

*Jacky Day*

**FILED**  
FEB - 2 1999  
DEPARTMENT OF REAL ESTATE

By *Laura B. Crona*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )  
WESTLEND FINANCING, INC. )  
a California corporate broker; )  
and, AMBROSE NAM HOON KIM )  
individually and as )  
designated officer of )  
Westlend Financing, Inc., )  
  
Respondents. )

No. H-27556 LA

ORDER STAYING EFFECTIVE DATE

On November 22, 1998, a Decision was rendered in the above-entitled matter to become effective December 31, 1998. On December 29, 1998, an ORDER STAYING EFFECTIVE DATE stayed the effective date of December 31, 1998, for 20 days, staying the effective date until January 20, 1999. Thereafter an order dated January 19, 1999, stayed the effective date of January 20, 1999, an additional 10 days until February 1, 1999.

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IT IS HEREBY ORDERED that the effective date of the Decision of November 22, 1998, is stayed for an additional period of 10 days.

The Decision of November 22, 1998, shall become effective at 12 o'clock noon on February 11, 1999.

DATED: February 1, 1999

  
Randolph Brendia  
Regional Manager

*Sacks*  
*Jan*

**FILED**  
JAN 19 1999  
DEPARTMENT OF REAL ESTATE

By *Laura B. Olan*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	No. H-27556 LA
WESTLEND FINANCING, INC., )	L-9702029
a California corporate broker; )	
and AMBROSE NAM HOON KIM, )	
individually and as designated )	
officer of Westlend Financing, )	
Inc., )	
)	
)	
)	
Respondents. )	

ORDER STAYING EFFECTIVE DATE

On November 22, 1998, a Decision was rendered in the above entitled matter to become effective December 31, 1998. Thereafter in an Order signed December 29, 1998, the Decision was stayed until January 20, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of November 22, 1998, is stayed for an additional 10 days.

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The Decision of November 22, 1998, shall become effective at 12 o'clock noon on February 1, 1999.

DATED: 15 January '99

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

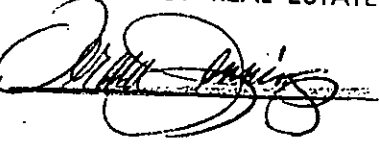
Randolph Brendia  
RANDOLPH BRENDIA  
Regional Manager

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**FILED**  
DEC 29 1998  
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	No. H-27556 LA
WESTLEND FINANCING, INC.,	)	
a California corporate broker;	)	
and AMBROSE NAM HOON KIM,	)	
individually and as designated	)	
officer of Westlend Financing,	)	
Inc.,	)	
	)	
Respondents.	)	

ORDER STAYING EFFECTIVE DATE

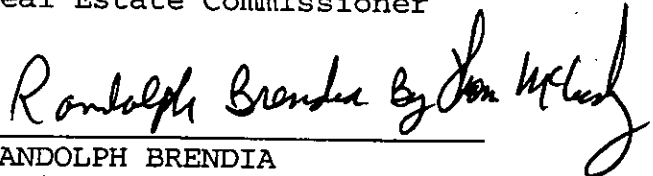
On November 22, 1998, a Decision was rendered in the above-entitled matter to become effective December 31, 1998.

IT IS HEREBY ORDERED that the effective date of the Decision of November 22, 1998, is stayed for a period of 20 days.

The Decision of November 22, 1998, shall become effective at 12 o'clock noon on January 20, 1999.

DATED: December 29, 1998.

JIM ANTT, JR.  
Real Estate Commissioner

By:   
RANDOLPH BRENDIA  
Regional Manager

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

(213) 897-3937

**FILED**  
DEC 11 1998  
DEPARTMENT OF REAL ESTATE  
By Laura B. Crane

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	
	)	
WESTLEND FINANCING, INC.	)	
a California corporate broker;	)	No. H-27556 LA
and AMBROSE NAM HOON KIM,	)	
individually and as	)	
designated officer of	)	<u>STIPULATION AND AGREEMENT</u>
Westlend Financing, Inc.,	)	
	)	
	)	
Respondents.	)	
	)	

It is hereby stipulated by and between WESTLEND FINANCING, INC., and AMBROSE NAM HOON KIM, individually and as designated officer of Westlend Financing, Inc., and WESTLEND FINANCING (sometimes collectively referred to as Respondents), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on February 5, 1998, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a

1 formal hearing on the Accusation, which hearing was to be held in  
2 accordance with the provisions of the Administrative Procedure Act  
3 (APA), shall instead and in place thereof be submitted solely on  
4 the basis of the provisions of this Stipulation and Agreement  
5 (Stipulation).

