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FILED
JUN 17 1996
DEPARTMENT OF REAL ESTATE

By C. [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-23552 LA
)	
BERTRAND L. FORTIER)	
)	
Respondent.)	
)	
)	

ORDER DENYING REINSTATEMENT OF LICENSE

On April 27, 1990, a Decision was rendered herein revoking the real estate broker license of BERTRAND L. FORTIER, (hereinafter referred to as Respondent), effective May 30, 1990. Respondent was given the right to apply for and receive a restricted real estate salesperson license which was issued to him on March 21, 1991, and immediately suspended for thirty (30) days thereafter. This restricted license is due to expire on March 20, 1999.

On December 22, 1994, Respondent petitioned for reinstatement of said real estate broker license and the

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

3 I have considered the petition of Respondent and the
4 evidence submitted in support thereof. Respondent has failed to
5 demonstrate to my satisfaction that he has undergone sufficient
6 rehabilitation to warrant the reinstatement of his real estate
7 broker license at this time. This determination has been made
8 in light of Respondent's history of acts and conduct which are
9 substantially related to the qualifications, functions and
10 duties of a real estate licensee. That history includes:

11 I

12 Due to the serious nature of the conduct which led to
13 the revocation of Respondent's license not enough time has
14 passed to fully evaluate whether or not Respondent is completely
15 rehabilitated. This is cause to deny his petition pursuant to
16 Section 2911(a) of Chapter 6, Title 10, California Code of
17 Regulations (Regulations).

18 II

19 In a Stipulation and Order for Entry of Judgment
20 signed by Respondent on April 3, 1996, it was agreed that a
21 judgment against him be entered against him in favor of Ulysses
22 Bass in the sum of \$23,200.00. In this Stipulation it was agreed
23 that Bass would accept in full settlement the sum of \$10,000.00
24 with \$2000.00 to be paid at once, \$4,000.00 within 90 days and
25 \$4,000.00 within 90 days thereafter. In the event of default or
26 if any of the installments were not paid by Respondent the
27

1 entire judgment of \$23,200.00 would become due and payable.
2 Respondent has provided evidence that the first payment of
3 \$2000.00 has been paid to Bass. Inasmuch as Respondent has not
4 yet completely discharged his entire monetary obligation to Bass
5 this is evidence of a lack of complete rehabilitation and is
6 additional cause to deny his petition pursuant to Section
7 2911(i) of the Regulations.
8

9
10 NOW, THEREFORE, IT IS ORDERED that Respondent's
11 petition for reinstatement of license is denied. However,
12 Respondent has offered convincing evidence in the form of
13 reference letters and community activities that he is well on
14 his way to complete rehabilitation and he has made one timely
15 payment (\$2000.00) on the obligation described above in
16 paragraph 2. It therefore appears that Respondent will pose no
17 danger to the public if issued a properly restricted license.

18 Therefore, a restricted real estate broker license
19 shall be issued to Respondent pursuant to Section 10156.5 of
20 the Code after Respondent satisfied the following conditions
21 within one (1) year from the date of this Order:

22 1. Submittal of evidence satisfactory to the Real
23 Estate Commissioner that Respondent has, during the last four
24 years, taken and successfully completed the continuing education
25 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
26 for renewal of a real estate license.

27 2. Submittal of a completed application and payment of
the fee for a real estate broker license.

1
2
3 3. Prior to the issuance of any restricted real estate
4 broker license Respondent shall provide evidence satisfactory to
5 the Real Estate Commissioner that he has paid the an additional
6 \$4000.000 to Ulysses Bass on or before July 3, 1996.

7 The restricted license issued to Respondent shall be
8 subject to all of the provisions of Section 10156.7 of the Code
9 and to the following limitations, conditions and restrictions
10 imposed under authority of Section 10156.5 of said Code: /

11 1. The restricted license shall not confer any
12 property right in the privileges to be exercised thereunder and
13 the Real Estate Commissioner may by appropriate order suspend
14 prior to hearing the right of Respondent to exercise any
15 privileges granted under the restricted license in the event of:

16 (a) The conviction of Respondent (including a plea of
17 nolo contendere) of a crime which bears a significant
18 relationship to Respondent's fitness or capacity as a real
19 estate licensee.

20 (b) The receipt of evidence satisfactory to the Real
21 Estate Commissioner that subsequent to the date of the Order
22 herein Respondent has violated provisions of the California Real
23 Estate Law, Regulations of the Real Estate Commissioner, or
24 conditions attaching to said restricted license.

