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**FILED**  
JUN 25 2008  
DEPARTMENT OF REAL ESTATE  
*R. Medin*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) NO. H-27999 LA  
)  
SAMUEL J. ROWE, )  
)  
Respondent. )

ORDER DENYING REINSTATEMENT OF LICENSE

On September 9, 1999, a Decision was rendered herein  
revoking Respondent's real estate broker license, but granting  
Respondent the right to apply for and be issued a restricted  
real estate broker license. A restricted real estate broker  
license was issued to Respondent on November 5, 1999.

On or about July 18, 2002, Respondent petitioned for  
reinstatement of said license. An Order Denying Reinstatement  
of License was filed on July 29, 2004.

///  
///

1 On or about February 6, 2006, Respondent again  
2 petitioned for reinstatement of said license and the Attorney  
3 General of the State of California has been given notice of  
4 the filing of the petition.

5 I have considered Respondent's petition and  
6 the evidence and arguments in support thereof. Respondent has  
7 failed to demonstrate to my satisfaction that Respondent has  
8 undergone sufficient rehabilitation to warrant the  
9 reinstatement of Respondent's real estate broker license, in  
10 that:

11  
12 I

13 In the Decision which revoked Respondent's license,  
14 Legal Conclusions were made that there was cause to discipline  
15 Respondent's license for numerous violations of the Real Estate  
16 Law found during an audit of Respondent's books and records,  
17 and an audit of the books and records of a licensed real estate  
18 corporation for which Respondent was the designated officer.  
19

20 II

21 As part of the investigation of Respondent's prior  
22 petition application, an audit was conducted of a licensed real  
23 estate corporation for which Respondent was the designated  
24 officer. The audit revealed a number of violations of the Real  
25 Estate law.  
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III

The burden of proving rehabilitation rests with the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).

A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

The Department has developed criteria in Title 10, Chapter 6, California Code of Regulations ("Regulation") Section 2911 to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

2911(a) - A longer period of time is needed to assess Respondent's rehabilitation given Respondent's history of substantially related acts and conduct.

2911(k) - Respondent has not provided proof that Respondent has corrected business practices resulting in injury to others or with the potential to cause such injury.

Given the fact that Respondent has not established that Respondent has complied with Regulations 2911(a) and 2911(k), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

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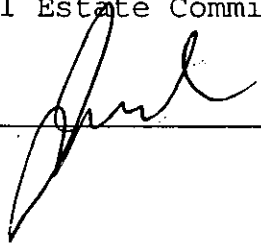
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NOW, THEREFORE, IT IS ORDERED that Respondent's  
petition for reinstatement of Respondent's real estate broker  
license is denied.

This Order shall become effective at 12 o'clock noon  
on **JUL 15 2008**

DATED: 6-18-08

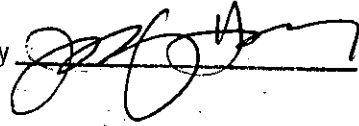
JEFF DAVI  
Real Estate Commissioner

  
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**FILED**  
SEP 17 2004  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) NO. H-27999 LA  
)  
SAMUEL J. ROWE, )  
)  
Respondent. )

ORDER DENYING RECONSIDERATION

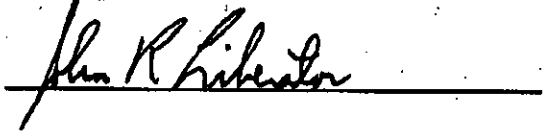
On July 26, 2004, an Order Denying Reinstatement of License was signed in the above-entitled matter. Said Order was to become effective August 18, 2004 and was stayed by separate Order to September 17, 2004.

On August 30, 2004, Respondent petitioned for reconsideration of the Order of July 26, 2004.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Order of July 26, 2004, and reconsideration is hereby denied.

IT IS SO ORDERED Sept. 16, 2004

JOHN R. LIBERATOR  
Acting Real Estate Commissioner





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The Order Denying Reinstatement of License of July 26,  
2004, shall become effective at 12 o'clock noon on September 17,  
2004.

