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FILED
JUN 24 1998
DEPARTMENT OF REAL ESTATE

By *K. Kuehler*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
)
VAL-CHRIS INVESTMENTS, INC.;)
and CHRISTOPHER LLOYD BOULTER,)
individually and as)
designated officer of)
Val-Chris Investments, Inc.,)
)
)
)
)
Respondents.)

DRE No. H-27345 LA
OAH No. H-1997090159

ORDER STAYING EFFECTIVE DATE

On May 27, 1998, a Decision was rendered in the above-entitled matter to become effective June 30, 1998.

IT IS HEREBY ORDERED that the effective date of the Decision of May 27, 1998, is stayed for a period of 30 days.

The Decision of May 27, 1998, shall become effective at 12 o'clock noon on July 30, 1998.

DATED 24 June 1998

Randolph Brendia
Randolph Brendia
Regional Manager

FILED
JUN - 8 1993

DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By K. K. K. K. K.

* * * * *

In the Matter of the Accusation of)

No. H- 27345 LA

VAL-CHRIS INVESTMENTS, INC.,)
and CHRISTOPHER LLOYD BOULTER,)
individually and as)
Designated Officer of)
Val-Chris Investments, Inc.,)

L-1997090459

Respondent(s).)

DECISION

The Proposed Decision dated May 8, 1998,
of the Administrative Law Judge of the Office of
Administrative Hearings, is hereby adopted as the Decision
of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock
noon on June 30, 1998.

IT IS SO ORDERED

5/27/98

JIM ANTT, JR.
Real Estate Commissioner

J. Antt, Jr.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) Case No. H-27345 LA
)
) OAH No. L1997090459
VAL-CHRIS INVESTMENTS, INC.,)
and)
CHRISTOPHER LLOYD BOULTER)
Individually and as)
Designated Officer of)
Val-Chris Investments, Inc.,)
)
Respondent.)
_____)

PROPOSED DECISION

This matter was heard on April 30, 1998, at Los Angeles, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings, State of California. The complainant was represented by Elliott Mac Lennan, Real Estate Counsel. Respondent Christopher Lloyd Boulter was present, and he and the corporate respondent were represented by Dennis H. Doss, Attorney at Law.

FACTUAL FINDINGS

1. The Accusation, Amendment to Accusation, and Second Amendment to Accusation herein were made by Thomas MaCraday in his official capacity as a Deputy Real Estate Commissioner of the State of California.
2. All references to "the Code" are to the California Business and Professions Code, and all references to "the Regulations" are to Title 10, Chapter 6, California Code of Regulations.
3. Respondent Val-Chris Investments, Inc. (hereinafter "Val-Chris"), is, and at all times mentioned herein was, licensed by the Department of Real Estate as a corporate real estate broker, with respondent Christopher Lloyd Boulter (hereinafter "Boulter") as its designated officer.
4. Boulter is, and at all times mentioned herein was, licensed by the Department of Real Estate as a real estate broker and as the designated officer of Val-Chris.
5. At all times mentioned herein, at Irvine, California,

within the meaning of Section 10131(d), including the operation of a mortgage loan and loan servicing business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, packaged, consummated and serviced on behalf of others for compensation or in expectation of compensation and for fees often collected in advance. In addition, said respondent conducted broker-controlled escrows under the exemption set forth in Section 17006(a)(4) of the California Financial Code.

6. In connection with the real estate activities described in paragraph 5, above, Val-Chris accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers and lenders and thereafter made disbursements of such funds for credit reports, appraisals, loan processing fees, mortgage loan payments and loan payoffs. Val-Chris deposited trust funds into two accounts, which it maintained at Bank of America, South Coast Center Drive, Irvine, California, to wit: account number 24398-02514, entitled "Val-Chris Investments, Inc. Trust Account," and account number 24399-02504 (hereinafter "T/A #2"), entitled "Val-Chris Investments, Inc. Servicing Trust Account.

7. Between January 1, 1994, and May 8, 1995, Bank of America erroneously deducted \$212.20 in service charges from T/A #2, and the computer program that Val-Chris was using erroneously issued two \$892.11 checks from that account to an investor who was only entitled to one such check. As a result of the deduction and the duplicate disbursement, the aggregate funds in T/A #2 were reduced to an amount which, on May 8, 1995, was \$1,104.31 less than the existing aggregate trust fund liability on that date, without the prior written consent of every principal who was an owner of the funds in T/A #2.