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

10 3. Respondents filed a Notice of Defense pursuant to Section  
11 11506 of the Government Code for the purpose of requesting a  
12 hearing on the allegations in the Accusation. Respondents hereby  
13 freely and voluntarily withdraw said Notice of Defense.  
14 Respondents acknowledge that they understand that by withdrawing  
15 said Notice of Defense they thereby waive their right to require  
16 the Real Estate Commissioner to prove the allegations in the  
17 Accusation at a contested hearing held in accordance with the  
18 provisions of the APA and that they will waive other rights  
19 afforded to them in connection with the hearing such as the right  
20 to present evidence in their defense and the right to cross-  
21 examine witnesses.

22 4. This Stipulation is based on the factual allegations  
23 contained in the Accusation. In the interest of expedience and  
24 economy, Respondents choose not to contest these allegations, but  
25 to remain silent and understand that, as a result thereof, these  
26 factual allegations, without being admitted or denied, will serve  
27 as a prima facie basis for the disciplinary action stipulated to



1 herein. The Real Estate Commissioner shall not be required to  
2 provide further evidence to prove said factual allegations.

3 5. This Stipulation is based on Respondents' decision not to  
4 contest the allegations set forth in the Accusation as a result of  
5 the agreement negotiated between the parties. This Stipulation is  
6 expressly limited to this proceeding and any further proceeding  
7 initiated by or brought before the Department of Real Estate based  
8 upon the facts and circumstances alleged in the Accusation for the  
9 sole purpose of reaching an agreed disposition of this proceeding  
10 without a hearing. The decision of Respondents not to contest the  
11 factual statements alleged is made solely for the purpose of  
12 effectuating this Stipulation. It is the intent and understanding  
13 of the parties that this Stipulation shall not be binding or  
14 admissible against Respondents in any actions against Respondents  
15 by third parties.

16 6. It is understood by the parties that the Real Estate  
17 Commissioner may adopt this Stipulation as his Decision in this  
18 matter thereby imposing the penalty and sanctions on Respondents'  
19 real estate licenses and license rights as set forth in the  
20 "Order" herein below. In the event that the Real Estate  
21 Commissioner in his discretion does not adopt the Stipulation, it  
22 shall be void and of no effect and Respondents shall retain the  
23 right to a hearing and proceeding on the Accusation as amended  
24 under the provisions of the APA and shall not be bound by any  
25 stipulation or waiver made herein.

26 7. The Order or any subsequent Order of the Real Estate  
27 Commissioner made pursuant to this Stipulation shall not





1 constitute an estoppel, merger or bar to any further  
2 administrative or civil proceedings by the Department of Real  
3 Estate with respect to any matters which were not specifically  
4 alleged to be causes for Accusation in this proceeding.

5 8. Respondent WESTLEND FINANCING, INC., agrees that the  
6 Accusation may be amended to add a prayer for relief pursuant to  
7 Business and Professions Code Section 10139.5 to for the purpose  
8 of imposing a fine on said Respondent and Respondent hereby waives  
9 any protest to the inclusion of said Code Section.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations, it is stipulated and  
12 agreed that the following determination of issues shall be made:  
13

14 I

15 The conduct of WESTLEND FINANCING, INC., as described in  
16 Paragraph 4, is in violation of Sections 10137 and 10145 of the  
17 Business and Professions Code (Code) and Sections 2831, 2831.1,  
18 2831.2, 2832.1, 2832 and 2834 of Title 10, Chapter 6 of the  
19 California Code of Regulations (Regulations) and is a basis for  
20 the suspension or revocation of WESTLEND FINANCING, INC.s, license  
21 and license rights as a violation of the Real Estate Law pursuant  
22 to Sections 10137 and 10177(d) of the Code.

