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FEB -2 1989

DEPARTMENT OF REAL ESTATE

BY *Alma S. [Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
MARVIN BERNARD KAPELUS,)
Respondent.)

No. H-18385 LA
L-1901

ORDER DENYING REINSTATEMENT OF LICENSE

On December 4, 1972, a Decision was rendered herein
revoking the real estate broker license of Respondent, effective
December 26, 1972.

On December 10, 1974, Respondent filed a petition for
reinstatement of said real estate broker license and on
November 26, 1975, Respondent was granted the right to a
restricted real estate broker license.

On February 20, 1976, a restricted real estate broker
license was issued to Respondent and he has operated as a restricted
licensee since that date.

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1 On August 28, 1987, Respondent petitioned for
2 reinstatement of said real estate broker license and the Attorney
3 General of the State of California has been given notice of the
4 filing of the petition.

5 I have considered Respondent's petition and the evidence
6 and arguments in support thereof. Respondent has failed to
7 demonstrate to my satisfaction that he has undergone sufficient
8 rehabilitation to warrant the reinstatement of his real estate
9 broker license.

10 This determination has been made upon the basis of the
11 following factors and considerations:

12 1. The Decision revoking Respondent's real estate broker
13 license was based on a finding of fact that, "On or about
14 January 11, 1972, in the United States District Court for the
15 District of Maryland, respondent was convicted of aiding and abetting
16 in the violation of Title 18, USC Sections 1341 and 1342 (Mail
17 Fraud), a felony and an offense involving moral turpitude."

18 2. In a decision which was based on the same facts which
19 led to his conviction of mail fraud, Respondent's license to
20 practice law was suspended by the California State Bar from
21 July 22, 1970, to December 23, 1973.

22 3. In response to question 5 of Respondent's petition
23 for reinstatement of license, to wit: "Has any other type of
24 license been denied, suspended, revoked, qualified, restricted or
25 disciplinary action taken concerning any such license?", Respondent
26 replied, "Bar License was suspended and reinstated in 1972"
27 implying that the discipline described, above, in Paragraph 2, was

1 the ONLY discipline imposed upon him by the California State Bar.
2 Whereas, in truth and in fact, Respondent was the recipient of a
3 reproof issued against him by the California State Bar in 1981
4 and, in a Decision dated December 10, 1987, the Supreme Court of
5 the State of California made the following order: "Accordingly, it
6 is ordered that petitioner Marvin B. Kapelus be disbarred from the
7 practice of law and that his name be stricken from the roll of
8 attorneys." The above material misstatements of fact to his
9 petition for reinstatement of license manifests a lack of honesty
10 and truthfulness and is a basis for denial under Sections 480(c)
11 and 10177(a) of the California Business and Professions Code. In
12 addition, the revocation of Respondent's license as an attorney is
13 further basis for the denial of Respondent's petition under
14 Sections 480(c) and 10177(f) of the California Business and
15 Professions Code.

16 4. In response to question 6 of Respondent's petition
17 for reinstatement of license, to wit: "Have you been a defendant
18 in any civil litigation since your license was disciplined?",
19 Respondent replied, "Date of Case - 8/10/82, Name of Case -
20 Kressig vs Kapelus, Case Number - 38 40 79...Case was for injunction
21 against foreclosure of a Deed of Trust, Five year statute has
22 expired and case is to be dismissed", implying that he had been a
23 defendant in only one case since his license was disciplined.
24 Whereas, in truth and in fact, according to the Orange County
25 Central Court Index, Respondent was named as defendant in twenty-
26 three (23) cases from February 27, 1976, to date, including two
27 cases heard in the Municipal Court of Orange County, Harbor

1 Judicial District, entitled Al N. Willrich v. Marvin Kapelus and
2 Lee Healy v. Marvin Kapelus (Case Nos. 79918 and 86599), where
3 Respondent was ordered to pay Willrich the sum of \$520.00 and
4 Healy the sum of \$220.00. This further material misstatement of
5 fact in his petition for reinstatement of license again manifests
6 a lack of honesty and truthfulness and is a basis for denial under
7 Sections 480(c) and 10177(a) of the California Bus. & Professions Code.

8 5. In addition, Respondent failed to present any evidence
9 that all or any part of the judgments entered against him in the
10 Willrich and Healy cases described, above, in Paragraph 4, have
11 been paid. Respondent's failure to discharge the aforesaid
12 adjudicated debts or monetary obligations constitutes a further
13 lack of rehabilitation and, as such, is a basis for denial of
14 Respondent's petition for reinstatement under Section 2911(i) of
15 Title 10, Chapter 6, California Code of Regulations.

16
17 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
18 for reinstatement of his real estate broker license is denied.

