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**FILED**  
MAY 15 1998  
DEPARTMENT OF REAL ESTATE

By Jana B. Oran

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DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of )	No. H-26794 LA
PACIFIC MORTGAGE EXCHANGE INC., )	L-9701179
a California corporate broker; and )	
GREGORY GAIL SCHICK, individually )	
and as designated officer of )	
Pacific Mortgage Exchange Inc., )	
Respondents. )	

ORDER DENYING RECONSIDERATION

On March 16, 1998, a Decision After Rejection, amended on March 31, 1998, was rendered in the above-entitled matter. The Amended Decision After Rejection is to become effective on May 18, 1998.

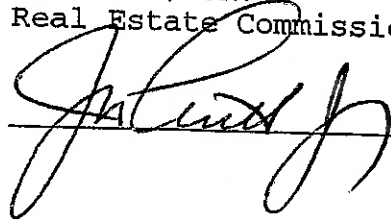
On May 4, 1998, respondent petitioned for reconsideration of the Decision of March 31, 1998.

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1 I have given due consideration to the petition of  
2 respondent. I find no good cause to reconsider the Amended Decision  
3 After Rejection of March 31, 1998 and reconsideration is hereby  
4 denied.

5 IT IS SO ORDERED 5/12, 1998.

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7 JIM ANTT, JR.  
Real Estate Commissioner

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**FILED**  
MAY - 5 1998  
DEPARTMENT OF REAL ESTATE

By Lana B. Olin

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )  
PACIFIC MORTGAGE EXCHANGE INC., )  
a California corporate broker; )  
and GREGORY GAIL SCHICK, )  
individually and as designated )  
officer of Pacific Mortgage, )  
Exchange Inc., )  
Respondents. )

No. H-26794 LA  
L-9701179

ORDER STAYING EFFECTIVE DATE

On March 16, 1998, a Decision After Rejection, amended on March 31, 1998, was rendered in the above entitled matter to become effective April 7, 1998. Thereafter in an Order signed March 26, 1998, the Decision was stayed until May 7, 1998.

IT IS HEREBY ORDERED that the effective date of the Amended Decision of March 31, 1998, is stayed for an additional 10 days.

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1  
2 The Amended Decision of March 31, 1998, shall become  
3 effective at 12 o'clock noon on May 18, 1998.

4 DATED: 5 May 1998

5  
6 JIM ANTT, JR.  
Real Estate Commissioner

7  
8 Randolph Brendia  
9 RANDOLPH BRENDIA  
Regional Manager

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FILED  
MAR 26 1998

DEPARTMENT OF REAL ESTATE

By [Signature]

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	No. H-26794 LA
PACIFIC MORTGAGE EXCHANGE INC,	)	
a California corporate broker; and	)	<u>A C C U S A T I O N</u>
GREGORY GAIL SCHICK, individually	)	
and as designated officer of	)	
Pacific Mortgage Exchange Inc,	)	
	)	
Respondents.	)	

ORDER STAYING EFFECTIVE DATE

On March 16, 1998 a Decision was rendered in the above-entitled matter to become effective April 7, 1998.

IT IS HEREBY ORDERED that the effective date of the Decision of March 16, 1998, is stayed for a period of 30 days.

The Decision of March 16, 1998, shall become effective at 12 o'clock noon on May 7, 1998.

DATED 26 March 1998

[Signature]  
Randolph Brendia  
Regional Manager

*Handwritten scribbles*

**FILED**  
APR - 3 1998  
DEPARTMENT OF REAL ESTATE

By *Laura A. Crane*

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DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-26794 LA
PACIFIC MORTGAGE EXCHANGE INC., )	L-9701179
a California corporate broker; )	
and GREGORY GAIL SCHICK, )	
individually and as designated )	
officer of Pacific Mortgage )	
Exchange Inc., )	
Respondents. )	

AMENDED DECISION AFTER REJECTION

The above-entitled matter came on for hearing before Ralph Dash, Administrative Law Judge of the Office of Administrative hearings in Los Angeles, California, on August 15, 1997.

Sean Crahan, Real Estate Counsel, represented the complainant. Respondent Gregory Gail Schick was present and represented himself and Respondent Pacific Mortgage Exchange.

Evidence was received, the hearing was closed, and the record was left open until September 25, 1997 for Complainant to determine whether to amend the Accusation regarding certain proof

1 offered at trial. On that date the Administrative Law Judge was  
2 notified by Complainant that the Accusation would not be amended  
3 and the matter was deemed submitted.

4 On October 31, 1997, the Administrative Law Judge  
5 submitted a Proposed Decision (hereafter Proposed Decision) which I  
6 declined to adopt as my Decision herein. Pursuant to Section  
7 11517(c) of the Government Code of the State of California,  
8 respondents were served with notice of my determination not to  
9 adopt the Proposed Decision of the Administrative Law Judge along  
10 with a copy of said Proposed Decision. Respondents were notified  
11 that the case would be decided by me upon the record, the  
12 transcripts of proceedings held on August 15, 1997, and upon any  
13 written argument offered by respondents. The transcripts were  
14 received by the Department on January 22, 1998, and respondents  
15 were notified of their receipt and were provided 15 days within  
16 which to submit argument.

17 Respondents submitted argument on February 13, 1998.  
18 Complainant submitted argument on February 23, 1998.

19 I have given careful consideration to the record in this  
20 case, including the transcripts of proceedings of August 15, 1997  
21 and including arguments by Respondents and Complainant.

