired on October 20, 2008.

3. On August 1, 2006, the corporate powers, rights and privileges of respondent California Mutual were forfeited by the Secretary of State pursuant to Corporations Code section 2206 for failing to file a statement of the names and addresses of its officers or address of its principal office as required by Corporations Code section 2116. The corporate powers, rights and privileges of respondent California Mutual remained in that status as of March 19, 2007.

4. At all times relevant, respondent California Mutual and respondent Assifi were engaged in the business of real estate brokers within the meaning of Business and Professions Code section 10131, subdivisions (a) and (d).

5. At all times relevant, respondent Jaime Vital has been licensed by the department of a real estate salesperson under license S/01454400 in the employ of respondent California Mutual. As issued on February 8, 2005, the license was a conditional real estate salesperson license. From August through September 2006, while in the employment of respondent California Mutual, respondent Vital engaged the business of being a real estate salesperson within the meaning of Business of Professions Code sections 10130.

From August 9, 2006, to August 24, 2006, respondent Vital's real estate salesperson license was suspended by the department for failing to provide evidence to the department of completion of the educational courses required by his licensure pursuant to Business and Professions Code section 10153.4.

#### *Castellon/Alberto Transaction*

6. On August 9, 2006, respondent Vital accepted employment to act as the agent of Ana Castellon and Herbert Alberto in the sale of their residence located at 775 39th Street in Richmond, California. Castellon and Alberto signed a three-month Residential Listing Agreement with Realty World-Professional Negotiators, which was to expire on November 8, 2006. In the course of his employment, respondent Vital negotiated and arranged a sales agreement in which Juan Campos (buyer) agreed to purchase the Richmond property. Respondent Vital also represented Campos in this transaction.

7. In the course of representing Castellon and Alberto, respondent Vital provided them with an offer which represented that Campos had submitted a \$1,000 deposit for the purchase of the property. This was false and a substantial misrepresentation. Campos never submitted a \$1,000 deposit toward the purchase of the property.

8. During the Castellon/Alberto transaction, the department suspended the license of respondent Vital for failing to complete the educational requirements of his conditional salesperson license required by Business and Professions Code section 10153.4. Respondent Vital continued to conduct activities for which a salesperson license was required, and respondent California Mutual through respondent Assifi continued to employ respondent Vital and permit him to conduct unlicensed activities.

9. Castellon discovered Vital's license had been suspended through another real estate agent she had consulted regarding aspects of the buyer's offer she questioned. She told Vital that his salesperson license was suspended, and he verbally resigned as their agent. Castellon requested written confirmation of the listing cancellation, but it was never provided to her. She also requested assistance from respondent Assifi regarding cancellation of the listing, but he refused to assist her unless she paid \$2,500 in penalties. As a result, Castellon did not list with another real estate agent until the three-month listing agreement expired. The home eventually sold in February 2007.

10. Castellon filed a complaint with the department in November 2006

*Failure to Maintain Records*

11. After notice from the department, respondent California Mutual failed to make available for department examination and copying the cancelled checks and other trust records executed or obtained by respondent California Mutual in connection with its brokerage activities regarding the Castellon/Alberto transaction.

12. In connection with the Castellon/Alberto transaction, respondent California Mutual did not retain for three years copies of all listings, deposit receipts, cancelled checks, trust records or other documents executed or obtained by respondent California Mutual in connection with its brokerage activities in violation of Business and Profession Code section 10148.

13. Investigator Robin Tanner was assigned to investigate Castellon's complaint. She made an appointment to visit Assifi and Vital at the office of respondent California Mutual on March 7, 2007, and she served on them a subpoena duces tecum for the broker's transaction records. Respondent Vital arrived 45 minutes late to the appointment.

Respondent Assifi was cooperative and he provided copies of a few documents he had on the office computer (a flyer on the property, a multiple listing on the property, and a credit report on the buyer). Respondent Assifi did not have any of the documents relating to the Castellon/Alberto listing and the offer to purchase that should have been maintained by respondent California Mutual. Respondent Assifi told Tanner that the transaction file was either with respondent Vital or in respondent Vital's office, an office for which he did not have the key. When respondent Vital arrived he was not able to produce the transaction file for Tanner, either.

