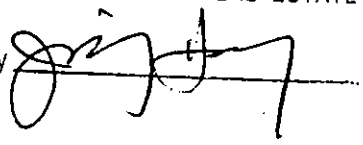


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**FILED**  
JAN - 9 2001

DEPARTMENT OF REAL ESTATE  
By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) NO. H-27712 LA  
MICHAEL SHEHABI )  
Respondent. )

ORDER GRANTING REINSTATEMENT OF LICENSE

On January 15, 1999, a Decision After Reconsideration was rendered herein revoking the real estate broker license of Respondent, MICHAEL SHEHABI (hereinafter "Respondent"), effective on January 25, 1999, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent or about April 22, 1999.

On June 15, 2000, Respondent petitioned for reinstatement of said real estate broker license and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1 I have considered the petition of Respondent and the  
2 evidence and arguments in support thereof including Respondent's  
3 record as a restricted licensee. Respondent has demonstrated to  
4 my satisfaction that Respondent meets the requirements of law  
5 for the issuance to Respondent of an unrestricted real estate  
6 broker license and that it would not be against the public  
7 interest to issue said license to Respondent MICHAEL SHEHABI.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's  
9 petition for reinstatement is granted and that a unrestricted  
10 real estate broker license be issued to Respondent, MICHAEL  
11 SHEHABI, if Respondent satisfies the following conditions within  
12 six (6) months from the date of this Order:

13 1. Submittal of a completed application and payment  
14 of the fee for a real estate broker license.

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

20 This Order shall become effective immediately.

21 DATED: January 3, 2001

22 PAULA REDDISH ZINNEMANN  
23 Real Estate Commissioner

24 *Paula Reddish Zinnemann*  
25  
26  
27

cc: MICHAEL SHEHABI  
199 Chimes Tower Road  
Avalon, California 90704

SACTO

**FILED**  
JAN 20 1999

DEPARTMENT OF REAL ESTATE

By [Signature]

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-27712 LA
	)	
BANKER OF USA MORTGAGE, INC.,	)	
MICHAEL SHEHABI, and MIKE A. DAVIS,	)	
	)	
Respondents.	)	

**DECISION AFTER RECONSIDERATION**

On November 30, 1998, a Decision was rendered by the Real Estate Commissioner in this matter which Decision is to become effective January 25, 1999. On December 24, 1998, Respondent MICHAEL SHEHABI filed a Petition for reconsideration, and on January 11, 1999, Respondents BANKER OF USA MORTGAGE, INC. and MIKE A. DAVIS filed a similar Petition.

I have considered the petition for Respondents BANKER OF USA MORTGAGE, INC. and MIKE A. DAVIS and I find no good cause to reconsider the Decision of November 30, 1998, and reconsideration is hereby denied.

1 I have considered the petition for respondent MICHAEL  
2 SHEHABI, and it is hereby ordered that the disciplinary action  
3 therein imposed against Respondent be modified as follows:  
4

5 ORDER

6 All licenses and licensing rights of Respondent MICHAEL  
7 SHEHABI under the Real Estate Law are revoked; provided, however,  
8 a restricted real estate salesperson license shall be issued to  
9 Respondent pursuant to Section 10156.5 of the Business and  
10 Professions Code if Respondent makes application therefor and pays  
11 to the Department of Real Estate the appropriate fee for the  
12 restricted license within .90 days from the effective date of this  
13 Decision. The restricted license issued to Respondent shall be  
14 subject to all of the provisions of Section 10156.7 of the  
15 Business and Professions Code and to the following limitations,  
16 conditions and restrictions imposed under authority of Section  
17 10156.6 of that Code:

18 1. No license will be issued to respondent until he  
19 demonstrates to the satisfaction of the Department of Real Estate  
20 that he has made restitution to James Arthur and Kimberly Ann  
21 Boone in the amount of \$690, and Kimberely G. Davis in the amount  
22 of \$5,759.