22 The following shall constitute the Decision of the Real  
23 Estate Commissioner in the above-entitled matter:

24 FINDINGS OF FACT

25 Paragraphs 1, 2, 3, 4, 5 and 6 and all subparagraphs  
26 therein of the factual findings set forth in the Proposed Decision  
27 are hereby adopted as Findings of Fact of the Real Estate

1 Commissioner in the above-entitled matter. Paragraph 7 of the  
2 Proposed Decision is not so adopted.

3 SUPPLEMENTAL FINDINGS OF FACT

4 Based on a review of the transcript of the proceedings  
5 and the exhibits admitted at the hearing, I make the following  
6 Supplemental Findings of Fact:

7 (a) Respondent SCHICK failed to review, initial and  
8 date documents prepared by licensees of PME which might have a  
9 bearing on the rights of parties to the transactions, in willful  
10 violation of Regulation 2725, as evidenced by the audit report in  
11 Exhibit 4.

12 (b) Respondents PME and SCHICK failed to timely  
13 notify the department of the opening of a branch office in Rancho  
14 Mirage, CA. in willful violation of Code Section 10163, as  
15 evidenced by the audit report attached to Exhibit 4. The  
16 Department was not notified of this branch office until October 28,  
17 1996, eight months after the audit was concluded on June 30, 1995.

18 (c) Respondents PME and SCHICK failed to see that  
19 the Mortgage Loan Disclosure Statements were signed by the  
20 licensees who negotiated the loans, as evidenced by the audit  
21 report in Exhibit 4, as required by Regulation 2842.5. The  
22 Mortgage Loan Disclosure Statements are those involved in the  
23 following loans:

24	Loan Number:	Lender:	Date Negotiated:
25	(i) 3587	Davis	8-18-94
26	(ii) 3636	Spillman	1-20-95

27





1 (h) Code Section 10145 and Regulation 2832.1 for  
2 the \$105.68 shortage, as set forth in paragraph 5(g) of the  
3 Proposed Decision.

4 (i) Regulation 2842.5 for failure to see that the  
5 Mortgage Loan Disclosure Statements were signed by the licensees  
6 who negotiated the loans, as set forth in the Supplemental Findings  
7 (c) above,

8 2. Cause exists to suspend or revoke the real estate  
9 broker licenses and license rights of respondent GREGORY GAIL  
10 SCHICK under the provision of Business and Professions Code  
11 (hereafter Code) Section 10177(d) for violation of:

12 (a) Code Section 10163 for failure to timely notify  
13 the department of the opening of a branch office, as set forth in  
14 the Supplemental Findings (b) above.

15 (b) Code Section §10232.2 and Regulation 2846.5 for  
16 failing to file the annual trust fund report for the fiscal year  
17 ending December 31, 1994, as set forth in Paragraph 5(b) of the  
18 Proposed Decision.

19 (c) Regulation 2725 for failure to review, initial  
20 and date documents prepared by licensees of PME which might have a  
21 bearing on the rights of parties to the transactions, as set forth  
22 in the Supplemental Findings (a) above.

23 (d) Regulation 2752 for failure to notify the  
24 Department of the employment of two salespersons, as set forth in  
25 Paragraph 5(c) of the Proposed Decision.

26 (e) Regulation 2831 for failure to maintain PME's  
27 escrow trust fund control record, as set forth in paragraph 5(d) of

1 the Proposed Decision.

2 (f) Regulation 2831.1 for failure to maintain its  
3 escrow trust fund separate records, as set forth in Paragraph 5(e)  
4 of the Proposed Decision.

5 (g) Regulation 2831.2 for failure to reconcile,  
6 monthly, the separate records with the control records, as set  
7 forth in paragraph 5(f) of the Proposed Decision.

8 (h) Code Section 10145 and Regulation 2832.1 for the  
9 \$105.68 shortage, as set forth in paragraph 5(g) of the Proposed  
10 Decision.

11 (i) Regulation 2842.5 for failure to see that the  
12 Mortgage Loan Disclosure Statements were signed by the licensees  
13 who negotiated the loans, as set forth in the Supplemental Findings  
14 (c) above,

15 2. The violations set forth in Determination of Issues,  
16 paragraph 2, occurred or were continuing to occur during the time  
17 Respondent SCHICK was designated officer of Respondent PACIFIC  
18 MORTGAGE EXCHANGE, INC.

19 3. The standard of proof applied was clear and  
20 convincing proof to a reasonable certainty.

21 ORDER

22 WHEREFORE, THE FOLLOWING ORDER is hereby made:

23 A.

24 All licenses and licensing rights of Respondent PACIFIC  
25 MORTGAGE EXCHANGE, INC.. under the Real Estate Law are suspended  
26 for a period of one hundred twenty (120) days from the effective  
27 date of this Order; provided, however, said suspension shall be

1 stayed upon the following terms and conditions:

2 (a) Respondent PACIFIC MORTGAGE EXCHANGE, INC. shall  
3 obey all laws, rules and regulations governing the rights, duties  
4 and responsibilities of a real estate licensee in the State of  
5 California;

6 (b) That no final subsequent determination be made,  
7 after hearing or upon stipulation, that cause for disciplinary  
8 action occurred within two (2) years of the effective date of this  
9 Order;

10 (c) Within two years from the effective date of this  
11 order, the Commissioner may audit the books and records of  
12 respondent to determine compliance with the Real Estate Law and  
13 Regulations of the Real Estate Commissioner, pursuant to Code  
14 Section 10148.

15 (1) The Real Estate Commissioner may charge  
16 respondent the reasonable cost of this audit. In calculating the  
17 amount of the reasonable costs, the Commissioner may use the  
18 estimated average hourly salary for all persons performing audits  
19 of real estate brokers, and shall include an allocation for travel  
20 costs, including mileage, time to and from the auditor's place of  
21 work, and per diem.