14. Tanner gave respondent Assifi and respondent Vital the opportunity to submit the transaction file at a later time. The documents were never produced to the department. Respondent Vital did submit to Tanner subsequently a written statement by him, and a good faith estimate for an unrelated transaction.

*Lack of Supervision by Respondent Assifi*

15. Beginning in August 2006 with the Castellon/Alberto transaction and continuing thereafter, respondent Assifi failed to exercise reasonable supervision over the activities of real estate salespersons then licensed under respondent California Mutual. Respondent Assifi failed to provide reasonable review, oversight, inspection, and management of: (a) transactions requiring a real estate license conduct by real estate salespersons; and, (b) documents that may have a material effect upon the rights or obligations of a party to the transaction in violation of section 2725, subdivision (a) of title 10 of the California Code of Regulations, in that respondent Assifi failed to review, initial or date instruments, having a material effect upon the rights or obligations of a party to the transaction, which were prepared or signed in connection with transactions for which a license is required by the real estate salespersons.

16. At all times relevant, respondent Assifi, as designated officer-broker of respondent California Mutual, failed to exercise reasonable supervision and control over the licensed activities of respondent California Mutual, and its agents and employees

*Incompetence or Negligence of Assifi*

17. No competent evidence was presented to establish either negligence or incompetence as to respondent Assifi.

*Failure of Respondent California Mutual to Be in Good Standing with the Secretary of State*

18. The evidence established that on August 1, 2006, the corporate powers, rights and privileges of respondent California Mutual were forfeited by the Secretary of State and that they remained in that status as of March 19, 2007. No evidence was presented to establish that the suspension by the Secretary of State has ever been lifted. The evidence thus establishes that at all times relevant to the Castellon/Alberto transaction, respondent Assifi, on behalf of respondent California Mutual, was performing real estate activities while respondent California Mutual was not in good standing with the Secretary of State.

*Respondent Vital's Evidence*

19. Respondent Vital testified that he was unaware that his salesperson license had been suspended by the Commissioner, and that he did not intentionally allow that happen. He knew that he had 18 months from licensure on February 8, 2005, to complete the education requirements, and he completed the on-line classes on August 7, 2006 (having registered for the classes on January 29, 2006). The department's records reflect that

respondent Vital did not submit evidence of completion of the two classes until August 24, 2006, the day the suspension was lifted.

20. With respect to the Castellon/Alberto transaction, respondent Vital admitted that he never collected the \$1,000 deposit from the buyer. The buyer did not provide him with the deposit because "the transaction never materialized." He admits, however, that the offer he faxed to Castellon and Alberto from Campos unmistakably states that Campos had provided an initial deposit of \$1,000 to his agent respondent Vital, and that respondent Vital had such a deposit. This was not true.

21. Respondent Vital presented in evidence a Cancellation of Listing document he purportedly signed on October 13, 2006. This document was never presented to Castellon or Alberto. It is not signed by them. The document contains an incorrect date (September 26, 2006) for the start of the Residential Listing Agreement.

22. With respect to his relationship with respondent Assifi, respondent Vital testified that he regularly discussed his transactions with Assifi, and that they "shared responsibility" for maintaining the file of his transactions. With respect to the Castellon/Alberto transaction file, respondent says that he was the custodian of the file "that day," having taken it home with him to study before the meeting with Tanner. He made a mistake and brought the wrong "bag" with him to the meeting, and he left the file at home. Assuming that were true, this does not explain why he never complied with the subpoena duces tecum at a later date. At hearing, he testified that respondent Assifi now holds the original file, and that he has only a copy of it. He did not produce that file at hearing.

23. Respondent Vital does not believe that he did anything wrong in his handling of the Castellon/Alberto transaction. He added that he values his license, and he takes transaction paperwork seriously.

24. Vital's employment with respondent California Mutual ended in October 2007. Since that time, respondent Vital has been associated with Dennis Richard Poll where he does residential real estate transactions. Respondent Vital did not present any evidence from his current broker.

25. Respondent Vital has been a full-time aircraft inspector with United Airlines for 23 years. He is married and has two children, one in college, and one in high school.

