

FILED
SEP 14 1999
DEPARTMENT OF REAL ESTATE

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By C. J. [Signature]

* * *

In the Matter of the Accusation of)
L & A F REALTY ASSOCIATES, a)
corporation, dba Re/Max Realty)
Associates; PAUL MICHAEL)
KONAPELSKY, individually and as)
designated officer of L & A F)
Realty Associates; LAWRENCE)
ROBERT FRIEDMAN; and SHERRIE)
KATHY FRIEDMAN,)
Respondents.)

NO. H-27553 LA

L-1998020391

DECISION

The Proposed Decision dated August 23, 1999, 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 September 9, 1999.

IT IS SO ORDERED September 9, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

In the Matter of the Accusation
Against:

OA# No. L-1998020391

L & AF REALTY ASSOCIATES;
PAUL M. KONAPELSKY;
LAWRENCE R. FRIEDMAN;
and SHERRIE K. FRIEDMAN,

Respondents.

This matter came on regularly for hearing before Ralph B. Dash, Administrative Law Judge with the Office of Administrative Hearings, on July 27, 1999, at Los Angeles California.

Christopher Leong, Staff Counsel, represented Complainant.

Frank Buda, Attorney at Law, represented Respondent Sherrie Kathy Friedman.

There were no appearances by or on behalf any other named Respondent, this matter having been resolved as to each one prior to trial.

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

1. Thomas McCrady made the Second Amended Accusation, the operative pleading herein, in his official capacity as Deputy Real Estate Commissioner of the State of California.

2. At all times pertinent hereto, Respondent Sherrie Friedman ("Respondent") was and now is licensed by the Department of Real Estate ("Department") as a real estate salesperson.

From January 2, 1996 to July 1, 1998, Respondent's license was suspended pursuant to the provisions of Business and Professions Code Section 10153.4(c). Her license was renewed on July 1, 1998 and is due to expire on June 30, 1992.

3. Complainant alleges that during the time Respondent's license was suspended, she engaged in acts for which a license was required in no fewer than 144 transactions. However, Complainant introduced evidence involving only two transactions in which Respondent allegedly acted in a capacity requiring a license.

4. One property allegedly worked on by Respondent was that located at 930 South Dylan Way, Anaheim Hills (the "Dylan Way property"). Richard Nielsen made an offer on that property at the offices of L & A F Realty Associates, dba Re/Max Realty Associates, where Respondent worked as the general office manager. Mr. Nielsen and his wife had seen the Dylan Way property at an open house two weeks prior to making the offer. Respondent was not at the open house. After deciding they wanted to look at the house again, Mr. Nielsen called Respondent's office and spoke with someone, asking if he and his wife could see the house again. The broker running Respondent's office asked Respondent if she would go and unlock the house for them, which she did. She did not show them around, offer to show them other houses or talk about price.

Mr. Nielsen informed Respondent they wanted to make an offer on the house, and Respondent asked them to follow her back to the office. Mr. Nielsen, dictated the terms of his offer to Respondent who filled out the first six lines of a Deposit Receipt, including names, address and offer amount. Mr. Nielsen was adamant that Respondent did not suggest a price for the offer, that he knew how much he wanted to spend, and Respondent wrote down what he said. Mr. Nielsen also testified that Respondent filled out the entire Deposit Receipt and even talked with him about certain terms, but this testimony is not supported by the evidence.

After filling out the top of the Deposit receipt, Respondent turned the paper work over to the office broker, who completed the transaction. Although Mr. Nielsen was certain that it was Respondent with whom he dealt the entire time, under cross examination, it became clear that he had a very hazy recollection of events. Furthermore, a review of the original Deposit Receipt shows that Respondent's handwriting only appears on the top six lines of the document, and someone else filled out the remaining portions, including financing terms, inspection rights, allocations of costs and the like. This corroborated Respondent's testimony that the broker was the person who completed the written offer. No evidence was presented to suggest that Respondent presented this offer to the seller.

The seller of the property made a counter offer, which was relayed to Mr. Nielsen by the broker and approved by Mr. Nielsen telephonically. He subsequently confirmed the acceptance in writing. He had no other dealings with Respondent.

5. The second property Respondent allegedly worked on while her license was suspended was located at 6074 Silver Spur Trail, Anaheim Hills. The evidence presented by complainant was almost negligible with respect to any activity undertaken by Respondent with respect thereto. Apparently, a Mrs. Johnson had submitted an offer to purchase the property, which offer was never conveyed to the sellers. There was no evidence presented at all that Respondent had anything to do with this offer or its presentation or non-presentation. In fact, Mrs. Johnson's complaint to the Department does not even mention Respondent, only the broker.

The seller of this property, Mrs. Sullenger, like Mrs. Johnson, testified as well as filed a complaint with the Department. Mrs. Sullenger was quite clear that she did not deal with Respondent on the property. In fact, her complaint only briefly mentions Respondent when it is alleged that Respondent spoke with Mrs. Sullenger on the telephone and told her they had 18 salespeople working at the office.

6. Respondent's expert, who listened to all of the testimony, opined that none of the acts attributed to Respondent necessitated a real estate license, including her filling out six lines of the Deposit Receipt on the Dylan Way property. His opinion is given considerable weight, in light of his prior employment with the Department, and his familiarity with the Department's own guidelines regarding licensed activity. These guidelines were presented at the hearing and it was clear the expert's reading and interpretation thereof were correct.

* * * * *

DETERMINATION OF ISSUES

1. The standard of proof to be used in establishing the charging allegations in these proceedings is "clear and convincing" evidence. Ettinger v. Board of Medical Quality Assurance, 135 Cal.App.3d 853 (1982). This means that the burden rests on Complainant to offer proof that is clear, explicit and unequivocal--so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. In re Marriage of Weaver, 224 Cal.App.3d 478 (1990).

2. Complainant failed to meet his burden of establishing the charging allegations of the Second Amended Accusation with respect to Respondent, by reason of Findings 3 through 6.

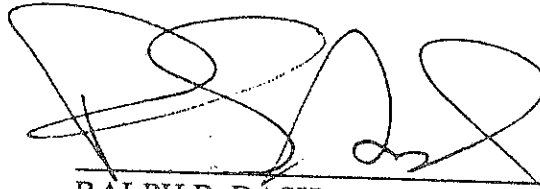
* * * * *

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Accusation is dismissed.

Date: 8-23-99

A handwritten signature in black ink, appearing to read 'R. B. Dash', written over a horizontal line.

RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings

FILED
JUN 11 1999
DEPARTMENT OF REAL ESTATE

By CR

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
L & A F REALTY ASSOCIATES,	)	NO. H-27553 LA
a corporation, dba Re/Max Realty	)	
Associates; PAUL MICHAEL KONAPELSKY,	)	L-1998020391
individually and as designated officer	)	
of L & A F Realty Associates;	)	
LAWRENCE ROBERT FRIEDMAN; and	)	
SHERRIE KATHY FRIEDMAN,	)	
	)	
Respondents.	)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On February 4, 1998, an Accusation was filed in this matter. On November 25, 1998 a First Amended Accusation was filed and on January 21, 1999 a Second Amended Accusation was filed against Respondent L & A F REALTY ASSOCIATES.

On May 17, 1999, Respondent petitioned the Commissioner to voluntarily surrender its corporate real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

///

1 IT IS HEREBY ORDERED that Respondent L & A F REALTY
2 ASSOCIATES' petition for voluntary surrender of its corporate real
3 estate broker license is accepted as of the effective date of this
4 Order as set forth below, based upon the understanding and
5 agreement expressed in Respondent's Declaration dated May 17, 1999
6 (attached as Exhibit "A" hereto).

7 IT IS ALSO ORDERED that Respondent's license
8 certificate(s), pocket card(s) and all branch office license
9 certificates be sent to the below-listed address so that they
10 reach the Department on or before the effective date of the Order:

11 Department of Real Estate
12 Attn: Licensing Flag Section
13 P.O. Box 187000
Sacramento, CA 95818-7000

14 This order shall become effective at 12 o'clock
15 noon on July 1, 1999.

16 DATED: June 4, 1999.

17 JOHN R. LIBERATOR
18 Acting Real Estate Commissioner

19 John R. Liberator
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
L & A F REALTY ASSOCIATES,)
a corporation, dba Re/Max Realty)
Associates; PAUL MICHAEL)
KONAPELSKY, individually and as)
designated officer of)
L & A F Realty Associates;)
LAWRENCE ROBERT FRIEDMAN; and)
SHERRIE KATHY FRIEDMAN,)
Respondents.)

NO. H-27553 LA

L-1998020391

DECLARATION

My name is L & A F REALTY ASSOCIATES, a corporation, dba Re/Max Realty Associates.

I am one of the Respondents in the above-entitled case. I am represented by Frank M. Buda, Esq., in this matter.

Pursuant to Business and Professions Code Section 10100.2, I wish to voluntarily surrender my real estate license issued by the Department.

I understand that by so voluntarily surrendering my



1 license, I agree to the following:

2 The filing of my petition shall be deemed to be an
3 understanding and agreement by me that upon acceptance by the
4 Commissioner, as evidenced by an appropriate order, all affidavits
5 and all relevant evidence obtained in the investigation prior to
6 the acceptance and all allegations contained in the Accusation.
7 filed in Department of Real Estate Case No. H-27553 LA may be
8 considered by the Department to be true and correct for the
9 purpose of deciding whether or not to grant reinstatement of my
10 license.

11 I declare under penalty of perjury under the laws of the
12 State of California that the above is true and correct.

13 DATED: 5/17/99

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L & A F REALTY ASSOCIATES, a
corporation, dba Re/Max Realty
Associates
by Lawrence Robert Friedman,
Chief Executive Officer
L & A F REALTY ASSOCIATES, a
corporation, dba Re/Max Realty
Associates



1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982
5 -or- (213) 576-6910

FILED
JUN 11 1999
DEPARTMENT OF REAL ESTATE

By C. J. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 L & A F REALTY ASSOCIATES, a) NO. H-27553 LA
14 corporation, dba Re/Max Realty) L-1998020391
15 Associates; PAUL MICHAEL)
16 KONAPELSKY, individually and as) STIPULATION AND AGREEMENT
17 designated officer of L & A F)
18 Realty Associates; LAWRENCE)
19 ROBERT FRIEDMAN; and SHERRIE)
20 KATHY FRIEDMAN,)
21 Respondents.)

22 It is hereby stipulated by and between LAWRENCE ROBERT
23 FRIEDMAN (hereinafter "Respondent or L. FRIEDMAN"), and his
24 attorney of record, Frank M. Buda, Esq., and the Complainant,
25 acting by and through Chris Leong, Counsel for the Department of
26 Real Estate, as follows for the purpose of settling and
27 disposing of the Accusation filed on February 4, 1998, the First
Amended Accusation filed on November 25, 1998 and the Second
Amended Accusation filed on January 21, 1999. The Accusation as
to PAUL MICHAEL KONAPELSKY, individually and as designated



1
2 officer of L & A F Realty Associates; L & A F REALTY ASSOCIATES,
3 a corporation, dba Re/Max Realty Associates; and SHERRIE KATHY
4 FRIEDMAN, will be handled separately.