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II

The conduct of AMBROSE NAM HOON KIM, as described in Paragraph 4, constitutes a failure to keep WESTLEND FINANCING, INC., in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee and further constitutes a failure to exercise reasonable supervision and control over the licensed activities of WESTLEND FINANCING, INC., and its salespersons which require a real estate license and is a basis for the suspension or revocation of Respondent's license pursuant to Sections 10159.2 and 10177(h) of the Code.

ORDER

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

I

All license and licensed rights of Respondent WESTLEND FINANCING, INC., under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor and pay to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:



1           1. The restricted license issued to a Respondent may be  
2 suspended prior to hearing by Order of the Real Estate  
3 Commissioner in the event of Respondent's conviction or plea  
4 of nolo contendere to a crime which is substantially  
5 related to a Respondent's fitness or capacity as a real  
6 estate licensee.

7           2. The restricted license issued to a Respondent may be  
8 suspended prior to hearing by Order of the Real Estate  
9 Commissioner on evidence satisfactory to the Real Estate  
10 Commissioner that Respondent has violated provisions of the  
11 California Real Estate Law, the Subdivided Lands Law,  
12 Regulations of the Real Estate Commissioner or conditions  
13 attaching to the restricted license.  
14

15           3. Respondent shall not be eligible to apply for the  
16 issuance of an unrestricted real estate license nor for  
17 the removal of any of the conditions, limitations or  
18 restrictions of a restricted license until two years has  
19 elapsed from the effective date of this Decision.

20           4. Prior to the Issuance of any restricted real estate  
21 broker license, WESTLEND FINANCING,, INC. shall provide  
22 evidence satisfactory to the Real Estate Commissioner that  
23 the \$219,771.45 deficit, as of October 31, 1997, set forth in  
24 Audit Report No. LA 970203 dated January 8, 1998, has been  
25 cured including revealing the identity of the source of funds  
26 used to cure it.  
27



1 5. For Respondent's violation of Section 10137, Respondent  
2 is ordered to pay a fine of \$7,000 pursuant to the authority  
3 set forth in Section 10139.5 of the Code, prior to the  
4 effective date of any decision in this matter. If the fine  
5 is not paid within thirty (30) days of the effective date, or  
6 if not paid within any other time period agreed to by the  
7 Commissioner and the Respondent, the license of Respondent  
8 shall be suspended until the fine is paid in full, including  
9 any interest accruing thereon.

10  
11 II

12 All license and licensed rights of Respondent AMBROSE NAM  
13 HOON KIM under the Real Estate Law are revoked; provided, however,  
14 a restricted real estate salesperson license shall be issued to  
15 Respondent pursuant to Section 10156.5 of the Code if Respondent  
16 makes application therefor and pay to the Department of Real  
17 Estate the appropriate fee for the restricted license within 90  
18 days from the effective date of this Decision. The restricted  
19 license issued to Respondent shall be subject to all of the  
20 provisions of Section 10156.7 of the Code and to the following  
21 limitations, conditions and restrictions imposed under authority  
22 of Section 10156.6 of that Code:

23 1. The restricted license issued to a Respondent may be  
24 suspended prior to hearing by Order of the Real Estate  
25 Commissioner in the event of a Respondent's conviction or  
26 plea of nolo contendere to a crime which is substantially  
27

1 related to a Respondent's fitness or capacity as a real  
2 estate licensee.

3 2. The restricted license issued to a Respondent may be  
4 suspended prior to hearing by Order of the Real Estate  
5 Commissioner on evidence satisfactory to the Real Estate  
6 Commissioner that a Respondent has violated provisions of the  
7 California Real Estate Law, the Subdivided Lands Law,  
8 Regulations of the Real Estate Commissioner or conditions  
9 attaching to the restricted license.  
10

11 3. Respondent shall not be eligible to apply for the  
12 issuance of an unrestricted real estate license nor for  
13 the removal of any of the conditions, limitations or  
14 restrictions of a restricted license until three years has  
15 elapsed from the effective date of this Decision.