There was no direct evidence, nor was there evidence from which it could be inferred, that the deduction of \$212.20 for service charges was disbursed, or caused or permitted to be disbursed by respondents. Therefore, only the duplicate disbursement of \$892.11 was in violation of Section 2832.1 of the Regulations. The deduction was subsequently reversed by the bank, and the duplicate disbursement was recouped by respondents when the next payment to the overpaid investor came due.

8. Between January 1, 1994, and May 8, 1995, Val-Chris used a computer program to perform the monthly reconciliations required by Section 2831.2 of the Regulations, but did not produce or maintain a document that could be considered "a record of the reconciliation," as required by Section 2831.2.

9. Between January 1, 1996, and December 31, 1996, Val-Chris charged borrowers of four Article 7 loans an amount for expenses that exceeded the amount permitted under Section 10242 of

the Code. Respondents attribute the overcharges to their failure to recognize that the loans in question were Article 7 loans. When violations of Section 10242 were brought to respondents' attention, Val-Chris promptly refunded the over-payments to the borrowers, with interest.

10. The above violations by Val-Chris indicate that Boulter did not supervise and control the activities conducted on behalf of Val-Chris by its officers and employees as necessary to secure full compliance with the Real Estate Law, as required by Section 10159.2 of the Code.

11. In mitigation, respondents assert that the above violations occurred shortly after the founder of Val-Chris passed away, and while Val-Chris was in the process of moving its office.

12. Those allegations not hereinabove mentioned were were either unproved, irrelevant, or dismissed by complainant.

LEGAL CONCLUSIONS

13. By disbursing a duplicate trust fund check in the amount of \$892. 11, as set forth in paragraph 7, above, Val-Chris violated Section 10145 of the Code and Section 2832.1 of the Regulations, and subjected its license and license rights to discipline under Section 10177(d) of the Code.

14. By not maintaining a hard copy of the monthly reconciliations performed by its computer program, as set forth in paragraph 8, above, Val-Chris violated Section 2831.2 of the Regulations, and subjected its license and license rights to discipline under Section 10177(d) of the Code.

15. By overcharging four borrowers, as set forth in paragraph 9, above, Val-Chris violated Sections 10242 of the Code, and subjected its license and license rights to discipline under Section 10177(d) of the Code.

16. By failing to supervise and control the activities conducted on behalf of Val-Chris by its officers and employees as necessary to secure full compliance with the Real Estate Law, as set forth in paragraph 10, above, Boulter violated Section 10159.2 of the Code, and subjected his license and license rights to discipline under Section 10177(d) of the Code.

ORDER WITH RESPECT TO VAL-CHRIS INVESTMENTS, INC.

All licenses and license rights of respondent Val-Chris Investments, Inc., are suspended for 90 days; provided, however, that the suspension shall be stayed for one year from the effective date of this Decision on the following terms and conditions:

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

2. If a final subsequent determination is made, after hearing or upon stipulation, that during the stay, condition 1, above, was violated, or other cause for disciplinary action occurred, the Commissioner may vacate the stay and impose the stayed suspension. Should no order vacating the stay be made pursuant to this condition or condition 3, below, the stay shall become permanent.

3. Pursuant to Section 10148, respondent shall pay the Commissioner's reasonable cost if an audit is made during the stay to determine if respondent has corrected the trust fund violations found in paragraphs 13, 14, and 15 of the Legal Conclusions, above. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel costs, including mileage, time to and from the auditor's place of work, and per diem. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may, in his discretion, vacate and set aside the stay order, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Commissioner and respondent. The vacation and the set aside of the stay shall remain in effect until payment is made in full, or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment. The Commissioner may extend the stayed suspension, subject to all conditions herein, for up to 90 days, if it is necessary to do so in order to implement this condition. Should no order vacating or extending the stay be issued, either in accordance with this condition or condition 2, above, the stay herein shall become permanent.

ORDER WITH RESPECT TO CHRISTOPHER LLOYD BOULTER

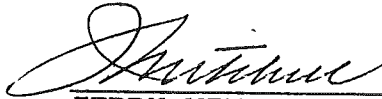
All licenses and license rights of respondent Christopher Lloyd Boulter are suspended for 90 days; provided, however, that the suspension shall be stayed for one year from the effective date of this Decision on the following terms and conditions:

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

2. If a final subsequent determination is made, after hearing or upon stipulation, that during the stay, condition 1, above, was violated, or other cause for disciplinary action occurred, the Commissioner may vacate the stay and impose the

stayed suspension. Should no order vacating the stay be made pursuant to this condition, the stay shall become permanent.

