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FILED
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DEPARTMENT OF REAL ESTATE

By



DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	No. H-26142 LA
	)	
DAVID LUEDDEKE,	)	A C C U S A T I O N
	)	
Respondent.	)	

The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against DAVID LUEDDEKE is informed and alleges in his official capacity as follows:

I

DAVID LUEDDEKE (LUEDDEKE) (respondent), dba Valley Lenders, 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).

II

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Chapter 6, Title 10, California Code of Regulations.

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III

LUEDDEKE is presently licensed and/or has license rights under the Real Estate Law. LUEDDEKE was originally licensed as a real estate broker on April 15, 1980. Said license will expire on April 14, 1996. At all mentioned times, LUEDDEKE was licensed as a real estate broker by the Department of Real Estate (Department).

IV

At all times herein mentioned, in the city of Calabasas, Los Angeles County, LUEDDEKE engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, within the meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

V

At all times mentioned herein, in connection with the activities described in Paragraph IV, above, respondent LUEDDEKE maintained the following trust account into which he deposited certain of these funds:

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1 "Valley Realtors & Lenders
2 Trust Account
3 No. 12019-17234"
4 Bank of America
5 5959 Canoga Avenue
6 Woodland Hills, CA 91367

7 VI

8 On November 2, 1994, the Department completed a field
9 audit examination of the books and records of LUEDDEKE, dba Valley
10 Lenders, pertaining to the activities described in Paragraphs IV
11 and V, above, for a period of time beginning on August 1, 1992,
12 and ending on September 30, 1994, which revealed violations of the
13 Code and the Regulations as set forth in the following paragraphs.

14 VII

15 In connection with the trust funds described in
16 Paragraph V, respondent LUEDDEKE acted in violation of the Code
17 and the Regulations in that he:

18 (a) Permitted, allowed or caused a deficit to
19 accumulate in the trust account which on September 30, 1994, was
20 in the amount of \$2,900.62, in violation of Section 10145 of the
21 Code and Regulation 2832.1.

22 (b) Failed to maintain a trust account in the name of
23 the broker and maintain a separate record of the receipt and
24 disposition of all trust funds deposited therein, as required by
25 Section 10145(g) of the Code and Regulation 2830.

26 (c) Failed to maintain an adequate columnar record in
27 chronological order of all trust funds, as required by Regulation
2831.

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1 (d) Failed to maintain adequate separate records for
2 each beneficiary or transaction, accounting therein for all trust
3 funds received and disbursed, as required by Regulation 2831.1.

4 (e) Failed to perform a monthly reconciliation of the
5 receipt and disposition of all trust funds received and the
6 balance of all separate beneficiary or transaction records
7 relating to trust funds, as required by Regulation 2831.2.

8 (f) Permitted the withdrawal of trust funds from the
9 trust account by persons who were neither licensed by the
10 Department nor bonded in an amount equal to or greater than the
11 amount of trust funds subject to withdrawal by said persons
12 including Linda Corbett, in violation of Regulation 2834.

13 VIII

14 The conduct of respondent LUEDDEKE, described in
15 Paragraph VII, above, violated the Code and the Regulations as set
16 forth below:

17 PARAGRAPH

PROVISIONS VIOLATED

18 VII(a)	Section 10145 of the Code, and
19	Regulation 2832.1
20 VII(b)	Regulation 2830
21 VII(c)	Regulation 2831
22 VII(d)	Regulation 2831.1
23 VII(e)	Regulation 2831.2
24 VII(f)	Regulation 2834

25 Each of the foregoing violations separately constitutes cause for
26 the suspension or revocation of the real estate licenses and

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1 license rights of respondent under the provisions of Section
2 10177(d) of the Code.

3 IX

4 In connection with the activities described above in
5 Paragraphs IV and VI, LUEDDEKE failed to provide a statement in
6 writing containing all the information required by Section 10241
7 of the Code to various borrowers including, but not limited to,
8 White, Knell, Glassman and Aufhauser before these borrowers became
9 obligated to perform under the terms of their respective loans.
10 This conduct constitutes a violation of Section 10240 of the Code
11 and Regulation 2840 and is cause to suspend or revoke the real
12 estate licenses and license rights of respondent under Section
13 10177(d).

14 X

15 The audit examination further revealed that respondent,
16 in reference to Paragraph VI, failed to notify the Department of
17 the employment of salesperson Michael Lueddeke, real estate
18 salesperson licensed to respondent. Moreover, respondent failed
19 to notify the Department of the termination of salesperson Ingrid
20 Lafebre, as required by Section 10161.8 of the Code and Regulation
21 2752. Said conduct is cause to suspend or revoke the licenses and
22 license rights of the respondent under Section 10177(d) of the
23 Code.

24 XI

25 The conduct of LUEDDEKE in connection with the
26 activities described above in Paragraphs IV and VI, in failing to
27 provide a statement in writing respecting the claiming or taking

1 by LUEDDEKE of any secret or undisclosed amount of compensation,
2 commission or profit to various borrowers including, but not
3 limited to, White, Knell, Glassman and Aufhauser constitutes a
4 violation of Section 10176(g) of the Code and is cause to suspend
5 or revoke the real estate licenses and license rights of
6 respondent.

