

1 I, ROBERT V. VENNERI, Respondent herein, acknowledge
2 that I have received and read the Accusation filed by the
3 Department of Real Estate on May 30, 1997, and the Statement to
4 Respondent sent to me in connection with the Accusation.

5 I further acknowledge that the Real Estate Commissioner
6 held a hearing on this Accusation on September 18, 1998, before
7 the Office of Administrative Hearings for the purpose of proving
8 the allegations therein. I was present at the hearing in which I
9 was represented by counsel and participated therein. Further, I
10 have had an opportunity to read and review the Proposed Decision
11 of the Administrative Law Judge.

12 I understand that pursuant to Government Code Section
13 11517(c), the Real Estate Commissioner has rejected the Proposed
14 Decision of the Administrative Law Judge. I further understand
15 that pursuant to the same Section 11517(c), the Real Estate
16 Commissioner may decide this case upon the record, including the
17 transcript, without taking any additional evidence, after
18 affording me the opportunity to present written argument to the
19 Real Estate Commissioner.

20 I further understand that by signing this Stipulation
21 and Waiver After Hearing ("Stipulation"), I am waiving my right
22 to obtain a dismissal of the Accusation through proceedings under
23 Government Code Section 11517(c) if this Stipulation is accepted
24 by the Real Estate Commissioner. However, I also understand that
25 I am not waiving my rights to further proceedings to obtain a
26 dismissal of the Accusation if this Stipulation is not accepted
27 by the Real Estate Commissioner.



1 I understand that this Stipulation is based on the
2 factual allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy, I choose
4 not to contest these factual allegations, but to remain silent and
5 understand that, as a result thereof, these factual statements,
6 without being admitted or denied, will serve as a prima facie
7 basis for the disciplinary action stipulated to herein. This
8 Stipulation and my decision not to contest the Accusation are
9 hereby expressly limited to this proceeding and made for the sole
10 purpose of reaching an agreed disposition of this proceeding. My
11 decision not to contest the factual allegations is made solely for
12 the purpose of effectuating this Stipulation and is intended by me
13 to be non-binding upon me in any actions against me by third
14 parties. The Real Estate Commissioner shall not be required to
15 provide further evidence to prove such allegations.

16 I understand that this Stipulation and any Order made
17 pursuant to this Stipulation shall have no collateral estoppel or
18 res judicata effect in any proceedings in which myself and the
19 Department (or the Department's representative) are not parties.
20 This Stipulation is made by me and received by the Commissioner
21 and the Department, with the express understanding and agreement
22 that it is for the purpose of settling these proceedings only, and
23 that this Stipulation is not intended as, and shall not be deemed,
24 used, or accepted as an acknowledgment or admission of fact in any
25 other judicial, administrative, or other proceeding to which the
26 Department of Real Estate is not party.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent ROBERT V. VENNERI under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision.

1. Thirty (30) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

(a) Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

(b) That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year of the effective date of this Decision. Should such determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

2. If Respondent petitions, the initial thirty (30) days of the suspension (or a portion thereof), of Respondent's broker license shall be stayed upon condition that:

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(a) Respondent pays a monetary penalty pursuant to
Section 10175.2 of the Business and Professions Code of \$50.00 for
each day of the suspension for a total monetary penalty of \$1,500.

(b) Said payment shall be in the form of a cashier's
check or certified check made payable to the Recovery Account of
the Real Estate Fund. Said check must be delivered to the
Department prior to the effective date of the Decision in this
matter.

(c) No further cause for disciplinary action against
the real estate license of Respondent occurs within one (1) year
from the effective date of the Decision in this matter.

(d) If Respondent fails to pay the monetary penalty in
accordance with the terms and conditions of the Decision, the
Commissioner may, without a hearing, order the immediate execution
of all or any part of the stayed suspension in which event the
Respondent shall not be entitled to any repayment nor credit,
prorated or otherwise, for money paid to the Department under the
terms of this Decision.

(e) If Respondent pays the monetary penalty and if no
further cause for disciplinary action against the real estate
license of Respondent occurs within one year from the effective
date of the Decision, the stay hereby granted shall be permanent.