DATED: August 18, 2004

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

By: M. Dolores Weeks  
M. DOLORES WEEKS  
Regional Manager







1 Omega Funding, Inc., was a licensed real estate  
2 corporation for which Respondent was the designated officer.  
3 In addition, Respondent failed to exercise the supervision and  
4 control of the activities of Omega Funding, Inc as required by  
5 Code Section 10159.2.

6 II

7 The burden of proving rehabilitation rests with the  
8 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).

9 A petitioner is required to show greater proof of honesty and  
10 integrity than an applicant for first time licensure. The proof  
11 must be sufficient to overcome the prior adverse judgment on the  
12 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d  
13 395).

14 The Department has developed criteria in the  
15 Regulations to assist in evaluating the rehabilitation  
16 of an applicant for reinstatement of a license. Among the  
17 criteria relevant in this proceeding are:

18 2911 (k) - Correction of business practices resulting  
19 in injury to others or with the potential to cause such injury.  
20 Respondent has failed to show that he has corrected his  
21 business practices. During the past two years, Respondent was  
22 the designated officer of Merit Financial, Inc., a licensed  
23 real estate corporation. As part of the petition investigation  
24 process, the Department of Real Estate conducted an audit  
25 examination of the books and records Merit Financial, Inc.  
26  
27 The audit revealed violations of the Real Estate Law including

1 violations of Code Section 10145 and 10240 and Regulations  
2 2831, 2831.1, 2831.2, 2835 and 2840. A number of these same  
3 violations were found in the audit which resulted in the  
4 revocation of Respondent's license.  
5

6 2911 (n) (1) - Change in attitude from that which  
7 existed at the time of the conduct in question as evidenced  
8 by the testimony of Respondent. As part of the petition  
9 application process, Respondent was interviewed by a Deputy  
10 Real Estate Commissioner ("Deputy"). Respondent did not display  
11 a change in attitude. When the Deputy asked Respondent about  
12 the violations found during the audit of Merit Financial, Inc.  
13 Respondent maintained that the audit findings were  
14 substantially erroneous.

15 Given the fact that Respondent has not established  
16 that he has complied with Regulations 2911(k) and 2911(n) (1),  
17 I am not satisfied that Respondent is sufficiently rehabilitated  
18 to receive a real estate broker license.

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1                    NOW, THEREFORE, IT IS ORDERED that Respondent's  
2 petition for reinstatement of Respondent's real estate broker  
3 license is denied.

4                    This Order shall become effective at 12 o'clock noon  
5 on August 18, 2004.

6  
7                    DATED: July 26, 2004

8                    JOHN R. LIBERATOR  
9                    Acting Real Estate Commissioner

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25 cc: Samuel James Rowe  
26        80 S. Gibson Road, # 816  
27        Henderson, NV 89012

*Handwritten signature*

FILED

OCT 11 2000

DEPARTMENT OF REAL ESTATE

By *[Handwritten Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-27999 LA
SAMUEL JAMES ROWE )	
Respondent. )	

ORDER STAYING EFFECTIVE DATE

On September 5, 2000, an Order Suspending Restricted Real Estate License was rendered in the above entitled matter to become effective immediately.

The above Order was made as a result of Respondent failing to meet a condition of his restricted license that he take and pass a Professional Responsibility Examination in a timely manner.

On August 24, 2000, Respondent asked the Department for additional time to meet the above condition due to the fact that he had triple bypass surgery on April 28, 2000, and was later involved in a serious auto accident on July 20, 2000, as a consequence of said surgery. These facts were not known to the

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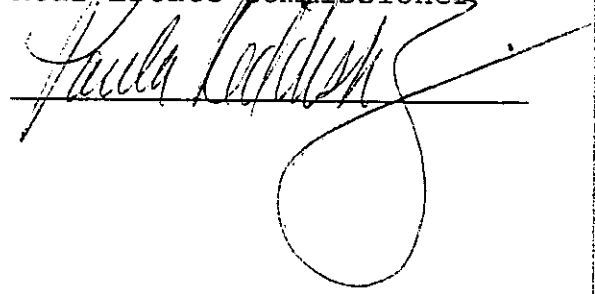
Real Estate Commissioner at the time the Order of September 5, 2000 was signed.

Good cause now appearing, IT IS HEREBY ORDERED that the effective date of the Order of September 5, 2000, is stayed until December 10, 2000.