#### *Respondent Assifi's Evidence*

26. Respondent Assifi started respondent California Mutual in 2004. He is the sole owner. At its largest in mid-2006, the brokerage employed five or six agents, a loan processor, a transaction coordinator, and tele-marketers. The corporation is currently inactive, and he plans to dissolve it. The business became a financial hardship for him, and he is "stuck with" an \$8,000 lease. He is transitioning to working under his own license.

27. Respondent Assifi testified that he was unaware that his corporate status had been suspended by the Secretary of State until the hearing in this matter.

28. With respect to respondent Vital's license, respondent Assifi testified that he advised Vital to complete the classes months before the deadline.

29. With respect to the Castellon/Alberto transaction, respondent Assifi testified that he had no access to the file, and that Vital kept all files in his office. He spoke with Vital several times to request Vital to provide the documents to Tanner. The last time he spoke with Vital, Vital told him that he had sent the documents to Tanner, and he assumed that he respondent Vital had done so. From this testimony, it is presumed that respondent Assifi still does not possess the transaction file for Castellon/Alberto transaction.

30. With respect to his operation of respondent California Mutual, respondent Assifi testified that it was his practice to review and inspect all transaction files once a week. He testified that he has a written policy manual, but he did not produce it at hearing.

#### LEGAL CONCLUSIONS

1. The standard of proof applied in this proceeding is clear and convincing evidence.

2. Pursuant to Business and Professions Code section 10177, subdivision (d), the Commissioner may suspend or revoke a real estate license if the licensee has "[w]ilfully disregarded or violated the Real Estate Law . . . or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law."<sup>1</sup>

#### *Respondent Jamie Vital*

3 Findings 5 through 8: In acting as a real estate salesperson while his license was suspended, respondent Vital violated Business and Professions Code section 10130. Cause for license discipline exists by reason of respondent's violation of this section, in conjunction with Business and Professions Code section 10177, subdivision (d).

4. Findings 6 though 8 and 20: Pursuant to Business and Professions Code section 10176, subdivision (a), the Commissioner may suspend or revoke a real estate license if the licensee has made a substantial misrepresentation in performing an act under the Real Estate Law. Cause for license discipline exists by reason of respondent's violation of this section.

5. Penalty Determination: Respondent Vital committed serious violations of the Real Estate Law which for which he does not accept responsibility, and for which he does not appear to understand their significance. Respondent had a fiduciary obligation to

---

<sup>1</sup> The Real Estate Law is found at Business and Professions Code section 10000 et seq.

Castellon and Alberto, which he ignored in favor of making a quick sale to his other client, the buyer. With respect to his "paperwork," to this date, respondent Vital has not complied with the department's subpoena duces tecum to provide the transaction file, notwithstanding telling his broker that he had done so. Respondent Vital has not demonstrated sufficient insight into his misconduct to support his continued licensure. The protection of the public compels revocation of his real estate salesperson license.

Farshid Jeff Assifi

5. Findings 1 through 3, and 5 through 8: In permitting respondent Vital to be employed while his real estate salesperson license was suspended, respondent Assifi violated Business and Professions Code sections 10130 and 10137. Cause for license discipline exists by reason of respondent's violations of these sections, in conjunction with Business and Professions Code section 10177, subdivision (d).

6. Findings 1 through 3, 5, 6, 15, 16 and 18: Pursuant to Business and Professions Code section 10159.2, subdivision (a), a corporate officer in charge is responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees, including its real estate salespersons, as necessary to secure full compliance with the Real Estate Law. Cause for license discipline exists by reason of respondent's violation of this section, in conjunction with Business and Professions Code section 10177, subdivision (d).

7. Findings 1 through 4, and 18: Pursuant to section 2742, of title 10 of the California Code of Regulations, a corporation licensed under Business and Professions Code section 10211 may not engage in the business of being a real estate broker while not in good legal standing with the Office of the Secretary of State. Cause for license discipline exists by reason of respondent's violation of this section, in conjunction with Business and Professions Code section 10177, subdivision (d).