16 4. Respondent AMBROSE NAM HOON KIM shall, within six  
17 months from the effective date of this Decision, present  
18 evidence satisfactory to the Real Estate Commissioner that  
19 Respondent has, since the most recent issuance of an original  
20 or renewal real estate license, taken and successfully  
21 completed the continuing education requirements of Article  
22 2.5 of Chapter 3 of the Real Estate Law for renewal of a real  
23 estate license. If Respondent fails to satisfy this  
24 condition, the Real Estate Commissioner may order suspension  
25 of the restricted license until the Respondent presents such  
26 evidence. The Real Estate Commissioner shall afford a  
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1 Respondent the opportunity for a hearing pursuant to the  
2 Administrative Procedure Act to present such evidence.

3  
4 5. Respondent AMBROSE NAM HOON KIM shall within six months  
5 from the effective date of this Decision, take and pass the  
6 Professional Responsibility Examination administered by the  
7 Department including the payment of the appropriate  
8 examination fee. If Respondent fails to satisfy this  
9 condition, the Commissioner may order suspension of  
10 Respondent's license until Respondent passes the examination.

11 6. Respondent shall submit with any application for license  
12 under an employing broker, or any application for transfer to  
13 a new employing broker, a statement signed by the prospective  
14 broker which shall certify:

15 (1) That the employing broker has read the Order of the  
16 Commissioner which granted the right to a restricted  
17 license; and

18 (2) That the employing broker will exercise close  
19 supervision over the performance by the restricted  
20 licensee of the activities for which a real estate  
21 license is required.

22 III

23 Any restricted real estate broker license Respondent WESTLEND  
24 FINANCING, INC., under the Real Estate Law shall be suspended for  
25 a period of thirty (30) days from the date any such restricted  
26 license is issued. However, if Respondent petitions, said  
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1 suspension (or a portion thereof) shall be permanently stayed upon  
2 condition that:

3 1. Respondent pays a monetary penalty pursuant to  
4 Section 10175.2 of the Code at the rate of \$100.00 for each  
5 day of said suspension stayed, for a total monetary penalty  
6 of \$3,000.

7  
8 2. Said payment shall be in the form of a cashier's  
9 check or certified check made payable to the Recovery Account  
10 of the Real Estate Fund. Said check must be delivered to the  
11 Department prior to the effective date of the Decision.

12 IV

13 During the time Respondent WESTLEND FINANCING, INC., holds a  
14 restricted license, it shall submit to the Department of Real  
15 Estate a Quarterly Trust Fund Statement as of the last day of each  
16 March, June, September and December. The Quarterly Trust Fund  
17 Statement shall be submitted to the Supervising Auditor of the  
18 Department at its Los Angeles Office not later than sixty (60)  
19 days following the last day of each calendar quarter. The  
20 Quarterly Trust Fund Statement shall include the information and  
21 documents specified below. Quarterly Trust Fund Statements  
22 submitted by Respondent shall be verified as true and accurate by  
23 the designated officer of Respondent under penalty of perjury. If  
24 Respondent has no trust fund liability as of the last day of the  
25 calendar quarter, the Quarterly Trust Fund Statement shall so  
26 state. The Quarterly Trust Fund Statement shall consist of the  
27 following:

1 (a) A schedule of trust fund accountability with the  
2 following information concerning funds held by Respondent as  
3 agent or trustee to the owner(s) of said funds:

4 (i) Account number and depositories.

5 (ii) Names of principals and beneficiaries.

6 (iii) Trust fund liability to (a)(ii).

7 (b) A report of trust funds in the custody and control  
8 of Respondent as of the accounting date consisting of:

9 (i) Copies of Respondent's trust accounts'  
10 bank statements [listed above as (a)(i)] showing the  
11 balance of funds in the accounts as of the accounting  
12 date.

13 (ii) A schedule of uncleared checks drawn  
14 on the accounts adjusting the accounts to their true  
15 balance as of accounting date.