5 1. All issues which were to be contested and all
6 evidence which was to be presented by Complainant and Respondent
7 at a formal hearing on the Accusation, which hearing was to be
8 held in accordance with the provisions of the Administrative
9 Procedure Act, shall instead and in place thereof be submitted
10 solely on the basis of the provisions of this Stipulation and
11 Agreement.

12 2. Respondent has received, read and understands the
13 Statement to Respondent, the Discovery Provisions of the
14 Administrative Procedure Act and the Accusation, filed by the
15 Department of Real Estate in this proceeding.

16 3. On February 20, 1998, Respondent L. FRIEDMAN filed
17 a Notice of Defense pursuant to Section 11505 of the Government
18 Code for the purpose of requesting a hearing on the allegations
19 in the Accusation. Respondent hereby freely and voluntarily
20 withdraws said Notice of Defense. Respondent acknowledges that
21 he understands that by withdrawing said Notice of Defense he
22 will thereby waive his right to require the Commissioner to
23 prove the allegations in the Accusation at a contested hearing
24 held in accordance with the provisions of the Administrative
25 Procedure Act and that Respondent will waive other rights
26 afforded to him in connection with the hearing, such as the
27 right to present evidence in defense of the allegations in the

1 Accusation and the right to cross-examine witnesses.

2 4. In the interest of expedience and economy,
3 Respondent chooses not to contest the factual allegations in
4 Paragraphs 1 through 26 of the Accusation, but to remain silent
5 and understands that, as a result thereof, these factual
6 statements, without being admitted or denied, will serve as a
7 prima facie basis for the disciplinary action stipulated to
8 herein. The Real Estate Commissioner shall not be required to
9 provide further evidence to prove such allegations.

10 5. It is understood by the parties that the Real
11 Estate Commissioner may adopt the Stipulation and Agreement as
12 his Decision in this matter, thereby imposing the penalty and
13 sanctions on Respondent's real estate license and license rights
14 as set forth in the "Order" below. In the event that the
15 Commissioner in his discretion does not adopt the Stipulation
16 and Agreement, it shall be void and of no effect, and Respondent
17 shall retain the right to a hearing and proceeding on the
18 Accusation under all the provisions of the Administrative
19 Procedure Act and shall not be bound by any admission or waiver
20 made herein.

21 6. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation and
23 Agreement shall not constitute an estoppel, merger or bar to any
24 further administrative or civil proceeding by the Department of
25 Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this
27 proceeding.



1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions
3 and waivers and solely for the purpose of settlement of the
4 pending Accusation without a hearing, it is stipulated and
5 agreed that the following Determination of Issues shall be made:

6 The acts and omissions of Respondent L. FRIEDMAN,
7 described in Paragraphs 1 through 26 of the Accusation, are
8 cause for the suspension or revocation of all real estate
9 licenses and license rights of Respondent under the provisions
10 of Sections 10130 and 10177(d) of the Business and Professions
11 Code.

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 All licenses and licensing rights of Respondent
15 L. FRIEDMAN under the Real Estate Law are suspended for a period
16 of one hundred (100) days from the effective date of this
17 Decision; provided, however, forty (40) days of said one hundred
18 (100) day suspension shall be permanently stayed upon condition
19 that:

20 1. Respondent pays a monetary penalty pursuant to
21 Section 10175.2 of the Business and Professions Code at the rate
22 of \$150.00 for each day of the suspension, for a total monetary
23 penalty of \$6,000.00.

24 2. Said payment shall be in the form of a cashier's
25 check or certified check made payable to the Recovery Account of
26 the Real Estate Fund. Said check must be delivered to the
27



1 Department prior to the effective date of the Decision in this
2 matter.

3 3. The remaining sixty (60) days of the one hundred
4 (100) day suspension of L. FRIEDMAN shall be stayed on the
5 condition that no further cause for discipline of the license
6 and license rights of Respondent shall occur within two (2)
7 years from the effective date of this Decision.

8 If no further cause for disciplinary action against
9 the real estate license of Respondent L. FRIEDMAN occurs within
10 two years from the effective date of this Decision, the stay
11 hereby granted shall become permanent.

12

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DATED:

5/21/99

CHRIS LEONG

CHRIS LEONG, ESQ.
Counsel for Complainant

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I have read the Stipulation and Agreement, have
discussed it with my counsel, and its terms are understood by me
and are agreeable and acceptable to me. I understand that I am
waiving rights given to me by the California Administrative
Procedure Act (including but not limited to Sections 11506,
11508, 11509 and 11513 of the Government Code), and I 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 I would have the right to
cross-examine witnesses against me and to present evidence in
defense and mitigation of the charges.



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2
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4 DATED:

5/17/99

LR
LAWRENCE ROBERT FRIEDMAN
Respondent

6
7 DATED:

5-20-99

Frank M. Buda
FRANK M. BUDA, ESQ.
Counsel for Respondent

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9 * * *

10 The foregoing Stipulation and Agreement is hereby
11 adopted as my Decision in this matter and shall become effective
12 at 12 o'clock noon on July 1, 1999
13

14 IT IS SO ORDERED

June 4, 1999

15 JOHN R. LIBERATOR
Acting Real Estate Commissioner

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17 John R. Liberator
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1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

4 Counsel Leong (213) 576-6910
5 Legal Section (213) 576-6982

FILED
MAY 27 1999
DEPARTMENT OF REAL ESTATE

By C. B. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 L & A F REALTY ASSOCIATES, a)
13 corporation, dba Re/Max Realty)
14 Associates; PAUL MICHAEL)
15 KONAPELSKY, individually and as)
16 designated officer of L & A F)
17 Realty Associates; LAWRENCE)
18 ROBERT FRIEDMAN; and SHERRIE)
19 KATHY FRIEDMAN,)

20 Respondents.)

NO. H-27553 LA

L-1998020391

STIPULATION AND AGREEMENT

21 It is hereby stipulated by and between PAUL MICHAEL
22 KONAPELSKY, individually and as designated officer of L & A F
23 Realty Associates (hereinafter "Respondent"), representing
24 himself, and the Complainant, acting by and through Chris Leong,
25 Counsel for the Department of Real Estate, as follows for the
26 purpose of settling and disposing of the Accusation filed on
27 February 4, 1998, the First Amended Accusation filed on
November 25, 1998, and the Second Amended Accusation filed on
January 21, 1999. Respondents L & A F REALTY ASSOCIATES, a
corporation, dba Re/Max Realty Associates; LAWRENCE ROBERT

1 FRIEDMAN; and SHERRIE KATHY FRIEDMAN will be handled separately.

2 1. All issues which were to be contested and all
3 evidence which was to be presented by Complainant and Respondent
4 at a formal hearing on the Accusation, which hearing was to be
5 held in accordance with the provisions of the Administrative
6 Procedure Act, shall instead and in place thereof be submitted
7 solely on the basis of the provisions of this Stipulation and
8 Agreement.

9 2. Respondent has received, read and understands the
10 Statement to Respondent, the Discovery Provisions of the
11 Administrative Procedure Act and the Accusation, filed by the
12 Department of Real Estate in this proceeding.

13 3. On February 13, 1998, Respondent KONAPELSKY filed
14 a Notice of Defense pursuant to Section 11505 of the Government
15 Code for the purpose of requesting a hearing on the allegations
16 in the Accusation. Respondent hereby freely and voluntarily
17 withdraws said Notice of Defense. Respondent acknowledges that
18 he understands that by withdrawing said Notice of Defense he
19 will thereby waive his right to require the Commissioner to
20 prove the allegations in the Accusation at a contested hearing
21 held in accordance with the provisions of the Administrative
22 Procedure Act and that Respondent will waive other rights
23 afforded to him in connection with the hearing, such as the
24 right to present evidence in defense of the allegations in the
25 Accusation and the right to cross-examine witnesses.

26 4. In the interest of expedience and economy,
27 Respondent chooses not to contest the factual allegations in

1 Paragraphs 1 through 26 of the Accusation, but to remain silent
2 and understands that, as a result thereof, these factual
3 statements, without being admitted or denied, will serve as a
4 prima facie basis for the disciplinary action stipulated to
5 herein. The Real Estate Commissioner shall not be required to
6 provide further evidence to prove such allegations.

7 5. It is understood by the parties that the Real
8 Estate Commissioner may adopt the Stipulation and Agreement as
9 his Decision in this matter, thereby imposing the penalty and
10 sanctions on Respondent's real estate license and license rights
11 as set forth in the "Order" below. In the event that the
12 Commissioner in his discretion does not adopt the Stipulation
13 and Agreement, it shall be void and of no effect, and Respondent
14 shall retain the right to a hearing and proceeding on the
15 Accusation under all the provisions of the Administrative
16 Procedure Act and shall not be bound by any admission or waiver
17 made herein.

18 6. The Order or any subsequent Order of the Real
19 Estate Commissioner made pursuant to this Stipulation and
20 Agreement shall not constitute an estoppel, merger or bar to any
21 further administrative or civil proceeding by the Department of
22 Real Estate with respect to any matters which were not
23 specifically alleged to be causes for accusation in this
24 proceeding.

25 DETERMINATION OF ISSUES

26 By reason of the foregoing stipulations, admissions
27 and waivers and solely for the purpose of settlement of the



1 pending Accu cion without a hearing, it is stipulated and
2 agreed that the following Determination of Issues shall be made:

3 The acts and omissions of Respondent, described in
4 Paragraphs 1 through 26 of the Accusation, are cause for the
5 suspension or revocation of all real estate licenses and license
6 rights of Respondent under the provisions of Section 10177(h) of
7 the Business and Professions Code.

8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 All licenses and licensing rights of Respondent under
11 the Real Estate Law are suspended for a period of one hundred
12 (100) days from the effective date of this Decision; provided,
13 however, that forty (40) days of said hundred (100) day
14 suspension shall be permanently stayed upon condition that:

15 1. Respondent pays a monetary penalty pursuant to
16 Section 10175.2 of the Business and Professions Code at the rate
17 of \$150.00 for each day of the suspension for a total monetary
18 penalty of \$6,000.00.

19 2. Said payment shall be in the form of a cashier's
20 check or certified check made payable to the Recovery Account of
21 the Real Estate Fund. Said check must be delivered to the
22 Department prior to the effective date of the Decision in this
23 matter.

24 3. Pursuant to Section 10148 of the Business and
25 Professions Code and by agreement of the parties, Respondent
26 shall pay the Commissioner's reasonable costs for an audit to
27 determine if Respondent is in compliance with Real Estate Law.



1 In calculati , the amount of the Commissioner's reasonable cost,
2 the Commissioner may use the estimated average hourly salary for
3 all persons performing audits of real estate brokers, and shall
4 include an allocation for travel costs, including mileage, time
5 to and from the auditor's place of work, and per diem. The
6 Commissioner's reasonable costs shall in no event exceed
7 \$1,000.00.

