

DEPARTMENT OF REAL ESTATE

SEP 11 1989

STATE OF CALIFORNIA

REAL ESTATE
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In the Matter of the Accusation of)	No. H-23446 LA
LIBERTY FINANCIAL NETWORK,)	
INC., a California)	
corporation; and GERALD)	
LOUIS LUSEAR, individually,)	
dba Million Dollar Realty)	
Financial Services, and as)	
designated officer of)	
Liberty Financial Network,)	
Inc.,)	
Respondents.)	

DECISION

The Proposed Decision dated August 28, 1989, of Randolph Brendia, Regional Manager, Department of Real Estate, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter, as to Respondent GERALD LOUIS LUSEAR only.

This Decision shall become effective at 12 o'clock noon on October 2, 1989.

IT IS SO ORDERED 9-6, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

BY: *[Handwritten Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of) No. H-23446 LA
LIBERTY FINANCIAL NETWORK,)
INC., a California)
corporation; and GERALD)
LOUIS LUSEAR, individually,)
dba Million Dollar Realty)
Financial Services, and as)
designated officer of)
Liberty Financial Network,)
Inc.,)
Respondents.)

PROPOSED DECISION

This matter was presided over by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner in Los Angeles, California, on August 28, 1989.

Robert E. Baker, Counsel, represented the Complainant. Respondent GERALD LOUIS LUSEAR was present in pro per.

The matter involving the Accusation of Respondent Liberty Financial Network, Inc., was severed for hearing at another date.

The matter involving the Accusation of GERALD LOUIS LUSEAR was submitted upon the written Stipulation of the parties and, pursuant thereto, the following Decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

1.

The complainant, Randolph Brendia, at the time a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

2.

All sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

3.

Liberty Financial Network, Inc. (hereinafter Liberty), and GERALD LOUIS LUSEAR (hereinafter LUSEAR or Respondent) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter the Code).

4.

At all times herein mentioned, Liberty was licensed by the Department of Real Estate of the State of California (hereinafter Department) as a corporate real estate broker by and through LUSEAR as designated officer.

5.

At all times herein mentioned, LUSEAR was licensed by the Department as a real estate broker, both individually and dba Million Dollar Realty Financial Services, Inc. (hereinafter MDR), and as the designated officer of Liberty to qualify said corporation and to act for said corporation as a real estate broker. Under Section 10159.2 of the Code, LUSEAR was responsible for the supervision and control of the activities conducted on behalf of Liberty by its officers and employees as necessary to secure full compliance with the provisions of the Code and of the Regulations. Further, LUSEAR was also responsible for the activities of MDR requiring a real estate license.

6.

At all times herein mentioned, Liberty and LUSEAR engaged in the business of, acted in the capacity of, advertised and assumed to act as real estate brokers as defined in Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein borrowers and lenders were solicited by Liberty and LUSEAR for loans secured by liens on real property, wherein such loans were arranged, negotiated, processed and consummated by Liberty and LUSEAR on behalf of others in the State of California for or in expectation of compensation.

LUSEAR DBA MDR

7.

On or about March 23, 1988, the Department completed an examination of LUSEAR's real estate activities, dba MDR, and books and records pertaining thereto for a 14-month period ending February 29, 1988. The findings of that examination are set forth in Findings 8 through 10.

8.

LUSEAR failed to maintain any record of trust funds received and not deposited into a trust account.

9.

On or about January 1, 1987, LUSEAR opened a branch office at 1680 North Vine in Hollywood, California, to conduct activities requiring a real estate license. At no time did LUSEAR inform the Commissioner of Real Estate of the State of California of the address of said branch office nor did LUSEAR apply for and receive an additional license for said branch office.

10.

During the period of time covered by the Department's examination, LUSEAR employed three real estate salespeople named Rita V. Hawkins (#798998), Charolette Wallick Livers (#637956) and Frances Annie Murphy (#324013). LUSEAR had no written Broker-Salesman Relationship Agreements with any of these licensees and/or failed to make said agreements available at the request of a designated representative of the Commissioner during the aforesaid examination.

LIBERTY AND LUSEAR AS
DESIGNATED OFFICER OF LIBERTY

11.

On or about March 23, 1988, the Department completed an examination of Liberty and LUSEAR's real estate activities and books and records pertaining thereto for a 14-month period ending February 29, 1988. The findings of that examination are set forth in Findings 12 and 13.

12.

Liberty and LUSEAR used Account No. [REDACTED] at Metro Bank in Los Angeles (hereinafter TA #1) as the depository for trust funds received from prospective borrowers for credit and appraisal fees.

13.

In connection with TA #1, Liberty and LUSEAR:

(1) Failed to maintain adequate and accurate columnar records of all trust funds received and deposited in said account, including the date said funds were received, the amount received and a daily balance.

(2) Failed to maintain separate records for each beneficiary or transaction accounting therein for all said trust funds deposited into and disbursed from said account.