25 (3) The failure of Respondent to pay the last \$4000.00
26 due Ulysses Bass by October 3, 1996:

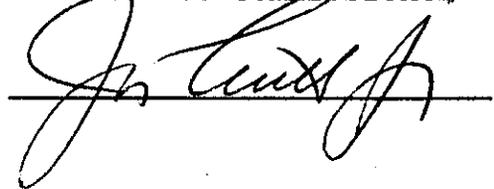
27 Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license nor the removal

1 of any of the conditions, limitations or restrictions attaching
2 to the restricted license until at least one year has elapsed
3 from the effective date of this Order.
4

5 This Order shall become effective at 12 o'clock
6 noon on July 9 1996.

7
8 DATED: 6-11-96

9 JIM ANTT JR.
10 Real Estate Commissioner

11 
12

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16 BERTRAND L. FORTIER
17 15111 Pipeline #48
18 Chino Hills, California 91709
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*Sacts
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DEPARTMENT OF REAL ESTATE

MAY -7 1990

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY *Sybil Welms*

* * * *

In the Matter of the Accusation of)
)
BERTRAND L. FORTIER,)
doing business as Rancho)
Mortgage Company,)
)
Respondent.)
_____)

No. H-23552 LA

DECISION

The Proposed Decision dated April 19, 1990
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.

This Decision shall become effective at 12 o'clock
noon on May 30, 1990.

IT IS SO ORDERED April 27, 1990.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-23552 LA
)
BERTRAND L. FORTIER,)
doing business as Rancho)
Mortgage Company,)
)
) Respondent.)
_____)

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 April 19, 1990.

Marilyn L. Mosher, Counsel, represented the Complainant. Respondent BERTRAND L. FORTIER was not present, nor represented, having filed a Waiver of Appearance in the Matter through his Attorney, Michael B. Lloyd.

The Matter 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

I

The complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

BERTRAND L. FORTIER (hereinafter referred to as Respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code (hereinafter the Code).

III

At all times herein mentioned, Respondent was licensed by the Department of Real Estate of the State of California (hereinafter the "Department") as a real estate broker.

IV

All further reference herein to Respondent shall be deemed to also refer to the employees, agents, and real estate

licensees employed by or associated with Respondent, who at all times herein mentioned were engaged in the furtherance of Respondent's business and who were acting within the course and scope of their authority and employment.

V

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

VI

During 1987, Respondent employed and compensated Uria T. Parks, aka J. R. Parks, Mike A. Hodge, Dwight A. Garger, and Nate Grable to perform, on Respondent's behalf, acts requiring a real estate license, including soliciting lenders and borrowers for loans secured by liens on real property. At no time herein mentioned were any of said persons licensed by the Department as a real estate broker or a real estate salesperson.

VII

During a period of time from in or about November 1986 through in or about November 1987, in connection with the aforesaid real estate activities, Respondent accepted or received funds in trust from or on behalf of borrowers and others and thereafter made disbursements of said funds.

VIII

During November 1987, a representative of the Department conducted an examination of Respondent's books and records for the period of time referred to in Finding VII above. During November 1987, after reasonable notice, Respondent failed and/or refused to make available to the Department's representative those books and records related to the aforesaid real estate activities which were kept or should have been kept by Respondent.

IX

In connection with the trust funds described in Finding VII above:

(a) Respondent failed to place said trust funds into a trust account in the name of Respondent as trustee thereof or into

a neutral escrow depository or the hands of the principal of said funds as required by Section 10145 of the Code and Section 2830 of Chapter 6, Title 10, California Code of Regulations (hereinafter the Regulations).

(b) Respondent failed to maintain and/or keep adequate records of all trust funds received and disbursed, or, maintain and/or keep a separate record for each beneficiary or transaction, as required by Sections 2831 and 2831.1, respectively of the Regulations.

X

In or about May 1987, Merrilyn L. Basham employed Respondent to obtain a loan for the purchase of real property. The escrow instructions for the purchase of the said property provided that Basham would pay \$53,000 cash into escrow as part of the purchase price. Respondent represented to Basham that he would place \$48,000 of Basham's funds (hereinafter trust funds) into a trust account until said funds were called for to close the escrow. Thereafter, on or about June 29, 1987, in reliance on the aforesaid representation, Basham delivered \$50,000 to Respondent.

XI

After Respondent received the aforesaid trust funds from Basham, he failed to place the said funds into a trust account as represented to Basham, or otherwise place the said funds into a neutral escrow depository or the hands of the principal of said funds in compliance with Section 10145 of the Code and Section 2830 of the Regulations. Instead Respondent disbursed or diverted the said funds for purposes not authorized by Basham.