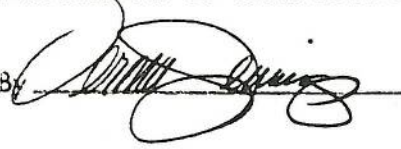
DATED: JANUARY 11, 1999

Darlene Averetta
DARLENE AVERETTA, Counsel for
the Department of Real Estate

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FILED
NOV - 5 1998
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-27230 LA
) L-1997060286
CENTERPOINT MORTGAGE)
CORPORATION, a corporation;)
and ROBERT V. VENNERI,)
individually, and as)
designated officer of)
Centerpoint Mortgage)
Corporation,)
)
Respondents.)
_____)

NOTICE

TO: ROBERT V. VENNERI, Respondent, and LAYNE H. MELZER,
his Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein
dated October 14, 1998, of the Administrative Law Judge is not
adopted as the Decision of the Real Estate Commissioner. A copy of
the Proposed Decision dated October 14, 1998, is attached hereto
for your information.

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

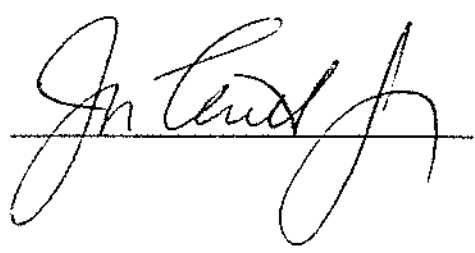
1 be determined by me after consideration of the record herein
2 including the transcript of the proceedings held on September 18,
3 1998, and any written argument hereafter submitted on behalf of
4 respondent and complainant.

5 Written argument of respondent to be considered by me
6 must be submitted within fifteen (15) days after receipt of the
7 transcript of the proceedings of September 18, 1998, 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 me
11 must be submitted within fifteen (15) days after receipt of the
12 argument of respondent at the Los Angeles office of the Department
13 of Real Estate unless an extension of the time is granted for good
14 cause shown.

15 DATED: 10/28, 1998.

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17 JIM ANTT, JR.
Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	Case No. H-27230 LA
)	
CENTERPOINT MORTGAGE)	OAH No. L-1997060286
CORPORATION, a corporation, and)	
ROBERT V. VENNERI, individually,)	
and as designated officer of)	
Centerpoint Mortgage Corporation,)	
)	
Respondents.)	
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PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on September 18, 1998, in Los Angeles, California.

Complainant was represented by V. Ahda Sands, Counsel for the Department of Real Estate.

Respondent Robert V. Venneri, appeared personally and was represented by Layne H. Melzer, from the law firm of Rutan and Tucker, LLP.

The Administrative Law Judge granted complainant's prehearing motion for severance. Therefore, no substantive findings were made concerning the alleged acts or omissions of respondent Centerpoint Mortgage Corporation.

The parties stipulated to the following facts:

1. The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, made the Accusation against Respondents.

2. 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"). The term "the Code" as used herein refers to the California Business and Professions Code.

3. At all times mentioned herein, Respondent Centerpoint Mortgage Corporation (herein "CMC"), 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 by and through respondent Robert V. Venneri as 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 CMC by CMC's officers and employees.

4. On June 4, 1996, to present, Respondent Venneri was licensed by the Department as a real estate broker and as designated officer of CMC.

5. All further references herein to "Respondents" include the parties identified in findings 3 and 4, 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.

6. 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 for others in the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of mortgage loan activities with the public wherein, on behalf of others and for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by a lien on real property; and arranged, negotiated, processed, and consummated said loans.

7. In connection with the aforesaid real estate broker activities, Respondents accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers and lenders and note owners and thereafter made disbursements of such funds. Respondents deposited certain of said funds into the following account (herein "said account"):

(a) Account No. 207-07665 (hereinafter "T/A #1"), the "Centerpoint Mortgage Trust Account", at the office of Merrill Lynch/Bank One in the City of Newport Beach, California.

8. On October 25, 1996, the Department concluded its examination of Respondents' books and records pertaining to the real estate broker activities described in Paragraph 7, above, for the almost three month period ending August 30, 1996, which examination revealed violations of the Code and of the Regulations as set forth in the following paragraphs.