8 (1) Respondent shall pay such cost within 45 days of
9 receiving an invoice from the Commissioner detailing the
10 activities performed during the audit and the amount of time
11 spent performing those activities.

12 (2) Notwithstanding the provisions of any other
13 paragraph herein, if Respondent fails to pay, within 45 days
14 from receipt of the invoice specified above, the Commissioner's
15 reasonable cost for an audit to determine if Respondent has
16 corrected the violations found in the Determination of Issues,
17 the Commissioner may order the indefinite suspension of
18 Respondent's real estate license and license rights. The
19 suspension shall remain in effect until payment is made in full,
20 or until Respondent enters into an agreement satisfactory to the
21 Commissioner to provide for such payment. The Commissioner may
22 impose further reasonable disciplinary terms and conditions upon
23 Respondent's real estate license and license rights as part of
24 any such agreement.

25 4. The remaining sixty (60) days of the one hundred
26 (100) day suspension of Respondent shall be stayed on the
27 condition that no further cause for discipline of the license



1 and license ghts of Respondent shall o ur within two (2)
2 years from the effective date of this Decision.

3 If Respondent pays for the chargeable audit and if no
4 further cause for disciplinary action against the real estate
5 license of Respondent occurs within two years from the effective
6 date of the Decision, the stay hereby granted shall become
7 permanent.

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9
10 DATED: 5/14/99

CHRIS LEONG
CHRIS LEONG, ESQ.
Counsel for Complainant

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12 * * *

13 I have read the Stipulation and Agreement and its terms
14 are understood by me and are agreeable and acceptable to me. I
15 understand that I am waiving rights given to me by the
16 California Administrative Procedure Act (including but not
17 limited to Sections 11506, 11508, 11509 and 11513 of the
18 Government Code), and I willingly, intelligently and voluntarily
19 waive those rights, including the right of requiring the
20 Commissioner to prove the allegations in the Accusation at a
21 hearing at which I would have the right to cross-examine
22 witnesses against me and to present evidence in defense and
23 mitigation of the charges.

24
25
26 DATED: 5-12-99

PAUL MICHAEL KONAPELSKI
Respondent

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become effective
at 12 o'clock noon on June 16, 1999.

IT IS SO ORDERED May 24, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

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SECTION 10148, CALIFORNIA BUSINESS AND PROFESSIONS CODE

10148. (a) A licensed real estate broker shall retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated. After notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours; and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature.

(b) The commissioner shall charge a real estate broker for the cost of an audit, if prior to the audit the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker has violated Section 10145 or a regulation or rule of the commissioner interpreting Section 10145.

The commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost incurred by the commissioner for an audit, the commissioner may use the estimated average hourly cost for all persons performing audits of real estate brokers.

[Amended by Statutes 1989, Chapter 640.]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

) Case No. H-27553 LA

)
) L & A F REALTY ASSOCIATES, a corporation,
) dba Re/Max Realty Associates; PAUL MICHAEL
) KONAPELSKY, individually and as designated
) officer of L & A F Realty Associates;
) LAWRENCE ROBERT FRIEDMAN; and SHERRIE
) KATHY FRIEDMAN,
)

) OAH No. L-1998020391

FILED
MAY - 7 1999
DEPARTMENT OF REAL ESTATE

Respondent(s)

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

By Chris Leong

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY and WEDNESDAY, JULY 27 and 28, 1999, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: May 7, 1999

DEPARTMENT OF REAL ESTATE
By Chris Leong
CHRIS LEONG, Counsel

cc: L & A F Realty Associates
Paul Michael Konapelsky
Lawrence Robert Friedman
Sherrie Kathy Friedman
Frank M. Buda, Esq.
Home Pro Realty, Inc.
Danio Fajardo/Breeding
Sacto.
OAH

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

Case No. H-27553 LA

L & A F REALTY ASSOCIATES,
a corporation, dba Re/Max Realty
Associates; PAUL MICHAEL KONAPELSKY;
individually and as D.O. of
L & A F Realty Associates;
LAWRENCE ROBERT FRIEDMAN; and
SHERRIE KATHY FRIEDMAN,

OAH No. L-1998020391

FILED
FEB - 2 1999
DEPARTMENT OF REAL ESTATE

Respondent(s)

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Los Angeles, CA 90012 on APRIL 19, 1999 at 9:00 and will continue on a day-to-day basis as necessary through MAY 28, 1999, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: February 2, 1999

By

DEPARTMENT OF REAL ESTATE

CHRIS LEONG, Counsel

cc: L & A F Realty Associates
Paul Michael Konapelsky
Lawrence Robert Friedman
Sherrie Kathy Friedman
Herman Thordsen, Esq.
Home Pro Realty, Inc.
Danio Fajardo/Breeding
Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

CHRIS LEONG, Counsel
State Bar Number 141079
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 897-3937

FILED
JAN 21 1999
DEPARTMENT OF REAL ESTATE

By C. Z.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
L & A F REALTY ASSOCIATES, a)
corporation, dba Re/Max Realty)
Associates; PAUL MICHAEL)
KONAPELSKY, individually and as)
designated officer of L & A F)
Realty Associates; LAWRENCE)
ROBERT FRIEDMAN; and SHERRIE)
KATHY FRIEDMAN,)
Respondents.)

NO. H-27553 LA
L-1998020391

SECOND AMENDED
ACCUSATION

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against L & A F REALTY ASSOCIATES, a corporation, dba Re/Max Realty Associates (hereinafter "L & A F"); PAUL MICHAEL KONAPELSKY, individually and as designated officer of L & A F Realty Associates (hereinafter "KONAPELSKY"); LAWRENCE ROBERT FRIEDMAN (hereinafter "L. FRIEDMAN"); and SHERRIE KATHY FRIEDMAN (hereinafter "S. FRIEDMAN") (hereinafter sometimes collectively referred to as "Respondents"), is informed and alleges as follows:

1.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this amended Accusation against Respondents in his official capacity.

2.

All Sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

3.

At all times herein mentioned, Respondent L & A F was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker, individually and dba Re/Max Realty Associates.

4.

At all times herein mentioned, Respondent PAUL MICHAEL KONAPELSKY, individually and as designated officer of L & A F Realty Associates was and still is licensed by the Department as a real estate broker.

5.

Respondent L. FRIEDMAN, was first licensed by the Department as a real estate salesperson June 13, 1978. This license expired on June 12, 1982. He renewed his license over twelve (12) years later on August 8, 1984. From August 8, 1994 to February 8, 1996, L. FRIEDMAN was employed by L & A F. From February 9, 1996 to November 10, 1997, L. FRIEDMAN's real estate license was suspended. From November 11, 1997 to February 28, 1998, Respondent L. FRIEDMAN's real estate salesperson license



1 has not been suspended but also has not been registered with an
2 employing broker.

3 6.

4 At all times herein mentioned, Respondent S. FRIEDMAN
5 was and still is conditionally licensed by the Department as a
6 real estate salesperson. From July 1, 1994 to January 1, 1996,
7 S. FRIEDMAN was employed by L & A F. From January 2, 1996 to
8 present, S. FRIEDMAN's real estate license was suspended.

9 7.

10 At all times mentioned herein, in Los Angeles County,
11 California, Respondents acted as real estate brokers in the
12 State of California, within the meaning of Section 10131(a) and
13 (d) of the Business and Professions Code (hereinafter "Code"),
14 wherein they arranged, negotiated, processed and consummated on
15 behalf of others sales and purchases of real property and loans
16 secured by an interest in real property to the public for
17 compensation or in expectation of compensation.

18 8.

19 L & A F employed and compensated L. FRIEDMAN and
20 S. FRIEDMAN, while their licenses were suspended or while they
21 had no employing broker, as their agents to solicit for and
22 negotiate sales and purchases of real property and/or leases of
23 real property for others including, but not limited to, Charles
24 and Mary Ann Flynn, Paul and Sheila Sullenger; Kathleen Anne
25 Johnson; Michael and Jean Posey; Norman R. Patrich; Richard
26 Neilson; Salvador Ramirez; Mary Fry; Rey Havana; Ronald J.
27 Dumesnil; Eric Hardy; Ken McCord; Bruce Knonschuh; Almin



1 Madriaga; Sharon McKinney; Paula Karalus; Thomas Colcough and
2 other sellers or buyers of the following properties during a
3 period of time from February 9, 1996 to February 23, 1998.

- 4 1. 8204 E. Oak Ridge Cr.
5 Anaheim Hills, CA 92808
- 6 2. 1045 Border Ave.
7 Corona, CA 91720
- 8 3. 5374 Via Morena
9 Yorba Linda, CA 92886
- 10 4. 1370 Rebecca Dr.
11 La Habra, CA 90631
- 12 5. 6017 E. Calle Cedro
13 Anaheim Hills, CA 92807
- 14 6. 13634 Joshua Ln.
15 Chino Hills, CA 91710
- 16 7. 101 S. Lakeview
17 Placentia, CA 92870
- 18 8. 873 S. Cottontail Ln.
19 Anaheim Hills, CA 92808
- 20 9. 1572 San Alamada Rd.
21 Corona, CA 91720
- 22 10. 7802 24th St.
23 Westminster, CA 92683
- 24 11. 5575 Portage St.
25 Yorba Linda, CA 92887
- 26 12. 5565 Camino Caluroso
27 Yorba Linda, CA 92887
13. 5243 E. Evening View Rd.
Anaheim Hills, CA 92807
14. 1051 S. Falling Leaf Cr.
Anaheim Hills, CA 92807
15. 4606 E. Blue Bird Av.
Orange, CA 92869
16. 4808 E. Tanglewood Av.
Santa Ana, CA 92807



- 1 17. 13082 Tiller Ave.
2 Orange, CA 92868
- 3 18. 317 N. Redrock St.
4 Anaheim Hills, CA 92807
- 5 19. 8019 E. Snowberry Ln.
6 Anaheim Hills, CA 92808
- 7 20. 15695 Hesse Dr.
8 La Mirada, CA 90638
- 9 21. 6185 Jacaranda Ln.
10 Yorba Linda, CA 92887
- 11 22. 1001 E. Hepp Dr. January 12, 1998
12 Placentia, CA 92870
- 13 23. 312 S. Anise St.
14 Anaheim Hills, CA 92808
- 15 24. 1001 E. Hepp Dr. December 30, 1997
16 Placentia, CA 92870
- 17 25. 540 Santa Barbara Ave
18 Fullerton, CA 92835
- 19 26. 541 S. Hibiscus Way
20 Anaheim Hills, CA 92808
- 21 27. 5480 Christopher
22 Yorba Linda, CA 92887
- 23 28. 108 S. Birchwood St.
24 Anaheim Hills, CA 92808
- 25 29. 1045 Border Ave.
26 Corona, CA 91720
- 27 30. 6114 E. Morningview
Anaheim Hills, CA 92807
31. 5374 Via Morena
Yorba Linda, CA 92886
32. 9682 Joyzelle Dr.
Garden Grove, CA 92841
33. 1841 E. Orange Grove Ave.
Orange, CA 92867
34. 630 S. Knott Ave.
Orange, CA 92804



