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FILED
MAR 16 2001
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27298 LA
)
SCHAEFER FINANCIAL SERVICES)
and BABAK SIMINO,)
)
Respondents.)

ORDER GRANTING REINSTATEMENT OF LICENSES

On November 13, 1997, a Decision was rendered herein revoking the real estate broker licenses of Respondents SCHAEFER FINANCIAL SERVICES and BABAK SIMINO, but granting Respondents the right to the issuance of restricted real estate broker licenses. A restricted real estate broker license was issued to Respondent SCHAEFER FINANCIAL SERVICES on or about March 20, 1998, and a restricted real estate broker license was issued to Respondent BABAK SIMINO on or about December 10, 1997. Respondents have operated as restricted licensees without cause for disciplinary action against Respondents since that time.

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1
2 On August 29, 2000, Respondents petitioned for
3 reinstatement of said real estate broker licenses and the
4 Attorney General of the State of California has been given
5 notice of the filing of said petition.

6 I have considered the petition of Respondents and the
7 evidence and arguments in support thereof including Respondents'
8 record as restricted licensees. Respondents have demonstrated
9 to my satisfaction that Respondents meet the requirements of law
10 for the issuance to Respondents of unrestricted real estate
11 broker licenses and that it would not be against the public
12 interest to issue said licenses to SCHAEFER FINANCIAL SERVICES
13 and BABAK SIMINOU.

14 NOW, THEREFORE, IT IS ORDERED that Respondent SCHAEFER
15 FINANCIAL SERVICES and BABAK SIMINOU's petition for
16 reinstatement is granted and that real estate broker licenses
17 be issued to Respondents if Respondents satisfy the following
18 conditions within nine (9) months from the date of this Order:

19 1. Submittal of completed applications and payment
20 of the fee for real estate broker licenses.

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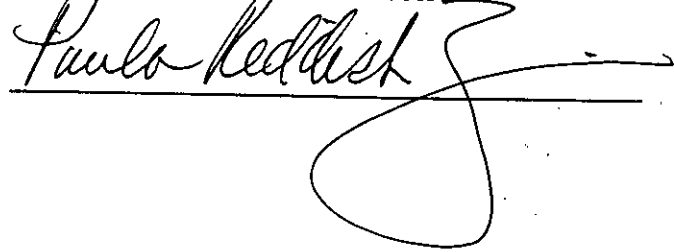
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2. Submittal of evidence by BABAK SIMINOU of having,
since the most recent issuance of an original or renewal real
estate license, taken and successfully completed the continuing
education requirements of Article 2.5 of Chapter 3 of the Real
Estate Law for renewal of a real estate license.

This Order shall become effective immediately.

DATED: March 9, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



cc: Schaefer Financial Services
Babak Siminou
821 S. Wooster St., #8
Los Angeles, CA 90035

FILED
OCT 27 1999
DEPARTMENT OF REAL ESTATE

By K. Kridderholt

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

| | | |
|------------------------------------|---|----------------|
| In the Matter of the Accusation of |) | |
| |) | No. H-27298 LA |
| SCHAEFER FINANCIAL SERVICES |) | |
| and BABAK SIMINO |) | |
| |) | |
| Respondents |) | |

ORDER DENYING REINSTATEMENT OF LICENSE

On November 13, 1997, a Decision was rendered herein, revoking the corporate real estate broker license of SCHAEFER FINANCIAL SERVICES and the real estate broker license of BABAK SIMINO, effective December 10, 1997. Respondents were given the right to apply for and receive a restricted corporate real estate broker license and a restricted real estate broker license which were issued on March 20, 1998.

On February 2, 1999, Respondents petitioned for reinstatement of their unrestricted real estate licenses and the Attorney General of the State of California has been given notice of both filings.

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

10 I

11 In the Stipulation and Agreement filed November 20,
12 1997, which resulted in the issuance of the restricted broker
13 licenses presently held by Respondents it was agreed and
14 thereafter ordered that Respondents would not be eligible for
15 the issuance of unrestricted licenses "until at least two (2)
16 years has elapsed from the issuance of any restricted real
17 estate license." This two year period will not expire until
18 March 20, 2000.