16 (c) A copy of Respondent's:

17 (i) trust funds records maintained pursuant  
18 to Regulation 2831,

19 (ii) separate records maintained pursuant  
20 to Regulation 2831.1 and

21 (iii) reconciliation maintained pursuant  
22 to Regulation 2831.2.

23 (d) A statement explaining any discrepancy between the total  
24 liability shown under (a) above and the adjusted trust  
25 accounts' balances shown under (b) above.

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Pursuant to Section 10148 of the Code, Respondent WESTLEND FINANCING, INC. shall pay the Commissioner's reasonable cost for an audit to determine if Respondent is presently in compliance with the Real Estate Law. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost, not to exceed \$5,400, within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: 10-5-95 *E. J. Lennan*  
ELLIOTT MAC LENNAN  
Counsel for Complainant

EXECUTION OF THE STIPULATION AND AGREEMENT

\* \* \* \*

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

DATED: 10/14/98

[Signature]  
WESTLEND FINANCING, INC.  
Respondent,  
BY: AMBROSE NAM HOON KIM, D.O.

DATED: 10/14/98

[Signature]  
AMBROSE NAM HOON KIM,  
Individually and as designated  
officer of Westlend Financing, Inc.  
Respondent

DATED: 10/21/98

[Signature]  
ROSE POTHIER, ESQ.  
Respondent

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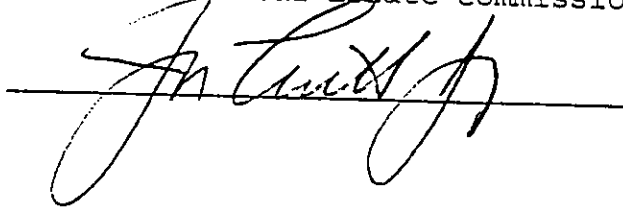
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The foregoing Stipulation and Agreement is hereby adopted as  
my Decision and Order and shall become effective at 12 o' clock  
noon on December 31, 1998.

IT IS SO ORDERED 11/22, 1998.

JIM ANTT JR.  
Real Estate Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

FILED  
JUL 24 1998  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of ) Case No. H-27556 LA  
) OAH No. L- 1998040044  
WESTLEND FINANCING INC., et al., )  
)  
Respondent. )

By Lana B. Orma

NOTICE OF 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 Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on OCTOBER 6, 7 & 8, 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. 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: JUL 24 1998

DEPARTMENT OF REAL ESTATE

By: Robert E. Balby for  
ELLIOTT MAC LENNAN, Counsel

cc: Westlend Financing Inc.  
Ambrose Nam Hoon Kim  
Rose Pothier, Esq.  
Sacto., OAH

*Sub  
Plan*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

**FILED**  
MAY 21 1998  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of ) Case No. H-27556 LA  
) OAH No. L- 1998040044  
WESTLEND FINANCING, INC., )  
et al., )  
Respondents. )

By *Laura B. ...*

NOTICE OF 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 Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on JULY 22, 23 & 24, 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. 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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.

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Dated: MAY 21 1998

DEPARTMENT OF REAL ESTATE

By: *elliott mac lennan*  
ELLIOTT MAC LENNAN, Counsel

cc: Westlend Financing Inc.  
Ambrose Nam Hoon Kim  
Sacto.  
OAH

*Sacto  
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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

**FILED**  
APR - 8 1998  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of )  
WESTLEND FINANCING INC., et al., )  
Respondents. )

Case No. H-27556 LA  
OAH No. L- 1998040044

By *Laura B. Orone*

NOTICE OF 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 Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on MAY 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. 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 upon you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of 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: APR - 8 1998

DEPARTMENT OF REAL ESTATE

By: *E. MacLennan*  
ELLIOTT MAC LENNAN, Counsel

cc: Westlend Financing Inc.  
Ambrose Nam Hoon Kim  
Sacto.  
OAH

*Santo*  
*file*

1 ELLIOTT MAC LENNAN, Counsel  
2 State Bar No. 66674  
3 Department of Real Estate  
4 107 South Broadway, Room 8107  
5 Los Angeles, California 90012  
6 Telephone: (213) 897-3937