- 1 35. 6807 E. Georgetown Cr.
2 Anaheim Hills, CA 92807
- 3 36. 5545 Picasso Dr. October 27, 1997
4 Yorba Linda, CA 92887
- 5 37. 912 S. Lone Pine October 20, 1997
6 Anaheim Hills, CA 92808
- 7 38. 494 S. Old Bucket Ln.
8 Anaheim Hills, CA 92807
- 9 39. 868 E. Cameron Ct.
10 Brea, CA 92821
- 11 40. 8108 E. Oak Ridge
12 Anaheim Hills, CA 92808
- 13 41. 2544 E. Santa Fe Av.
14 Fullerton, CA 92831
- 15 42. 520 S. Fairmont Cr.
16 Anaheim Hills, CA 92807
- 17 43. 1241 Smoke Tree Dr, October 8, 1997
18 La Habra, CA 90631
- 19 44. 804 S. Cottontail Ln.
20 Anaheim Hills, CA 92808
- 21 45. 4606 E. Blue Bird Av.
22 Orange, CA 92869
- 23 46. 15695 Hesse Dr.
24 La Mirada, CA 90638
- 25 47. 1001 E. Hepp Dr. September 20, 1997
26 Placentia, CA 92807
- 27 48. 20085 Nob Hill Dr.
Yorba Linda, CA 92886
49. 4404 E. Orange Creek Ln.
Anaheim Hills, CA 92807
50. 2385 N. Robinhood Pl.
Orange, CA 92867
51. 2760 N. Sheffield
Orange, CA 92867
52. 7910 Aster Cr.
Buena Park, CA 90620



- 1 53. 366 S. Anise St.
Anaheim Hills, CA 92808
- 2
- 3 54. 1120 S. Country Glen Wy.
Anaheim Hills, CA 92808
- 4
- 5 55. 721 S. Lost Canyon Rd.
Anaheim Hills, CA 92808
- 6
- 7 56. 3116 La Sombra Wy. September 2, 1997
Fullerton, CA 92835
- 8
- 9 57. 325 Massachusetts Ln.
Placentia, CA 92870
- 10
- 11 58. 1591 Shirley Pl.
Pomona, CA 91767
- 12
- 13 59. 2567 N. Torres St.
Orange, CA 92865
- 14
- 15 60. 7112 E. Scenic Cr.
Anaheim Hills, CA 92807
- 16
- 17 61. 927 S. Natalie Ln.
Anaheim Hills, CA 92808
- 18
- 19 62. 710 S. Highland Ln.
Anaheim Hills, CA 92807
- 20
- 21 63. 28000 Blackberry Wy.
Yorba Linda, CA 92887
- 22
- 23 64. 6210 Plymouth Ct
Yorba Linda, CA 92887
- 24
- 25 65. 971 S. Firefly Dr.
Anaheim Hills, CA 92808
- 26
- 27 66. 162 S. Donna Ct.
Anaheim Hills, CA 92807
67. 1524 Sherwood Village Cr.
Placentia, CA 92870
68. 1841 E. Orange Grove Av.
Orange, CA 92867
69. 3475 E. Elm St.
Brea, CA 92823
70. 1554 W. Palais
Santa Ana, CA 92802



- 1 71. 640 S. Gentry Ln.
2 Anaheim Hills, CA 92807
- 3 72. 6568 E. Via Corral
4 Anaheim Hills, CA 92807
- 5 73. 5334 E. Pamela Kay Ln.
6 Anaheim Hills, CA 92807
- 7 74. 1513 Collins Way
8 Placentia, CA 92870
- 9 75. 1430 Grove Pl
10 Fullerton, CA 92831
- 11 76. 5465 Christopher Dr.
12 Yorba Linda, CA 92887
- 13 77. 912 S. Lone Pine Ln. July 21, 1997
14 Anaheim Hills, CA 92807
- 15 78. 5545 Picasso Dr. July 21, 1997
16 Yorba Linda, CA 92887
- 17 79. 5321 Lynridge
18 Yorba Linda, CA 92886
- 19 80. 1625 Clear Creek Dr.
20 Fullerton, CA 92833
- 21 81. 1129 W. Walnut Av.
22 Orange, CA 92868
- 23 82. 8318 E. Ironwood Av.
24 Orange, CA 92869
- 25 83. 20595 Via Belarmino
26 Yorba Linda, CA 92887
- 27 84. 2406 Rainbow Ln.
Brea, CA 92821
85. 2867 Marymont Av.
Fullerton, CA 92835
86. 5504 Paseo Gilberto
Yorba Linda, CA 92886
87. 6320 Golden Gate Dr.
Yorba Linda, CA 92886
88. 15314 San Ardo
La Mirada, CA 90638



- 1 89. 141 W. Rosslynn Av.
2 Fullerton, CA 92832
- 3 90. 2544 E. Santa Fe Av.
4 Fullerton, CA 92831
- 5 91. 681 Balsa Av.
6 Brea, CA 92821
- 7 92. 1241 Smoke Tree Dr. June 29, 1997
8 La Habra, CA 90631
- 9 93. 2126 McCormack Ln.
10 Placentia, CA 92870
- 11 94. 1180 Via Viento
12 Corona, CA 91720
- 13 95. 930 S. Dylan Wy.
14 Anaheim Hills, CA 92808
- 15 96. 20455 Via Linares
16 Yorba Linda, CA 92887
- 17 97. 1455 W. Domingo Rd.
18 Fullerton, CA 92833
- 19 98. 3116 La Sombra Way June 2, 1997
20 Fullerton, CA 92835
- 21 99. 2263 Cobblestone Dr.
22 Brea, CA 92801
- 23 100. 4296 Rocky Point Rd.
24 Anaheim Hills, CA 92807
- 25 101. 10362 Prado Woods
26 Villa Park, CA 92816
- 27 102. 1319 Vina Del Mar Pl.
Placentia, CA 92870
103. 3315 E. Ridgeway Rd.
Orange, CA 92867
104. 1084 S. Mountvale Court
Anaheim Hills, CA 92808
105. 2224 E. Jackson Avenue
Orange, CA 92867
106. 19111 Tigerfish Circle
Huntington Beach, CA 92646



1	107.	5685 Greenbriar Yorba Linda, CA 92886
2		
3	108.	8490 E. Saratoga Street Anaheim Hills, CA 92808
4	109.	21880 Cimarron Place Yorba Linda, CA 92887
5		
6	110.	18782 La Casita Av. Yorba Linda, CA 92886
7	111.	6219 E. Quartz Ln. Anaheim Hills, CA 92807
8		
9	112.	517 S. Sunnyhill Wy Anaheim Hills, CA 92808
10	113.	5726 Whitewater St. Yorba Linda, CA 92887
11		
12	114.	1029 S. Dewcrest Drive Anaheim Hills, CA 92808
13	115.	1042 S. Mountvale Ct. Anaheim Hills, CA 92808
14		
15	116.	8644 E. Canyon Vista Dr. Anaheim Hills, CA 92808
16	117.	330 N. Elm St. Orange, CA 92868
17		
18	118.	1936 Frederick St. Placentia, CA 92870
19	119.	401 Elmhurst Pl. Fullerton, CA 92835
20		
21	120.	2822 E. Hamilton Av. Orange, CA 92867
22	121.	3000 N. Woods St. Orange, CA 92865
23		
24	122.	5715 Whitewater St. Yorba Linda, CA 92887
25	123.	419 S. Split Rail Ln. Anaheim Hills, CA 92807
26		
27	124.	25640 Corsica Wy Yorba Linda, CA 92887



1	125.	24683 Via Buena Suerte Yorba Linda, CA 92887
2		
3	126.	1638 Clear Creek Dr. Fullerton, CA 92833
4	127.	591 S. Weymouth Ct. Anaheim Hills, CA 92807
5		
6	128.	1143 S. Silver Star Wy. Anaheim Hills, CA 92808
7	129.	1540 Via Los Bonitos La Habra, CA 90631
8		
9	130.	5721 Whitewater Yorba Linda, CA 92887
10	131.	218 Eisenhower Wy Placentia, CA 92870
11		
12	132.	20550 Via Talvera Yorba Linda, CA 92887
13	133.	7646 E. Lockmount Cr. Anaheim Hills, CA 92808
14		
15	134.	5574 E. Edgemar Av. Anaheim Hills, CA 92807
16	135.	499 S. Laureltree Dr. Anaheim Hills, CA 92808
17		
18	136.	7135 E. La Cumbre Dr. Orange, CA 92669
19	137.	11631 New Zealand St. Cypress, CA 90630
20		
21	138.	4881 E. Fairfield St. Anaheim Hills, CA 92807
22	139.	1314 N. Van Gogh Cr. Orange, CA 92667
23		
24	140.	5640 Van Gogh Wy Yorba Linda, CA 92687
25	141.	1881 Kingsford Corona, CA 91720
26		
27		



1 14.. 1012 N. Los Altos Pl.
2 Orange, CA 92669

3 143 604 Inverness Ct.
4 Fullerton, CA 92635

5 144. 1030 N. Yale Av.
6 Fullerton, CA 92631

7 9.

8 The activities of L. FRIEDMAN and S. FRIEDMAN,
9 described above in Paragraph 8, are acts requiring a real estate
10 license as described in Code Section 10131(d). In employing and
11 compensating L. FRIEDMAN and S. FRIEDMAN, for said acts when
12 they were not licensed by the Department, L & A F and
13 KONAPELSKY, violated Code Section 10137.

14 10.

15 L. FRIEDMAN and S. FRIEDMAN violated Code Section
16 10130 by engaging in the activities set forth in Paragraph 8
17 without being licensed as real estate brokers or licensed as
18 real estate salespersons employed by a real estate broker.

19 AUDITS

20 11.

21 On or about December 12, 1997, the Department
22 completed three audits of the activities of Respondents L & A F
23 and KONAPELSKY. The first audit was regarding the real estate
24 sales activity, audit number LA 960530. The second audit was
25 regarding the escrow activity, audit number LA 970213. The
26 third audit was regarding the mortgage loan activity, audit
27 number LA 970218. The records were reviewed for the period from
December 1, 1995 through October 31, 1997. The results of the
audits are set forth in Paragraphs 12 through 15.



12.

During 1995 through 1997, in connection with their real estate business activities, Respondents L & A F and KONAPELSKY accepted or received funds in trust (hereinafter "trust funds") from or on behalf of buyers and sellers and thereafter made disbursements of such funds. These funds were maintained by Respondents in a trust account at Eldorado Bank, 17752 Seventeenth St., Tustin, CA 92660 (hereinafter "TA#1").

13.

In connection with their real estate sales activities and trust funds described in Paragraphs 11 and 12 (LA 960530), Respondent KONAPELSKY:

(a) failed to supervise and to see that L & A F hired licensed persons to represent its clients and allowed unlicensed agents, L. FRIEDMAN and S. FRIEDMAN, to represent, on their behalf, Kathleen Anne Johnson and Paul and Sheila Sullenger, in violation of Code Sections 10159.2 and 10177(h).