19 This Order shall become effective at 12 o'clock noon
20 on February 22, 1989.

21 DATED: January 23, 1989.

22 JAMES A. EDMONDS, JR.
23 Real Estate Commissioner

24 By: John R. Liberator
25 JOHN R. LIBERATOR
26 Chief Deputy Commissioner

25 cc: Marvin Bernard Kapelus
26 192 Hartford Drive
27 Newport Beach, CA 92660

27

NOV 10 1982

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MARVIN BERNARD KAPELUS,)
Respondent.)

No. H-18385 LA
L-1901

ORDER GRANTING REINSTATEMENT OF LICENSE

On December 4, 1972, a Decision was rendered herein
revoking the real estate broker license of respondent.

On November 26, 1975, respondent was granted the
right to a restricted real estate broker license. On
February 20, 1976, a restricted real estate broker license was
issued to respondent and he has operated as a restricted
licensee without cause for disciplinary action since that date.

On April 22, 1980, respondent petitioned for
reinstatement of his real estate broker license and the Attorney

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1 General of the State of California has been given notice of the
2 filing of said petition.

3 I have considered respondent's petition and the evidence
4 and arguments in support thereof including his record as a
5 restricted licensee. Respondent has demonstrated to my
6 satisfaction that grounds do not presently exist to deny the
7 issuance of an unrestricted real estate broker license to him.

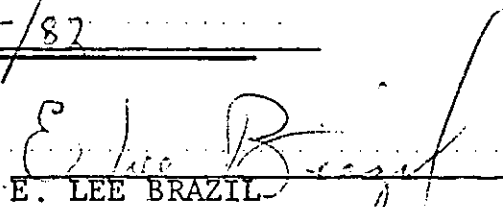
8
9 NOW, THEREFORE, IT IS ORDERED that respondent's petition
10 for reinstatement is granted and that a real estate broker license
11 be issued to him if he satisfies the following conditions within
12 six (6) months from the date of this Order:

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

15 2. Submittal of evidence of the completion of 45 hours
16 of approved continuing education offerings within the four-year
17 period immediately preceding the date on which the evidence of
18 completion of continuing education is submitted to the Department.

19 This Order shall be effective immediately.

20 DATED: 11/5/82

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22 
23 E. LEE BRAZIL
24 Real Estate Commissioner

25 cc: Marvin Bernard Kapelus
26 14 Rue Deauville
27 Newport Beach, CA 92660

FILED

DEC-2 1975

DEPARTMENT OF REAL ESTATE
BY Helen Villanueva

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) NO. H-18385 LA
MARVIN BERNARD KAPELUS,) L-1901
Respondent.) ORDER DENYING
) REINSTATEMENT OF
) LICENSE

On December 4, 1972, a Decision was rendered herein
revoking the real estate broker license of respondent MARVIN
BERNARD KAPELUS.

On or about December 10, 1974, respondent filed a
petition for reinstatement of said real estate broker license.

The Attorney General of the State of California has
been duly advised thereof.

I have considered the petition of respondent and all
evidence in support thereof and am not satisfied that respondent
has demonstrated that he is sufficiently rehabilitated to warrant
the issuance to him of a license to act as a real estate broker.
I am satisfied, however, that it would not be against the public
interest to issue a restricted real estate broker license to

1 respondent.

2 NOW, THEREFORE, IT IS ORDERED that the petition of
3 MARVIN BERNARD KAPELUS for reinstatement of his real estate broker
4 license be, and the same is, hereby denied.

5 A restricted real estate broker license shall be issued
6 to respondent pursuant to Section 10156.5 of the Business and
7 Professions Code if respondent makes application therefor and
8 pays the appropriate fee for said license within 90 days from the
9 effective date hereof.

10 The restricted license issued to respondent shall be
11 subject to all the provisions of Section 10156.7 of the Business
12 and Professions Code and to the following limitations, conditions
13 and restrictions imposed under authority of Section 10156.6 of
14 said Code:

15 A. Said restricted license may be suspended prior
16 to hearing by Order of the Real Estate Commissioner in
17 the event of respondent's conviction or plea of nolo
18 contendere to a crime which bears a significant relation
19 to respondent's fitness or capacity as a real estate
20 licensee.

21 B. Said restricted license may be suspended prior
22 to hearing by Order of the Real Estate Commissioner on
23 evidence satisfactory to the Commissioner that respondent
24 has violated provisions of the California Real Estate
25 Law, the Subdivided Lands Law, Regulations of the Real
26 Estate Commissioner or conditions attaching to this
27 restricted license.