**FILED**  
FEB 5 1998  
DEPARTMENT OF REAL ESTATE

By *Laura B. Ann*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

11 In the Matter of the Accusation of )  
12 WESTLEND FINANCING, INC. )  
13 a California corporate broker; )  
14 and, AMBROSE NAM HOON KIM )  
15 individually and as )  
16 designated officer of )  
17 Westlend Financing, Inc., )  
18 Respondents. )

No. H- 27556 LA

A C C U S A T I O N

19 The Complainant, Thomas McCrady, a Deputy Real Estate  
20 Commissioner of the State of California, for cause of Accusation  
21 against WESTLEND FINANCING, INC. a California corporate broker  
22 doing business as American Capital Funding, Inc.; and AMBROSE NAM  
23 HOON KIM, individually and as designated officer of Westlend  
24 Financing, Inc., is informed and alleges in his official capacity  
25 as follows:

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I

WESTLEND FINANCING, INC. (WFI) and AMBROSE NAM HOON KIM (KIM), individually and as designated officer of Westlend Financing, Inc., sometimes collectively referred to as Respondents, are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

II

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

III

At all times mentioned, WFI was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker. WFI was originally licensed on July 18, 1986.

IV

At all times mentioned, KIM was licensed by the Department as designated officer of WFI to qualify WFI and to act for WFI as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of WFI by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to the corporation in the performance of acts for which a real estate license is required. KIM was originally licensed on March 17, 1995.





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V

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

VI

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

VII

At all times mentioned, in the City of Los Angeles, Los Angeles County, Respondents WFI and KIM acted as real estate brokers in the State of California within this meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

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VIII

(Audit No. LA 970203)

On January 8, 1998, the Department completed a field audit examination of the books and records of WFI pertaining to its mortgage and loan brokerage activities further described in Paragraph IX, below. The audit examination covered a period of time beginning on November 1, 1996 and ending on October 31, 1997. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

IX

At all times mentioned, in connection with the activities described in Paragraph VII, above, Respondents WFI and KIM accepted or received funds in trust (trust funds) from or on behalf of actual or prospective borrowers and lenders. Thereafter they made disposition of such funds. Respondents WFI and KIM maintained the following trust accounts into which they deposited certain of these funds:

"Westlend Financing, Inc. dba American Capital Funding (B/A #1)  
No. 5417562"  
Hanmi Bank  
3660 Wilshire Blvd.  
Los Angeles, California

"Westlend Financing, Inc. dba American Capital Funding (B/A #2)  
No. 0372-06181"  
Bank of America  
3810 S. Santa Fe Avenue.  
Vernon, California

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2 With respect to the trust funds referred to in Paragraph  
3 IX, it is alleged that WFI and KIM:

4 (a) Permitted, allowed or caused the disbursement of  
5 trust funds from B/A #1 where the disbursement of said funds  
6 reduced the total aggregate funds in B/A #1, to an amount which,  
7 on October 31, 1997, was \$219,771.45 less than the existing  
8 aggregate trust fund liability of Respondents to every principal  
9 who was an owner of said funds, without first obtaining the prior  
10 written consent of the owners of said funds, as required by  
11 Section 10145 of the Code and Section 2832.1 of the Regulations;

12 (b) Failed to maintain a control record for the daily  
13 balance of the receipt and disposition of all trust funds received  
14 by B/A # 1 and B/A #2, as required by Section 2831 of the  
15 Regulations;

16 (c) Failed to maintain a separate record for each  
17 beneficiary or transaction, thereby failing to account for all  
18 trust funds received, deposited, and disbursed from B/A # 1 and  
19 B/A #2, as required by Regulation 2831.1;

20 (d) Failed to perform a monthly reconciliation of the  
21 balance of all separate beneficiary or transaction records  
22 maintained pursuant to Regulation 2831.1 with the record of all  
23 trust funds received and disbursed out of B/A # 1 and B/A #2, as  
24 required by Regulation 2831.2;

25 (e) Failed to place funds, accepted on behalf of  
26 another into the hands of the owner of the funds, into a neutral  
27 escrow depository or into a trust fund account in the name of the



1 broker as trustee at a bank or other financial institution not  
2 later than three business days following receipt of the funds by  
3 the broker or by the broker's salesperson, as required by Section  
4 2832 of the Regulations; and

5 (f) Permitted unlicensed and unauthorized persons, to  
6 wit, Danny Ahn and Kristie Ahn, who were not bonded, to be  
7 signatories on the trust accounts B/A # 1 and B/A #2.