14.

In connection with their escrow activities and trust funds described in Paragraphs 11 and 12 (LA 970213), Respondents L & A F and KONAPELSKY:

(a) as of October 31, 1997, TA#1 had an adjusted balance of \$4,861.20 (overage) which were personal funds in the form of escrow fees owed to L & A F, in violation of Code Sections 10145 and 10176(e);

(b) KONAPELSKY failed to adequately supervise the activities of the escrow division of L & A F, in violation of



1 Code Section 10159.2;

2 (c) failed to maintain a columnar record of all trust
3 funds received and disbursed for TA#1, in violation of Section
4 2831 of the Regulations;

5 (d) failed to maintain adequate separate records, in
6 violation of Section 2831.1 of the Regulations; and

7 (e) failed to maintain monthly reconciliation
8 records, in violation of Section 2831.2 of the Regulations.

9 15.

10 In connection with their mortgage loan activities and
11 trust funds described in Paragraphs 11 and 12 (LA 970218),
12 Respondents L & A F and KONAPELSKY:

13 (a) KONAPELSKY failed to adequately supervise the
14 mortgage loan activities of L & A F, in violation of Code
15 Section 10159.2;

16 (b) failed to provide approved lender/purchaser
17 disclosure statements to borrowers before they became obligated
18 for the loan, including: D. Perritt, T. & A. Pandhi, T. Kampas
19 & S. McCully, R. & J. Grenier, C. Vasquez, in violation of Code
20 Section 10232.4 and Section 2840 of the Regulations; and

21 (c) used an unregistered dba, Realty Associates
22 Mortgage, in violation of Section 2731 of the Regulations.

23 PRIOR DISCIPLINE

24 16.

25 Respondent L. FRIEDMAN's real estate license was
26 originally issued on June 13, 1978. On or about June 12, 1982
27 this license expired. On December 29, 1993, a Desist and



1 Refrain Order, case number H-1697 LA, was filed against
2 Respondent L. FRIEDMAN. On November 3, 1995, an Application For
3 Order Directing Payment Out of the Real Estate Recovery Account,
4 R-3079, against Respondent, was received by the Department.

5 17.

6 On December 29, 1993, Accusation H-1702 SA was filed.
7 The Respondents in H-1702 SA were L&AF Financial Group
8 (hereinafter "L&AF(G)"), a corporation; and Russell L. Elliott,
9 (hereinafter "ELLIOT") individually and as designated officer of
10 L&AF Financial Group. L&AF(G) was 100% owned by L. FRIEDMAN,
11 before he was the owner of L & A F. This Accusation alleged in
12 Paragraph XII that:

13 "The investigative audit (SA 930002, dated October 22,
14 1993) moreover revealed that L&AF(G) and ELLIOT employed and
15 compensated LAWERENCE ROBERT FRIEDMAN, President and sole owner
16 of L&AF(G), to originate loans, solicit borrowers and lenders,
17 and negotiate loans secured by liens on real property when they
18 knew or should have known that he was not licensed in any
19 capacity with the Department. This conduct and violation are
20 cause to suspend or revoke the licenses and license rights of
21 respondents under Section 10137 of the Code."

22 18.

23 On April 25, 1996, Accusation H-1702 LA was settled by
24 Stipulation and Agreement in Settlement and Order. The
25 Stipulation was signed by "L&AF Financial Group, Respondent By:
26 Larry Friedman Designated Officer" and "Paul M. Konapelsky, Esq.
27 Attorney for Respondent". This prior discipline demonstrates a



1 pattern of conduct of Respondents.

2 FIRST CAUSE OF ACCUSATION

3 (Violation by Respondents L & A F and KONAPELSKY of Code
4 Sections 10145, 10240 and 10177(d) and Sections 2831, 2831.1
5 2831.2 and 2840 of the Regulations)

6 19.

7 As a First Cause of Accusation, Complainant
8 incorporates herein by this reference the Preamble and each of
9 the allegations in Paragraphs 1 through 18, herein above.

10 20.

11 The conduct of Respondents L & A F and KONAPELSKY, in
12 handling trust funds, as alleged in Paragraphs 11 through 18,
13 constitutes violation under Code Sections 10145 and 10240 and
14 Sections 2831, 2831.1 2831.2 and 2840 of the Regulations. Said
15 conduct is cause pursuant to Code Section 10177(d) for the
16 suspension or revocation of all licenses and license rights of
17 Respondents L & A F and KONAPELSKY under the Real Estate Law.

18 SECOND CAUSE OF ACCUSATION

19 (Violation by Respondents L & A F and KONAPELSKY of Code Section
20 10137)

21 21.

22 As a Second Cause of Accusation, Complainant
23 incorporates herein by this reference the Preamble and each of
24 the allegations in Paragraphs 1 through 18, herein above.

25 22.

26 The conduct of Respondents L & A F and KONAPELSKY, in
27 compensating L. FRIEDMAN and S. FRIEDMAN for performing acts



1 requiring a license while their licenses were suspended, as
2 alleged in Paragraphs 1 through 18, constitutes violation under
3 Code Section 10137. Said conduct is cause for the suspension or
4 revocation of all licenses and license rights of Respondents
5 L & A F and KONAPELSKY under the Real Estate Law.

6 THIRD CAUSE OF ACCUSATION

7 (Violation by Respondents L. FRIEDMAN and S. FRIEDMAN of Code
8 Section 10130)

9 23.

10 As a Third Cause of Accusation, Complainant
11 incorporates herein by this reference the Preamble and each of
12 the allegations in Paragraphs 1 through 18, herein above.

13 24.

14 The conduct of Respondents L. FRIEDMAN and S. FRIEDMAN
15 for performing acts requiring a license while their licenses
16 were suspended, as alleged in Paragraphs 1 through 18,
17 constitutes violation under Code Section 10130. Said conduct is
18 cause for the suspension or revocation of all licenses and
19 license rights of Respondents L. FRIEDMAN and S. FRIEDMAN under
20 Code Section 10177(d).

21 FOURTH CAUSE OF ACCUSATION

22 (Violation by Respondent KONAPELSKY of Code Sections 10159.2
23 and 10177(h))

24 25.

25 As a Fourth Cause of Accusation, Complainant
26 incorporates herein by this reference the Preamble and each of
27 the allegations in Paragraphs 1 through 18, herein above.



The conduct of Respondent KONAPELSKY, in allowing L & A F, L. FRIEDMAN and S. FRIEDMAN to violate Code Sections 10130, 10137, 10145 and 10240 and Sections 2831, 2831.1 2831.2 and 2840 of the Regulations constitutes a failure to supervise. Said conduct and violations set forth in Paragraph 10, are cause for the suspension or revocation of all licenses and license rights of Respondent KONAPELSKY, under the Real Estate Law, pursuant to Code Sections 10159.2, 10177(d) and 10177(h).

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1 CHRIS LEONG, Counsel
2 State Bar Number 141079
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, CA 90012
6 (213) 897-3937

FILED
NOV 25 1998
DEPARTMENT OF REAL ESTATE

By CB

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 L & A F REALTY ASSOCIATES, a)
13 corporation, dba Re/Max Realty)
14 Associates; PAUL MICHAEL)
15 KONAPELSKY, individually and as)
16 designated officer of L & A F)
17 Realty Associates; LAWRENCE)
18 ROBERT FRIEDMAN; and SHERRIE)
19 KATHY FRIEDMAN,)
20 Respondents.)

NO. H-27553 LA
L-1998020391

FIRST AMENDED
ACCUSATION

21 The Complainant, Thomas McCrady, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against L & A F REALTY ASSOCIATES, a corporation, dba Re/Max
24 Realty Associates (hereinafter "L & A F"); PAUL MICHAEL
25 KONAPELSKY, individually and as designated officer of L & A F
26 Realty Associates (hereinafter "KONAPELSKY"); LAWRENCE ROBERT
27 FRIEDMAN (hereinafter "L. FRIEDMAN"); and SHERRIE KATHY FRIEDMAN
(hereinafter "S. FRIEDMAN") (hereinafter sometimes collectively
referred to as "Respondents"), is informed and alleges as
follows:



1. 1.

2 The Complainant, Thomas McCrady, a Deputy Real Estate
3 Commissioner of the State of California, makes this amended
4 Accusation against Respondents in his official capacity.

5 2.

6 All Sections of Title 10, Chapter 6, California Code
7 of Regulations, are hereinafter referred to as "Regulations".

8 3.

9 At all times herein mentioned, Respondent L & A F was
10 and still is licensed by the Department of Real Estate of the
11 State of California (hereinafter "Department") as a corporate
12 real estate broker, individually and dba Re/Max Realty
13 Associates.

14 4.

15 At all times herein mentioned, Respondent PAUL MICHAEL
16 KONAPELSKY, individually and as designated officer of L & A F
17 Realty Associates was and still is licensed by the Department as
18 a real estate broker.

19 5.

20 Respondent L. FRIEDMAN, was first licensed by the
21 Department as a real estate salesperson June 13, 1978. This
22 license expired on June 12, 1982. He renewed his license over
23 twelve (12) years later on August 8, 1984. From August 8, 1994
24 to February 8, 1996, L. FRIEDMAN was employed by L & A F. From
25 February 9, 1996 to November 10, 1997, L. FRIEDMAN's real estate
26 license was suspended. From November 11, 1997 to February 28,
27 1998, Respondent L. FRIEDMAN's real estate salesperson license



1 has not been suspended but also has not been registered with an
2 employing broker.

3 6.

4 At all times herein mentioned, Respondent S. FRIEDMAN
5 was and still is conditionally licensed by the Department as a
6 real estate salesperson. From July 1, 1994 to January 1, 1996,
7 S. FRIEDMAN was employed by L & A F. From January 2, 1996 to
8 present, S. FRIEDMAN's real estate license was suspended.

9 7.

10 At all times mentioned herein, in Los Angeles County,
11 California, Respondents acted as real estate brokers in the
12 State of California, within the meaning of Section 10131(a) and
13 (d) of the Business and Professions Code (hereinafter "Code"),
14 wherein they arranged, negotiated, processed and consummated on
15 behalf of others sales and purchases of real property and loans
16 secured by an interest in real property to the public for
17 compensation or in expectation of compensation.

18 8.

19 L & A F employed and compensated L. FRIEDMAN and
20 S. FRIEDMAN, while their licenses were suspended or while they
21 had no employing broker, as their agents to solicit for and
22 negotiate sales and purchases of real property and/or leases of
23 real property for others including, but not limited to, Charles
24 and Mary Ann Flynn, Paul and Sheila Sullenger; Kathleen Anne
25 Johnson; Michael and Jean Posey; Norman R. Patrich; Richard
26 Neilson; Salvador Ramirez; Mary Fry; Rey Havana; Ronald J.
27 Dumesnil; Eric Hardy; Ken McCord; Bruce Knonschuh; Almin



1 Madriaga; Sharon McKinney; Paula Karalus; Thomas Colcough and
2 other sellers or buyers of the following properties during a
3 period of time from February 9, 1996 to February 23, 1998.