7 XII

8 During the audit investigation a designated
9 representative of the Department gave notice and made demand to
10 examine and inspect the books, accounts and records received or
11 generated by respondent, and by and through agents and employees
12 in the course of the activities described in Paragraphs IV and VI,
13 above. At all times since said notice and demand, through his
14 agents and employees, respondent has failed or been unable to
15 provide all the said books, accounts, records such as invoices,
16 check duplicates and reports, and files requested and further
17 failed to keep the documentation relating to his mortgage loan
18 operation, dba Valley Lenders, and specifically including the
19 complete loan transaction file for the Nathan loan. This conduct
20 constitutes a violation of Section 10148 of the Code and is cause
21 to suspend or revoke respondent's real estate licenses and license
22 rights under Section 10177(d) of the Code.

23 XIII

24 The investigative audit, described in Paragraph VI,
25 revealed that respondent mixed and commingled his personal funds
26 with the funds in the appraisal and credit report fees trust
27 account of Valley Lenders and converted said trust funds,

1 specifically the excess advance fees collected for credit reports
2 or appraisal services over their actual cost billed of \$275 were
3 disbursed to respondent prior to the loan closing as follows for
4 the following borrowers, Ramos, Reese, Wang, Sanfilippo,
5 Justinano, Mills, Glassman, Grivakes, and Lenansky. This conduct
6 constitutes a violation of Section 10176(e) of the Code and such
7 violation is cause to suspend or revoke the real estate licenses
8 and license rights of respondent.

9 XIV

10 The conduct of respondent by misrepresenting the actual
11 costs incurred with credit bureaus or appraisers for the
12 respective credit or appraisal reports employed in the process of
13 securing a loan secured by real estate and by retaining the excess
14 of the collected amount over actual cost instead of refunding it
15 to the overcharged borrowers, as described in Paragraph XIII,
16 constitutes a violation of Section 10176(a) of the Code. This
17 conduct and violation are cause to suspend or revoke the real
18 estate licenses and license rights of respondent.

19 XV

20 The audit examination further revealed that respondent
21 engaged in the business of claiming, demanding, charging,
22 receiving, collecting or contracting for the collection of advance
23 fees in the form of non-refundable application fees payable to
24 Valley Lenders at the time the loan application is submitted by a
25 would-be borrower, during the measured period, as described in
26 Paragraphs VI and XIII, within the meaning of Sections 10026 and
27 10131.2 of the Code including, but not limited to, the Ramos,

1 Reese, Wang, Sanfilippo, Justinano, Mills, Glassman, Grivakes and
2 Lenansky loan transactions.

3 XVI

4 In connection with the loan transaction described above
5 in Paragraph XVI, respondent collected advance fees within the
6 meaning of Section 10026 of the Code in an amount in excess of the
7 actual cost for such credit or appraisal services from the
8 borrowers named in Paragraph XIV. Said advance fee collected from
9 the aforesaid borrowers and other similar advance fees from other
10 borrowers were collected by each would-be borrower when submitting
11 a loan application to Valley Lenders and before the commencement
12 of any loan processing, which constitutes an advance fee agreement
13 within the meaning of Sections 10026 and 10085 of the Code and
14 Section 2970 of the Regulations. The failure of respondent to
15 submit an advance fee agreement to the Commissioner of Real Estate
16 five days prior to its use is a violation of Section 10085 of the
17 Code and Section 2970 of the Regulations and is cause to suspend
18 or revoke the licenses and license rights of respondent under
19 Section 10177(d) of the Code.

20 XVII

21 In connection with the activities described above in
22 Paragraphs XV and XVI and with reference to the lack of an advance
23 fee agreement, respondent failed to provide a complete description
24 of services to be rendered provided to each would-be borrower, 10
25 point type font, and an allocation and disbursement of the amount
26 collected as the advance fee, in violation of Section 2972 of the
27 Regulations. This conduct and violation are cause to suspend or

1 revoke the real estate licenses and license rights of respondent
2 under Section 10177(d) of the Code.

3 XVIII

4 The audit examination conducted by personnel of the
5 Department revealed that respondent maintained only a checking
6 account, as forenamed in Paragraph VIII, as the sole corporate
7 trust account for Valley Lenders and thus failed to establish and
8 maintain a trust account at a bank or other recognized financial
9 institution in the name of the broker for deposit of advance fees
10 collected by respondent in violation of Section 10146 of the Code.
11 Said conduct is cause to suspend or revoke all licenses and
12 license rights of the Respondent under Section 10177(d) of the
13 Code.

14 XIX

15 The overall conduct of respondent LUEDDEKE, as described
16 in Paragraphs IV through XVIII herein above, constitutes
17 negligence or incompetence. This conduct and violation are
18 additional cause for the suspension or revocation the real estate
19 licenses and license rights of respondent under the provisions of
20 Section 10177(g) of the Code.

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

8 Dated at Los Angeles, California
9 this 24th day of May, 1995.

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11 Deputy Real Estate Commissioner
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25 cc: David Lueddeke
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