22 (2) Respondents PACIFIC MORTGAGE EXCHANGE, INC. and  
23 GREGORY GAIL SCHICK, jointly or severally, pay, within 45 days from  
24 receipt of the invoice, the Commissioner's reasonable costs for the  
25 chargeable follow-up audit;

26 (3) If Respondents PACIFIC MORTGAGE EXCHANGE, INC.  
27 and GREGORY GAIL SCHICK fail to pay, within 45 days from receipt of



1 the invoice, for the Commissioner's reasonable costs for an audit,  
2 the Commissioner may order the suspension of Respondents PACIFIC  
3 MORTGAGE EXCHANGE, INC.'s and/or GREGORY GAIL SCHICK's real estate  
4 license and license rights. The suspension shall remain in effect  
5 until the end of the two year stay, or until payment is made in  
6 full, or until Respondent enters into an agreement satisfactory to  
7 the Commissioner to provide for such payment. The Commissioner may  
8 impose further reasonable disciplinary terms and conditions upon  
9 Respondent's real estate license and license rights as part of any  
10 such agreement;

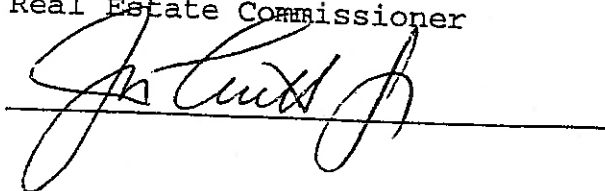
11 (d) If no further cause for disciplinary action against  
12 the real estate license of Respondent PME has occurred within two  
13 (2) years, as finally determined after hearing or stipulation, and  
14 if Respondent PME timely pays the Commissioner's reasonable cost  
15 for a follow-up chargeable audit, the stay of the one hundred  
16 twenty (120) day suspension shall become permanent.

17 B.

18 The Order in the Proposed Decision dated October 31, 1997  
19 as to respondent GREGORY GAIL SCHICK is adopted as my order in this  
20 Decision as to respondent SCHICK.

21 This Decision shall become effective at 12 o'clock noon  
22 on May 7, 1998.

23 IT IS SO ORDERED 3/31 1998.

24  
25 JIM ANTT, JR.  
26 Real Estate Commissioner  
27 



**FILED**  
MAR 18 1998  
DEPARTMENT OF REAL ESTATE

By Janis A. Pina

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-26794 LA
PACIFIC MORTGAGE EXCHANGE INC., )	L-9701179
a California corporate broker; )	
and GREGORY GAIL SCHICK, )	
individually and as designated )	
officer of Pacific Mortgage )	
Exchange Inc., )	
Respondents. )	

DECISION AFTER REJECTION

The above-entitled matter came on for hearing before Ralph Dash, Administrative Law Judge of the Office of Administrative hearings in Los Angeles, California, on August 15, 1997.

Sean Crahan, Real Estate Counsel, represented the complainant. Respondent Gregory Gail Schick was present and represented himself and Respondent Pacific Mortgage Exchange.

Evidence was received, the hearing was closed, and the record was left open until September 25, 1997 for Complainant to determine whether to amend the Accusation regarding certain proof

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1 offered at trial. On that date the Administrative Law Judge was  
2 notified by Complainant that the Accusation would not be amended  
3 and the matter was deemed submitted.

4 On October 31, 1997, the Administrative Law Judge  
5 submitted a Proposed Decision (hereafter Proposed Decision) which I  
6 declined to adopt as my Decision herein. Pursuant to Section  
7 11517(c) of the Government Code of the State of California,  
8 respondents were served with notice of my determination not to  
9 adopt the Proposed Decision of the Administrative Law Judge along  
10 with a copy of said Proposed Decision. Respondents were notified  
11 that the case would be decided by me upon the record, the  
12 transcripts of proceedings held on August 15, 1997, and upon any  
13 written argument offered by respondents. The transcripts were  
14 received by the Department on January 22, 1998, and respondents  
15 were notified of their receipt and were provided 15 days within  
16 which to submit argument.

17 Respondents submitted argument on February 13, 1998.  
18 Complainant submitted argument on February 23, 1998.

19 I have given careful consideration to the record in this  
20 case, including the transcripts of proceedings of August 15, 1997  
21 and including arguments by Respondents and Complainant.

22 The following shall constitute the Decision of the Real  
23 Estate Commissioner in the above-entitled matter:

24 FINDINGS OF FACT

25 Paragraphs 1, 2, 3, 4, 5 and 6 and all subparagraphs  
26 therein of the factual findings set forth in the Proposed Decision  
27 are hereby adopted as Findings of Fact of the Real Estate

1 Commissioner in the above-entitled matter. Paragraph 7 of the  
2 Proposed Decision is not so adopted.

3 SUPPLEMENTAL FINDINGS OF FACT

4 Based on a review of the transcript of the proceedings  
5 and the exhibits admitted at the hearing, I make the following  
6 Supplemental Findings of Fact:

7 (a) Respondent SCHICK failed to review, initial and  
8 date documents prepared by licensees of PME which might have a  
9 bearing on the rights of parties to the transactions, in willful  
10 violation of Regulation 2725, as evidenced by the audit report in  
11 Exhibit 4.

12 (b) Respondents PME and SCHICK failed to timely  
13 notify the department of the opening of a branch office in Rancho  
14 Mirage, CA. in willful violation of Code Section 10163, as  
15 evidenced by the audit report attached to Exhibit 4. The  
16 Department was not notified of this branch office until October 28,  
17 1996, eight months after the audit was concluded on June 30, 1995.

