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James L. Beaver, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

(213) 897-3937

LEU

27 1991

Laura B. Owen

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H- 24918	LA
AMERICAN MORTGAGE CONSULTANTS, INC., a)	<u>A C C U S A T I O N</u>	
Corporation; STEVEN DI PRESSI,)		
individually and as designated officer)		
of American Mortgage Consultants, Inc.;)		
ELEANOR ROSALIE RAY, also known as)		
Eleanor Rosalie Lopez; and DARRIN J.)		
SEPPINNI;)		
Respondents.)		

The Complainant; STEVEN J. ELLIS, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against AMERICAN MORTGAGE CONSULTANTS, INC., a Corporation, STEVEN DI PRESSI, individually and as designated officer of American Mortgage Consultants, Inc., ELEANOR ROSALIE RAY, also known as Eleanor Rosalie Lopez, and DARRIN J. SEPPINNI (herein "Respondents"), is informed and alleges as follows:

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The term "the Regulations" as used herein refers to provisions of Chapter 6, Title 10, California Code of Regulations.

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II

The Complainant, STEVEN J. ELLIS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

III

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

IV

At all times mentioned herein:

(a) Respondent AMERICAN MORTGAGE CONSULTANTS, INC. (herein "AMC"), a corporation, was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker.

(b) Prior to and including March 25, 1991, AMC was so licensed by and through ELEANOR ROSALIE RAY, (herein "RAY") as AMC's designated officer - broker, i.e., the officer and broker responsible pursuant to the provisions of Section 10159.2(a) of the Code for supervising the activities requiring a real estate license conducted on behalf of AMC by AMC's officers and employees.

(c) From and after May 16, 1991, AMC was so licensed by and through STEVEN DI PRESSI (herein "DI PRESSI") as AMC's designated officer - broker.

(d) From March 25, 1991 through May 16, 1991, AMC was not licensed by the Department by and through any qualifying designated officer - broker.

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V

At all times mentioned herein, Respondent RAY was and now is licensed by the Department individually as a real estate broker and, until March 25, 1991, as an officer of AMC.

VI

At all times mentioned herein from and after January 16, 1990, Respondent DI PRESSI was and now is licensed by the Department individually as a real estate broker and, from and after November 13, 1990, as an officer of AMC.

VII

At all times mentioned herein since September 30, 1991, Respondent DARRIN J. SEPPINNI (herein "SEPPINNI") has been and now is licensed by the Department as a real estate salesperson; prior to September 30, 1991, SEPPINNI was not licensed by the Department as either a real estate salesperson or as a real estate broker.

VIII

All further references herein to "Respondents" include the parties identified in Paragraphs IV through VII, above, and also include the officers, directors, employees, agents and real estate licensees employed by or associated with said parties and who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

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IX

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein Respondents solicited prospective borrowers and lenders for and negotiated and arranged loans secured by a lien on real property, for another or others, for or in expectation of compensation. In addition, Respondents handled escrows consummating mortgage loan transactions brokered or arranged by Respondents.

X

From on or about March 9, 1990, through on or about March 25, 1991, in course of the activities described in Paragraph IX, above, Respondents AMC and RAY employed and compensated persons then not licensed by the Department and known to Respondents not to be licensed by the Department, including but not limited to Joe Pedro Estrella (herein "Estrella"), Robert A. Kenny (herein "Kenny"), Kimberly L. Rexford-Lea (herein "Rexford"), J. Moran (herein "Moran") and Respondent SEPPINNI, to perform acts requiring a real estate license for and in the name of AMC, including but not limited to soliciting borrowers for applications for loans to be secured directly by liens on real property, and including but not limited to the acts described in Paragraph XI, below.