DATED: May 8, 1998



JERRY MITCHELL
Administrative Law Judge

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VAL-CHRIS INVESTMENTS, INC. (VAL-CHRIS) and CHRISTOPHER LLOYD BOULTER (BOULTER), individually and as designated officer of Val-Chris Investments, Inc., 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, VAL-CHRIS was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker.

IV

At all times mentioned, BOULTER was licensed by the Department as designated officer of VAL-CHRIS to qualify VAL-CHRIS and to act for VAL-CHRIS 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 VAL-CHRIS 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.

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

VI

At all times mentioned, VAL-CHRIS and BOULTER 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 Irvine, Orange County, Respondent VAL-CHRIS and Respondent BOULTER acted as real estate brokers in the State of California within this meaning of Section 10131(d) of the Code, including the operation of a mortgage loan and loan servicing business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, packaged, consummated and serviced on behalf of others for compensation or in expectation of compensation and for fees often collected in advance. In addition, Respondent VAL-CHRIS conducted broker-controlled escrows under the exemption set forth in Section 17006(a)(4) of the California Financial Code.

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VIII

Mortgage Loan Financing and Loan Servicing Audit
Audit No. LA 940142

On July 27, 1995, the Department completed a field audit examination of the books and records of VAL-CHRIS pertaining to its mortgage loan financing and loan servicing activities described in Paragraph VII. The audit examination covered a period of time beginning on January 1, 1994 and ending on May 8, 1995. The audit examination revealed the following violation of the Code.

IX

In connection with the aforesaid real estate activities described in Paragraph VII, VAL-CHRIS and BOULTER, accepted or received funds in trust (trust funds) from or on behalf of borrowers and lenders and thereafter made disbursements of such funds including credit reports, appraisals, loan processing fees mortgage loan payments and loan payoffs. Respondents maintained the following trust accounts into which they deposited certain of these funds into Bank of America, South Coast Center Dr., P.O. Box 60049, Irvine, California:

- "Val-Chris Investments, Inc. Trust Account (T/A #1)
Account No. [REDACTED]"
- "Val-Chris Investments, Inc. Servicing Trust Account (T/A #2)
Account No. [REDACTED]"

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X

With respect to the trust funds referred to in Paragraph IX, VAL-CHRIS and BOULTER:

(a) Permitted, allowed or caused the disbursement of trust funds from T/A #2 where the disbursement of said funds reduced the aggregate funds in the trust account, to an amount which, on May 8, 1995, was \$1,104.31, less than the existing aggregate trust fund liability of every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, as required by Section 10145 of the Code and Section 2832.1 of the Regulations; and

(b) Failed to perform an accurate monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by T/A #2, as required by Section 2831.2 of the Regulations.

XI

The conduct of Respondents VAL-CHRIS and BOULTER, described in Paragraph X, violated the Code and the Regulations as set forth:

| <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u> |
|------------------|---|
| X(a) | Section 10145 & 10159.2 of the Code, and Section 2832.1 of the Regulations |
| X(b) | Section 10145 & 10159.2 of the Code, and Section 2831.2 |



1 Each of the foregoing violations separately constitutes cause for
2 the suspension or revocation of the real estate licenses and
3 license rights of Respondents VAL-CHRIS and BOULTER under the
4 provisions of Section 10177(d) of the Code.

5 XII

6 The audit investigation also revealed that BOULTER had
7 no system in place for regularly monitoring VAL-CHRIS' compliance
8 with the Real Estate law specifically with regard to the loan
9 files for Herrera, Govan, Cleveland, Wieck, Wilson and Flores, as
10 required by Section 2725 of the Regulations.

11 XIII

12 The audit investigation further revealed that Respondent
13 VAL-CHRIS used the 25301 Cabot Road, # 105, Laguna Hills,
14 California, address as a branch office to conduct mortgage loan
15 activities with having obtained a license for this branch office.
16 The conduct of respondent in failing to obtain a license for use
17 of the aforesaid branch office is in violation of Section 10163 of
18 the Code and is cause to suspend or revoke Respondent's real
19 estate license and license rights under Section 10177(d) of the
20 Code.