19 The failure to meet this condition before filing
20 their petition is evidence of a lack of rehabilitation and is
21 cause to deny the petition of Respondents pursuant to Section
22 2911(a) of Chapter 6, Title 10, California Code of
23 Regulations and Section 10177(k) of the California Business
24 and Professions Code.
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1 NOW, THEREFORE, IT IS ORDERED that Respondents'
2 petition for reinstatement of their real estate broker's
3 licenses is denied.

4 This Order shall become effective on
5 November 16, 1999.

6 DATED: October 18, 1999.

7 JOHN R. LIBERATOR
8 Acting Commissioner

9 *John R. Liberator*

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15 SCHAEFER FINANCIAL SERVICES
16 BABAK SIMINOU
17 14406 Ventura Blvd., 2nd Floor
18 Sherman Oaks, California 91423
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1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
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FILED
NOV 20 1997
DEPARTMENT OF REAL ESTATE

By Jaina B. Orone

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-27298 LA
SCHAEFER FINANCIAL SERVICES, INC.;) STIPULATION AND AGREEMENT
and BABAK SIMINOU,)
individually and as)
designated officer of)
Schaefer Financial Services, Inc.,)
Respondents.)

18 It is hereby stipulated by and between H. Sean Dayani,
19 counsel for SCHAEFER FINANCIAL SERVICES, INC., and BABAK SIMINOU,
20 individually and as designated officer of SCHAEFER FINANCIAL
21 SERVICES, INC., (sometimes collectively referred to as
22 Respondents), and the Complainant, acting by and through Elliott
23 Mac Lennan, Counsel for the Department of Real Estate, as follows
24 for the purpose of settling and disposing of the Accusation filed
25 on June 30, 1997, in this matter:

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1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement (Stipulation).

2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. On July 25, 1997, Respondents filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence and the right to cross-examine witnesses.

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1 4. This Stipulation is based on the factual allegations
2 contained in the Accusation. In the interest of expedience and
3 economy, Respondents choose not to contest these allegations, but
4 to remain silent and understand that, as a result thereof, these
5 factual allegations, without being admitted or denied, will serve
6 as a prima facie basis for the disciplinary action stipulated to
7 herein. The Real Estate Commissioner shall not be required to
8 provide further evidence to prove said factual allegations.

9 5. This Stipulation is based on Respondents' decision
10 not to contest the allegations set forth in the Accusation as a
11 result of the agreement negotiated between the parties. This
12 Stipulation is expressly limited to this proceeding and any
13 further proceeding initiated by or brought before the Department
14 of Real Estate based upon the facts and circumstances alleged in
15 the Accusation, for the sole purpose of reaching an agreed
16 disposition of this proceeding. The decision of Respondents not
17 to contest the factual statements alleged, and contained in the
18 "Order" herein below, is made solely for the purpose of
19 effectuating this Stipulation. It is the intent and understanding
20 of the parties that this Stipulation shall not be binding or
21 admissible against Respondents in any actions against Respondents
22 by third parties.

23 6. It is understood by the parties that the Real Estate
24 Commissioner may adopt the Stipulation as his Decision in this
25 matter thereby imposing the penalty and sanctions on Respondents'
26 real estate licenses and license rights as set forth in the
27 "Order" herein below. In the event that the Commissioner in his



1 discretion does not adopt the Stipulation, the Stipulation shall
2 be void and of no effect, and Respondents shall retain the right
3 to a hearing and proceeding on the Accusation under the provisions
4 of the APA and shall not be bound by any stipulation or waiver
5 made herein.

6 7. The Order or any subsequent Order of the Real Estate
7 Commissioner made pursuant to this Stipulation shall not
8 constitute an estoppel, merger or bar to any further
9 administrative or civil proceedings by the Department of Real
10 Estate with respect to any matters which were not specifically
11 alleged to be causes for accusation in this proceeding.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulation and solely for
3 the purpose of settlement of the pending Accusation without a
4 hearing, it is stipulated and agreed that the following
5 determination of issues shall be made:

6 I

7 The conduct of Respondent SCHAEFER FINANCIAL SERVICES,
8 INC., as described in Paragraph 4, above, is in violation of
9 Section 10145 of the Business and Professions Code (Code) and
10 Sections 2831, 2831.1, 2831.2 and 2832.1 of Title 10, Chapter 6 of
11 the California Code of Regulations (Regulations) and is a basis
12 for the suspension or revocation of Respondent's license and
13 license rights pursuant to Section 10177(d) of the Code.