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XI

In the course of the employment described in Paragraph X, above:

(a) On or about the dates tabulated below, Rexford, without first obtaining any license from the Department, for and in expectation of compensation, as agent for AMC, solicited and obtained applications from the borrowers tabulated below for mortgage loan to be arranged by AMC to be secured by lien on real property as tabulated below:

<u>DATE</u>	<u>BORROWERS</u>	<u>SECURITY PROPERTY</u>
12-13-90	Ronald D. McKeehan Patricia McKeehan	2792 Laurie Lane La Verne, CA 91750
12-13-90	Raul Sanchez Ophelia Sanchez	1758 Boulder Avenue Ontario, CA 91762

(b) On or about the dates tabulated below, Estrella, without first obtaining any license from the Department, for and in expectation of compensation, as agent for AMC, solicited and obtained applications from the borrowers tabulated below for mortgage loan to be arranged by AMC to be secured by lien on real property as tabulated below:

<u>DATE</u>	<u>BORROWERS</u>	<u>SECURITY PROPERTY</u>
12-16-90	Alfredo De Dios Virginia De Dios	7773 Aspen Fontana, CA 92336
12-23-90	Ronald MacDonald Joanne MacDonald	2410 Fifth St. La Verne, CA 91750
01-15-91	Ildefonso Estrada Blanca Estrada	1415 Raylene Place Pomona, CA 91767

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(c) On or about the dates tabulated below, Kenny, without first obtaining any license from the Department, for and in expectation of compensation, as agent for AMC, solicited and obtained applications from the borrowers tabulated below for mortgage loan to be arranged by AMC to be secured by lien on real property as tabulated below:

<u>DATE</u>	<u>BORROWERS</u>	<u>SECURITY PROPERTY</u>
02-07-91	Steven C. Kennedy Colleen M. Kennedy	7460 Ginger Avenue Fontana, CA 92336
02-27-91	Eileen M. Di Pressi	2040 W. Ave. J-14, #1 Lancaster, CA 93536
03-05-91	Robert W. Thompson Mary E. Thompson	1940 Albright Avenue Upland, CA 91786

(d) On or about the February 9, 1991, Moran, without first obtaining any license from the Department, for and in expectation of compensation, as agent for AMC, solicited and obtained an application from Richard N. Patterson for a mortgage loan to be arranged by AMC to be secured by a lien on real property at 10584 Gala Avenue, Alta Loma, CA 91701;

(e) On or about the dates tabulated below, Respondent SEPPINNI, without first obtaining any license from the Department, for and in expectation of compensation, as agent for AMC, solicited and obtained applications from the borrowers tabulated below for mortgage loan to be arranged by AMC to be secured by lien on real property as tabulated below:

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<u>DATE</u>	<u>BORROWERS</u>	<u>SECURITY PROPERTY</u>
02-11-91	Donald B. Turner Rhonda L. Turner	785 Macy Street San Bernardino, CA 92410
02-13-91	Alfred W. Shaffer	1518 West Ash Avenue. Fullerton, CA 92633
01-15-91	Ildefonso Estrada Blanca Estrada	1415 Raylene Place Pomona, CA 91767

XII

In employing Estrella, Kenny, Rexford, Moran, and Respondent SEPPINNI, as described in Paragraphs X and XI, above, Respondents AMC and RAY violated Section 10137 of the Code. Each of said violations separately constitutes cause for suspension or revocation of all real estate licenses and license rights of Respondents AMC and RAY pursuant to the provisions of Section 10137 of the Code.

SECOND CAUSE OF ACCUSATION

XIII

Complainant incorporates herein the allegations of Paragraphs I through XII, inclusive, hereinabove.

XIV

From on or about May 16, 1991, through on or about March 25, 1991, in course of the activities described in Paragraph IX, above, Respondents AMC and DI PRESSI employed and compensated persons then not licensed by the Department and known to Respondents not to be licensed by the Department, including but not limited to Respondent SEPPINNI, to perform acts requiring a real estate license for and in the name of AMC, including but not limited to soliciting borrowers for applications for loans to be

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secured directly by liens on real property, and including but not limited to the acts described in Paragraph XV, below.

XV

On or about June 28, 1991, in the course of the employment described in Paragraph XV, above, Respondent SEPPINNI, without first obtaining any license from the Department, for and in expectation of compensation, as agent for AMC, solicited and obtained an application from Stanley B. Bruns for a mortgage loan to be arranged by AMC to be secured by a lien on real property at 646 North Mardina Way, La Habra, CA 90631.