(3) Failed to limit withdrawals from this account to salespeople licensed to Liberty and LUSEAR, to corporate officers through whom Liberty was licensed, or unlicensed employees with a fiduciary bond equal to the maximum amount of trust funds to which the employee had access at any time, all with specific authorization in writing from LUSEAR. In addition, LUSEAR was not a signatory on TA #1.

DETERMINATION OF ISSUES

1.

The acts and omissions of LUSEAR, as set forth in Finding 13, are in violation of Sections 2831, 2831.1 and 2834 of the Regulations and are bases for the suspension or revocation of the licenses and license rights of LUSEAR under Section 10177(d) of the Code.

2.

The acts and omissions of LUSEAR, as set forth in Findings 11 through 13, constitute a failure to exercise reasonable control of the activities of Liberty for which a real estate license is required and are bases for the suspension or revocation of the licenses and license rights of LUSEAR under Section 10177(h) of the Code.

3.

The acts and omissions of LUSEAR, dba MDR, as described in Findings 8 through 10, are in violation of Sections 2715, 2726 and 2831 of the Regulations and are bases for the suspension or revocation of the licenses and license rights of LUSEAR under Section 10177(d) of the Code.

ORDER

A. The real estate broker licenses and all other license rights of Respondent GERALD LOUIS LUSEAR under the Real Estate Law are hereby revoked.

B. However, Respondent LUSEAR shall be entitled to apply for and be issued a restricted real estate broker license(s) pursuant to Section 10156.5 of the Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license(s) within one year from the effective date of the Decision herein.

C. The restricted license(s) issued to Respondent LUSEAR shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

1. The restricted license(s) shall not confer any property right in the privileges to be exercised thereunder and the Real Estate Commissioner may by appropriate order suspend prior to hearing the right of Respondent LUSEAR to exercise any privileges granted under the restricted license(s) in the event of:
 - (a) The conviction of Respondent LUSEAR (including a plea of nolo contendere) of a crime which bears a significant relation to Respondent LUSEAR's fitness or capacity as a real estate licensee.
 - (b) The receipt of evidence satisfactory to the Real Estate Commissioner that Respondent LUSEAR has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to said restricted license(s).

2. Respondent LUSEAR shall submit to the Department of Real Estate a Trust Funds Position Statement as of the last day of each March, June, September and December for so long as said restricted license shall remain in effect. The Position Statement shall consist of the following:
 - (a) A schedule of trust fund accountability with the following information concerning funds held by Respondent as agent or trustee to the owner(s) of said funds:
 - (1) Account numbers and depositories.
 - (2) Names of principals or beneficiaries.
 - (3) Trust fund liability to (2).
 - (b) A report of trust funds in the custody and control of Respondent LUSEAR as of the accounting date consisting of:

- (1) A copy of Respondent's trust accounts' bank statements (listed above as (a)(1)) showing the balance of funds in the accounts as of the accounting date.
- (2) A schedule of uncleared checks drawn on the accounts adjusting the accounts to their true balance as of the accounting date.
- (c) A copy of Respondent LUSEAR's (i) trust fund records maintained pursuant to Section 2831, Regulations, (ii) separate records maintained pursuant to Section 2831.1, Regulations, and (iii) reconciliation maintained pursuant to Section 2831.2, Regulations.
- (d) A statement explaining any discrepancy between the total liability shown under (a) above and the adjusted trust accounts' balances shown under (b) above.

The Trust Funds Position Statement shall be submitted by Respondent LUSEAR to the Los Angeles Office of the Department of Real Estate not later than 60 days after each accounting date. If Respondent has no trust fund liability as of accounting date, his report to the Department shall so state.

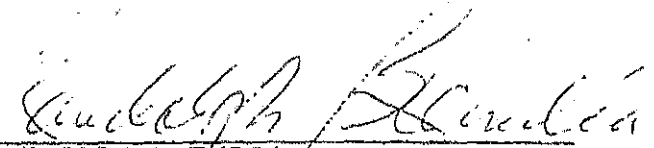
Respondent LUSEAR shall certify under penalty of perjury the completeness and accuracy of each Position Statement.

3. Respondent LUSEAR shall not be eligible to apply for the issuance of any unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license(s) until one (1) year has elapsed from the date of issuance of the restricted license(s) to Respondent.
4. Respondent LUSEAR shall, within 12 months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements

of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent LUSEAR fails to satisfy this condition, the Real Estate Commissioner may order the suspension of the restricted license(s) until Respondent LUSEAR presents such evidence. The Real Estate Commissioner shall afford Respondent LUSEAR the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondent LUSEAR shall, within six (6) months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate fee. If Respondent LUSEAR fails to satisfy this condition, the Commissioner may order suspension of the restricted license until Respondent LUSEAR passes the examination.

DATED: 28 Aug. 1989



RANDOLPH BRENDIA
Regional Manager
Department of Real Estate

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* * * *

In the Matter of the Accusation of) No. H-23446 LA
)
 LIBERTY FINANCIAL NETWORK,)
 INC., a California)
 corporation; and GERALD)
 LOUIS LUSEAR, individually,)
 dba Million Dollar Realty)
 Financial Services, and as)
 designated officer of)
 Liberty Financial Network,)
 Inc.,)
)
 Respondents.)