14 II

15 The conduct of Respondent BABAK SIMINOU,
16 as described in Paragraph 4, above, is in violation of Section
17 10145 of the Code and Sections 2831, 2831.1, 2831.2 and 2832.1 of
18 the Regulations, consists of a failure to supervise, and is a
19 basis for the suspension or revocation of said Respondent's
20 license and license rights pursuant to Sections 10159.2, 10177(d)
21 and 10177(h) of the Code.

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ORDER

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

I

The real estate broker license and license rights of Respondents SCHAEFER FINANCIAL SERVICES, INC., and BABAK SIMINOU under the Real Estate Law (Part 1 of Division 4 of the Code) are hereby revoked.

However, Respondents shall be entitled to apply for and be issued restricted real estate broker licenses if they make application therefor and pay to the Department of Real Estate the appropriate fee for said license within ninety (90) days of the effective date of the Decision herein.

The restricted real estate broker licenses issued to Respondents shall be subject to all of the provisions of Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

A. The restricted licenses may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of a Respondent's conviction (including conviction of a plea of nolo contendere) to a crime which bears a significant relationship to said Respondent's fitness or capacity as a real estate licensee.

B. The restricted licenses may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondents, or either of them, have, after the effective date of the Order herein, violated

1 provisions of the California Real Estate Law, the Subdivided Lands
2 Law, Regulations of the Real Estate Commissioner or conditions
3 attaching to said restricted license.

4 C. Respondents shall obey all laws of the United
5 States, the State of California and its political subdivisions,
6 and shall further obey and comply with all rules and regulations
7 of the Real Estate Commissioner.

8 D. Respondents shall not be eligible for the issuance
9 of unrestricted real estate licenses nor the removal of any of the
10 conditions, limitations or restrictions of the restricted licenses
11 until at least two (2) years has elapsed from the issuance of any
12 restricted real estate license.

13 E. Respondent BABAK SIMINOU shall, within six (6) months
14 from the effective date of the Order, present evidence satisfactory
15 to the Real Estate Commissioner that Respondent has, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for
19 renewal of a real estate license. If Respondent fails to satisfy
20 this condition, the Commissioner may order the suspension of the
21 restricted license until the Respondent presents such evidence.
22 The Commissioner shall afford Respondent the opportunity for a
23 hearing pursuant to the Administrative Procedure Act to present
24 such evidence.

25 F. As a further condition of any restricted license
26 being issued to Respondent, Respondent shall first provide evidence
27 satisfactory to the Commissioner that the deficit in the amount of

1 \$143.00, has been cured including the identity of the source of
2 funds used to cure the deficit.

3 G. Respondent BABAK SIMINOU shall within six months from
4 the effective date of the restricted license, take and pass the
5 Professional Responsibility Examination administered by the
6 Department including the payment of the appropriate examination
7 fee. If Respondent fails to satisfy this condition, the
8 Commissioner may order suspension of the restricted license until
9 Respondent passes the examination.

10 II

11 1. Any restricted real estate broker licenses issued to
12 Respondents SCHAEFER FINANCIAL SERVICES, INC., and BABAK SIMINOU,
13 under the Real Estate Law are suspended for a period of sixty (60)
14 days from the effective date any such licenses are issued;
15 however, if Respondents petition, said suspension shall be
16 permanently stayed upon the terms and conditions of this
17 paragraph:

18 (a) Respondents each pay a monetary penalty pursuant to
19 Section 10175.2 of the Code at the rate of \$25.00 for each day of
20 said suspension stayed, for a monetary penalty of \$1,500 each, or
21 in total, \$3,000;

22 (b) Said payment shall be in the form of a cashier's
23 check or certified check and payable to the Recovery Account of
24 the Real Estate Fund. Said check must be delivered to the
25 Department prior to the effective date of the Order in this
26 matter;

27 /



1 (c) If Respondents fail to pay the monetary penalty in
2 accordance with the terms of this paragraph of this Order, the
3 Commissioner, may, without a hearing, order the immediate
4 execution of all or any part of the 60 day stayed suspension, in
5 which event the Respondents shall not be entitled to any repayment
6 nor credit, prorated or otherwise, for money paid to the
7 Department under the terms of this Order.