XII

On or about August 10, 1987, the aforesaid escrow closed. Prior to said date, Respondent deposited a total of \$35,000 into the said escrow, but failed and/or refused to deposit the remaining \$15,000 of Basham's funds into the said escrow, thereby causing Basham to obtain a second loan to provide the \$15,000 required to close the escrow. Respondent returned the remaining \$15,000 of Basham's trust funds only after a complaint was filed with the Department.

XIII

During 1986 and 1987, Respondent further acted in violation of the Code and Regulations in that:

(a) Respondent provided borrowers with an advance fee agreement without having said agreement reviewed by the Department

in violation of Section 2970 of the Regulations.

(b) Respondent conducted business as a mortgage loan broker at 8540 Arcibald, Suite A, and/or 8560 Vineyard Avenue, Suite 506, in Rancho Cucamonga, California. At no time herein mentioned, did Respondent inform the Commissioner of a change in his principal place of business or obtain a branch office license for either of said addresses, in violation of Section 10163 of the Code, and Section 2715 of the Regulations.

(c) Respondent used the fictitious name "Rancho Mortgage Company" in the conduct of his business as a mortgage loan broker without having obtained a license authorizing the use of such name, in violation of Section 10159.5 of the Code and Section 2731 of the Regulations.

DETERMINATION OF ISSUES

I

The conduct of Respondent, in employing and compensating unlicensed persons for acts requiring a real estate license, as set forth in Finding VI, is cause for suspension or revocation of all licenses and license rights of Respondent under Section 10137 of the Code.

II

The conduct of Respondent, as set forth in Finding VIII, is in violation of Section 10148 of the Code and is cause for suspension or revocation of all licenses and license rights of Respondent under Section 10177(d) of the Code.

III

The conduct, acts and omissions of Respondent, as set forth in Findings IX and XI are in violation of Section 10145 and Sections 2830 and 2831.1 of the Regulations, and are cause for suspension or revocation of all licenses and license rights of Respondent under Section 10177(d) of the Code.

IV

The acts and omissions of Respondent, as set forth in Findings XI and XII, constitute fraud and dishonest dealing, and are cause for suspension or revocation of all licenses and license rights of Respondent under Sections 10176(i) and 10177(j) of the Code.

V

The conduct, acts and omissions of Respondent, as set forth in Finding XIII (a), (b), and (c), are in violation of

Sections 2790 of the Regulations, Section 10163 of the Code and Section 2715 of the Regulations, and Section 2731 of the Regulations, respectively, and are cause for suspension or revocation of all licenses and license rights of Respondent under Sections 10177(d), 10165 and 10177(d), respectively, of the Code.

ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE WRITTEN STIPULATION OF THE PARTIES:

The real estate broker license and license rights thereto of Respondent BERTRAND L. FORTIER are hereby revoked. However, Respondent BERTRAND L. FORTIER shall be entitled to apply for and be issued a restricted real estate salesperson license if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within one year from the effective date of the Decision herein.

1. Provided, however, that once a restricted real estate salesperson license is issued to BERTRAND L. FORTIER it shall immediately be suspended for a period of sixty (60) days. However, execution of the said order of suspension is hereby stayed as to all but the first thirty (30) days of said suspension and provided further, that the first thirty days of said suspension will be permanently stayed if Respondent, pursuant to his petition, pays to the Department of Real Estate \$7500 prior to the date any restricted real estate salesperson license is issued to him pursuant to the provisions of Section 10175.2 of the Code.

In the event BERTRAND L. FORTIER fails to pay to the Department the said \$7500 prior to the date any restricted real estate salesperson license is issued to him, no part of the first 30 days of said suspension shall be waived.

2. Said restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction (including conviction on a plea of nolo contendere) of a crime which bears a significant relation to Respondent's qualifications, functions, or duties as a real estate licensee.

3. Said restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted license.

4. The restricted license to be issued upon application of the Respondent shall not confer any property right in the privileges to be exercised thereunder.

5. Respondent shall not petition the Commissioner for the removal of any of said conditions, limitations or restrictions

of said restricted license or for reinstatement as a broker, prior to the expiration of one (1) year from the effective date of this Decision.

6. Respondent shall, prior to issuance of said license, submit proof satisfactory to the Commissioner that Respondent has satisfied the judgment entered against Respondent doing business as Rancho Mortgage Company, in the Municipal Court, Small Claims Division, North County Judicial District, in the County of San Diego, State of California, Case No. 68273 E, on January 29, 1988.