18 (c) Respondents PME and SCHICK failed to see that  
19 the Mortgage Loan Disclosure Statements were signed by the  
20 licensees who negotiated the loans, as evidenced by the audit  
21 report in Exhibit 4, as required by Regulation 2842.5. The  
22 Mortgage Loan Disclosure Statements are those involved in the  
23 following loans:

24	Loan Number:	Lender:	Date Negotiated:
25	(i) 3587	Davis	8-18-94
26	(ii) 3636	Spillman	1-20-95



1 DETERMINATION OF ISSUES

2 1. Cause exists to suspend or revoke the real estate  
3 broker licenses and license rights of respondent PACIFIC MORTGAGE  
4 EXCHANGE, INC. under the provision of Business and Professions Code  
5 (hereafter Code) Section 10177(d) for violation of:

6 (a) Code Sections 10130 for operating without a  
7 designated officer from May 14, 1994 through August 16, 1994, as  
8 found in Paragraph 5(a) of the Proposed Decision.

9 (b) Code Section 10163, for failure to timely  
10 notify the department of the opening of a branch office, as set  
11 forth in the Supplemental Findings (b) above.

12 (c) Code Section §10232.2 and Regulations 2846 and  
13 2846.5 for failing to file quarterly and annual trust fund reports,  
14 as found in Paragraph 5(b) of the Proposed Decision.

15 (d) Regulation 2752 for failure to notify the  
16 Department of the employment of two salespersons, as found in  
17 Paragraph 5(c) of the Proposed Decision.

18 (e) Regulation 2831 for failure to maintain its  
19 escrow trust fund control record, as set forth in paragraph 5(d) of  
20 the Proposed Decision.

21 (f) Regulation 2831.1 for failure to maintain its  
22 escrow trust fund separate records, as set forth in Paragraph 5(e)  
23 of the Proposed Decision.

24 (g) Regulation 2831.2 for failure to reconcile,  
25 monthly, the separate records with the control records, as set  
26 forth in paragraph 5(f) of the Proposed Decision.

27



1 (h) Code Section 10145 and Regulation 2832.1 for  
2 the \$105.68 shortage, as set forth in paragraph 5(g) of the  
3 Proposed Decision.

4 (i) Regulation 2842.5 for failure to see that the  
5 Mortgage Loan Disclosure Statements were signed by the licensees  
6 who negotiated the loans, as set forth in the Supplemental Findings  
7 (c) above,

8 2. Cause exists to suspend or revoke the real estate  
9 broker licenses and license rights of respondent GREGORY GAIL  
10 SCHICK under the provision of Business and Professions Code  
11 (hereafter Code) Section 10177(d) for violation of:

12 (a) Code Section 10163 for failure to timely notify  
13 the department of the opening of a branch office, as set forth in  
14 the Supplemental Findings (b) above.

15 (b) Code Section §10232.2 and Regulation 2846.5 for  
16 failing to file the annual trust fund report for the fiscal year  
17 ending December 31, 1994, as set forth in Paragraph 5(b) of the  
18 Proposed Decision.

19 (c) Regulation 2725 for failure to review, initial  
20 and date documents prepared by licensees of PME which might have a  
21 bearing on the rights of parties to the transactions, as set forth  
22 in the Supplemental Findings (a) above.

23 (d) Regulation 2752 for failure to notify the  
24 Department of the employment of two salespersons, as set forth in  
25 Paragraph 5(c) of the Proposed Decision.

26 (e) Regulation 2831 for failure to maintain PME's  
27 escrow trust fund control record, as set forth in paragraph 5(d) of



1 the Proposed Decision.

2 (f) Regulation 2831.1 for failure to maintain its  
3 escrow trust fund separate records, as set forth in Paragraph 5(e)  
4 of the Proposed Decision.

5 (g) Regulation 2831.2 for failure to reconcile,  
6 monthly, the separate records with the control records, as set  
7 forth in paragraph 5(f) of the Proposed Decision.

8 (h) Code Section 10145 and Regulation 2832.1 for the  
9 \$105.68 shortage, as set forth in paragraph 5(g) of the Proposed  
10 Decision.

11 (i) Regulation 2842.5 for failure to see that the  
12 Mortgage Loan Disclosure Statements were signed by the licensees  
13 who negotiated the loans, as set forth in the Supplemental Findings  
14 (c) above,

15 3. The violations set forth in Determination of Issues,  
16 paragraph 2, occurred or were continuing to occur during the time  
17 Respondent SCHICK was designated officer of Respondent PACIFIC  
18 MORTGAGE EXCHANGE, INC.

19 4. The standard of proof applied was clear and  
20 convincing proof to a reasonable certainty.

21 ORDER

22 WHEREFORE, THE FOLLOWING ORDER is hereby made:

23 A.

24 All licenses and licensing rights of Respondent PACIFIC  
25 MORTGAGE EXCHANGE, INC.. under the Real Estate Law are suspended  
26 for a period of one hundred twenty (120) days from the effective  
27 date of this Order; provided, however:



1           1. If Respondent petitions, the first ten (10) days of  
2 said suspension shall be stayed upon the terms and conditions of  
3 this paragraph:

4           (a) Respondent PACIFIC MORTGAGE EXCHANGE, INC. shall  
5 obey all laws, rules and regulations governing the rights, duties  
6 and responsibilities of a real estate licensee in the State of  
7 California;

8           (b) That no final subsequent determination be made,  
9 after hearing or upon stipulation, that cause for disciplinary  
10 action occurred within two (2) years of the effective date of this  
11 Order;

12           (c) Within two years from the effective date of this  
13 Order, the Commissioner may audit the books and records of  
14 respondent to determine compliance with the Real Estate Law and  
15 Regulations of the Real Estate Commissioner, pursuant to Code  
16 Section 10148.