- 4 1. 8204 E. Oak Ridge Cr.
5 Anaheim Hills, CA 92808
- 6 2. 1045 Border Ave.
7 Corona, CA 91720
- 8 3. 5374 Via Morena
9 Yorba Linda, CA 92886
- 10 4. 1370 Rebecca Dr.
11 La Habra, CA 90631
- 12 5. 6017 E. Calle Cedro
13 Anaheim Hills, CA 92807
- 14 6. 13634 Joshua Ln.
15 Chino Hills, CA 91710
- 16 7. 101 S. Lakeview
17 Placentia, CA 92870
- 18 8. 873 S. Cottontail Ln.
19 Anaheim Hills, CA 92808
- 20 9. 1572 San Alamada Rd.
21 Corona, CA 91720
- 22 10. 7802 24th St.
23 Westminster, CA 92683
- 24 11. 5575 Portage St.
25 Yorba Linda, CA 92887
- 26 12. 5565 Camino Caluroso
27 Yorba Linda, CA 92887
13. 5243 E. Evening View Rd.
Anaheim Hills, CA 92807
14. 1051 S. Falling Leaf Cr.
Anaheim Hills, CA 92807
15. 4606 E. Blue Bird Av.
Orange, CA 92869
16. 4808 E. Tanglewood Av.
Santa Ana, CA 92807



1	17.	13082 Tiller Ave.	
2		Orange, CA 92868	
3	18.	317 N. Redrock St.	
4		Anaheim Hills, CA 92807	
5	19.	8019 E. Snowberry Ln.	
6		Anaheim Hills, CA 92808	
7	20.	15695 Hesse Dr.	
8		La Mirada, CA 90638	
9	21.	6185 Jacaranda Ln.	
10		Yorba Linda, CA 92887	
11	22.	1001 E. Hepp Dr.	January 12, 1998
12		Placentia, CA 92870	
13	23.	312 S. Anise St.	
14		Anaheim Hills, CA 92808	
15	24.	1001 E. Hepp Dr.	December 30, 1997
16		Placentia, CA 92870	
17	25.	540 Santa Barbara Ave	
18		Fullerton, CA 92835	
19	26.	541 S. Hibiscus Way	
20		Anaheim Hills, CA 92808	
21	27.	5480 Christopher	
22		Yorba Linda, CA 92887	
23	28.	108 S. Birchwood St.	
24		Anaheim Hills, CA 92808	
25	29.	1045 Border Ave.	
26		Corona, CA 91720	
27	30.	6114 E. Morningview	
		Anaheim Hills, CA 92807	
	31.	5374 Via Morena	
		Yorba Linda, CA 92886	
	32.	9682 Joyzelle Dr.	
		Garden Grove, CA 92841	
	33.	1841 E. Orange Grove Ave.	
		Orange, CA 92867	
	34.	630 S. Knott Ave.	
		Orange, CA 92804	



1	35.	6807 E. Georgetown Cr. Anaheim Hills, CA 92807
2		
3	36.	5545 Picasso Dr. October 27, 1997 Yorba Linda, CA 92887
4		
5	37.	912 S. Lone Pine October 20, 1997 Anaheim Hills, CA 92808
6	38.	494 S. Old Bucket Ln. Anaheim Hills, CA 92807
7	39.	868 E. Cameron Ct. Brea, CA 92821
8		
9	40.	8108 E. Oak Ridge Anaheim Hills, CA 92808
10		
11	41.	2544 E. Santa Fe Av. Fulerton, CA 92831
12	42.	520 S. Fairmont Cr. Anaheim Hills, CA 92807
13	43.	1241 Smoke Tree Dr, October 8, 1997 La Habra, CA 90631
14		
15	44.	804 S. Cottontail Ln. Anaheim Hills, CA 92808
16	45.	4606 E. Blue Bird Av. Orange, CA 92869
17		
18	46.	15695 Hesse Dr. La Mirada, CA 90638
19	47.	1001 E. Hepp Dr. September 20, 1997 Placentia, CA 92807
20		
21	48.	20085 Nob Hill Dr. Yorba Linda, CA 92886
22	49.	4404 E. Orange Creek Ln. Anaheim Hills, CA 92807
23		
24	50.	2385 N. Robinhood Pl. Orange, CA 92867
25	51.	2760 N. Sheffield Orange, CA 92867
26		
27	52.	7910 Aster Cr. Buena Park, CA 90620



- 1 53. 366 S. Anise St.
Anaheim Hills, CA 92808
- 2
- 3 54. 1120 S. Country Glen Wy.
Anaheim Hills, CA 92808
- 4
- 5 55. 721 S. Lost Canyon Rd.
Anaheim Hills, CA 92808
- 6
- 7 56. 3116 La Sombra Wy. September 2, 1997
Fullerton, CA 92835
- 8
- 9 57. 325 Massachusetts Ln.
Placentia, CA 92870
- 10
- 11 58. 1591 Shirley Pl.
Pomona, CA 91767
- 12
- 13 59. 2567 N. Torres St.
Orange, CA 92865
- 14
- 15 60. 7112 E. Scenic Cr.
Anaheim Hills, CA 92807
- 16
- 17 61. 927 S. Natalie Ln.
Anaheim Hills, CA 92808
- 18
- 19 62. 710 S. Highland Ln.
Anaheim Hills, CA 92807
- 20
- 21 63. 28000 Blackberry Wy.
Yorba Linda, CA 92887
- 22
- 23 64. 6210 Plymouth Ct
Yorba Linda, CA 92887
- 24
- 25 65. 971 S. Firefly Dr.
Anaheim Hills, CA 92808
- 26
- 27 66. 162 S. Donna Ct.
Anaheim Hills, CA 92807
67. 1524 Sherwood Village Cr.
Placentia, CA 92870
68. 1841 E. Orange Grove Av.
Orange, CA 92867
69. 3475 E. Elm St.
Brea, CA 92823
70. 1554 W. Palais
Santa Ana, CA 92802



1	71.	640 S. Gentry Ln. Anaheim Hills, CA 92807
2		
3	72.	6568 E. Via Corral Anaheim Hills, CA 92807
4		
5	73.	5334 E. Pamela Kay Ln. Anaheim Hills, CA 92807
6	74.	1513 Collins Way Placentia, CA 92870
7		
8	75.	1430 Grove Pl Fullerton, CA 92831
9	76.	5465 Christopher Dr. Yorba Linda, CA 92887
10		
11	77.	912 S. Lone Pine Ln. July 21, 1997 Anaheim Hills, CA 92807
12	78.	5545 Picasso Dr. July 21, 1997 Yorba Linda, CA 92887
13		
14	79.	5321 Lynridge Yorba Linda, CA 92886
15	80.	1625 Clear Creek Dr. Fullerton, CA 92833
16		
17	81.	1129 W. Walnut Av. Orange, CA 92868
18	82.	8318 E. Ironwood Av. Orange, CA 92869
19		
20	83.	20595 Via Belarmino Yorba Linda, CA 92887
21	84.	2406 Rainbow Ln. Brea, CA 92821
22		
23	85.	2867 Marymont Av. Fullerton, CA 92835
24	86.	5504 Paseo Gilberto Yorba Linda, CA 92886
25		
26	87.	6320 Golden Gate Dr. Yorba Linda, CA 92886
27	88.	15314 San Ardo La Mirada, CA 90638



- 1 89. 141 W. Rosslynn Av.
Fullerton, CA 92832
- 2
- 3 90. 2544 E. Santa Fe Av.
Fullerton, CA 92831
- 4
- 5 91. 681 Balsa Av.
Brea, CA 92821
- 6
- 7 92. 1241 Smoke Tree Dr. June 29, 1997
La Habra, CA 90631
- 8
- 9 93. 2126 McCormack Ln.
Placentia, CA 92870
- 10
- 11 94. 1180 Via Viento
Corona, CA 91720
- 12
- 13 95. 930 S. Dylan Wy.
Anaheim Hills, CA 92808
- 14
- 15 96. 20455 Via Linares
Yorba Linda, CA 92887
- 16
- 17 97. 1455 W. Domingo Rd.
Fullerton, CA 92833
- 18
- 19 98. 3116 La Sombra Way June 2, 1997
Fullerton, CA 92835
- 20
- 21 99. 2263 Cobblestone Dr.
Brea, CA 92801
- 22
- 23 100. 4296 Rocky Point Rd.
Anaheim Hills, CA 92807
- 24
- 25 101. 10362 Prado Woods
Villa Park, CA 92816
- 26
- 27 102. 1319 Vina Del Mar Pl.
Placentia, CA 92870
103. 3315 E. Ridgeway Rd.
Orange, CA 92867
104. 1084 S. Mountvale Court
Anaheim Hills, CA 92808
105. 2224 E. Jackson Avenue
Orange, CA 92867
106. 19111 Tigerfish Circle
Huntington Beach, CA 92646



1	107.	5685 Greenbriar Yorba Linda, CA 92886
2		
3	108.	8490 E. Saratoga Street Anaheim Hills, CA 92808
4		
5	109.	21880 Cimarron Place Yorba Linda, CA 92887
6	110.	18782 La Casita Av. Yorba Linda, CA 92886
7		
8	111.	6219 E. Quartz Ln. Anaheim Hills, CA 92807
9	112.	517 S. Sunnyhill Wy Anaheim Hills, CA 92808
10		
11	113.	5726 Whitewater St. Yorba Linda, CA 92887
12	114.	1029 S. Dewcrest Drive Anaheim Hills, CA 92808
13		
14	115.	1042 S. Mountvale Ct. Anaheim Hills, CA 92808
15	116.	8644 E. Canyon Vista Dr. Anaheim Hills, CA 92808
16		
17	117.	330 N. Elm St. Orange, CA 92868
18	118.	1936 Frederick St. Placentia, CA 92870
19		
20	119.	401 Elmhurst Pl. Fullerton, CA 92835
21	120.	2822 E. Hamilton Av. Orange, CA 92867
22		
23	121.	3000 N. Woods St. Orange, CA 92865
24	122.	5715 Whitewater St. Yorba Linda, CA 92887
25		
26	123.	419 S. Split Rail Ln. Anaheim Hills, CA 92807
27	124.	25640 Corsica Wy Yorba Linda, CA 92887



1	125.	24683 Via Buena Suerte Yorba Linda, CA 92887
2		
3	126.	1638 Clear Creek Dr. Fullerton, CA 92833
4		
5	127.	591 S. Weymouth Ct. Anaheim Hills, CA 92807
6	128.	1143 S. Silver Star Wy. Anaheim Hills, CA 92808
7	129.	1540 Via Los Bonitos La Habra, CA 90631
8		
9	130.	5721 Whitewater Yorba Linda, CA 92887
10	131.	218 Eisenhower Wy Placentia, CA 92870
11		
12	132.	20550 Via Talvera Yorba Linda, CA 92887
13	133.	7646 E. Lockmount Cr. Anaheim Hills, CA 92808
14		
15	134.	5574 E. Edgemar Av. Anaheim Hills, CA 92807
16	135.	499 S. Laureltree Dr. Anaheim Hills, CA 92808
17		
18	136.	7135 E. La Cumbre Dr. Orange, CA 92669
19	137.	11631 New Zealand St. Cypress, CA 90630
20		
21	138.	4881 E. Fairfield St. Anaheim Hills, CA 92807
22	139.	1314 N. Van Gogh Cr. Orange, CA 92667
23		
24	140.	5640 Van Gogh Wy Yorba Linda, CA 92687
25	141.	1881 Kingsford Corona, CA 91720
26		
27		



1 142. 1012 N. Los Altos Pl.
2 Orange, CA 92669
3 143 604 Inverness Ct.
4 Fullerton, CA 92635
5 144. 1030 N. Yale Av.
6 Fullerton, CA 92631

9.