1 This Order shall be effective on the 23rd day of
2 December, 1975.

3 IT IS SO ORDERED this 26th day of November, 1975.
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7 JOHN E. HEMPEL
8 Chief Deputy Director
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DEC-5 1972

DEPARTMENT OF REAL ESTATE

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DEPARTMENT OF REAL ESTATE

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In the Matter of the Accusation of)	
MARVIN EERNARD KAPELUS,)	NO. H-18385 LA
Respondent.)	L-1901
)	<u>DECISION AND ORDER</u>
)	<u>AFTER REJECTION</u>

This matter came on regularly for hearing before HELEN L. GALLAGHER, Hearing Officer of the Office of Administrative Hearings, at Los Angeles, California, on August 11, 1972, at the hour of 2:30 p.m. MARJORIE P. MERSEL, Counsel, appeared on behalf of the Department of Real Estate. Respondent appeared in person and was represented by LEE W. LANDRUM, Attorney at Law. Evidence both oral and documentary was introduced, the matter submitted, and the Hearing Officer submitted her Proposed Decision to the Real Estate Commissioner.

On August 28, 1972, the Real Estate Commissioner rejected the Proposed Decision of the Hearing Officer and caused a copy of the Notice of Rejection of the Proposed Decision to be served on the respondent, apprising the respondent that the Proposed Decision was rejected, and that the Real Estate

1 Commissioner would decide the case upon the record therein,
2 including the transcript of the prior proceedings, and any
3 written argument submitted by the respondent on or before fifteen
4 (15) days after receipt of the transcript of the proceedings of
5 August 11, 1972, by the Department of Real Estate. Respondent
6 did submit written argument to the Department of Real Estate on
7 October 20, 1972.

8 The Real Estate Commissioner has now considered the
9 record in the case, including the transcript of the proceedings
10 and written argument submitted by the respondent, and finds the
11 following facts:

I

13 WILLIAM H. WALL filed the Accusation herein in his
14 official capacity as a Deputy Real Estate Commissioner of the
15 State of California.

II

17 At all times herein referred to, respondent has been
18 and now is licensed by the Department of Real Estate of the
19 State of California as a real estate broker.

III

On or about January 11, 1972, in the United States District Court for the District of Maryland, respondent was convicted of aiding and abetting in the violation of Title 18, U.S.C. Sections 1341 and 1342 (mail fraud), a felony and a crime involving moral turpitude.

IV

27 The following mitigating and extenuating facts were

1 established by respondent:

- 2 A) Respondent was a practicing attorney in the State
3 of California from 1957 until August 22, 1970,
4 at which time, his license to practice law was
5 summarily suspended by the California State Bar.
- 6 B) Respondent received a sentence of one year
7 imprisonment as a result of this conviction, but
8 served only 100 days in a federal correctional
9 institution. Respondent was placed on probation
10 by the court for a period of five years.
- 11 C) Respondent was not primarily responsible for the
12 fraud that resulted in his conviction and that of
13 various other principals in the venture to market
14 a telephone index device. While respondent was
15 active on behalf of the corporation promoting the
16 marketing of the device, his culpability stemmed
17 primarily from his inattention and lack of familiar-
18 ity with the officers of the corporation and their
19 activities.
- 20 D) Respondent is presently active in the real estate
21 field primarily as a loan broker. He is married and
22 is responsible for the support of four children.

23 * * * *

24 Pursuant to the foregoing findings of fact, the
25 following determination is made:

26 I

27 Grounds for disciplinary action against the real estate

1 broker license of respondent have been established under
2 § 10177(b) of the Business and Professions Code.

3 * * * *

4 WHEREFORE, the following Order is made:

5 The license of MARVIN BERNARD KAPELUS to act as a real
6 estate broker in the State of California is hereby revoked;
7 provided, however, that a restricted real estate salesman license
8 shall be issued to him upon his application and the receipt of
9 the fee therefor. The restricted real estate salesman license
10 shall be issued pursuant to the provisions of § 10156.5(a) of the
11 Business and Professions Code and shall be subject to the
12 following terms, conditions and restrictions:

- 13 1) Respondent shall at all times obey and comply with
14 all federal and state laws and with the regulations
15 of the Real Estate Commissioner to which he is
16 subject in the conduct of activities authorized under
17 said restricted license.
- 18 2) Respondent shall not be eligible to apply for the
19 issuance of an unrestricted real estate salesman
20 license until at least one year has elapsed from
21 the effective date of this Decision.
- 22 3) Respondent shall submit with his application for
23 license or with his application for transfer to a
24 new employing broker, a statement signed by the
25 prospective employing broker on a form approved by
26 the Department of Real Estate wherein the employing
27 broker shall certify as follows:

1 (a) That he has read this Decision in case No.
2 H-18385 LA.

3 (b) That as employing broker, he will carefully
4 review all transaction documents prepared by
5 respondent and otherwise exercise close
6 supervision over his performance of acts for
7 which a license is required.