8 Furthermore, KIM as designated officer was not authorized to be a  
9 signatory on the trust accounts B/A # 1 and B/A #2, in violation  
10 of Section 2834 of the Regulations.

11 XI

12 The conduct of Respondents WFI and KIM, described in  
13 Paragraph X, violated the Code and the Regulations as set forth:

14	<u>Paragraph</u>	<u>Provisions Violated</u>
15	X(a)	Section 10145 & 10159.2 of the Code, and
16		Section 2832.1 of the Regulations
17		
18	X(b)	Section 10145 & 10159.2 of the Code, and
19		Section 2831 of the Regulations
20		
21	X(c)	Section 10145 & 10159.2 of the Code, and
22		Section 2831.1 of the Regulations
23		
24	X(d)	Section 10145 & 10159.2 of the Code, and
25		Section 2831.2 of the Regulations
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27		



1 X(e) Section 10145 & 10159.2 of the Code, and  
2 Section 2832 of the Regulations

3  
4 X(f) Section 10145 & 10159.2 of the Code, and  
5 Section 2834 of the Regulations

6 Each of the foregoing violations separately constitutes cause for  
7 the suspension or revocation of the real estate licenses and  
8 license rights of Respondents WFI and KIM under the provisions of  
9 Section 10177(d) of the Code.  
10

11 XII

12 In course of the mortgage and loan brokerage activities  
13 described in Paragraph VII, WFI and KIM, with full knowledge that  
14 Eun Soo Kim, Young Hwan Yi and Ki Kwan Lim were not licensed by  
15 the Department in any capacity, employed and compensated them to  
16 perform acts for which a real estate license is required,  
17 including originating loans, soliciting borrowers and lenders, and  
18 negotiating loans secured by liens on real property, for or in  
19 expectation of compensation for the following borrowers: Sung Kim,  
20 Bowman, and Soon K. Jun. This conduct and violation are cause to  
21 suspend or revoke the licenses and license rights of Respondents  
22 WFI and KIM under the provisions of Section 10137 of the Code.

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XIII

In course of the mortgage and loan brokerage activities described in Paragraph VII, WFI and KIM, with full knowledge that Sung Kim and Susan You, were salespersons licensed by the Department but not affiliated or employed by WFI or individually by KIM, compensated them for performing acts for which a real estate license is required including negotiating loans secured by liens on real property and specifically including the Ocegueda and Dae Yoo loans respectively. This conduct and violation are cause to suspend or revoke the licenses and license rights of Respondents WFI and KIM under the provisions of Section 10137 of the Code.

XIV

The conduct of Respondents WFI and KIM, as described in the audit report, to wit, naming WFI's fictitious business name of American Capital Funding, Inc. as beneficiary of the loans for the Ocegueda, Reyes, Bowman, Kim, and Chey trust deeds, instead of naming the lender or his/her nominee as beneficiary without first having obtained said lenders written authorization. This conduct and violation are cause to suspend or revoke the real estate licenses and license rights of Respondents WFI and KIM pursuant to Sections 10234 and 10176(i) of the Code.

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XV

The audit examination moreover revealed that WFI and KIM failed to provide a statement in writing containing all the information required by Section 10241 of the Code to various borrowers including but not limited to Ocegueda, Reyes, Bowman, Kim, and Chey before these borrowers became obligated to perform under the terms of their loans. This omission is a violation of Section 10240 of the Code and Section 2840 of the Regulations. This omission constitutes cause for the suspension or revocation of the real estate license and license rights of Respondents WFI and KIM under Section 10177(d) of the Code.