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9. In connection with the trust fund activities referred to in Paragraphs 7 and 8, above, Respondents acted in violation of the Code and the Regulations in that Respondents:

(a) disbursed or caused or allowed the disbursement of trust funds from the T/A #1, wherein the disbursement of said funds reduced the funds in said account to an amount which on August 30, 1996, was approximately \$1,710.00 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 in violation of Regulation Section 2832.1 and Code Section 10145;

(b) failed to notify the Department of the employment of eight (8) real estate salespersons in violation of Regulation 2752 ;

(c) deposited certain trust funds in trust into account maintained as a working capital management account known as "Centerpoint Mortgage Trust" (an unlicensed d.b.a. of Centerpoint rather than into a trust account in the broker's name as broker and as trustee in violation of Code Section 10145 and Regulation Section 2830;

(d) the credit report and appraisal fee account (T/A #1) was an interest bearing account in violation of Regulation 2830.1;

(e) failed to maintain adequate formal trust fund receipts and disbursement journals in violation of Section 2831 of the Regulations. Specifically, the record consisted of a check register that did not include the requisite dates that the funds were received and from whom the funds were received;

(f) failed to maintain adequate separate records for each beneficiary or transaction, accounting therein for said account trust funds received, deposited, and disbursed, conforming to the requirements of Section 2831.1 of the Regulations;

(g) violation Section 2831.2 of the Regulations by failing to perform a monthly reconciliation of the records of the receipt and disposition of all trust funds received, and the balance of all separate beneficiary or transaction records;

(h) failed to deposit all credit report and appraisal fees received into the trust account by the next business day in violation of Section 2832 of the Regulation;

(i) allowed unlicensed person (Marty Parada) to be a signatory on Respondent's trust account. In addition, Respondent failed to obtain fidelity bond coverage for said persons, in violation of Section 2834 of the Code;

(j) failed to review and initial instruments prepared or signed by real estate salespersons employed by Respondent in connection with transactions for which a real estate license is required, which instruments may have a material effect upon the rights or obligations of a party to the transaction, in violation of Section 2725 of the Regulations ;

(k) failed to first obtain a license from the Department before using the fictitious names "Centerpoint Mortgage", in violation of Regulation Section 2731 .

The Administrative Law Judge finds as follows:

10. The evidence did not establish that CMC failed to provide borrowers with a Mortgage Loan Disclosure Statement in violation of Section 10240 of the Code. The fact that said statement was not contained in the file does not prove that said document was not given to the borrower.

11. In June 1996, respondent Venneri agreed to become designated officer of CMC after he met with officers of the corporation and assured himself that said officers were competent to run the day to day operations of the mortgage loan business. It is also noted that CMC had in place a policies and procedures manual for processing real estate loans. Mr. Venneri delegated the responsibility of running the daily operations of CMC to president and vice president of the corporation.

12. Respondent Venneri was unaware that the violations had occurred until CMC was audited. Upon learning of the violations, Mr. Venneri demanded that the officers of CMC immediately correct the violations and comply with all regulations in the future. Within a week, all of the violations had been corrected. Mr Venneri credited the auditor for carefully explaining the violations and the manner of correction.

13. Respondent Venneri has been licensed in California since 1989. He has been licensed in the state of Pennsylvania since 1978. He has never been disciplined .

14. A. Respondent Venneri contends that a change in Regulation Section 2725 which became effective November 13, 1996, absolves Mr. Venneri from discipline. This regulation defines reasonable supervision to include the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage transactions requiring a real estate license, including the handling of material documents and trust funds. It further provides that a "broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker."

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B. Respondent's contention is not persuasive. Although a broker may establish procedures and delegate the administrative duties to another licensee, the designated broker remains the person with overall responsibility to insure that established procedures, as well as all state and federal laws, are followed by the employees of the corporation. Therefore, respondent Venneri had the responsibility to insure compliance with federal and state statutes, as well as departmental regulations. His failure to do so was a violation of Sections 10159.2 and 10177(h) of the Business and Professions Code.

15. In this case, CMC was audited within five months after it began operating. Immediately after the audit, respondent Venneri took steps to correct the violations. With the exception of the trust fund violation, the violations were not major violations and no member of the public was harmed.

CONCLUSIONS OF LAW

1. Cause exists to revoke or suspend the license and licensing rights of respondent Robert V. Venneri, under Business and Professions Code Sections 10159.2 and 10177(h), for failing to exercise reasonable supervision pursuant to his duties as designated officer of CMC.

2. Respondent Venneri established mitigation and rehabilitation to the extent that a public reproval would sufficiently protect the public in this case.