17           (1) The Real Estate Commissioner may charge  
18 respondent the reasonable cost of this audit. In calculating the  
19 amount of the reasonable costs, the Commissioner may use the  
20 estimated average hourly salary for all persons performing audits  
21 of real estate brokers, and shall include an allocation for travel  
22 costs, including mileage, time to and from the auditor's place of  
23 work, and per diem.

24           (2) Respondents PACIFIC MORTGAGE EXCHANGE,  
25 INC. and GREGORY GAIL SCHICK, jointly or severally, pay, within 45  
26 days from the receipt of the invoice, the Commissioner's reasonable  
27 costs for the chargeable follow-up audit;



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(3) If Respondent's PACIFIC MORTGAGE EXCHANGE, INC. and GREGORY GAIL SCHICK fail to pay, within 45 days from receipt of the invoice, for the Commissioner's reasonable costs for an audit, the Commissioner may order the suspension of Respondents PACIFIC MORTGAGE EXCHANGE, INC.'s and/or GREGORY GAIL SCHICK's real estate license and license rights. The suspension shall remain in effect until the end of the two year stay, or until payment is made in full, or until Respondent enters into an agreement satisfactory to the Commissioner to provide for such payment. The Commissioner may impose further reasonable disciplinary terms and conditions upon Respondent's real estate license and license rights as part of any such agreement;

2. If no further cause for disciplinary action against the real estate license of Respondent has occurred within two (2) years, as finally determined after hearing or stipulation, the stays of the one hundred twenty (120) day suspension shall be permanent.

B.

The Order in the Proposed Decision dated October 31, 1997, as to respondent GARY GAIL SCHICK is adopted as my order in this Decision.

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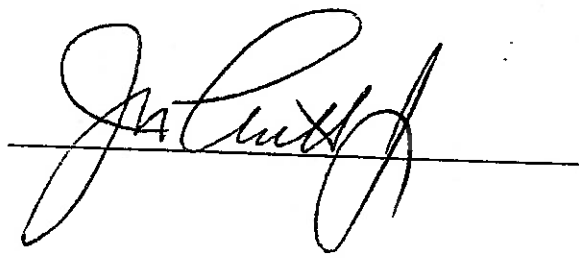


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This Decision shall become effective at 12 o'clock noon  
on April 7, 1998

IT IS SO ORDERED 3/16, 1998.

JIM ANTT, JR.  
Real Estate Commissioner



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**FILED**  
DEC - 9 1997  
DEPARTMENT OF REAL ESTATE

By *Jana B. Orma*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	NO. H-26794 LA
PACIFIC MORTGAGE EXCHANGE INC. )	L-9701179
a California corporate broker; )	
and GREGORY GAIL SCHICK, )	
individually and as designated )	
officer of Pacific Mortgage )	
Exchange Inc., )	
Respondents. )	

NOTICE

TO: PACIFIC MORTGAGE EXCHANGE INC. and GREGORY GAIL SCHICK,  
Respondents

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated October 31, 1997, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated October 31, 1997, is attached hereto for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition

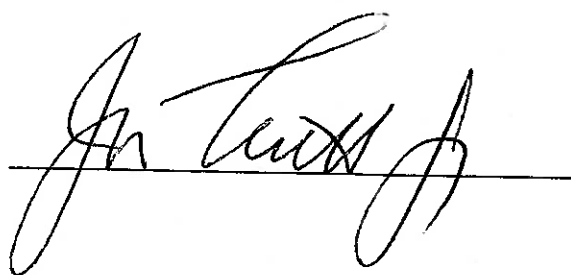
1 of this case will be determined by me after consideration of  
2 the record herein including the transcript of the proceedings  
3 held on August 15, 1997, and any written argument hereafter  
4 submitted on behalf of respondent and complainant.

5 Written argument of respondent to be considered by  
6 me must be submitted within 15 days after receipt of the  
7 transcript of the proceedings of August 15, 1997, at the  
8 Los Angeles Office of the Department of Real Estate unless an  
9 extension of the time is granted for good cause shown.

10 Written argument of complainant to be considered by  
11 me must be submitted within 15 days after receipt of the  
12 argument of respondent at the Los Angeles Office of the  
13 Department of Real Estate unless an extension of the time is  
14 granted for good cause shown.

15 DATED: 12/4/97.

16 JIM ANTT, JR.  
17 Real Estate Commissioner

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lbo



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	No. H-26794 LA
Against:	)	
	)	OAH No. L-9701179
PACIFIC MORTGAGE EXCHANGE INC.	)	
a California corporate broker; and	)	
GREGORY GAIL SCHICK, individually	)	
and as designated officer of	)	
Pacific Mortgage Exchange Inc.,	)	
	)	
Respondents.	)	
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PROPOSED DECISION

This matter came on regularly for hearing before Ralph B. Dash, Administrative Law Judge with the Office of Administrative Hearings, on August 15, 1997, at Los Angeles, California.

Complainant was represented by Sean Crahan, Staff Counsel.

Respondent Gregory Gail Schick was present and represented himself and Respondent Pacific Mortgage Exchange, Inc.

The record was left open until September 25, 1997 for Complainant to determine whether to amend the Accusation regarding certain proof offered at trial. On that date the Administrative Law Judge was notified by Complainant that the Accusation would not be amended and the matter was deemed submitted.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge makes the following Findings of Fact:

1. Complainant, Thomas McCrady, Deputy Real Estate Commissioner, made the Accusation in his official capacity.

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2. Pacific Mortgage Exchange Inc. (hereafter respondent PME), 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 (hereafter cited as the Code).