7. Respondent shall, within one (1) year 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 fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

8. Respondent shall, within six 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 examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until Respondent passes the examination.

9. Respondent shall submit to the Real Estate Commissioner as a condition to the employment by or transfer to a new employing broker with said application for license or transfer, a statement signed by the employing broker which shall certify:

(a) That the prospective employing broker has read the Decision of the Commissioner which granted the right to a restricted license;

(b) That, as employing broker, he or she will carefully review all transactions and documents prepared by the restricted licensee and otherwise exercise close supervision over the restricted licensee.

DATED: 19 April 1990.


RANDOLPH BRENDIA
Regional Manager
Department of Real Estate

Sacto
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

AUG 29 1989

DEPARTMENT OF REAL ESTATE
Sybil Williams

In the Matter of the Accusation of
BERTRAND L. FORTIER,

}

Case No. H-23552 LA

OAH No. L-47252

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, 314 W. First St., Los Angeles, CA

on February 8th and 9th, 1990, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any 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.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: August 29, 1989

By *Marilyn L. Mosher*
MARILYN L. MOSHER, Counsel

cc: Bertrand L. Fortier
Michael Lloyd, Esq.
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1 MARILYN L. MOSHER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 620-4790

MAY 31 1989

DEPARTMENT OF REAL ESTATE
BY *Sybil Wilms*

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-23552 LA
12 BERTRAND L. FORTIER,) A C C U S A T I O N
13 doing business as Rancho)
Mortgage Company,)
14 Respondent.)
15 _____)

16 The complainant, Steven J. Ellis, a Deputy Real Estate
17 Commissioner of the State of California, for cause of accusation
18 against BERTRAND L. FORTIER, doing business as Rancho Mortgage
19 Company, alleges as follows:

20 I

21 The complainant, Steven J. Ellis, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 in his official capacity.

24 II

25 BERTRAND L. FORTIER (hereinafter referred to as
26 Respondent) is presently licensed and/or has license rights under
27 the Real Estate Law (Part 1 of Division 4 of the Business and

1 Professions Code).

2 III

3 At all times herein mentioned, Respondent was licensed
4 by the Department of Real Estate of the State of California
5 (hereinafter the "Department") as a real estate broker.

6 IV

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

14 V

15 At all times herein mentioned, Respondent engaged in
16 the business of, acted in the capacity of, advertised, or assumed
17 to act as a real estate broker in the State of California within
18 the meaning of Section 10131(d) of the Code, including the opera-
19 tion of a mortgage loan brokerage business with the public where-
20 in, using the fictitious name "Rancho Mortgage Company", Respond-
21 ent solicited lenders and borrowers for loans secured by liens
22 on real property, and wherein such loans were arranged, negoti-
23 ated, processed, and consummated by Respondent on behalf of
24 others, for or in expectation of compensation.

25 VI

26 In connection with the aforesaid mortgage loan brokerage
27 business, Respondent employed and/or compensated Uria T. Parks,

1 aka J. R. Parks, Mike A. Hodge, Dwight A. Garger, Bob Walker,
 2 and Nate Grable, to solicit for, and/or negotiate loans for
 3 potential borrowers, including, but not necessarily limited to,
 4 the following potential borrowers (hereinafter "borrower"):

5	<u>BORROWER</u>	<u>PROPERTY</u>	<u>PERIOD OF SOLICITATION/ NEGOTIATION</u>
6			
7	Rafael Amezaga	6591 Tokay Street, and 6581 Tokay Street, 8 Fontana, CA	2/11/87 through 7-28-87.
9	David & Nancy Amezaga	1781 11th Street Los Osos, CA	2/28/87 through 5/26/87.
10	John & Linda Craft	864 S. Eucalyptus Street San Bernardino, CA	1/9/87 through 4/8/87.
11			
12	Jerry & Jose Fischer	160 Deer Spring Way Palm Desert, CA	2/27/87 through 5/7/87.
13			
14	Lance & Teresa Jones	24230 Horton Court Moreno Valley, CA	3/15/87 through 5/21/87.
15	Clara K. Loehner	9754 Balaton Rancho Cucamonga, CA	6/25/87 through 10/28/87.
16			
17	Stephen & Catherine Matzner	1939-1943 Pruess Rd. Los Angeles, CA	5/29/87 through 7/28/87.
18	Joan Neal & Jack Neal	285 Davos Drive Crestline, CA	2/3/87 through 4/28/87.
19			
20	Constance Tardaguila	16945 Brighton Ave. Gardena, CA, and 6676 Tyson Cr. 21 Riverside, CA	11/6/85 through 6/3/87.
22	Merrilyn Basham	33545 Madera De Playa Temecula, CA	5/5/87 through 7/10/87.
23			

24 At no time herein mentioned, were Uria T. Parks, aka J. R. Parks,
 25 Mike A. Hodge, Dwight A. Garger, Bob Walker, or Nate Grable, or
 26 any of them, licensed by the Department as a real estate sales-
 27 person or a real estate broker.