8. Findings 1 through 3, 5, 8, 15, 16 and 18: Pursuant to Business and Professions Code section 10177, subdivision (h), the Commissioner may discipline a broker licensee, who as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and over the activities of the corporation for which a real estate license is required. Cause for license discipline exists by reason of respondent's violation of this section.

9. Findings 2, 3, 5, 8, 15, 16 and 18: Pursuant to section 2725, of title 10 of the California Code of Regulations, a real estate broker must exercise reasonable supervision of the activities of his or her real estate salespersons. Reasonable supervision includes "the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage, among other things, documents which may have a material effect upon the rights and obligations of a party to a real estate transaction. Cause for license discipline exists by reason of respondent's violations of this section, in conjunction with Business and Professions Code section 10177, subdivision (d).



10. Finding 17: Cause for discipline under Business and Professions Code section 10177, subdivision (g), was not established.

11. Penalty Determination: Respondent Assifi has not presented sufficient evidence of mitigation or rehabilitation to support his continued licensure as a real estate broker. Respondent Assifi appeared to exercise little if any supervision over respondent Vital, allowing him to continue to transact licensed activities while his real estate salesperson license was suspended, and to maintain transaction files outside of the office or in an office to which the broker had no access. Respondent Assifi allowed the corporate brokerage to continue to operate, unaware that the corporation was not in good standing with the Secretary of State. Respondent Assifi presented no evidence which would instill any confidence of his ability to comply in the future with the supervisory requirements of a real estate broker under the Real Estate Law. Under these circumstances, the protection of the public compels revocation of his license and licensing rights.

California Mutual Real Estate Investments, Inc.

12. Findings 5 through 8: In employing respondent Vital while his real estate salesperson license was suspended, respondent California Mutual violated Business and Professions Code sections 10130 and 10137. Cause for license discipline exists by reason of respondent's violation of these sections, in conjunction with Business and Professions Code section 10177, subdivision (d).

13. Findings 1 through 4: Pursuant to section 2742, of title 10 of the California Code of Regulations, a corporation licensed under Business and Professions Code section 10211 may not engage in the business of being a real estate broker while not in good legal standing with the Office of the Secretary of State. Cause for license discipline exists by reason of respondent's violation under this section, in conjunction with Business and Professions Code section 10177, subdivision (d).

14. Findings 12 through 15: Pursuant to Business and Professions Code section 10148, subdivision (a), a licensed real estate broker must maintain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transaction for which a real estate broker license is required. Cause for license discipline exists by reason of respondent's violation of this section, in conjunction with Business and Professions Code section 10177, subdivision (d).

15. Penalty Determination: Because respondent Assifi is the sole owner of California Mutual Real Estate Investment, Inc., the protection of the public compels revocation of its license and licensing rights.

ORDER

1. All licenses and licensing rights of respondent Jaime Vital under the Real Estate Law are revoked.
2. All licenses and licensing rights of respondent Farshid Jeff Assisi under the Real Estate Law are revoked.
3. All licenses and licensing rights of respondent California Mutual Real Estate Investments, Inc., are revoked.

DATED: 10-19-09



MELISSA G. CROWELL  
Administrative Law Judge  
Office of Administrative Hearings

1 ANGELA L. CASH, Counsel (SBN 230882)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0805 (Direct)

FILED

APR 28 2008

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 FARSHID JEFF ASSIFI, )  
13 CALIFORNIA MUTUAL REAL )  
14 ESTATE INVESTMENTS, INC., )  
15 a California Corporation and )  
16 JAIME VITAL, )

Respondents. )

No. H-10383 SF

ACCUSATION

17 The Complainant, Charles W. Koenig, a Deputy Real  
18 Estate Commissioner of the State of California, for cause of  
19 Accusation against FARSHID JEFF ASSIFI (hereinafter "Respondent  
20 ASSIFI"), CALIFORNIA MUTUAL REAL ESTATE INVESTMENTS, INC.  
21 (hereinafter "Respondent CALIFORNIA MUTUAL"), and JAIME VITAL  
22 (hereinafter "Respondent VITAL") collectively referred to as  
23 "Respondents", is informed and alleges as follows:

24 I

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

1 II

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

5 III

6 At all times herein mentioned, Respondent CALIFORNIA  
7 MUTUAL was and now is licensed by the Department of Real Estate  
8 of the State of California (herein "the Department") as a  
9 corporate real estate broker by and through Respondent ASSIFI as  
10 designated officer-broker of Respondent CALIFORNIA MUTUAL to  
11 qualify said corporation and to act for said corporation as a  
12 real estate broker.