This Order shall be effective September 5, 2000.

DATED: October 10, 2000

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



*Subo. Page*

**FILED**  
OCT 5 1999  
DEPARTMENT OF REAL ESTATE

By *Laura B. Orna*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	DRE No. H-27999 LA
SAMUEL J. ROWE )	OAH No. L-1999030208
Respondent. )	

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ORDER STAYING EFFECTIVE DATE

On July 29, 1999, a Decision was rendered in the above-entitled matter to become effective October 5, 1999.

IT IS HEREBY ORDERED that the effective date of the Stipulation and Agreement, is stayed for a period of 30 days.

The Decision dated July 29, 1999, shall become effective at 12 o'clock noon on November 5, 1999.

DATED 10/4/99

*Randolph Brendia*  
Randolph Brendia  
Regional Manager

*Page 1*

**FILED**  
SEP 14 2000  
DEPARTMENT OF REAL ESTATE

By *R. K. Kuderholt*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

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In the Matter of the Accusation of	)	No. H-27999 LA
	)	
SAMUEL JAMES ROWE,	)	
	)	
Respondent.	)	
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ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

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TO: SAMUEL JAMES ROWE, Respondent

On November 5, 1999, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of September 9, 1999 in case No. H-27999 LA. This Order, which was effective November 5, 1999, granted respondent the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code. Among those terms, conditions and restrictions, respondent was required to successfully complete the



1 Professional Responsibility Examination within 6 months from  
2 November 5, 1999. The Commissioner has determined that as of May  
3 5, 2000, respondent has failed to satisfy this condition, and as  
4 such, is in violation of Section 10177(k) of the Business and  
5 Professions Code. Respondent has no right to renew the restricted  
6 license if this condition isn't satisfied by the date of its  
7 expiration. (Section 10156.7 of the Business and Professions  
8 Code.)

9  
10 NOW, THEREFORE, IT IS ORDERED under authority of Section  
11 10156.7 of the Business and Professions Code of the State of  
12 California that the restricted real estate broker license  
13 heretofore issued to respondent and the exercise of any privileges  
14 thereunder is hereby suspended until such time as you provide  
15 proof satisfactory to the Department of compliance with the  
16 "condition(s)" referred to above, or pending final determination  
17 made after hearing (see "Hearing Rights" set forth below)."

18 IT IS FURTHER ORDERED that all license certificates and  
19 identification cards issued by the Department which are in the  
20 possession of respondent be immediately surrendered by personal  
21 delivery or by mailing in the enclosed self-addressed envelope to:

22 DEPARTMENT OF REAL ESTATE  
23 Attn: Flag Section  
24 P. O. Box 187000  
Sacramento, CA 95818-7000

25 HEARING RIGHTS: Pursuant to the provisions of Section  
26 10156.7 of the Business and Professions Code, you have the right  
27 to a hearing to contest the Commissioner's determination that you  
are in violation of Section 10177(k). If you desire a hearing,

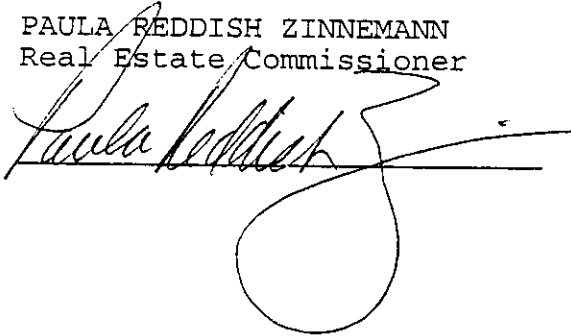


1 you must submit a written request. The request may be in any  
2 form, as long as it is in writing and indicates that you want a  
3 hearing. Unless a written request for a hearing, signed by or on  
4 behalf of you, is delivered or mailed to the Department at 320  
5 West Fourth Street, Ste. 350, Los Angeles, CA 90013, within 20  
6 days after the date that this Order was mailed to or served on  
7 you, the Department will not be obligated or required to provide  
8 you with a hearing.  
9

10 This Order shall be effective immediately.

11 DATED: September 5, 2000

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13 PAULA REDDISH ZINNEBANN  
Real Estate Commissioner

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**FILED**  
SEP 30 1999  
DEPARTMENT OF REAL ESTATE  
*By Anna B. Stone*

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DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of ) No. H-27999 LA  
OMEGA FUNDING, INC.; )  
FRED JOSEPH ARNOLD )  
and SAMUEL J. ROWE, )  
individually and as designated )  
officers of Omega Funding, Inc.; )  
and ALEJANDRIA OCHOA )  
Respondents. )

DISMISSAL

The Accusation herein filed on February 11, 1999,  
against FRED JOSEPH ARNOLD and ALEJANDRIA OCHOA is DISMISSED.