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

1  
2 3. The restricted license issued to Respondent may be  
3 suspended prior to hearing by Order of the Real Estate  
4 Commissioner on evidence satisfactory to the Commissioner that  
5 Respondent has violated provisions of the California Real Estate  
6 Law, the Subdivided Lands Law, Regulations of the Real Estate  
7 Commissioner or conditions attaching to the restricted license.

8 4. Respondent shall not be eligible to apply for the  
9 issuance of an unrestricted real estate license nor for the  
10 removal of any of the conditions, limitations or restrictions of a  
11 restricted license until one year has elapsed from the effective  
12 date of this Decision.

13 5. Respondent shall submit with any application for  
14 license under an employing broker, a statement signed by the  
15 prospective employing real estate broker on a form approved by the  
16 Department of Real Estate which shall certify:

17 (a) That the employing broker has read the  
18 Decision of the Commissioner which granted  
19 the right to a restricted license; and

20 (b) That the employing broker will exercise  
21 close supervision over the performance by the  
22 restricted licensee relating to activities for  
23 which a real estate license is required.

24 6. Respondent shall, within nine months from the  
25 effective date of this Decision, present evidence satisfactory to  
26 the Real Estate Commissioner that Respondent has, since the most  
27 recent issuance of an original or renewal real estate license,  
taken and successfully completed the continuing education



1 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
2 for renewal of a real estate license. If Respondent fails to  
3 satisfy this condition, the Commissioner may order the suspension  
4 of the restricted license until the Respondent presents such  
5 evidence. The Commissioner shall afford Respondent the  
6 opportunity for a hearing pursuant to the Administrative Procedure  
7 Act to present such evidence.

8 7. Respondent shall, within six months from the  
9 effective date of this Decision, take and pass the Professional  
10 Responsibility Examination administered by the Department  
11 including the payment of the appropriate examination fee. If  
12 Respondent fails to satisfy this condition, the Commissioner may  
13 order suspension of Respondent's license until Respondent passes  
14 the examination.

15  
16 This Decision shall become effective at 12 o'clock noon  
17 on January 25, 1999.

18  
19 IT IS SO ORDERED January 15, 1999

20  
21 JOHN R. LIBERATOR  
22 Acting Commissioner

23 John R. Liberator  
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**FILED**  
JAN 20 1999

DEPARTMENT OF REAL ESTATE

By \_\_\_\_\_

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-27712 LA
	)	
BANKER OF USA MORTGAGE, INC.,	)	L-1998 070 583
MICHAEL SHEHABI, and MIKE A. DAVIS	)	
	)	
	)	<u>REPLY TO RESPONDENTS'</u>
	)	<u>ARGUMENT</u>
Respondents.	)	
_____		

I

PROCEDURAL BACKGROUND

A hearing was held in the above-referenced matter on October 6 and 7, 1998, before the Office of Administrative Hearings at Los Angeles, California, Judge Wagner. Respondents were present and represented by respondent Mike A. Davis.

On November 5, 1998, the Administrative Law Judge issued his Proposed Decision recommending all licenses and licensing rights of respondents be revoked.

Respondents have submitted written argument.

1 II

2 FACTS

3 During the matters referenced in the Accusation,  
4 respondent Banker Of USA Mortgage, Inc. was licensed as a  
5 corporate broker with respondent Shehabi as the designated  
6 officer. Respondent Davis was licensed as a salesperson as of  
7 March 16, 1992. Said license expired March 15, 1996 and was not  
8 renewed. Davis became a licensed broker on November 8, 1997.

9 During the time Davis was not licensed respondents  
10 Banker of USA Mortgage, Inc. and Shehabi employed Davis to  
11 negotiate loans. The Accusation covers two such loan  
12 transactions arranged by Davis.

13 In the Boone transaction, respondents falsely  
14 represented to the Boones that they could receive a no fee, no  
15 cost, and no points loan at an interest rate of 7.7%, when in  
16 fact, no such loan was available.