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XIV

Broker-Controlled Escrow

Audit No. LA 940143

On July 26, 1995, the Department completed a field audit examination of the books and records of VAL-CHRIS pertaining to its broker-controlled activities described in Paragraph VII. The audit examination covered a period of time beginning on January 1, 1994 and ending on May 8, 1995. The audit examination revealed the following violation of the Code.

XV

The audit investigation further revealed that BOULTER had no system in place for regularly monitoring VAL-CHRIS' compliance with the Real Estate law specifically with regard to the handling of escrow instructions, as required by Section 2725 of the Regulations.

XVI

The investigative audit revealed that Respondent VAL-CHRIS escrow instructions for its escrow operation failed to contain a statement which included the name of the licensee and the State of California department issuing the license or authority under which VAL-CHRIS operated said escrow company. This conduct constitutes a violation of Section 17403.4 of the California Financial Code and is cause to suspend or revoke its real estate license and license rights under Sections 10177(d) and 10177(f) of the Code.

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XVII

(Audit No. LA 960485)

On June 11, 1997, the Department completed a field audit examination of the books and records of VAL-CHRIS pertaining to its mortgage loan and loan servicing activities described in Paragraph VII. The audit examination covered a period of time beginning on January 1, 1996, and ending on December 31, 1996. The audit examination revealed the following violation of the Code.

XVIII

The investigative audit revealed that Respondents VAL-CHRIS and BOULTER, charged expenses to borrowers in several Article 7 loans including, but not limited to, Miguel Zanabria, Miriam Olgin, Willie Harris, and James Butcher, in excess of maximum permissible amount allowable. This conduct constitutes a violation of Section 10242 of the Code and is cause to suspend or revoke their respective real estate licenses and license rights under Section 10177(d) of the Code.

XIX

On November 6, 1996, in Case No. H-26789 LA, an ORDER TO DESIST AND REFRAIN was filed against respondent VAL-CHRIS and BOULTER under Section 10086 of the Code (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations by VAL-CHRIS of Sections 10145 and 10163 of the Code and Sections 2725, 2831.2, and 2832.1 of the Regulations, and Section 17403.4 of the California Financial Code; and, for violations by BOULTER of Section 10159.2 of the Code and Section 2725 of the Regulations

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VAL-CHRIS INVESTMENTS, INC. (VAL-CHRIS) and CHRISTOPHER LLOYD BOULTER (BOULTER), individually and as designated officer of Val-Chris Investments, Inc., 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, VAL-CHRIS was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through BOULTER as designated officer.

IV

At all times mentioned, BOULTER was licensed by the Department as designated officer of VAL-CHRIS to qualify VAL-CHRIS and to act for VAL-CHRIS 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 VAL-CHRIS 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.

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V

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

VI

At all times mentioned, VAL-CHRIS and BOULTER 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 Irvine, Orange County, Respondent VAL-CHRIS and Respondent BOULTER acted as real estate brokers in the State of California within this meaning of Section 10131(d) of the Code, including the operation of a mortgage loan and loan servicing business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance. In addition, Respondent VAL-CHRIS conducted broker controlled escrows under the exemption set forth in Section 17006 of the California Financial Code.

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VIII

(Audit No. LA 960485)

On June 11, 1997, the Department completed a field audit examination of the books and records of VAL-CHRIS pertaining to its mortgage loan and loan servicing activities described in Paragraph VII, above, for a period of time beginning on January 1, 1996, and ending on December 31, 1996, which revealed the following violation of the Code.

IX

The investigative audit revealed that Respondents VAL-CHRIS and BOULTER, charged expenses to borrowers in several Article 7 loans including, but not limited to, Miguel Zanabria, Miriam Olgin, Willie Harris, and James Butcher, in excess of maximum permissible amount allowable. This conduct constitutes a violation of Section 10242 of the Code and is cause to suspend or revoke their respective real estate licenses and license rights under Section 10177(d).

X

On November 6, 1996, in Case No. H-26789 LA, an ORDER TO DESIST AND REFRAIN was filed against respondent VAL-CHRIS under Section 10086 of the Code (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations of Sections 10145 and 10163 of the Code and Sections 2725, 2831.1, and 2832.1 of the 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 VAL-CHRIS INVESTMENTS, INC., and CHRISTOPHER LLOYD BOULTER, individually and as designated officer of Val-Chris Investments, Inc., 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 10th day of September, 1997.

THOMAS MC CRADY
Deputy Real Estate Commissioner

cc: Val-Chris Investments, Inc.
c/o Christopher Lloyd Boulter, D.O.
Sacto.
CL