7 The activities of L. FRIEDMAN and S. FRIEDMAN,
8 described above in Paragraph 8, are acts requiring a real estate
9 license as described in Code Section 10131(d). In employing and
10 compensating L. FRIEDMAN and S. FRIEDMAN, for said acts when
11 they were not licensed by the Department, L & A F and
12 KONAPELSKY, violated Code Section 10137.

10.

14 L. FRIEDMAN and S. FRIEDMAN violated Code Section
15 10130 by engaging in the activities set forth in Paragraph 8
16 without being licensed as real estate brokers or licensed as
17 real estate salespersons employed by a real estate broker.

18 AUDITS

11.

20 On or about December 12, 1997, the Department
21 completed three audits of the activities of Respondents L & A F
22 and KONAPELSKY. The first audit was regarding the real estate
23 sales activity, audit number LA 960530. The second audit was
24 regarding the escrow activity, audit number LA 970213. The
25 third audit was regarding the mortgage loan activity, audit
26 number LA 970218. The records were reviewed for the period from
27 December 1, 1995 through October 31, 1997. The results of the
audits are set forth in Paragraphs 12 through 15.



12.

During 1995 through 1997, in connection with their real estate business activities, Respondents L & A F and KONAPELSKY accepted or received funds in trust (hereinafter "trust funds") from or on behalf of buyers and sellers and thereafter made disbursements of such funds. These funds were maintained by Respondents in a trust account at Eldorado Bank, 17752 Seventeenth St., Tustin, CA 92660 (hereinafter "TA#1").

13.

In connection with their real estate sales activities and trust funds described in Paragraphs 11 and 12, Respondent KONAPELSKY:

(a) failed to supervise and to see that L & A F hired licensed persons to represent its clients and allowed unlicensed agents, L. FRIEDMAN and S. FRIEDMAN, to represent, on their behalf, Kathleen Anne Johnson and Paul and Sheila Sullenger, in violation of Code Sections 10159.2 and 10177(h).

14.

In connection with their escrow activities and trust funds described in Paragraphs 11 and 12 (LA 970213), Respondents L & A F and KONAPELSKY:

(a) as of October 31, 1997, TA#1 had an adjusted balance of \$4,861.20 (overage) which were personal funds in the form of escrow fees owed to L & A F, in violation of Code Sections 10145 and 10176(e);

(b) KONAPELSKY failed to adequately supervise the activities of the escrow division of L & A F, in violation of



1 Code Section 10159.2;

2 (c) failed to maintain a columnar record of all trust
3 funds received and disbursed for TA#1, in violation of Section
4 2831 of the Regulations;

5 (d) failed to maintain adequate separate records, in
6 violation of Section 2831.1 of the Regulations; and

7 (e) failed to maintain monthly reconciliation
8 records, in violation of Section 2831.2 of the Regulations.

9 15.

10 In connection with their mortgage loan activities and
11 trust funds described in Paragraphs 11 and 12 (LA 970218),
12 Respondents L & A F and KONAPELSKY:

13 (a) KONAPELSKY failed to adequately supervise the
14 mortgage loan activities of L & A F, in violation of Code
15 Section 10159.2;

16 (b) failed to provide approved lender/purchaser
17 disclosure statements to borrowers before they became obligated
18 for the loan, in violation of Code Section 10232.4 and Section
19 2840 of the Regulations; and

20 (c) used an unregistered dba, Realty Associates
21 Mortgage, in violation of Section 2731 of the Regulations.

22 PRIOR DISCIPLINE

23 16.

24 Respondent L. FRIEDMAN's real estate license was
25 originally issued on June 13, 1978. On or about June 12, 1982
26 this license expired. On December 29, 1993, a Desist and
27 Refrain Order, case number H-1697 LA, was filed against



1 Respondent L. FRIEDMAN. On November 3, 1995, an Application For
2 Order Directing Payment Out of the Real Estate Recovery Account,
3 R-3079, against Respondent, was received by the Department.

4 17.

5 On December 29, 1993, Accusation H-1702 SA was filed..
6 The Respondents in H-1702 SA were L&AF Financial Group
7 (hereinafter "L&AF(G)"), a corporation; and Russell L. Elliott,
8 (hereinafter "ELLIOT") individually and as designated officer of
9 L&AF Financial Group. L&AF(G) was 100% owned by L. FRIEDMAN,
10 before he was the owner of L & A F. This Accusation alleged in
11 Paragraph XII that:

12 "The investigative audit (SA 930002, dated October 22,
13 1993) moreover revealed that L&AF(G) and ELLIOT employed and
14 compensated LAWERENCE ROBERT FRIEDMAN, President and sole owner
15 of L&AF(G), to originate loans, solicit borrowers and lenders,
16 and negotiate loans secured by liens on real property when they
17 knew or should have known that he was not licensed in any
18 capacity with the Department. This conduct and violation are
19 cause to suspend or revoke the licenses and license rights of
20 respondents under Section 10137 of the Code."

21 18.

22 On April 25, 1996, Accusation H-1702 LA was settled by
23 Stipulation and Agreement in Settlement and Order. The
24 Stipulation was signed by "L&AF Financial Group, Respondent By:
25 Larry Friedman Designated Officer" and "Paul M. Konapelsky, Esq.
26 Attorney for Respondent". This prior discipline demonstrates a
27 pattern of conduct of Respondents.



1 FIRST CAUSE OF ACCUSATION

2 (Violation by Respondents L & A F and KONAPELSKY of Code
3 Sections 10145, 10240 and 10177(d) and Sections 2831, 2831.1
4 2831.2 and 2840 of the Regulations)

5 19.

6 As a First Cause of Accusation, Complainant
7 incorporates herein by this reference the Preamble and each of
8 the allegations in Paragraphs 1 through 18, herein above.
9

10 20.

11 The conduct of Respondents L & A F and KONAPELSKY, in
12 handling trust funds, as alleged in Paragraphs 11 through 18,
13 constitutes violation under Code Sections 10145 and 10240 and
14 Sections 2831, 2831.1 2831.2 and 2840 of the Regulations. Said
15 conduct is cause pursuant to Code Section 10177(d) for the
16 suspension or revocation of all licenses and license rights of
17 Respondents L & A F and KONAPELSKY under the Real Estate Law.

18 SECOND CAUSE OF ACCUSATION

19 (Violation by Respondents L & A F and KONAPELSKY of Code Section
20 10137)

21 21.

22 As a Second Cause of Accusation, Complainant
23 incorporates herein by this reference the Preamble and each of
24 the allegations in Paragraphs 1 through 18, herein above.

25 22.

26 The conduct of Respondents L & A F and KONAPELSKY, in
27 compensating L. FRIEDMAN and S. FRIEDMAN for performing acts
requiring a license while their licenses were suspended, as



1 alleged in Paragraphs 1 through 18, constitutes violation under
2 Code Section 10137. Said conduct is cause for the suspension or
3 revocation of all licenses and license rights of Respondents
4 L & A F and KONAPELSKY under the Real Estate Law.

5 THIRD CAUSE OF ACCUSATION

6 (Violation by Respondents L. FRIEDMAN and S. FRIEDMAN of Code
7 Section 10130)

8 23.

9 As a Third Cause of Accusation, Complainant
10 incorporates herein by this reference the Preamble and each of
11 the allegations in Paragraphs 1 through 18, herein above.

12 24.

13 The conduct of Respondents L. FRIEDMAN and S. FRIEDMAN
14 for performing acts requiring a license while their licenses
15 were suspended, as alleged in Paragraphs 1 through 18,
16 constitutes violation under Code Section 10130. Said conduct is
17 cause for the suspension or revocation of all licenses and
18 license rights of Respondents L. FRIEDMAN and S. FRIEDMAN under
19 the Real Estate Law.

20 FOURTH CAUSE OF ACCUSATION

21 (Violation by Respondent KONAPELSKY of Code Sections 10159.2
22 and 10177(h))

23 25.

24 As a Fourth Cause of Accusation, Complainant
25 incorporates herein by this reference the Preamble and each of
26 the allegations in Paragraphs 1 through 18, herein above.



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The conduct of Respondent KONAPELSKY, in allowing L & A F, L. FRIEDMAN and S. FRIEDMAN to violate Code Sections 10130, 10137, 10145 and 10240 and Sections 2831, 2831.1 2831.2 and 2840 of the Regulations constitutes a failure to supervise... Said conduct and violations set forth in Paragraph 10, are cause for the suspension or revocation of all licenses and license rights of Respondent KONAPELSKY, under the Real Estate Law, pursuant to Code Sections 10159.2, 10177(d) and 10177(h).

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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
4 action against all licenses and license rights of Respondents
5 L & A F REALTY ASSOCIATES, a corporation, dba Re/Max Realty
6 Associates; PAUL MICHAEL KONAPELSKY, individually and as
7 designated officer of L & A F Realty Associates; LAWRENCE
8 ROBERT FRIEDMAN; and SHERRIE KATHY FRIEDMAN, under the Real
9 Estate Law (Part 1 of Division 4 of the Business and
10 Professions Code), and for such other and further relief as
11 may be proper under other applicable provisions of law.
12 Dated at Los Angeles, California
13 this 25th day of November, 1998.

THOMAS McCRADY
Deputy Real Estate Commissioner

22 cc: L & A F Realty Associates
Paul Michael Konapelsky
23 Lawrence Robert Friedman
Sherrie Kathy Friedman
24 Home Pro Realty, Inc.
Law Offices of Herman Thordsen, Gwen H. Vecchio, Esq.
25 Sacto.
LA Audit Section
26 Thomas McCrady
MA
27 OAH



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
L & A F REALTY ASSOCIATES,)
a corporation, dba Re/Max Realty)
Associates; PAUL MICHAEL KONAPELSKY;)
individually and as D.O. of)
L & A F Realty Associates;)
LAWRENCE ROBERT FRIEDMAN; and)
SHERRIE KATHY FRIEDMAN,)

Respondent(s)

Case No. H-27553 LA

OAH No. L-1998020391

FILED
OCT - 8 1998
DEPARTMENT OF REAL ESTATE

By C. B.