XVI

In employing Respondent SEPPINNI, as described in Paragraphs XIV and XV, above, Respondents AMC and DI PRESSI violated Section 10137 of the Code. Each of said violations separately constitutes cause for suspension or revocation of all real estate licenses and license rights of Respondents AMC and DI PRESSI pursuant to the provisions of Section 10137 of the Code.

THIRD CAUSE OF ACCUSATION

XVII

Complainant incorporates herein the allegations of Paragraphs I through XVI, inclusive, hereinabove.

XVIII

The conduct and omissions of Respondent SEPPINNI described in Paragraphs X, XI, XIV, and XV, above, violated Section 10130 of the Code. Said violations individually and collectively constitute cause for suspension or revocation of all real estate licenses and license rights of Respondent SEPPINNI

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pursuant to the provisions of Section 10177(d) of the Code.

FOURTH CAUSE OF ACCUSATION

XIX

Complainant incorporates herein the allegations of Paragraphs I through XVIII, inclusive, hereinabove.

XX

At all times mentioned herein, in connection with the activities described in Paragraph X, above, Respondents accepted or received funds in trust (herein "trust funds") from or on behalf of actual and prospective borrowers and lenders and thereafter made disbursement of such funds. From time to time mentioned herein these trust funds were maintained by Respondents in bank accounts, including but not necessarily limited to the following accounts:

(a) Account number [REDACTED] (herein "T/A #1") at Guardian Bank, Inland Empire Branch, Ontario, California, a trust account held in the name of AMC doing business as Express Escrow;

(b) Account number [REDACTED] (herein "T/A #2") at Bank of America, Claremont Branch, Claremont, California, a trust account held in the name of AMC doing business as Golden State Mortgage;

(c) Account number [REDACTED] (herein "T/A #3") at Imperial Federal Savings, Claremont Branch, Claremont, California, a trust account held in the name of Express Escrow.

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On or about August 6, 1991, the Department completed an examination of Respondents' books and records pertaining to Respondents' activities, as described in Paragraph X, for the approximately eleven month period ending June 28, 1991, which revealed violations of the Code and Chapter 6, Title 10, California Code of Regulations (herein "the Regulations"), as set forth in the following paragraphs.

In connection with the trust funds described in Paragraph XX, during that portion of the ten month period described in Paragraph XXI ending March 25, 1991, Respondents AMC and RAY:

(a) Deposited trust funds into T/A #3, a trust bank account held by Respondents in the name of Express Escrow, thereby failing to maintain funds such funds so deposited in a trust bank account held in the name of AMC as broker and as trustee, in violation of Section 10145 of the Code and Section 2830 of the Regulations;

(b) Failed to maintain a formal trust fund receipts journal and a formal trust fund disbursements journal with respect to funds deposited into T/A #1 and T/A #2, or other records of the receipt and disposition of trust funds accepted in trust and deposited in said accounts by Respondents conforming to the requirements of Section 2831 of the Regulations;

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(c) Failed to maintain adequate separate records for each beneficiary or transaction, accounting therein for all trust funds received, deposited into T/A #1 and T/A #2, and thereafter disbursed, conforming to the requirements of Section 2831.1 of the Regulations;

(d) Failed to perform a monthly reconciliation of the records of the receipt and disposition of all trust funds received in trust by Respondents, and the balance of all separate beneficiary or transaction records;

(e) Permitted the withdrawal of trust funds from said trust accounts by Respondent SEPPINNI, a person who was then neither licensed by the Department nor covered by a fidelity bond, in violation of Section 2834 of the Regulations.

XXIII

In connection with the mortgage loan brokerage and escrow handling activities described in Paragraph X, during that portion of the ten month period described in Paragraph XXI ending March 25, 1991, Respondents AMC and RAY acted in violation of the Code and the Regulations in that said Respondents:

(a) Used the fictitious business name "Express Escrow" without first obtaining a license from the Department bearing such fictitious name, as required by Section 10159.5 of the Code in conjunction with Section 2731 of the Regulations; and

(b) Failed to provide the written mortgage loan disclosure statement prescribed by Section 10240(a) of the Code before the borrower became obligated to complete the loan.