ORDER

Not deleted } The license and licensing rights of respondent Robert V. Venneri, are hereby publicly reproved.

DATED: October 14, 1998

Humberto Flores

HUMBERTO FLORES
ADMINISTRATIVE LAW JUDGE
OFFICE OF ADMINISTRATIVE HEARINGS

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Hoe

1 V. AHDA SANDS, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 897-3937

FILED
MAY 30 1997
DEPARTMENT OF REAL ESTATE

By Jana B. Egan

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11	In the Matter of the Accusation of)	NO. H-27230 LA
12	CENTERPOINT MORTGAGE CORPORATION,)	<u>ACCUSATION</u>
13	a Corporation, and ROBERT V.)	
14	VENNERI, individually, and as)	
15	designated officer of)	
16	Centerpoint Mortgage Corporation)	
)	
)	
	Respondents.)	
)	

17 Complainant, Thomas Mc Crady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of
19 Accusation against CENTERPOINT MORTGAGE CORPORATION, a
20 Corporation, and ROBERT V. VENNERI , individually, and as
21 designated officer of Centerpoint Mortgage Corporation (herein
22 "Respondents") alleges as follows:

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

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The Complainant, Thomas Mc Crady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents.

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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"). The term "the Code" as used herein refers to the California Business and Professions Code.

4

At all times mentioned herein, Respondent CENTERPOINT MORTGAGE CORPORATION (herein "CMC"), 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 by and through ROBERT V. VENNERI (herein "VENNERI") as 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 CMC by CMC's officers and employees.

5

At all times mentioned herein from June 4, 1996, to present, Respondent VENNERI was licensed by the Department as a real estate broker and as an officer, of CMC.

6

All further references herein to "Respondents" include the parties identified in Paragraphs 4 and 5, above, and also



1 includes the officers, directors, employees, agents and real
2 estate licensees employed by or associated with said parties and
3 who at all times herein mentioned were engaged in the furtherance
4 of the business or operations of said parties and who were acting
5 within the course and scope of their authority and employment.

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7 At all times herein mentioned, Respondents engaged in
8 the business of, acted in the capacity of, advertised or assumed
9 to act as real estate brokers for others in the State of
10 California within the meaning of Section 10131(d) of the Code,
11 including the operation and conduct of mortgage loan activities
12 with the public wherein, on behalf of others and for compensation
13 or in expectation of compensation, Respondents solicited lenders
14 and borrowers for loans secured directly or collaterally by a
15 lien on real property; arranged, negotiated, processed, and
16 consummated said loans.

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18 In connection with the aforesaid real estate broker
19 activities, Respondents accepted or received funds in trust
20 (hereinafter "trust funds") from or on behalf of borrowers and
21 lenders and note owners and thereafter made disbursements of such
22 funds. Respondents deposited certain of said funds into the
23 following account (herein "said account"):

24 (a) Account No. 207-07665 (hereinafter " T/A #1"), the
25 "Centerpoint Mortgage Trust Account", at the office of Merrill
26 Lynch/Bank One in the City of Newport Beach, California.

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1 FIRST CAUSE OF ACCUSATION

2 AUDIT VIOLATIONS

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4 On October 25, 1996, the Department concluded its
5 examination of Respondents' books and records pertaining to the
6 real estate broker activities described in Paragraph 7, above,
7 for the almost three month period ending August 30, 1996, which
8 examination revealed violations of the Code and of the
9 Regulations as set forth in the following paragraphs:

10 10

11 In connection with the trust funds and activities
12 referred to in Paragraphs 7 and 8, above, Respondents acted in
13 violation of the Code and the Regulations in that Respondents:

14 (a) disbursed or caused or allowed the
15 disbursement of trust funds from the T/A #1, wherein the
16 disbursement of said funds reduced the funds in said account to
17 an amount which on August 30, 1996, was approximately \$1,710.00
18 less than the existing aggregate trust fund liability to all
19 owners of said funds, without first obtaining the prior written
20 consent of every principal who was an owner of said funds in
21 violation of Regulation Section 2832.1 and Code Section 10145;

22 (b) failed to notify the Department of the
23 employment of termination of eight (8) real estate salespersons
24 in violation of Regulation 2752.