(a) At all times herein mentioned, respondent PME was licensed by the Department of Real Estate of the State of California (hereafter the Department) as a corporate real estate broker.

(b) Between May 4, 1994 through August 16, 1994, respondent PME was without a designated officer and not authorized to perform acts requiring a real estate license.

3. Gregory Gail Schick (hereafter respondent Schick) is presently licensed and/or has license rights under the Real Estate Law.

(a) At all times herein mentioned, respondent Schick was licensed by the Department as a real estate broker, individually and as designated officer of Pacific Mortgage Exchange Inc. on and after August 17, 1994 to the present.

(b) Pursuant to Code Section 10159.2, respondent Schick was responsible for the supervision of the activities of officers, agents and employees of respondent PME for which a real estate license was required, from and after August 17, 1994.

4. At all times herein mentioned, respondent PME was engaged in the mortgage loan brokerage business, as defined by Code Section 10131(d), in that respondent PME, for or in expectation of compensation, solicited and negotiated with borrowers for loans from third-party lenders secured by real property (secured loans). In addition, respondent PME collected payments from borrowers on behalf of secured note owners for or in expectation of compensation.

5. From April 6 through June 30, 1995, an auditor from the Department examined the books and records of respondent PME covering a period of time from January 1, 1993 through February 28, 1995 (hereafter the "audit period"), and found the following:

(a) Respondent PME operated without a designated officer from May 14, 1994 through August 16, 1994, conducting activities requiring a Real Estate license.

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(b) During the audit period, respondent PME negotiated an average of 10 secured loans per month from third-party lenders aggregating \$458,180 per month. During the audit period, respondent PME was servicing approximately 300 loans with an aggregate face value of approximately \$14,000,000. At all times during the audit period, respondent PME met the threshold of business volume defined by Code Section 10232. Within 30 days after each fiscal quarter, respondent PME was required by Code Section 10232.25 and Title 10, Chapter 6, California Code of Regulations (hereafter Regulation) 2846.8 to file quarterly trust fund reports within 30 days after the end of each fiscal quarter. Further, during audit period, respondent PME was required by Code Section 10232.2 and Regulation 2846.5 to file an annual trust fund status report within 90 days after the end of respondent PME's fiscal year. Respondent PME failed to:

(1) File quarterly trust fund reports for the quarters ending March 31, 1993, June 30, 1993, and September 30, 1993.

(2) File an annual trust fund report for the fiscal year ending December 31, 1994. The Department performed an examination of the books for the fiscal year ending December 31, 1994 pursuant to Code Section 10232.2(e).1.

(3) The Department billed respondents PME and Schick \$2,617.56 and respondent PME and Schick paid the same.

(c) Respondent PME failed to notify the Department of the employment of two salespersons.

(d) In connection with the receipt and disposition of trust funds, Respondent PME failed to maintain its escrow trust fund control record as such records lacked deposit information and did not always contain balances after each transaction.

(e) In connection with the receipt and disposition of trust funds, respondent PME failed to maintain its escrow trust fund separate records as such records lacked deposit information and did not always contain balances after each transaction.

(f) Respondent PME failed to reconcile, monthly, the separate records with the control records.

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(g) Respondent PME's Loan Servicing trust account fell below the aggregate accountability to respondent PME's principals without the written consent of each and every principal whose funds were in the accounts. As of February 28, 1995, respondent PME's adjusted bank balance in Loan Servicing trust account was \$124,337.62. Respondent PME's minimum accountability to its principals on that date was \$124,443.30 leaving a shortage of \$105.68. However, approximately \$96 of this amount was due to unaccounted for bank charges. The remaining shortage was negligible in light of the account volume.

6. The foregoing conduct occurred during a time when Respondent Schick was not the designated officer of Respondent PME. His former wife had been the designated officer and when she informed him she no longer wished to so act, Respondent Schick promptly took over the operation. He instituted each and every reform required by the Department and even requested that the Department perform the audits and prepare the necessary reconciliations.

The Department advised Respondent Schick of the corrective steps which had to be taken, and he timely complied with each and every directive. The only issue that remained was the payment for the audit, as set forth in Finding 5(b)(3). At the time the Accusation was filed, the Department had sought an additional fee as and for a late penalty, but subsequently waived payment of the same, meaning Respondent Schick had brought PME, which had been out of compliance through no fault of his own, into full compliance with the Real Estate Law.

7. Except as expressly found above to be true, any charging allegation of the accusation not addressed is found to be unproven by clear and convincing evidence.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following Determination of Issues:

1. The conduct or omissions of Respondent PME as set forth above subjected its real estate license and license rights to discipline under the following Code Sections:

(a) Code Section 10177(d) for willful violations of the following Code Sections and Regulations:

(i) Code Sections 10130 for operating without a designated officer from May 14, 1994 through August 16, 1994, as set forth in Finding 5(a) above.

(ii) Code Section 10232.2 and Regulation 2846.5 for failing to file an annual trust fund report for the fiscal year ending December 31, 1994, as set forth in Finding 5(c)(2) above.

(iii) Regulation 2752 for respondent PME's failure to notify the Department of the employment of two salespersons, as set forth in Finding 5(c) above.

(iv) Regulation 2831 for failure to maintain its escrow trust fund control record, as set forth in paragraph 5(d) above.

(v) Regulation 2831.1 for failure to maintain its escrow trust fund separate records, as set forth in Finding 5(e) above.