XVI

The audit examination revealed that Respondent WFI and KIM failed to notify the Department of the change of address of WFI's principal place of business. This conduct constitutes a violation of Section 10162 of the Code and Section 2715 of the Regulations and is cause to suspend or revoke the real estate license and license rights of Respondents WFI and KIM under Sections 10165 and 10177(d) of the Code.

XVII

The audit examination further revealed that Respondent WFI used the fictitious name of American Capital Funding, Inc. to conduct licensed activities on WFI's behalf without holding a license bearing said fictitious business name. The conduct of Respondent WFI, in failing to obtain a license for use of the aforesaid name, is in violation of Regulation 2731 and is cause to

1 suspend or revoke Respondent WFI's real estate license and license  
2 rights under Section 10177(d) of the Code.

3 XVIII

4 The audit investigation further revealed that KIM had no  
5 system in place for regularly monitoring WFI's compliance with the  
6 Real Estate law specifically with regard to the handling the trust  
7 funds of others, and also including failing to supervise the  
8 handling of trust funds, failing to implement a policy to maintain  
9 separate beneficiary records of loan transactions, failing to  
10 maintain a separate broker record of fees owed, for allowing  
11 payment to borrowers before funds had been received, for  
12 disbursing funds on deposit from lender Gibraltar Financial  
13 Corporation whose checks were regularly returned non-sufficient  
14 funds, for making unlawful payments to unlicensed agents, and for  
15 making unlawful payments to licensed agents not affiliated with or  
16 employed by WFI, in violation of Section 2725 of the Regulations.

17 XIX

18 The audit examination, described in Paragraph VIII, also  
19 revealed that KIM failed to initiate and maintain a written  
20 Broker-Salesperson agreements with one of KIM's salespersons, to  
21 wit, Kelly Woon Lee, in violation of Regulation 2726. This  
22 conduct and violation are also cause to suspend or revoke KIM's  
23 license and license rights under Sections 10177(d) and 10177(h) of  
24 the Code.

25 XX

26 The audit examination also revealed that KIM failed to  
27 notify the Department of the employment of licensee Kelly Woon





1 Lee, as required by Section 10161.8 of the Code and Section 2752  
2 of the Regulations. This conduct is cause to suspend or revoke  
3 the license and license rights of the Respondent KIM under the  
4 provisions of Section 10177(d) of the Code.

5 XXI

6 The overall conduct of Respondents WFI and KIM, as  
7 described in Paragraphs VII through XX herein above, constitutes  
8 negligence and/or incompetence. This conduct and violation are  
9 cause to suspend or revoke the real estate license and license  
10 rights of Respondents WFI and KIM and pursuant to Section 10177(g)  
11 of the Code.

12 XXII

13 The conduct of Respondent KIM, constitutes a failure on  
14 the part of KIM, as officer designated by a corporate broker  
15 licensee, to exercise the reasonable supervision and control over  
16 the licensed activities of WFI as required by Section 10159.2 of  
17 the Code, and to keep it in compliance with the Real Estate Law,  
18 is cause for the suspension or revocation of the real estate  
19 licenses and license rights of KIM pursuant to the provisions of  
20 Sections 10159.2 and 10177(h) of the Code.

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1                   WHEREFORE, Complainant prays that a hearing be conducted  
2 on the allegations made by the Accusation and, that upon proof  
3 thereof, a decision be rendered imposing disciplinary action  
4 against the license and license rights of WESTLEND FINANCING,  
5 INC., a California corporate broker and AMBROSE NAM HOON KIM,  
6 individually and as designated officer of Westlend Financing, Inc.  
7 under the Real Estate Law (Part 1 of Division 4 of the Business  
8 and Professions Code) and for such other and further relief as may  
9 be proper under other applicable provisions of law.

10       Dated at Los Angeles, California  
11       this 5th day of February, 1998.

12   THOMAS McCRADY

13   Deputy Real Estate Commissioner

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cc: Westlend Financing, Inc.  
c/o Ambrose Nam Hoon Kim, D.O.  
Sacto.  
AS