8 III

9 A. Respondents SCHAEFER FINANCIAL SERVICES, INC.,
10 and/or BABAK SIMINOU shall pay, pursuant to Section 10148 of the
11 Code, the Commissioner's reasonable cost for an audit to determine
12 if Respondents have corrected the trust fund violations found in
13 paragraphs "I" and "II" of the Determination of Issues. In
14 calculating the amount of the Commissioner's reasonable costs, the
15 Commissioner may use the estimated average hourly salary for all
16 Department audit section personnel performing audits of real
17 estate brokers, and shall include an allocation for travel costs,
18 including mileage, time to and from the auditor's place of work,
19 and per diem in total amount not to exceed \$1,000.

20 (1) Respondents shall pay such cost within forty-five
21 (45) days of receipt of an invoice from the Commissioner detailing
22 the activities performed during the audit and the amount of time
23 spent performing those activities.

24 (2) If Respondents, or either of them, fail to pay,
25 within forty-five (45) days from receipt of the invoice specified
26 above, the Commissioner's reasonable costs for an audit to
27 determine if Respondents have corrected the violations found in



1 paragraph s "I" and "II" of the Determination of Issues, the
2 Commissioner may order the indefinite suspension of Respondents'
3 or either of them, restricted real estate licenses and license
4 rights. The suspension shall remain in effect until payment is
5 made in full, or until Respondents enter into an agreement
6 satisfactory to the Commissioner to provide for such payment. The
7 Commissioner may impose further reasonable disciplinary terms and
8 conditions upon Respondents' real estate license and license
9 rights as part of any such agreement.

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DATED: 9-2-97 ELL
ELLIOTT MAC LENNAN
Counsel for Complainant

* * * *

We have read the Stipulation and Agreement and its terms
are understood by us and are agreeable and acceptable to us. We
understand that we are waiving rights given to us by the
California Administrative Procedure Act (including but not limited
to Sections 11506, 11508, 11509 and 11513 of the Government Code),
and we willingly, intelligently and voluntarily waive those
rights, including the right of requiring the Commissioner to prove
the allegations in the Accusation at a hearing at which we would
have the right to cross-examine witnesses against us and to
present evidence in defense and mitigation of the charges.

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DATED: 9-17-97

[Signature]
SCHAEFER FINANCIAL SERVICES, INC.,
Respondent,
BY: BABAK SIMINOU, D.O

DATED: 9-17-97

[Signature]
BABAK SIMINOU,
individually and as designated
officer of SCHAEFER FINANCIAL
SERVICES, INC. Respondent

DATED: 9-17-97

[Signature]
H. SEAN DAYANI,
Counsel for Respondents

* * * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o' clock
noon on December 10, _____, 1997.

IT IS SO ORDERED 11/13, 1997.

JIM ANTT JR.
Real Estate Commissioner
[Signature]

*Jack
Hag*

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
JUL 11 1997
DEPARTMENT OF REAL ESTATE

By *Lana B. Crow*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of) | No. H-27298 LA |
| SCHAEFER FINANCIAL SERVICES;) | |
| a corporation; and,) | <u>A C C U S A T I O N</u> |
| BABAK SIMINOU, individually and) | |
| as designated officer of) | |
| Schaefer Financial Services,) | |
|) | |
|) | |
| Respondents) | |
|) | |

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SCHAEFER FINANCIAL SERVICES, a corporation and BABAK SIMINOU, individually and as designated officer of Schaefer Financial Services is informed and alleges in his official capacity as follows:

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I

SCHAEFER FINANCIAL SERVICES (SFS) and BABAK SIMINOU (SIMINOU), sometimes collectively referred to as respondents, are presently licensed and/or have 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 Title 10, Chapter 6, California Code of Regulations.

III

At all times mentioned, SFS was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through SIMINOU as designated officer. SFS was first licensed by the Department on November 30, 1987.

IV

At all times mentioned, SIMINOU was licensed by the Department as designated officer of SFS to qualify SFS and to act for SFS as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of SFS by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to the corporation in the performance of acts for which a real estate license is required by Section 10159.2 of the Code.

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V

Whenever reference is made in an allegation in the accusation to an act or omission of SFS such allegation shall be deemed to mean that the officers, directors, managers, employees, agents and real estate licensees employed by or associated with SFS, including SIMINOU, committed such act or omission while engaged in the furtherance of the business or operation of SFS and while acting within the course and scope of its corporate authority, agency and employment.