17 In the Davis transaction, respondents falsely  
18 represented to Mr. and Mrs. Davis that the closing costs for  
19 their loan would total approximately \$5,389, when in fact, the  
20 costs actually totaled approximately \$11,148. They were led to  
21 believe by Davis that the closing costs for both refinancing  
22 their property and receiving a line of credit would total  
23 approximately \$5,389.

24 Based on an audit for the period October 1, 1996  
25 through October 31, 1997, respondent Banker of USA Mortgage, Inc.  
26 was found to have a shortage of \$576, incomplete control record  
27 and separate records, no monthly reconciliations, lack of proper





1 trust account signatories, broker or agent failed to sign  
2 borrower disclosure statements, failure to notify all parties of  
3 their interest in the agency holding the escrow, failure to  
4 notify all parties of the license name and licensing agency under  
5 which respondents performed escrows, and failure to notify DRE  
6 when salespersons were terminated.

7           Respondent Davis is the Secretary and General Manager  
8 of respondent Banker. Respondent Shehabi was responsible for  
9 properly supervising the activities of the corporation and Davis,  
10 but there is no evidence that he did so.

11  
12   III

13   ARGUMENT

14           Respondent Shehabi may not have had any knowledge of  
15 what occurred here, but this is due to his failure to supervise  
16 as he was nothing but a rent-a-broker. However, Shehabi is  
17 willing to make restitution to the victims.

18           In November 1996, the Boones received a letter and  
19 flyer from respondent Davis on behalf of respondent Banker.  
20 Davis was not licensed at this time. The Boones talked to  
21 respondent Davis on the phone many times. Davis admitted to the  
22 Boones that a no fee, no cost, zero points 30 year fixed loan at  
23 7.7% could not be arranged for the Boones.

24           Victor and Kimberely Davis were seeking to refinance  
25 their property and to obtain a line of credit. They were led to  
26 believe by respondent Davis that the closing costs for both  
27 refinancing their property and receiving the line of credit would



1 total approximately \$5,389. However, Mr. and Mrs. Davis did sign  
2 documents to the effect that they would have to pay for 2 loans  
3 but they nevertheless relied on what respondent Davis told them  
4 verbally.

6 IV

7 CONCLUSION

8 Respondent Davis operated respondent Banker and engaged  
9 in activities requiring a real estate license when he did not  
10 possess such a license, and he did so without any supervision  
11 from respondent Shehabi. All respondents' licenses should be  
12 revoked.

13 Dated: Jan. 14, 1999

16 Respectfully Submitted,

17  
18 James R. Peel  
19 James R. Peel  
20 Counsel for Complainant  
21  
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*Sie to*

**FILED**  
DEC 10 1998

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	NO. H-27712 LA
	)	
BANKER OF U.S.A. MORTGAGE, INC.	)	
MICHAEL SHEHABI, and MIKE A DAVIS,	)	
	)	
Respondents.	)	

---

ORDER STAYING EFFECTIVE DATE

On November 30, 1998, a Decision was rendered in the above-entitled matter to become effective December 24, 1998.

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

The Decision of November 30, 1998 shall become effective at 12 o'clock noon on Wednesday January 25, 1999.

DATED: December 10, 1998

JIM ANTT, JR.  
Real Estate Commissioner

By: *Randolph Brendia By Jan McCarty*  
RANDOLPH BRENDIA  
Regional Manager

rgp



Saeto

**FILED**  
Dec. 4 1998  
DEPARTMENT OF REAL ESTATE  
By [Signature]

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-27712 LA
BANKER OF U.S.A. MORTGAGE, INC.,	)	
MICHAEL SHEHABI, and MIKE A. DAVIS,	)	
Respondents.	)	L-1998 070 583

DECISION

The Proposed Decision dated November 5, 1998. of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on December 24, 1998.

IT IS SO ORDERED 11/30/98

JIM ANTT, JR.  
Real Estate Commissioner

[Signature]

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	No. H-27712 LA
	)	
BANKER OF U.S.A. MORTGAGE, INC.,	)	OAH No. L-1998070583
MICHAEL SHEHABI, and	)	
MIKE A. DAVIS,	)	
	)	
	)	
Respondent.	)	

---

**PROPOSED DECISION**

On October 6 and 7, 1998, in Los Angeles, California, John D. Wagner, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by James R. Peel, Counsel, Department of Real Estate.