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XXIV

The acts and omissions of Respondents AMC and RAY described in Paragraphs XXII and XXIII, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
XXII (a)	Sec. 10145 of the Code and Sec. 2830 of the Regulations;
XXII (b)	Sec. 2831 of the Regulations;
XXII (c)	Sec. 2831.1 of the Regulations;
XXII (d)	Sec. 2831.2 of the Regulations;
XXII (e)	Sec. 2834 of the Regulations;
XXIII (a)	Sec. 10159.5 of the Code and Sec. 2731 of the Regulations;
XXIII (b)	Sec. 10240 (a) of the Code.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all licenses and license rights of Respondents AMC and RAY under the provisions of Section 10177 (d) of the Code.

FIFTH CAUSE OF ACCUSATION

XXV

Complainant incorporates herein the allegations of Paragraphs I through XXIV, inclusive, hereinabove.

XXVI

In connection with the trust funds described in Paragraph XX, during that portion of the ten month period described in Paragraph XXI commencing May 16, 1991, Respondents AMC and DI PRESSI:

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(a) Deposited trust funds into T/A #3, a trust bank account held by Respondents in the name of Express Escrow, thereby failing to maintain funds such funds so deposited in a trust bank account held in the name of AMC as broker and as trustee, in violation of Section 10145 of the Code and Section 2830 of the Regulations;

(b) Failed to maintain a formal trust fund receipts journal and a formal trust fund disbursements journal with respect to funds deposited into T/A #1 and T/A #2, or other records of the receipt and disposition of trust funds accepted in trust and deposited in said accounts by Respondents conforming to the requirements of Section 2831 of the Regulations;

(c) Failed to maintain adequate separate records for each beneficiary or transaction, accounting therein for all trust funds received, deposited into T/A #1 and T/A #2, and thereafter disbursed, conforming to the requirements of Section 2831.1 of the Regulations;

(d) Failed to perform a monthly reconciliation of the records of the receipt and disposition of all trust funds received in trust by Respondents, and the balance of all separate beneficiary or transaction records;

(e) Permitted the withdrawal of trust funds from said trust accounts by Respondent SEPPINNI, a person who was then neither licensed by the Department nor covered by a fidelity bond, in violation of Section 2834 of the Regulations;

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(f) Disbursed or caused or allowed the disbursement of trust funds from T/A #2, where the disbursement of said funds reduced the funds in the said account to an amount which, on October 31, 1990, was approximately \$1,238.05 less than the existing aggregate trust fund liability to all owners of said funds, without first obtaining the prior written consent of every principal who was an owner of said funds.

XXVII

In connection with the mortgage loan brokerage and escrow handling activities described in Paragraph X, during that portion of the ten month period described in Paragraph XXI commencing May 16, 1991, Respondents AMC and DI PRESSI acted in violation of the Code and the Regulations in that said Respondents:

(a) Used the fictitious business name "Express Escrow" without first obtaining a license from the Department bearing such fictitious name, as required by Section 10159.5 of the Code in conjunction with Section 2731 of the Regulations; and

(b) Failed to provide the written mortgage loan disclosure statement prescribed by Section 10240(a) of the Code before the borrower became obligated to complete the loan.

XXVIII

The acts and omissions of Respondents AMC and DI PRESSI described in Paragraphs XXVI and XXVII, above, violated the Code and the Regulations as set forth below:

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<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
XXVI (a)	Sec. 10145	of the Code and
	Sec. 2830	of the Regulations;
XXVI (b)	Sec. 2831	of the Regulations;
XXVI (c)	Sec. 2831.1	of the Regulations;
XXVI (d)	Sec. 2831.2	of the Regulations;
XXVI (e)	Sec. 2834	of the Regulations;
XXVI (f)	Sec. 2832.1	of the Code;
XXVII (a)	Sec. 10159.5	of the Code and
	Sec. 2731	of the Regulations;
XXVII (b)	Sec. 10240 (a)	of the Code.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all licenses and license rights of Respondents AMC and DI PRESSI under the provisions of Section 10177 (d) of the Code.