8 This Decision shall become effective on December 26,
9 1972.

10 IT IS SO ORDERED this 4th day of December, 1972.
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13 Robert W. Karpe.
14 ROBERT W. KARPE
15 Real Estate Commissioner
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FILED

AUG 30 1972

DEPARTMENT OF REAL ESTATE
BY *Rylua Reyes*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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11	In the Matter of the Accusation of)	
12	MARVIN BERNARD KAPELUS,)	NO. H-18385 LA
13	Respondent.)	L-1901
14		<u>NOTICE OF REJECTION</u> <u>OF PROPOSED DECISION</u>

15 TO: MARVIN BERNARD KAPELUS
16 and
17 LEE W. LANDRUM, his Attorney

18 YOU ARE HEREBY NOTIFIED that the Proposed
19 Decision of Hearing Officer HELEN L. GALLAGHER dated
20 August 17, 1972, is Rejected. A copy of said Proposed
21 Decision is served herewith.

22 In accordance with Section 11517(c) of the ,
23 Government Code of the State of California, a Decision
24 will be rendered by me based upon the record herein,
25 including the transcript of the proceedings held on
26 August 11, 1972, and any written argument hereafter
27 submitted.

Written argument to be considered by me must

1 be received 15 days after the delivery of the transcript
2 to the Los Angeles office of the Department of Real
3 Estate.

4 DATED: August 28th 1972

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Robert W. Karpe
ROBERT W. KARPE
Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JUN 22 1972

DEPARTMENT OF REAL ESTATE
BY *ca*

In the Matter of the Accusation of)
MARVIN EDWARD KAPLAN,)
Respondent)

No. **B-1835 LA**
L-1501

NOTICE OF HEARING ON ACCUSATION

(Pursuant to Section 11509 of the Government Code)

TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of Real Estate at 514 West First Street, Los Angeles, Ca. 90012 on the 11th day of August, 19 72, at the hour of 10:00 a.m., or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

As in all adversary proceedings, you may be present at the hearing, and may be represented by counsel but you are neither required to be present at the hearing, nor are you required to be represented by counsel. However, if you are not present at the hearing in person, nor represented at the hearing by counsel, the agency may take disciplinary action against you upon any express admissions, or upon other evidence, and in the event that a notice of defense has not been filed by you, upon affidavits, without further notice to you.

You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

Dated: June 22, 1972

ROBERT W. KARPE
REAL ESTATE COMMISSIONER

By **BARBARA S. LITTELL**
Attorney

REK:AS
cc: Marvin Edward Kaplan
Lee V. Landrum, Esq.
Dunn, Sacto

OAH
AS
R/E Form 501
11-7-69

1 MARJORIE P. MERSEL
2 Counsel
3 Department of Real Estate
4 107 S. Broadway, Room 8009
5 Los Angeles, California 90012

6 620-4790

FILED

MAY -3 1972

DEPARTMENT OF REAL ESTATE
BY CA

8 DEPARTMENT OF REAL ESTATE

9 * * *

10 In the Matter of the Accusation of)

NO. H-18385 LA

11 MARVIN BERNARD KAPELUS,

ACCUSATION

12 Respondent.

13
14
15 The complainant, William H. Wall, a Deputy Real
16 Estate Commissioner of the State of California, for cause
17 of accusation against respondent, MARVIN BERNARD KAPELUS,
18 is informed and alleges as follows:

19 I

20 At all times herein mentioned the respondent,
21 MARVIN BERNARD KAPELUS, has been and now is licensed by
22 the Department of real estate of the State of California
23 as a real estate broker.

24 II

25 On or about January 11, 1972, in the United
26 States District Court for the District of Maryland,
27 respondent was convicted of the crime of violating Title

18. USC, Sections 1341 and 1342 (Mail Fraud), a felony and
a crime involving moral turpitude.

III

Respondent's criminal conviction as alleged above
subjects his real estate broker's license rights to sus-
pension or revocation under Section 10177(b) of the
Business and Professions Code of the State of California.

WHEREFORE, the complainant prays that the above-
mentioned Accusation be set for hearing, and upon proof of
the charges contained therein that the Real Estate Commis-
sioner suspend or revoke the license held by the respondent,
and any and all rights which he may presently have in such
license, and for such other and further relief as may be
proper in the premises under the provisions of Sections
11500 through 11520 of the Government Code, and Section
10100, Division 4, of the Business and Professions Code of
the State of California.

Dated at Los Angeles, California
this 3rd day of May 1972.

WILLIAM A. DUFFY
Deputy Real Estate Commissioner

cc: Marvin Bernard Kapsius
Dunn, Secto
CAP
AS