Respondents were present and represented by respondent Mike A. Davis.

Complainant's motion to amend and strike portions of the Accusation were granted, as indicated in Exhibit 1.

Evidence was received, the record was closed and the matter was submitted.

**FINDINGS OF FACT**

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

2. Respondents Banker of U.S.A. Mortgage, Inc., Michael Shehabi (aka Massoud Shehabi), and Mike A. Davis are presently licensed and have license rights under the Real Estate Law contained in Part 1 of Division 4 of the Business and Professions Code.

3. At all times herein mentioned, respondent Banker of U.S.A. Mortgage, Inc., was licensed by the Department of Real Estate as a corporate real estate broker. Respondent Michael Shehabi was licensed as the designated broker officer of said corporation. Respondent Banker's license will expire on September 5, 2000.

4. At all times herein mentioned, respondent Michael Shehabi was licensed by the Department as a real estate broker. His license will expire on March 12, 1999.

5. Respondent Mike A. Davis was licensed by the Department as a real estate salesperson as of March 16, 1992. His salesperson license expired on March 15, 1996. It was not renewed. Respondent Davis was licensed by the Department as a real estate broker as of November 8, 1997. His broker license will expire on November 7, 2001. Between March 15, 1996, and November 8, 1997, respondent Davis was not licensed by the Department.

6. At all times herein mentioned, respondent Banker, on behalf of others in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, including soliciting borrowers and lenders and negotiating loans on real property.

#### Boone Transaction

7. In November 1996, James Boone and Kimberly Boone received a letter and flyer from respondent Mike A. Davis on behalf of respondent Banker. The letter indicated that the Boones were "pre-approved for a Real Estate loan, with a very low fixed interest rate of 7.7% 30 years fixed." The letter also indicated that this loan program was guaranteed to the Boones until December 29, 1996. It indicated that the loan was "No Fees - No Cost - 0 Points." Finally, the letter ended by a request for the Boones to "Please call now . . . ." It was signed by respondent Davis. A postscript referred the Boones to an attached flyer for more information on loan programs.

A reasonable consumer could and probably would read the above solicitation and conclude that a valid offer had been received from respondent Banker offering a conventional 30-year fixed real estate loan on their property at 7.7% with no fees, cost or points. Based upon this solicitation, the Boones responded to respondent Banker by phone. They initially talked to real estate salesperson Roland Berry. Mr. Berry sent the Boones an application packet. The Boones completed the application and returned it to respondent Banker. For approximately four months thereafter, the loan transaction was handled by respondent Davis. The Boones paid \$50 for a credit report, \$390 for an appraisal, and \$250 as a processing fee. They talked to respondent Davis on the phone many times. In these conversations, respondent Davis stated that respondent Banker could not negotiate a no fees, no cost, zero points, 30-year fixed loan at 7.7% for the Boones. The interest rate would have to be higher. The Boones did not get a loan.

8. In the above Boone loan transaction, respondents Banker and Shehabi employed respondent Davis in November 1996 and thereafter, to solicit and negotiate a loan on property located at 5608 Escondido Court, Bakersfield, California, for borrowers James and Kimberly Boone. These activities of respondent Davis require a real estate license.

9. In the Boone loan transaction, respondents Banker, Shehabi and Davis falsely represented to the Boones that they could receive a no fee, no cost, and no points loan at an interest rate of 7.7%, when in truth, such a loan was not available to them.

#### Davis Transaction

10. Respondents Banker and Shehabi employed respondent Davis to negotiate a real estate loan on property located at 35010 Clover Street, Union City, California, for borrowers Victor and Kimberele Davis, who owned the property. The negotiations began on or about July 19, 1997, and continued through October 25, 1997. These negotiations required a real estate license. Respondent Davis was not licensed.