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VII

In connection with the aforesaid activities requiring a real estate license, from in or about November 1986, through November 1987, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lenders and borrowers, including, but not necessarily limited to those borrowers identified in Paragraph V above, and thereafter made disbursements of such funds.

VIII

During November 1987, a designated representative of the Department conducted an examination of the books and records pertaining to trust funds handled by respondent, as referred to in Paragraph VII above. During said period, after reasonable notice, Respondent failed and/or refused to make available to the said representative, those certain books and records kept, or which should have been kept, including deposit receipts, trust records and accounts related thereto, executed by or obtained by Respondent in connection with his mortgage loan brokerage activities, as required by Section 10148 of the California Business and Professions Code (hereinafter the "Code").

IX

From in or about November 1986, through November 1987, Respondent failed to place said trust funds into a trust account in the name of Respondent as trustee thereof or into a neutral escrow depository or the hands of the principal of said trust funds, as required by Section 10145 of the Code and Section 2830 of Chapter 6, Title 10, California Code of Regulations

1 (hereinafter the "Regulations").

2 X

3 From in or about November 1986, through November 1987,
4 Respondent failed to maintain and/or keep adequate records of all
5 trust funds received and disbursed, or, maintain and/or keep a
6 separate record for each beneficiary or transaction, as required
7 by Sections 2831 and 2831.1, respectively of the Regulations.

8 XI

9 In or about May 1987, borrower Merrilyn L. Basham
10 (hereinafter "Basham"), employed Respondent to arrange a purchase
11 money loan in the amount of \$212,000. The said loan was to be
12 secured by a lien on real property located at 33545 Madera de
13 Playa Street in Temecula, California. Escrow instructions
14 (identified herein as Escrow #1196) for the purchase of the said
15 property provided that Basham would pay \$53,000 cash into escrow
16 as part of the total consideration for the purchase price.
17 During the course of the negotiations involving the loan for the
18 said property, Respondent represented to Basham that he would
19 place \$48,000 of Basham's funds into a trust account until
20 escrow called for the funds.

21 XII

22 On or about June 29, 1987, Basham delivered \$50,000 to
23 Respondent upon Respondent's representation that said funds would
24 be deposited into Escrow #1196 prior to close of escrow. The
25 said funds are trust funds, as described in Paragraph VII above,
26 and in Section 10145 of the Code. Respondent failed to place
27 said trust funds into a trust account in Respondent's name as

1 trustee or into a neutral escrow depository or the hands of the
2 principal of said trust funds as required by Section 10145 of
3 the Code and Section 2830 of the Regulations. Instead, Respond-
4 ent disbursed or diverted or caused or permitted the disburse-
5 ment or diversion of said funds for Respondent's own use or
6 benefit or otherwise for purposes not authorized by Basham.

7 XIII

8 On or about August 10, 1987, Escrow #1196, referred to
9 in Paragraphs XI and XII above, closed. Prior to said date,
10 Respondent deposited \$25,000 and \$10,000 into the said escrow.
11 At all times prior to August 10, 1987, Respondent failed and/or
12 refused to deposit the remaining \$15,000 of Basham's funds into
13 the said escrow, thereby causing Basham to obtain a second loan
14 to provide the \$15,000 required to close the escrow. At all
15 times after August 10, 1987, respondent failed to return the
16 trust funds to Basham, until in or about October 1987, after a
17 complaint was made to the Department.

18 XIV

19 From in or about November 1986 through November 1987,
20 Respondent provided borrowers, including but not necessarily
21 limited to those borrowers identified in Paragraph VI above,
22 with a written agreement providing for, among other things, the
23 payment and receipt of advance fees in connection with the
24 agreement to obtain a loan secured by real property. At no time
25 was this agreement reviewed by the Department prior to use, as
26 required by Section 10085 of the Code and Section 2970 of the
27 Regulations. Further the provisions of the written agreement

1 failed to comply with Section 2970(b)(2) and (b)(6), and
2 2970(c) of the Regulations.