13 IV

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

23 V

24 On or about August 1, 2006, pursuant to the provisions  
25 of Section 2206 of the Corporations Code of the State of  
26 California, the corporate powers, rights and privileges of  
27 Respondent CALIFORNIA MUTUAL were forfeited by the California

1 Secretary of State's Office for failure to file a Statement  
2 pursuant to Section 2117 of the California Corporations Code,  
3 reinstatement never having been effected.

4 VI

5 At all times herein mentioned, Respondent CALIFORNIA  
6 MUTUAL engaged in the business of, acted in the capacity of,  
7 advertised, or assumed to act as a real estate broker within the  
8 State of California within the meaning of Section 10131(a) of  
9 the Code, including the operation and conduct of a real estate  
10 resale brokerage with the public wherein, on behalf of others,  
11 for compensation or in expectation of compensation, Respondent  
12 CALIFORNIA MUTUAL sold or offered to sell, bought or offered to  
13 buy, solicited prospective sellers or purchases of, solicited or  
14 obtained listings of, and/or negotiated the purchase or sale of  
15 real property pursuant to Section 10131(a).

16 VII

17 At all times herein mentioned, Respondent VITAL was  
18 and now is licensed by the Department as a real estate  
19 salesperson in the employ of Respondent CALIFORNIA MUTUAL.

20 VIII

21 Beginning on or about August 9, 2006 through on or  
22 about August 24, 2006, Respondent VITAL's real estate  
23 salesperson license was conditionally suspended.

24 IX

25 At all times herein mentioned, Respondent VITAL  
26 conducted the activities described in Paragraph VI, above, as  
27 the agent and employee of Respondent CALIFORNIA MUTUAL.

1 X

2 Beginning in or about August 2006 through on or about  
3 September 2006, at a time when Respondent VITAL's real estate  
4 salesperson license was suspended, while in the employ of  
5 Respondent CALIFORNIA MUTUAL, engaged in the business of, acted  
6 in the capacity of, advertised or assumed to act as a real  
7 estate salesperson in the State of California, within the  
8 meaning of Section 10130 of the Code wherein Respondent VITAL  
9 for or in expectation of a compensation solicited prospective  
10 sellers or purchases of, solicited or obtained listings of,  
11 and/or negotiated the purchase or sale of real property pursuant  
12 to Section 10131(a).

13 XI

14 On or about August 9, 2006, in the course of the  
15 activities described in Paragraph X, above, Respondent VITAL  
16 accepted employment by Ana Castellon and Herbert Alberto  
17 (hereinafter "Sellers"), to act exclusively as Sellers' agent in  
18 negotiating Sellers' sale of residential real property, and the  
19 residential structure situated thereon, at 775 39<sup>th</sup> Street,  
20 Richmond, California 94801 (hereinafter "subject property").

21 XII

22 In the course of Respondent VITAL's agency and  
23 employment described above, Respondent VITAL negotiated and  
24 arranged a sales agreement, whereby Juan Campos (hereinafter  
25 "Buyer") agreed to purchase the subject property.

26 ///

27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

XIII

In the course of Respondent VITAL's agency and employment by Sellers described above, to induce Sellers to accept Buyer's offer to purchase the subject property, Respondent VITAL represented to Sellers that Buyer submitted a deposit in the amount of \$1,000 for the purchase of the subject property. This representation was false when made, as Respondent VITAL well and truly knew at the time. In truth and fact, Buyer never submitted to Respondent VITAL a deposit in the amount of \$1,000 for the purchase of the subject property.

XIV

In acting as described above, Respondents violated and/or willfully disregarded Sections 10130 and 10137 of the Code.

XV

The acts and omissions of Respondent VITAL described above constitutes the substantial misrepresentation of a material fact.