11. In the Davis loan transaction, respondents Banker, Shehabi and Davis falsely represented to borrowers Victor and Kimberele Davis that the closing costs for their loan would total approximately \$5,389, when in fact, the costs actually totaled approximately \$11,148. The borrowers were seeking to refinance their property and to obtain a line of credit. They were led to believe by respondent Davis that the closing costs for both refinancing their property and receiving the line of credit would total approximately \$5,389. In fact, two separate loans were received by the borrowers and the actual costs totaled approximately \$11,148.

12. During 1996 and 1997, in connection with the real estate brokerage activities set forth in Finding 6, respondent Banker accepted or received funds from borrowers and lenders and thereafter made disbursements of such funds. Respondent Banker is involved in mortgage loan brokerage activity. It arranges and negotiates loans for mortgage bankers, mortgage brokers, and institutional lenders. It negotiates approximately three loans per month. It is also involved in broker-escrow activity. Respondent Banker is located on Santa Monica Boulevard in West Los Angeles, California. As of November 21, 1997, it had one account, Banker of U.S.A. Mortgage Client Trust Account, Account No. 24331-07035, at the Wilshire-Westwood Branch of the Bank of America.

13. Based upon a Department of Real Estate audit of respondent Banker's accounting and other records for the period October 1, 1996, through October 31, 1997, in connection with its activities as a real estate broker, respondents Banker and Shehabi acted in violation of the Real Estate Law, as follows:

- a. They maintained a shortage in the above escrow trust account as of October 31, 1997, in the amount of \$576.67. This is mitigated by the fact that the shortages consisted primarily of bank charges and fees charged against the account that were not paid by another source of non-trust funds.

- b. Respondent's columnar record did not show a running daily balance, and from whom funds were received. A complete columnar record with from whom trust funds were received and a daily balance of said account was not maintained or made available. As possible mitigation, it cannot be found whether the records were not complete because they were not maintained on respondent's Quicken software system or because the computer was down at the time of the audit.
- c. Separate records did not show a balance after each posting. Complete separate records with a balance after each posting was not maintained or available during the audit examination. (See possible mitigation above.)
- d. Respondents failed to maintain a monthly record of trust fund account reconciliation. The columnar record was not reconciled to the separate records on a monthly basis. Respondents failed to reconcile the balance of each beneficiary or transaction with the record of all trust funds received and disbursed for the trust account.
- e. Respondents did not use a proper trust account signatory. Respondent Shehabi, the designated officer, was not a signatory on the trust account. The signatory was a signature stamp with the company name "Banker of U.S.A. Mortgage." A stamp is not a signature.
- f. Respondents failed to have the broker negotiating the loan, or an agent of the broker negotiating the loan for at least two borrowers, sign the Mortgage Loan Disclosure Statement.
- g. Respondents failed to notify all parties in writing of their interest in the agency holding the escrow. As indicated in Finding 12, respondent Banker had a "Local Escrow Division." Respondent Banker failed to notify all parties in writing of its interest in this escrow agency handling its loan escrow transactions.
- h. Respondents failed to disclose the license name and licensing agency under which respondents performed escrows. When performing escrows, respondent Banker did not disclose its name and the fact that it was licensed under the Department of Real Estate.
- i. Respondents failed to notify the Department of Real Estate when salespersons Steven Rubin and Ziba Meshkinfam were terminated from employment by respondents. The Department was not notified of Ziba Meshkinfam's termination on June 15, 1997, until January 26, 1998. Although Steven Rubin had been terminated prior to November 21, 1997, as of September 28, 1998, the Department had not been notified of his termination.



14. The only testimony received in defense of the allegations contained in the Accusation in this matter, was received from respondent Davis. Respondent Davis is the Secretary and General Manager of respondent Banker. He signed respondent Banker's Statement by Domestic Stock Corporation as its Secretary on December 29, 1996. He has essentially operated the corporation since that time. Although respondent Shehabi was responsible for properly supervising the activities of the corporation and respondent Davis, the above findings indicate that he did not do so.