(vi) Regulation 2831.2 for failure to reconcile, monthly, the separate records with the control records, as set forth in Finding 5(f) above.

(vii) Code Section 10145 and Regulation 2832.1 for the shortage, as set forth in paragraph 5(g) above.

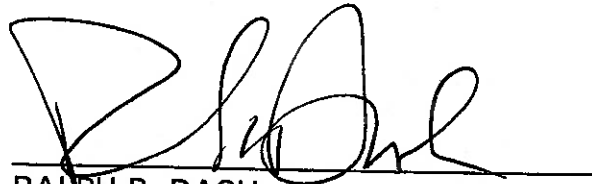
2. Ordinarily, significant discipline would be imposed upon a license for all of the foregoing violations. However, in this case, all of the violations, except for Determination item 1(a)ii above, took place before Respondent PME had new leadership in the person of Respondent Schick. And even that violation was a technical one in that respondent Schick knew of the requirements, but was unable to complete the report without the Department's help, for which he asked, received and paid. PME is now on solid ground under Respondent Schick, with the excellent help provided by the Department's auditors. Accordingly, it would not be in the public interest to impose discipline.

*adopted*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Accusation is sustained without the imposition of discipline.

Dated: 10-31-97



RALPH B. DASH  
Administrative Law Judge  
Office of Administrative Hearings

RBD:rfm

1 SEAN CRAHAN, Counsel  
2 Department of Real Estate  
3 107 South Broadway, Room 8107  
4 Los Angeles, California 90012

5 (213) 897-3937

**FILED**  
SEP 18 1996  
DEPARTMENT OF REAL ESTATE

By 

6  
7  
8 DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 In the Matter of the Accusation of ) No. H-26794 LA  
12 PACIFIC MORTGAGE EXCHANGE INC, )  
13 a California corporate broker; and) A C C U S A T I O N  
14 GREGORY GAIL SCHICK, individually )  
15 and as designated officer of )  
16 Pacific Mortgage Exchange Inc, )  
Respondents. )

17 The Complainant, Thomas McCrady, a Deputy Real Estate  
18 Commissioner of the State of California, for cause of accusation  
19 against PACIFIC MORTGAGE EXCHANGE INC, a California corporate  
20 broker; GREGORY GAIL SCHICK, individually and as designated officer  
21 of Pacific Mortgage Exchange Inc, alleges as follows:

22 1.

23 The Complainant, Thomas McCrady, a Deputy Real Estate  
24 Commissioner, brings this Accusation in his official capacity.

25 2.

26 PACIFIC MORTGAGE EXCHANGE INC (hereafter respondent PME),  
27 is presently licensed and/or has license rights under the Real



1 Estate Law, Part 1 of Division 4 of the California Business and  
2 Professions Code (hereafter cited as the Code).

3 (a) At all times herein mentioned, respondent PME was  
4 licensed by the Department of Real Estate of the State of  
5 California (hereafter the Department) as a corporate real estate  
6 broker.

7 (b) Between May 14, 1994 through August 16, 1994,  
8 respondent PME was without a designated officer and not authorized  
9 to perform acts requiring a real estate license.

10 3.

11 GREGORY GAIL SCHICK (hereafter respondent SCHICK) is  
12 presently licensed and/or has license rights under the Real Estate  
13 Law.

14 (a) At all times herein mentioned, respondent SCHICK was  
15 licensed by the Department as a real estate broker, individually  
16 and as designated officer of Pacific Mortgage Exchange Inc on and  
17 after August 17, 1994 to the present.

18 (b) Pursuant to Code Section 10159.2, respondent SCHICK  
19 was responsible for the supervision of the activities of officers,  
20 agents and employees of respondent PME for which a real estate  
21 license was required.

22 4.

23 At all times herein mentioned, respondent PME was engaged  
24 in the mortgage loan brokerage business, as defined by Code Section  
25 10131(d), in that respondent PME, for or in expectation of  
26 compensation, solicited and negotiated with borrowers for loans  
27 from third-party lenders secured by real property (secured loans).

1 In addition, respondent PME collected payments from borrowers on  
2 behalf of secured note owners for or in expectation of  
3 compensation.

4 5.

5 From April 6 through June 30, 1995, an auditor from the  
6 Department examined the books and records of respondent PME  
7 covering a period of time from January 1, 1993 through February 28,  
8 1995 (hereafter the "audit period"), and found that respondents  
9 PME, and SCHICK violated the following Code Sections and  
10 Regulations from Title 10, Chapter 6 of the California Code of  
11 Regulations (hereafter the Regulations):

12 (a) Respondent PME operated without a designated officer  
13 from May 14, 1994 through August 16, 1994, conducting activities  
14 requiring a Real Estate license in willful violation of Code  
15 Section 10130.

16 (b) Respondent PME failed to notify the department of  
17 the opening of a branch office in rancho Mirage, CA. in willful  
18 violation of Code Section 10163.

19 (c) During the audit period, respondent PME negotiated  
20 an average of 10 secured loans per month from third-party lenders  
21 aggregating \$458,180 per month. During the audit period,  
22 respondent PME was servicing approximately 300 loans with an  
23 aggregate face value of approximately \$14,000,000. At all times  
24 during the audit period, respondent PME met the threshold of  
25 business volume defined by Code Section 10232. Within 30 days  
26 after each fiscal quarter, respondent PME was required by Code  
27 Section 10232.25 and Regulation 2846.8 to file quarterly trust fund





1 reports within 30 days after the end of each fiscal quarter.  
2 Further, during the audit period, respondent PME was required by  
3 Code Section 10232.2 and Regulation 2846.5 to file an annual trust  
4 fund status report within 90 days after the end of respondent PME's  
5 fiscal year. Respondent PME failed to:

6 (1) File quarterly trust fund reports for the  
7 quarters ending March 31, 1993, June 30, 1993, and September 30,  
8 1993 in willful violation of Code Section 10232.25 and Regulation  
9 2846.8.