25 (c) deposited certain trust funds in trust into
26 account maintained as a working capital management account known
27 as "Centerpoint Mortgage Trust" (an unlicensed d.b.a. of



1 Centerpoint rather than into a trust account in the broker's name
2 as broker and as trustee in violation of Code Section 10145 and
3 Regulation Section 2830;

4 (d) The credit report and appraisal fee account
5 (T/A # 1) was an interest bearing account in violation of
6 Regulation 2830.1;

7 (e) failed to maintain adequate formal trust
8 fund receipts and disbursement journals in violation of Section
9 2831 of the Regulations. Specifically, the record consisted of a
10 check register that did not include the requisite dates that the
11 funds were received and from whom the funds were received;

12 (f) failed to maintain adequate separate records
13 for each beneficiary or transaction, accounting therein for said
14 account trust funds received, deposited, and disbursed,
15 conforming to the requirements of Section 2831.1 of the
16 Regulations;

17 (g) violated Section 2831.2 of the Regulations
18 by failing to perform a monthly reconciliation of the records of
19 the receipt and disposition of all trust funds received, and the
20 balance of all separate beneficiary or transaction records;

21 (h) failed to deposit all credit report and
22 appraisal fees received into the trust account by the next
23 business day in violation of Section 2832 of the Regulations;

24 (i) allowed unlicensed person (Marty Parada) to
25 be a signatory on Respondent's trust account. In addition,
26 Respondent failed to obtain fidelity bond coverage for said
27 persons, in violation of Section 2834 of the Code;



1 (j) failed to review and initial instruments
2 prepared or signed by real estate salespersons employed by
3 Respondent in connection with transactions for which a real
4 estate license is required, which instruments may have a material
5 effect upon the rights or obligations of a party to the
6 transaction, in violation Section 2725 of the Regulations.

7 (k) failed to first obtain a license from the
8 Department before using the fictitious names "Centerpoint
9 Mortgage", in violation of Regulation Section 2731;

10 (l) failed to provide borrowers with a Mortgage
11 Loan Disclosure Statement in violation of Section 10240 of the
12 Code.

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14 The acts and omissions of Respondents CMC and/or
15 VENNARI, described in Paragraph 10, above, violated the Code and
16 the Regulations as set forth below:

17	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>	
18	10(a)	Sec. 2832.1	of the Regulations
		Sec. 10145	of the Code;
19	10(b)	Sec. 2752	of the Regulations;
	10(c)	Sec. 2830	of the Regulations;
	10(d)	Sec. 2830.1	of the Regulations;
20	10(e)	Sec. 2831	of the Regulations.
	10(f)	Sec. 2831.1	of the Regulations.
21	10(g)	Sec. 2831.2	of the Regulations;
	10(h)	Sec. 2832	of the Code;
22	10(i)	Sec. 2834	of the Code;
	10(j)	Sec. 2725	of the Regulations.
23	10(k)	Sec. 2731	of the Regulations;
	10(l)	Sec. 10240	of the Code;

25 Each of the foregoing violations separately constitutes
26 cause for the suspension or revocation of all licenses and
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1 license rights of Respondents CMC and VENNERI, pursuant to the
2 provisions of Section 10177(d) of the Code.

3 SECOND CAUSE OF ACCUSATION

4 LACK OF SUPERVISION

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6 The conduct, acts and omissions of Respondents CMC, as
7 described in Paragraph 13, above, independently and collectively
8 constitutes failure on the part of VENNERI as officer designated
9 by a corporate broker licensee to exercise the reasonable
10 supervision and control over the licensed activities of CMC,
11 required by Section 10159.2 of the Code and is cause for the
12 suspension or revocation of all real estate licenses and license
13 rights of VENNERI pursuant to the provisions of Section 10177(h)
14 of the Code.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof a decision be rendered imposing disciplinary action
4 against all licenses and license rights of Respondents
5 CENTERPOINT MORTGAGE CORPORATION and ROBERT V. VENNERI under the
6 Real Estate Law (Part 1 of Division 4 of the Business and
7 Professions Code) and for such other and further relief as may be
8 proper under other applicable provisions of law.
9 Dated at Los Angeles, California
10 this 30th day of May, 1997.

11 THOMAS McCRADY
12 Deputy Real Estate Commissioner

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cc: Centerpoint Mortgage Corporation
Robert Venneri
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VAS