SIXTH CAUSE OF ACCUSATION

XXIX

Complainant incorporates herein the allegations of Paragraphs I through XXIII, inclusive, hereinabove.

XXX

In connection with the mortgage loan brokerage and escrow handling activities described in Paragraph X, during that portion of the ten month period described in Paragraph XXI ending March 25, 1991, Respondent RAY:

(a) Failed to timely review, initial and date instruments which may have a material effect upon the rights or obligations of a party to a transaction prepared or signed by real estate salespersons employed by AMC under RAY's supervision in connection with Respondents' mortgage loan transactions, in violation of Section 2725(a) of the Regulations;

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(b) Failed to timely review, initial and date escrow instructions and closing statements prepared or signed by real estate salespersons or other employees of AMC under RAY's supervision in connection with escrows conducted by Respondents incident to Respondents' mortgage loan transactions, in violation of Section 2725(c) of the Regulations;

(c) Caused, suffered, and permitted Respondents AMC and SEPPINNI to violate Sections 10130, 10137, 10145, 10159.5, and 10240 of the Code, and Sections 2731, 2830, 2831, 2831.1, and 2831.2 of the Regulations, as described hereinabove.

XXXI

The conduct, acts and omissions of Respondent RAY as described in Paragraph XXX, above, independently and collectively constitute failure on the part of RAY, as AMC's designated officer - broker, to exercise the reasonable supervision and control over the licensed activities of AMC required by Section 10159.2 of the Code, and is cause for the suspension or revocation of all real estate licences and license rights of RAY pursuant to the provisions of Section 10177(h) of the Code.

SEVENTH CAUSE OF ACCUSATION

XXXII

Complainant incorporates herein the allegations of Paragraphs I through XXXI, inclusive, hereinabove.

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XXXIII

In connection with the mortgage loan brokerage and escrow handling activities described in Paragraph X, during that portion of the ten month period described in Paragraph XXI commencing May 16, 1991, Respondent DI PRESSI:

(a) Failed to timely review, initial and date instruments which may have a material effect upon the rights or obligations of a party to a transaction prepared or signed by real estate salespersons employed by AMC under DI PRESSI's supervision in connection with Respondents' mortgage loan transactions, in violation of Section 2725(a) of the Regulations;

(b) Failed to timely review, initial and date escrow instructions and closing statements prepared or signed by real estate salespersons or other employees of AMC under DI PRESSI's supervision in connection with escrows conducted by Respondents incident to Respondents' mortgage loan transactions, in violation of Section 2725(c) of the Regulations;

(c) Caused, suffered, and permitted Respondents AMC and SEPPINNI to violate Sections 10130, 10137, 10145, 10159.5, and 10240 of the Code, and Sections 2731, 2830, 2831, 2831.1, 2831.2 and 2832.1 of the Regulations, as described hereinabove.

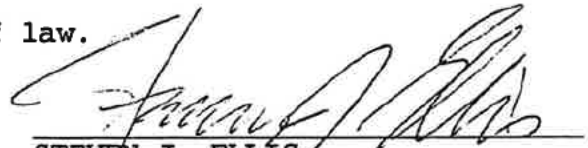
XXXIV

The conduct, acts and omissions of Respondent DI PRESSI as described in Paragraph XXXIII, above, independently and collectively constitute failure on the part of DI PRESSI, as AMC's designated officer - broker, to exercise the reasonable supervision and control over the licensed activities of AMC

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required by Section 10159.2 of the Code, and is cause for the suspension or revocation of all real estate licences and license rights of DI PRESSI pursuant to the provisions of Section 10177 (h) of the Code.

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


STEVEN J. ELLIS
Deputy Real Estate Commissioner

Dated at Los Angeles, California
this 27th day of November , 1991.

cc: American Mortgage Consultants, Inc.
Steven Di Pressi
Eleanor Rosalie Ray
Darrin J. Seppinni
Sacto.
MLB