Respondent Davis' testimony was not credible. His frequent lapses of memory and recollection were not believable. His cute denials, evasions, and condescending attitude also made his testimony unbelievable. In addition, some documents provided by respondent Davis were not believable.

### DETERMINATION OF ISSUES

1. Cause for discipline of respondents Banker and Shehabi was established for violations of sections 10131(d) and 10137 of the Business and Professions Code (Code), by reason of Findings 8 and 10.

2. Said cause was established for violations of sections 10137, 10177(c), 10177(d) and 10177(h) of said Code, by reason of Findings 9 and 14.

3. Cause for discipline of respondent Davis' brokers license was established for violations of section 10130 of said Code, by reason of Findings 8 and 10.

4. Said cause was established for violation of sections 10177(c), 10177(d) and 10177(j) of said Code, by reason of Finding 9.

5. Cause for discipline of respondents Banker and Shehabi's licenses was established for violations of sections 10176(a), 10176(i), 10177(d) and 10177(h) of said Code, by reason of Findings 11 and 14.

6. Cause for discipline of respondent Davis' license was established for violation of section 10177(d) and 10177(j), by reason of Finding 11.

7. Cause for discipline of respondent Banker's license for violation of section 10177(d) of said Code, and respondent Shehabi for violation of sections 10177(d) and 10177(h) of said Code was established in conjunction with the following:

- a. Section 10145(a) of said Code and section 2832.1, title 10, of the California Code of Regulations (Regulations), by reason of Finding 13a.
- b. Section 2831 of the Regulations, by reason of Finding 13b.
- c. Section 2831.1 of the Regulations, by reason of Finding 13c.

- d. Section 2831.2 of the Regulations, by reason of Finding 13d.
- e. Section 2834 of the Regulations, by reason of Finding 13e.
- f. Section 10240 of the Code, by reason of Finding 13f.
- g. Section 2950(h) of the Regulations, by reason of Finding 13g.
- h. Section 17403.4 of the Financial Code, by reason of Finding 13h.
- i. Section 10161.8(b) of the Code, by reason of Finding 13i.


8. In view of the fact that respondent Davis operated respondent Banker and engaged in activities which require a real estate license when he did not possess such a license between the time when respondent Banker was created in 1996 and the time respondent Davis received his broker license on November 8, 1997, and he did so without adequate supervision from respondent Shehabi, all respondents' licenses should be revoked.

#### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondents Banker of U.S.A. Mortgage, Inc., Michael Shehabi, and Mike A. Davis under the Real Estate Law are revoked.

Dated: November 5, 1998

  
\_\_\_\_\_  
JOHN D. WAGNER  
Administrative Law Judge  
Office of Administrative Hearings

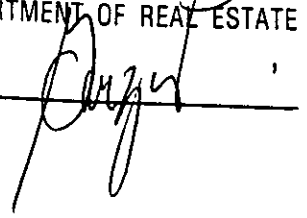
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DEPARTMENT OF REAL ESTATE

697-0604-002

BEFORE THE DEPARTMENT OF REAL ESTATE By \_\_\_\_\_  
STATE OF CALIFORNIA



In the Matter of the Accusation of  
  
BANKER OF USA MORTGAGE, INC.  
MICHAEL SHEHABI and MIKE A. DAVIS,  
  
Respondent.

)  
) NOTICE OF HEARING ON ACCUSATION  
)  
) Case No. H-27712 LA  
) L-1998-070-583  
)  
)

**To the above-named Respondents:**

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, 2nd. Floor, Los Angeles, California 90012 on OCTOBER 6 and 7, 1998. at 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.