3

XV

4 From in or about November 1986 through about August
5 1987, Respondent conducted business as a mortgage loan broker
6 at 8540 Archibald, Suite A, in Rancho Cucamonga, California. In
7 about August 1987, Respondent moved the said business to 8560
8 Vineyard Avenue, Suite 506, Rancho Cucamonga, California. At
9 no time herein mentioned, did Respondent inform the Commissioner
10 of a change in his principal place of business or obtain a
11 branch office license for either of the said addresses as required
12 by Section 10162 and/or 10163 of the Code and Section 2715 of
13 the Regulations.

14

XVI

15 From in or about November 1986 and continuing to the
16 date of filing this Accusation, Respondent has conducted business
17 as a mortgage loan broker under the fictitious name "Rancho
18 Mortgage Company". At no time herein mentioned has Respondent
19 applied for or been issued a license by the Department bearing
20 such name as required by Section 10159.5 of the Code.

21

XVII

22 The conduct of Respondent, as alleged in Paragraph VI,
23 in employing unlicensed persons to perform acts which require a
24 real estate license under Section 10131(d) of the Code, is a
25 violation of Section 10137 of the Code and is cause for sus-
26 pension or revocation of all licenses and license rights of
27 Respondent under the Real Estate Law.

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XVIII

The conduct of Respondent, as alleged in Paragraph VIII, in failing and/or refusing to make available certain books and records is a violation of Section 10148 of the Code and is cause under Section 10177(d) of the Code for suspension or revocation of all licenses and license rights of Respondent.

XIX

The conduct of Respondent, as alleged in Paragraphs IX and XII, in receiving trust funds but not depositing said trust funds into a trust fund account, is a violation of Section 10145 of the Code and Section 2830 of the Regulations and is cause under Section 10177(d) of the Code for suspension or revocation of all licenses and license rights of Respondent.

XX

The conduct of Respondent, as alleged in Paragraph X, in failing to maintain records of trust funds received and disbursed and in failing to maintain a separate record for each beneficiary and transaction, is a violation of Sections 2831, and 2831.1, respectively, of the Regulations and is cause under Section 10177(d) of the Code for suspension or revocation of all licenses and license rights of Respondent.

XXI

The acts and omissions of Respondent, as alleged in Paragraphs XII and XIII, constitute fraud and dishonest dealing, and are cause under Sections 10176(i) or 10177(j) of the Code for suspension or revocation of all licenses and license rights of Respondent.

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XXII

The acts and omissions of Respondent, as alleged in Paragraphs XII and XIII, constitute negligence or incompetence in performing acts for which he is required to hold a license, and are cause under Section 10177(g) of the Code for suspension or revocation of all license and license rights of Respondent.

XXIII

The acts and omissions of Respondent, in failing to obtain approval by the Department of the advance fee agreement, prior to use, as alleged in Paragraph XIV, is a violation of Section 10085 of the Code and Section 2970 of the Regulations and is cause for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

XXIV

The acts and omissions of Respondent, as alleged in Paragraph XV, constitute the willful violation of Section 10162 and/or 10163 of the Code and Section 2715 of the Regulations and is cause for suspension or revocation of all licenses and license rights of Respondent under the provisions of Section 10165 of the Code.

XXV

The conduct of Respondent, in the use of unauthorized fictitious names in Respondent's mortgage loan business, as alleged in Paragraph XVI above, constitutes the willful violation of Section 10159.5 of the Code and Section 2731 of the Regulations and is grounds for suspension or revocation of all licenses and license rights of Respondent under the

1 provisions of Section 10177(d) of the Code.

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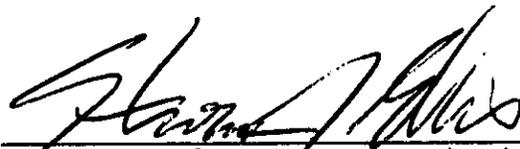
3 WHEREFORE, complainant prays that a hearing be con-
4 ducted on the allegations of this Accusation and, that upon
5 proof thereof, a decision be rendered imposing disciplinary
6 action against all licenses and license rights of Respondent,
7 BERTRAND L. FORTIER, under the Real Estate Law (Part 1 of
8 Division 4 of the Business and Professions Code) and for such
9 other and further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California

12 this 31st day of May, 1989.

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Deputy Real Estate Commissioner

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25 cc: Bertrand L. Fortier

Sacto

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