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on TUESDAY, WEDNESDAY, THURSDAY and FRIDAY, NOVEMBER 3, 4, 5 and 6, 1998, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 8, 1998

By

Chris Leong
CHRIS LEONG, Counsel

cc: L & A F Realty Associates
Paul Michael Konapelsky
Lawrence Robert Friedman
Sherrie Kathy Friedman
/Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

) Case No. H-27553 LA

)
) L & A F REALTY ASSOCIATES,
) a corporation, dba Re/Max Realty
) Associates; PAUL MICHAEL KONAPELSKY;
) individually and as D.O. of
) L & A F Realty Associates;
) LAWRENCE ROBERT FRIEDMAN; and
) SHERRIE KATHY FRIEDMAN,
)

) OAH No. L-1998020391

Respondent(s)

FILED
JUN 16 1998
DEPARTMENT OF REAL ESTATE

By Chris Leong
NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on AUGUST 25, 26 and 27, 1998, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: June 16, 1998

By

Chris Leong
CHRIS LEONG, Counsel

cc: L & A F Realty Associates
Paul Michael Konapelsky
Lawrence Robert Friedman
Sherrie Kathy Friedman
Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

L & A F REALTY ASSOCIATES,
a corporation, dba Re/Max Realty
Associates; PAUL MICHAEL KONAPELSKY;
individually and as D.O. of
L & A F Realty Associates;
LAWRENCE ROBERT FRIEDMAN; and
SHERRIE KATHY FRIEDMAN,

Respondent(s)

Case No. H-27553 LA

OAH No. L-1998020391

FILED
MAR - 4 1998
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By Chris Leong

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles, CA 90012 on WEDNESDAY, JULY 1, 1998, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: March 4, 1998

By

Chris Leong
CHRIS LEONG, Counsel

cc: L & A F Realty Associates
Paul Michael Konapelsky
Lawrence Robert Friedman
Sherrie Kathy Friedman
Sacto.
OAH

CEB

RE 501 (La Mac 11/92)

1 CHRIS LEONG, Counsel
2 State Bar Number 141079
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, CA 90012
6 (213) 897-3937

FILED
FEB - 4 1998
DEPARTMENT OF REAL ESTATE

By C. B.

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 L & A F REALTY ASSOCIATES, a) NO. H-27553 LA
13 corporation, dba Re/Max Realty) A C C U S A T I O N
14 Associates; PAUL MICHAEL)
15 KONAPELSKY, individually and as)
16 designated officer of L & A F)
17 Realty Associates; LAWRENCE)
18 ROBERT FRIEDMAN; and SHERRIE)
19 KATHY FRIEDMAN,)
20 Respondents.)

21 The Complainant, Thomas McCrady, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against L & A F REALTY ASSOCIATES, a corporation, dba Re/Max
24 Realty Associates (hereinafter "L & A F"); PAUL MICHAEL
25 KONAPELSKY, individually and as designated officer of L & A F
26 Realty Associates (hereinafter "KONAPELSKY"); LAWRENCE ROBERT
27 FRIEDMAN (hereinafter "L. FRIEDMAN"); and SHERRIE KATHY FRIEDMAN
(hereinafter "S. FRIEDMAN") (hereinafter sometimes collectively
referred to as "Respondents"), is informed and alleges as
follows:



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

All Sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

At all times herein mentioned, Respondent L & A F was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker, individually and dba Re/Max Realty Associates.

At all times herein mentioned, Respondent PAUL MICHAEL KONAPELSKY, individually and as designated officer of L & A F Realty Associates was and still is licensed by the Department as a real estate broker.

At all times herein mentioned, Respondent L. FRIEDMAN, was and still is licensed by the Department as a real estate salesperson. From August 8, 1994 to February 8, 1996, L. FRIEDMAN was employed by L & A F. From February 9, 1996 to November 10, 1997, L. FRIEDMAN's real estate license was suspended. From November 11, 1997 to present, Respondent L. FRIEDMAN's real estate salesperson license has not been suspended.



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6.

At all times herein mentioned, Respondent S. FRIEDMAN was and still is conditionally licensed by the Department as a real estate salesperson. From July 1, 1994 to January 1, 1996, S. FRIEDMAN was employed by L & A F. From January 2, 1996 to present, S. FRIEDMAN's real estate license was suspended.

7.

At all times mentioned herein, in Los Angeles County, California, Respondents acted as real estate brokers in the State of California, within the meaning of Section 10131(a) and (d) of the Business and Professions Code (hereinafter "Code"), wherein they arranged, negotiated, processed and consummated on behalf of others sales and purchases of real property and loans secured by an interest in real property to the public for compensation or in expectation of compensation.

8.

L & A F employed and compensated L. FRIEDMAN and S. FRIEDMAN, while their licenses were suspended, as their agents to solicit for and negotiate sales and purchases of real property for others including, but not limited to, Charles and Mary Ann Flynn, Paul and Sheila Sullenger, and Kathleen Anne Johnson.

9.

The activities of L. FRIEDMAN and S. FRIEDMAN, described above in Paragraph 8, are acts requiring a real estate license as described in Section 10131(d) of the Code. In employing and compensating L. FRIEDMAN and S. FRIEDMAN, for said



1 acts when they were not licensed by the Department, L & A F and
2 KONAPELSKY, violated Section 10137 of the Code.

3 10.

4 L. FRIEDMAN and S. FRIEDMAN violated Section 10130 of
5 the Code by engaging in the activities set forth in Paragraph 8
6 without being licensed as a real estate broker.

7 AUDITS

8 11.

9 On or about December 12, 1997, the Department
10 completed three audits of the activities of Respondents L & A F
11 and KONAPELSKY. The first audit was regarding the real estate
12 sales activity, audit number LA 960530. The second audit was
13 regarding the escrow activity, audit number LA 970213. The
14 third audit was regarding the mortgage loan activity, audit
15 number LA 970218. The records were reviewed for the period from
16 December 1, 1995 through October 31, 1997. The results of the
17 audits are set forth in Paragraphs 12 through 15.

18 12.

19 During 1995 through 1997, in connection with their
20 real estate business activities, Respondents L & A F and
21 KONAPELSKY accepted or received funds in trust (hereinafter
22 "trust funds") from or on behalf of buyers and sellers and
23 thereafter made disbursements of such funds. These funds were
24 maintained by Respondents in a trust account at Eldorado Bank,
25 17752 Seventeenth St., Tustin, CA 92660 (hereinafter "TA#1").

26 13.

27 In connection with their real estate sales activities



1 and trust funds described in Paragraphs 11 and 12, Respondents
2 L & A F and KONAPELSKY:

3 (a) failed to supervise unlicensed agents L. FRIEDMAN
4 and S. FRIEDMAN, in the representation of Kathleen Anne Johnson
5 and Paul and Sheila Sullenger, in violation of Sections 10159.2
6 and 10177(h) of the Code.

7 14.

8 In connection with their escrow activities and trust
9 funds described in Paragraphs 11 and 12, Respondents L & A F and
10 KONAPELSKY:

11 (a) as of October 31, 1997, TA#1 had an adjusted
12 balance of \$4,861.20 which are escrow fees owed to L & A F, in
13 violation of Section 10145 of the Code;

14 (b) KONAPELSKY failed to adequately supervise the
15 activities of the escrow division of L & A F, in violation of
16 Section 10159.2 of the Code;

17 (c) failed to maintain a columnar record of all trust
18 funds received and disbursed for TA#1, in violation of Section
19 2831 of the Regulations;

20 (d) failed to maintain adequate separate records, in
21 violation of Section 2831.1 of the Regulations; and

22 (e) failed to maintain monthly reconciliation
23 records, in violation of Section 2831.2 of the Regulations.

24 15.

25 In connection with their mortgage loan activities and
26 trust funds described in Paragraphs 11 and 12, Respondents
27 L & A F and KONAPELSKY:

1 (a) KONAPELSKY failed to adequately supervise the
2 mortgage loan activities of L & A F, in violation of Section
3 10159.2 of the Code;

4 (b) failed to provide approved lender/purchaser
5 disclosure statements to borrowers before they became obligated
6 for the loan, in violation of Section 10232.4 of the Code and
7 Section 2840 of the Regulations; and

8 (c) used an unregistered dba, Realty Associates
9 Mortgage, in violation of Section 2731 of the Regulations.

10 FIRST CAUSE OF ACCUSATION

11 (Violation by Respondents L & A F and KONAPELSKY of Sections
12 10145, 10240 and 10177(d) of the Code and Sections 2831, 2831.1
13 2831.2 and 2840 of the Regulations)

14 16.

15 As a First Cause of Accusation, Complainant
16 incorporates herein by this reference the Preamble and each of
17 the allegations in Paragraphs 1 through 15, herein above.

18 17.

19 The conduct of Respondents L & A F and KONAPELSKY, in
20 handling trust funds, as alleged in Paragraphs 11 through 15,
21 constitutes violation under Sections 10145 and 10240 of the Code
22 and Sections 2831, 2831.1 2831.2 and 2840 of the Regulations.
23 Said conduct is cause pursuant to Section 10177(d) of the Code
24 for the suspension or revocation of all licenses and license
25 rights of Respondents L & A F and KONAPELSKY under Real Estate
26 Law.

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1 cause for the suspension or revocation of all licenses and
2 license rights of Respondents L. FRIEDMAN and S. FRIEDMAN under
3 Real Estate Law.

4 FOURTH CAUSE OF ACCUSATION

5 (Violation by Respondent KONAPELSKY of Sections 10159.2 and
6 10177(h) of the Code)

7 22.

8 As a Fourth Cause of Accusation, Complainant
9 incorporates herein by this reference the Preamble and each of
10 the allegations in Paragraphs 1 through 15, herein above.

11 23.

12 The conduct of Respondent KONAPELSKY, in allowing
13 L & A F, L. FRIEDMAN and S. FRIEDMAN to violate Sections 10130,
14 10137, 10145 and 10240 of the Code and Sections 2831, 2831.1
15 2831.2 and 2840 of the Regulations constitutes a failure to
16 supervise. Said conduct and violations set forth in Paragraph
17 10, are cause for the suspension or revocation of all licenses
18 and license rights of Respondent KONAPELSKY, under the Real
19 Estate Law, pursuant to Sections 10159.2, 10177(d) and 10177(h)
20 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
4 action against all licenses and license rights of Respondents
5 L & A F REALTY ASSOCIATES, a corporation, dba Re/Max Realty
6 Associates; PAUL MICHAEL KONAPELSKY, individually and as
7 designated officer of L & A F Realty Associates; LAWRENCE
8 ROBERT FRIEDMAN; and SHERRIE KATHY FRIEDMAN, under the Real
9 Estate Law (Part 1 of Division 4 of the Business and
10 Professions Code), and for such other and further relief as
11 may be proper under other applicable provisions of law.
12 Dated at Los Angeles, California
13 this 4th day of February, 1998.

14
15 THOMAS MCCRADY
16 Deputy Real Estate Commissioner
17
18
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22

23 cc: L & A F Realty Associates
24 Paul Michael Konapelsky
25 Lawrence Robert Friedman
26 Sherrie Kathy Friedman
27 Sacto.
LA Audit Section
RW