VI

At all times mentioned, SFS and SIMINOU were acting as the agent or employee of the other and within the course and scope of such agency or employment.

VII

At all times mentioned, in the City of Sherman Oaks, Los Angeles County, California, respondent SFS and respondent SIMINOU acted as real estate brokers within the meaning of Code Section 10131(d), whereby 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.

VIII

On October 31, 1996, the Department completed a field audit examination of the books and records pertaining to the activities of SFS described in Paragraph VII, above, beginning on March 1, 1996, and ending on August 30, 1996, which revealed



1 violations of the Code and the Regulations as set forth in the
2 following paragraphs.

3 IX

4 In connection with the aforesaid real estate activities
5 described in Paragraph VII, SFS and SIMINOU, accepted or received
6 funds in trust (trust funds) from or on behalf of borrowers and
7 lenders and thereafter made disbursements of such funds including
8 credit reports, appraisals and loan processing fees. Respondents
9 maintained the following trust accounts into which they deposited
10 certain of these funds:

11 "Schaefer Financial Services, Inc. Trust Account (T/A #1)
12 Account No. 084-45822
13 Wells Fargo Bank
Sherman Oaks, California

14 "Schaefer Financial Services, Inc. Trust Account (T/A #2)
15 Account No. 084-039247
16 Wells Fargo Bank
Sherman Oaks, California

17 X

18 With respect to the trust funds referred to in Paragraph
19 IX, SFS and SIMINOU:

20 (a) permitted, allowed, or caused a deficit to
21 accumulate in T/A #1, which on August 30, 1996, was in the amount
22 of \$143.39, as required by Section 10145 of the Code and
23 Regulation 2832.1. The cause of this trust fund shortage is due
24 to the over-disbursal of three loans;

25 (b) failed to maintain an adequate columnar record in
26 chronological order of all trust funds received and failed to
27 record the daily balance of all trust funds received in T/A #1, as



1 required by Section 2831 of the Regulations;

2 (c) failed to maintain a separate record for each
3 beneficiary or transaction, thereby failing to account for all
4 trust funds received, deposited, and disbursed by the trust
5 accounts, as required by Regulation 2831.1;

6 (d) failed to perform a monthly reconciliation of the
7 balance of all separate beneficiary or transaction records
8 maintained pursuant to Regulation 2831.1 with the record of all
9 trust funds received and disbursed by T/A #1, as required by
10 Regulation 2831 and in the manner required by Regulation 2831.2;

11 (e) commingled SFS' funds with trust funds in T/A #1,
12 in violation of Section 10176(e) and Regulation 2835; and

13 (f) failed to retain in T/A #2 unidentified trust funds
14 until the owners of the trust funds were identified by SFS, in
15 violation of Section 10145.

16 XI

17 The conduct of respondents SFS and SIMINO, described in
18 Paragraph X, above, violated the Code and the Regulations as set
19 forth below:

| <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u> |
|------------------|---|
| 20 X(a) | 21 Section 10145 & 10159.2 of the Code, and 22 Section 2832.1 of the Regulations |
| 23 X(b) | 24 Section 2831 of the Regulations |
| 25 X(c) | 26 Section 2831.1 of the Regulations |

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X(d) Section 2831.2 of the Regulations

X(e) Section 10176(e) of the Code, and
Section 2835 of the Regulations

X(f) Section 10145 & 10159.2 of the Code, and
Section 2832.1 of the Regulations

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate licenses and license rights of respondents SFS and SIMINOOU under the provisions of Section 10177(d) of the Code.

Prior Discipline

XII

On July 27, 1995, in Case No. H-26262 LA, an Accusation was filed against respondents SFS and SIMINOOU that resulted in discipline that became effective March 21, 1996, for said respondents for violations of Section 10145 of the California Business and Professions Code and Sections 2831 and 2831.1 of Title 10, Chapter 6, California Code of Regulations.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of against SCHAEFER FINANCIAL SERVICES, a corporation, and BABAK SIMINOU, individually and as designated officer of Schaefer Financial Services, 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.

Dated at Los Angeles, California
this 11th day of July, 1997.

THOMAS MC CRADY
Deputy Real Estate Commissioner

cc: Schaefer Financial Services
c/o Babak Siminou, D.O.
Sacto.
CL