Dated: August 5, 1998

DEPARTMENT OF REAL ESTATE

By: James R. Peel  
JAMES R. PEEL  
DRE, Counsel

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JAMES R. PEEL, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012  
State Bar 47055  
  
(213) 897-3937

**FILED**  
JUN 24 1998  
DEPARTMENT OF REAL ESTATE

By [Signature]

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	NO. H-27712 LA
BANKER OF USA MORTGAGE, INC.,	)	A C C U S A T I O N
MICHAEL SHEHABI, and	)	
MIKE A. DAVIS	)	
	)	
	)	
Respondent.	)	

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against BANKER OF USA MORTGAGE, INC., MICHAEL SHEHABI, and MIKE A. DAVIS, alleges as follows:

I

The Complainant, Thomas Mc Crady acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against BANKER OF USA MORTGAGE, INC., MICHAEL SHEHABI, and MIKE A. DAVIS.

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II

BANKER OF USA MORTGAGE, INC., MICHAEL SHEHABI, and MIKE A. DAVIS (hereinafter referred to as respondents) are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter referred to as "the Code").

III

At all times herein mentioned, respondent BANKER OF USA MORTGAGE, INC., was licensed by the Department of Real Estate of the State of California as a corporate real estate broker, respondent MICHAEL SHEHABI, was licensed as the designated broker officer of said corporation, and ordered, authorized or participated in the illegal conduct of respondent BANKER OF USA MORTGAGE, INC., as alleged in this Accusation.

IV

At all times herein mentioned, respondent BANKER OF USA MORTGAGE, INC., on behalf of others in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131 (d) of the Code, including soliciting borrowers and lenders and negotiating loans on real property.

V

During 1996 and 1997, in connection with the aforesaid real estate brokerage activities, respondent BANKER OF USA

1 MORTGAGE, INC. accepted or received funds from borrowers and  
2 lenders and thereafter made disbursements of such funds.

3 VI

4 In connection with respondents' activities as a real  
5 estate broker, as described above, respondents, BANKER OF USA  
6 MORTGAGE, INC., and MICHAEL SHEHABI, acted in violation of the  
7 Real Estate Law, Business and Professions Code (hereinafter  
8 Code), and California Code of Regulations (hereinafter  
9 Regulations), Title 10, Chapter 6, as follows:

10 1. Violated Section 10145(a) of the Code and Regulation  
11 2832.1 by maintaining a shortage in the escrow trust account as  
12 of October 31, 1997, in the amount of \$576.67

13 2. Violated Regulation 2831 in that the columnar record  
14 did not show a running daily balance, and from whom funds  
15 received.

16 3. Violated Regulation 2831.1 in that separate records  
17 did not show a balance after each posting.

18 4. Violated Regulation 2831.2 by failing to maintain a  
19 monthly record of trust fund account reconciliation. The  
20 columnar record was not reconciled to the separate records on a  
21 monthly basis.

22 5. Violated Regulation 2834 by not using proper trust  
23 account signatories.

24 6. Violated Section 10240 of the Code by failing to have  
25 borrowers McKee and Curnow sign the Mortgage Loan Disclosure  
26 Statement.

27



1 7. Violated Regulation 2950(h) by failing to notify all  
2 parties in writing of their interest in the agency holding the  
3 escrow.

4 8. Violated Section 17403.4 of the Financial Code by  
5 failing to disclose the license name and licensing agency under  
6 which respondents performed escrows.

7 9. Violated Section 10148 of the Code by failing to  
8 make available for review and inspection by the Department's  
9 auditor all separate records.

10 10. Violated Section 10161.8(b) of the Code by failing  
11 to notify the Department of Real Estate when salespersons Steven  
12 Rubin, Ziba Meshkinfam and Moshe Meshulam were terminated from  
13 employment by respondents.

14 VII

15 The conduct of respondent BANKER OF USA MORTGAGE,  
16 Inc., as alleged above, subjects its real estate license and  
17 license rights to suspension or revocation pursuant to Sections  
18 10177(d) and 10177(g) of the Code.