10 (2) File an annual trust fund report for the fiscal  
11 year ending December 31, 1994, in willful violation of Code Section  
12 10232.2 and Regulation 2846.5. The Department performed an  
13 examination of the books for the fiscal year ending December 31,  
14 1994 pursuant to Code Section §10232.2(e).1.

15 (3) The Department billed respondents PME and  
16 SCHICK \$2,617.56. Respondents PME and SCHICK have failed to pay  
17 the charges, in willful violation of Code Section §10232.2(e).1.

18 (d) Respondent SCHICK failed to review, initial and date  
19 documents prepared by licensees of PME which might have a bearing  
20 on the rights of parties to the transactions, in willful violation  
21 of Regulation 2725.

22 (e) Respondent PME failed to notify the Department of  
23 the employment of two salespersons, in willful violation of  
24 Regulation 2752.

25 (f) In connection with the receipt and disposition of  
26 trust funds, respondents PME and SCHICK failed to maintain its  
27 escrow trust fund control record in willful violation of Regulation



1 2831, as such records lacked deposit information and did not always  
2 contain balances after each transaction.

3 (g) In connection with the receipt and disposition of  
4 trust funds, respondents PME and SCHICK failed to maintain its  
5 escrow trust fund separate records in willful violation of  
6 Regulation 2831.1, as such records lacked deposit information and  
7 did not always contain balances after each transaction.

8 (h) Failed to reconcile, monthly, the separate records  
9 with the control records in willful violation of Regulation 2831.2.

10 (i) Caused, allowed or permitted respondent PME's Loan  
11 Servicing trust account to fall below their aggregate  
12 accountability to respondent PME's principals without the written  
13 consent of each and every principal whose funds were in the  
14 accounts in violation of Code Section 10145 and Regulation 2832.1.  
15 As of February 28, 1995, respondent PME's adjusted bank balance in  
16 Loan Servicing trust account was \$124,337.62. Respondent PME's  
17 minimum accountability to its principals on that date was  
18 \$124,443.30 leaving a shortage of \$105.68.

19 (j) Mortgage Loan Disclosure Statements were not signed  
20 by the licensees who negotiated the loans in willful violation of  
21 Regulation 2842.5.

22 6.

23 Respondent SCHICK knew or should have known that the  
24 above violations occurred or were occurring. Respondent SCHICK  
25 failed to exercise reasonable supervision over the activities of  
26 officers and employees of respondent PME for which a real estate  
27 license was required so as to prevent the violations from



occurring.

7.

The conduct or omissions of respondents as set forth above subject their real estate licenses and license rights to suspension or revocation under the following Code Sections:

(a) Code Section 10177(d) for willful violations of the following Code Sections and Regulations:

(i) Code Sections 10130 for operating without a designated officer from May 14, 1994 through August 16, 1994, as set forth in paragraph 5(a) above.

(ii) Code Section 10163 for failing to notify the department of the opening of a branch office in rancho Mirage, CA, as set forth in paragraph 5(b) above.

(iii) Code Section §10232.2 and Regulation 2846.5 for failing to file an annual trust fund report for the fiscal year ending December 31, 1994, as set forth in paragraph 5(c)(2) above.

(iv) Code Section §10232.2(e).1 for failing to pay the charges for the Department's examination of PME's books, as set forth in paragraph 5(c)(3) above.

(v) Regulation 2725 for Respondents SCHICK's and CROUCH's failure to review, initial and date documents prepared by licensees of PME, as set forth in paragraph 5(d) above.

(vi) Regulation 2752 for respondent PME's failure to notify the Department of the employment of two salespersons, as set forth in paragraph 5(e) above.

(vii) Regulation 2831 for failure to maintain its escrow trust fund control record, as set forth in paragraph 5(f)



1 above.

2 (viii) Regulation 2831.1 for failure to maintain its  
3 escrow trust fund separate records, as set forth in paragraph 5(g)  
4 above.

5 (ix) Regulation 2831.2 for failure to reconcile,  
6 monthly, the separate records with the control records, as set  
7 forth in paragraph 5(h) above.

8 (x) Code Section 10145 and Regulation 2832.1 for the  
9 shortage, as set forth in paragraph 5(i) above.

10 (xi) Regulation 2842.5 for failure to see that the  
11 Mortgage Loan Disclosure Statements were signed by the licensees  
12 who negotiated the loans, as set forth in paragraph 5(j) above.

13 WHEREFORE, Complainant prays that a hearing be conducted  
14 on the allegations of this Accusation and, that upon proof thereof,  
15 a decision be rendered imposing disciplinary action against all  
16 licenses and license rights of respondents PACIFIC MORTGAGE  
17 EXCHANGE INC, a California corporate broker and GREGORY GAIL  
18 SCHICK, individually and as designated officer of Pacific Mortgage  
19 Exchange Inc, under the Real Estate Law (Part 1 of Division 4 of  
20 the Business and Professions Code) and for such other and further  
21 relief as may be proper under other applicable provisions of law.

22 Dated: 18th day of September 1996, at Los Angeles, California,

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THOMAS MC CRADY

Thomas McCrady  
Deputy Real Estate Commissioner

cc: Pacific Mortgage Exchange Inc  
Gregory Gail Schick  
Sacto. LR