XVI

At all times mentioned herein, Respondent ASSIFI failed to exercise reasonable supervision over the acts of Respondent CALIFORNIA MUTUAL and its agents and employees in such a manner as to allow the acts and omissions on the part of Respondent CALIFORNIA MUTUAL, described above, to occur.

///  
///  
///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

XVII

Beginning in or about August 2006 and continuing thereafter, in connection with the transaction of said property in Paragraphs X through XIII, Respondent CALIFORNIA MUTUAL:

(a) Failed to retain for three years copies of all listings, deposit receipts, canceled checks, trust records and other documents executed or obtained by Respondent in connection with transactions for which a real estate broker license is required; and/or

(b) Failed after notice to make such canceled checks and other trust records available for examination, inspection and copying by the designated representative of the Real Estate Commissioner.

XVIII

Beginning in or about August 2006 and continuing thereafter, in the course of the activities and events described above, Respondent ASSIFI failed to exercise reasonable supervision over the activities of, real estate salespersons then licensed under Respondent CALIFORNIA MUTUAL, in that Respondent ASSIFI failed to provide reasonable review, oversight, inspection, and management of:

(a) Transactions requiring a real estate license conducted by said real estate salesperson; and

(b) Documents which may have a material effect upon the rights or obligations of a party to such transactions and in particular failed to comply with the requirements of Section 2725(a) of the Regulations in that Respondent failed to review,



1 initial and date instruments, having a material effect upon the  
2 rights or obligations of a party to a transaction, which were  
3 prepared or signed in connection with transactions for which a  
4 license is required by said real estate salesperson.

5 XIX

6 The acts and omissions alleged above constitute cause  
7 for the suspension or revocation of all licenses and license  
8 rights of Respondents pursuant to the provisions of Sections  
9 10130 and 10137 of the Code in conjunction with 10177(d) of the  
10 Code.

11 XX

12 The acts and omissions alleged above constitute cause  
13 for the suspension or revocation of all licenses and license  
14 rights of Respondent VITAL pursuant to the provisions of Section  
15 10176(a) of the Code.

16 XXI

17 The acts and omissions of Respondent CALIFORNIA MUTUAL  
18 described above in Paragraphs XVII and XVIII, above, constitute  
19 cause for the suspension or revocation of the licenses and  
20 license rights of Respondent CALIFORNIA MUTUAL under Section  
21 10148 of the Code in conjunction with Section 10177(d) of the  
22 Code.

23 XXII

24 The acts and omissions of Respondent ASSIFI, described  
25 above, constitute failure on the part of Respondent ASSIFI, as  
26 designated broker-officer of Respondent CALIFORNIA MUTUAL, to  
27 exercise reasonable supervision and control over the licensed

1 activities of Respondent CALIFORNIA MUTUAL as required by  
2 Section 10159.2.

3 XXIII

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

7 (a) As to Respondents described in Paragraphs X  
8 through XIII, above, under Sections 10130 and 10137 of the Code  
9 in conjunction with Section 10177(d) of the Code;

10 (b) As to Respondents CALIFORNIA MUTUAL and ASSIFI  
11 described in Paragraphs V and VI, above, under Sections 2742(c)  
12 of Chapter 6, Title 10, California Code of Regulations  
13 (hereinafter "the Regulations") in conjunction with Section  
14 10177(d) of the Code;

15 (c) As to Respondent CALIFORNIA MUTUAL described in  
16 Paragraphs XVII and XVIII, above, under Section 10148 of the  
17 Code in conjunction with Section 10177(d) of the Code;

18 (d) As to Respondent VITAL and Paragraphs X through  
19 XIII, above, under Section 10176(a) of the Code;

20 (e) The facts alleged above constitute cause for the  
21 suspension or revocation of the licenses and license rights of  
22 Respondent ASSIFI under Section 10177(g) and/or Section 10177(h)  
23 of the Code and Section 10159.2 of the Code and Section 2725 of  
24 the Regulations both in conjunction with Section 10177(d) of the  
25 Code.

26 ///

27 ///

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

9    
10 CHARLES W. KOENIG  
11 Deputy Real Estate Commissioner

11 Dated at Sacramento, California,  
12 this 25<sup>th</sup> day of April, 2008.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27