19 VIII

20 The conduct of respondent, MICHAEL SHEHABI, as  
21 alleged above, as the responsible broker, by allowing and  
22 permitting respondent BANKER OF USA MORTGAGE, INC., to engage in  
23 the conduct specified in paragraph VI above, subjects his real  
24 estate licenses and license rights to suspension or revocation  
25 pursuant to Sections 10177(d) and 10177(h) of the Code.  
26  
27



1 SECOND CAUSE OF ACCUSATION

2 IX

3 Complainant incorporates by reference paragraphs I  
4 through IV of his first Cause of Accusation.

5 X

6 Respondent MIKE A. DAVIS was previously licensed as a  
7 real estate salesperson until March 15, 1996, when the license  
8 expired. Respondent Davis became licensed as a real estate  
9 broker on November 8, 1997, and remains so licensed.

10 XI

11 Respondents BANKER OF USA MORTGAGE, INC., and MICHAEL  
12 SHEHABI violated Section 10137 of the Code by employing  
13 respondent Davis on or about November 23, 1996, to negotiate a  
14 loan on property located at 5608 Escondido Court, Bakersfield,  
15 California, for borrowers James Arthur and Kimberly Ann Boone.  
16 These activities require a real estate license under Section  
17 10131(d) of the Code.

18 XII

19 Respondents BANKER OF USA MORTGAGE, INC., and MICHAEL  
20 SHEHABI and MIKE A. DAVIS, falsely represented to the borrowers  
21 that the loan would be a no fee, no cost, and no points loan at  
22 an interest rate of 7.7%, when in truth, the borrowers were  
23 required to pay points and a higher interest rate.

24 XIII

25 The conduct of respondents BANKER OF USA MORTGAGE,  
26 INC., and MICHAEL SHEHABI, as alleged above, was in violation of  
27 Section 10137 of the Code and subjects their real estate





1 licenses, and license rights to disciplinary action under  
2 Sections 10137, 10177(c), 10177 (d) and 10177(h) of the Code.

3 The conduct of respondent MIKE A. DAVIS, as alleged  
4 above, was in violation of Section 10130 of the Code and  
5 subjects his real estate licenses and license rights to  
6 disciplinary action under Sections 10177(c), 10177(d) and  
7 10177(j) of the Code.

8 THIRD CAUSE OF ACCUSATION

9 XIV

10 Complainant incorporates by reference paragraphs I  
11 through IV of his first Cause of Accusation and Paragraph X of  
12 his second Cause of Accusation.

13 XV

14 Respondents BANKER OF USA MORTGAGE, INC., and MICHAEL  
15 SHEHABI violated Section 10137 of the Code by employing  
16 respondent MIKE A. DAVIS on or about July 15, 1997, to negotiate  
17 a loan on property located at 35010 Clover Street, Union City,  
18 California, for borrower Kimberele G. Davis. These activities  
19 require a real estate license under Section 10131(d) of the  
20 Code.

21 XVI

22 Respondents BANKER OF USA MORTGAGE, INC., MICHAEL  
23 SHEHABI and MIKE A. DAVIS, falsely represented to the borrower  
24 that the closing costs for the loan would total approximately  
25 \$5,389, when in fact, the costs actually totaled approximately  
26 \$11,148.

27



The conduct of respondents BANKER OF USA MORTGAGE, INC., and MICHAEL SHEHABI as alleged above, was in violation of Section 10137 of the Code and subject their real estate licenses and license rights to disciplinary action under Sections 10137, 10176(a), 10176(i), 10177(d) and 10177(h) of the Code.

The conduct of respondent MIKE A. DAVIS, as alleged above, was in violation of Section 10130 of the Code and subjects his real estate licenses and license rights to disciplinary action under Sections 10177(d), 10177(g) and 10177(j) of the Code.

WHEREFORE, complainant prays that a hearing be conducted on the allegations of this Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and licensing rights of respondents BANKER OF USA MORTGAGE, INC., MICHAEL SHEHABI, and MIKE A. DAVIS under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.  
Dated at Los Angeles, California this 24th day of June, 1998.

THOMAS MC GRADY  
Deputy Real Estate Commissioner

cc: BANKER OF USA MORTGAGE, INC.,  
MICHAEL SHEHABI, and MIKE A. DAVIS  
Sacto.  
DR

JRP:rgp