DECISION

The Proposed Decision dated July 24, 1989,
 of Randolph Brenda, Regional Manager, Department of
 Real Estate, is hereby adopted as the Decision of the
 Real Estate Commissioner in the above-entitled matter,
 as to Respondent LIBERTY FINANCIAL NETWORK, INC., only.

This Decision shall become effective at
12 o'clock noon on September 11, 1989.

IT IS SO ORDERED August 15, 1989.

JAMES A. EDMONDS, JR.
 Real Estate Commissioner

By: *[Handwritten signature]*
 JOHN R. LIBERATOR
 Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
 LIBERTY FINANCIAL NETWORK,)
 INC., a California)
 corporation; and GERALD)
 LOUIS LOSEAR, individually,)
 dba Million Dollar Realty)
 Financial Services, and as)
 designated officer of)
 Liberty Financial Network,)
 Inc.,)
 Respondents.)

No. H-23446 LA

PROPOSED DECISION

This matter was presided over as an uncontested case by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California, on July 24, 1989.

Robert E. Baker, Counsel, represented the Complainant.

The matter of the Accusation of Gerald Louis Lusear was severed for hearing at a later date.

No appearance was made by or on behalf of Respondent LIBERTY FINANCIAL NETWORK, INC.

On proof of compliance with Government Code Section 11505, the matter proceeded as a default pursuant to Government Code Section 11520.

The following Decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

1.

The Complainant, Randolph Brendia, then acting as a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

2.

LIBERTY FINANCIAL NETWORK, INC. (hereinafter Respondent or LIBERTY) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code, hereinafter the Code).

3.

At all times herein mentioned, LIBERTY was licensed by the Department of Real Estate of the State of California (hereinafter Department) as a corporate real estate broker by and through Gerald Louis Lusear as designated officer.

4.

All sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

5.

At all times herein mentioned, LIBERTY engaged in the business of, acted in the capacity of, advertised and assumed to act as a real estate broker as defined in Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein borrowers and lenders were solicited by LIBERTY for loans secured by liens on real property, wherein such loans were arranged, negotiated, processed and consummated by LIBERTY on behalf of others in the State of California for or in expectation of compensation.

6.

On or about March 23, 1988, the Department completed an examination of LIBERTY's real estate activities and books and records pertaining thereto for a 14-month period ending February 29, 1988. The following Findings are made based on that examination.

7.

LIBERTY used Account No. [REDACTED] at Metro Bank in Los Angeles (hereinafter TA #1) as the depository for trust funds received from prospective borrowers for credit and appraisal fees.

8.

In connection with TA #1, LIBERTY (1) failed to maintain adequate and accurate columnar records of all trust funds received and deposited in said account, including the date said funds were received, the amount received and a daily balance; (2) failed to maintain separate records for each beneficiary or transaction accounting therein for all said trust funds deposited into and disbursed from said account; (3) disbursed or allowed the disbursement of funds from this account without the prior written

consent of every principal who then was an owner of funds in said account where the disbursement of said funds reduced the balance of funds in the account to an amount which was, on February 29, 1988, \$980.30 less than LIBERTY's existing aggregate trust fund liability to all owners of said funds; and (4) failed to limit withdrawals from this account to salespeople licensed to LIBERTY, to corporate officers through whom LIBERTY was licensed, or unlicensed employees with a fiduciary bond equal to the maximum amount of trust funds to which the employee had access at any time.

9.

During the period covered by the Department's examination, LIBERTY employed and compensated the following people to perform, on their behalf, one or more of the acts set forth in Finding 5, above, which required a real estate license: Richard Fareed and Anthony Essex. At no time herein mentioned were either of the named individuals licensed by the Department as a real estate broker or as a real estate salesperson licensed under LIBERTY.

DETERMINATION OF ISSUES

1.

The conduct of LIBERTY, as described, above, in Finding 9, in employing and compensating unlicensed people for acts requiring a real estate license is a basis to suspend or revoke the license and license rights of LIBERTY under Section 10137 of the Code.

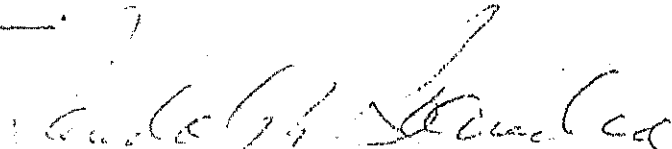
2.

The acts and omissions of LIBERTY, as set forth in Finding 8, are in violation of Sections 2831, 2831.1, 2832.1 and 2834 of the Regulations and are bases for the suspension or revocation of the license and license rights of LIBERTY under Section 10177(d) of the Code.

ORDER

The license and license rights under the provisions of Part 1 of Division 4 of the California Business and Professions Code of Respondent LIBERTY FINANCIAL NETWORK, INC., are hereby revoked.

DATED: 24 July 89


RANDOLPH BRENDIA
Regional Manager
Department of Real Estate