IT IS SO ORDERED this 23<sup>rd</sup> day of Sept., 1999.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

*John R. Liberator*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By Sanna B. Orm

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-27999 LA
	)	
OMEGA FUNDING, INC.,	)	L-1999030208
FRED JOSEPH ARNOLD,	)	
and SAMUEL J. ROWE,	)	
Individually and as designated	)	
officers of OMEGA FUNDING, INC.	)	
and ALEJANDRIA OCHOA,	)	
	)	
	)	
Respondent(s).	)	
	)	

DECISION

The Proposed Decision dated July 29, 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 OCT 5 1999.

IT IS SO ORDERED September 9, 1999.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner

John R. Liberator

**BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

In the Matter of the Accusation	)	Case No.: H-27999 LA
Against:	)	OAH No.: L-1999030208
	)	
<b>OMEGA FUNDING, INC.,</b>	)	
<b>FRED JOSEPH ARNOLD,</b>	)	
and <b>SAMUEL J. ROWE,</b>	)	
Individually and as designated	)	
officers of <b>OMEGA FUNDING, INC.,</b>	)	
and <b>ALEJANDRIA OCHOA,</b>	)	
	)	
Respondents.	)	
	)	
	)	
	)	

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**CORRECTED PROPOSED DECISION**

On July 1, 1999, in Los Angeles, California, Barbara Bailey Barnes, Administrative Law Judge Pro Tem, Office of Administrative hearings, State of California, heard this matter.

Complainant, Thomas McCrady, was represented by Elliot McLennan, Staff Counsel.

Respondent, Samuel J. Rowe, appeared and represented himself.

Due notice of the date, time and place for hearing was given as required by law to the Respondent, Omega Funding, Incorporated ("OFI"), a California Corporation, operating in Victorville, County of Riverside, California. There was no appearance by or on behalf of OFI.

At the hearing of this matter, upon the motion of counsel for the Complainant, the Respondent, Alejandria Ochoa was dismissed from the Accusation in the interest of justice.<sup>1</sup>

---

<sup>1</sup> The Accusation against Ms. Ochoa was based upon her lack of a real estate salesperson's license. A License Certification from the State of California Department of real Estate shows Ms. Ochoa possesses a restricted license which will expire July 14, 2002. (the Complainant's Exhibit 5).

Respondent, Fred Joseph Arnold, was dismissed from the Accusation due to his death on December 11, 1998<sup>2</sup> (Cody v. Greisinger, 182 Cal. App. 2d, 401).

Further, upon motion of counsel for the Complainant and without objection from Respondent, Samuel J. Rowe, (hereinafter "Respondent Rowe"), the following amendments were made to the Accusation:

All allegations against Respondent Alejandria Ochoa were stricken by interlineation. All references to Respondent Fred Joseph Arnold were stricken by interlineation. On page 6, line 14 of the Accusation, the name "Rowe" was inserted, by interlineation, in place and instead of the name "Arnold" Upon the motion of counsel for the Department, Paragraphs 10 (f) and 10 (h) of the Accusation were also stricken, without objection.

Oral and documentary evidence was received. The record was closed and the matter submitted for decision.

### FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Accusation was made by Thomas McCrady, Complainant, who is a Deputy Real Estate Commissioner of the State of California ("the Department"), acting in his official capacity.
2. Omega Funding, Inc. (hereinafter "Respondent OFI"), and Respondent Rowe, individually and as a designated officer of Respondent OFI, sometimes collectively referred to as "Respondents" are presently licensed by the Department. Since November 23, 1996, Respondent OFI has been licensed by the Department as a corporate real estate broker by and through the deceased Fred Joseph Arnold and Respondent Rowe as designated officers.
3. Respondent Rowe was issued a broker's license as an officer of Respondent OFI on November 23, 1996. The officer license was canceled as of March 19, 1997. Respondent Rowe holds real estate broker's license, number 00844180. The license is due to expire on July 1, 2001.
4. Fred Joseph Arnold was the designated officer of Respondent OFI from March 19, 1997 until his death on December 11, 1998.
5. Respondent Rowe, as a designated officer of OFI from November 23, 1996 to March

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<sup>2</sup> Complainant's Exhibit 6 is a copy of the death certificate form the County of San Bernardino of the deceased Mr. Arnold.

18, 1997, was responsible for the supervision and control of the activities conducted on behalf of OFI by its officers, managers, and employees, including the supervision of the salespersons of the corporation in the performance of acts for which a real estate license is required.

6. The activities of Respondent OFI includes the operation of a mortgage and loan brokerage with the public and conducting broker-controlled escrows.

7. On September 15, 1997, the Department completed an audit examination of the books and records of Respondent OFI pertaining to its loan and escrow activities during the period of November 23, 1996 to July 31, 1997. The audit was conducted by Lisa Kwong, General Auditor III, an employee of the Department.

8. During the audit period, Respondent OFI maintained the following escrow trust accounts: Omega Funding, Inc. Trust Account and Omega Funding General Account. In regards to these trust accounts:

(a) During his term as the designated officer of Respondent OFI, Respondent Rowe failed to maintain an adequate control record in the form of a columnar record in chronological order of all trust funds received into the trust account.

(b) During the same term, Respondent Rowe failed to perform a monthly reconciliation of the balance of all separate beneficiary and transaction records, with the record of all trust funds received and disbursed by the escrow account.

(c) Respondent Rowe, along with the now-deceased Arnold, maintained an interest bearing trust account without the knowledge of the account obligors and without properly disclosing to obligors the method of calculating interest. The trust funds of the obligors were also mixed with funds of Respondent OFI.

(d) Respondent Rowe deposited trust funds from lenders, intended for borrowers, into OFI's general account, thereby commingling trust funds. According to examined documents, one such loan (referred hereinafter as "the Campbell loan") was funded on March 6, 1997. \$14,751.61 was wired into Respondent OFI's general account on March 7, 1997 and two disbursements were made to First Card and Citibank Visa on March 14, 1997.

(e) Respondent Rowe and Respondent OFI failed to advise all parties in writing that OFI had a financial interest in the escrow services.

(f) Respondent OFI failed to timely notify the Department of the employment of

certain salespersons and failed to timely notice the Department of the termination of employment of certain others.

(g) Respondent Rowe and Respondent OFI failed to disclose in writing in the escrow instructions the name of the licensee or authority of the State of California under which OFI operated its escrow company.

9. Respondent Rowe, while admitting his responsibility for the conduct of OFI and its employees, officers and managers during the time Respondent Rowe was designated officer, attributes the noncompliance of the company to the acts of the owner of the company and to the owner's wife, who serves as Secretary to Respondent OFI. Their non-compliance of the regulated items placed Respondent Rowe's license in jeopardy.

10. After Respondent Rowe began to work for Respondent OFI as a broker, Respondent Rowe sent memos and had "numerous conversations" with the owners, Jesse Uribe and Alejandria Ocher, regarding the suspected non-compliance areas. Beginning in January, 1997 Respondent sent letters and faxes inquiring about the company's operations and documentation. Respondent visited the company two (2) to three (3) times per month. Respondent Rowe resigned from the company as broker and designated officer of the company in March, 1997.

11. Respondent Rowe expresses remorse for his failure to insure that Respondent OFI was in compliance with the Department's Regulations and all other laws and regulations of the state. He asserts that significant information was not given to him, in spite of his repeated requests, and the owners' "noncompliance nullified my effectiveness as a broker."

12. Respondent Rowe has been in the real estate business for approximately thirty (30) years and describes himself as "taking my license seriously". He was regional vice-president of Allstate, past president of two mortgage companies, and was employed by Far West as director of major loans. He received his broker's license on July 2, 1997.

13. Respondent Rowe, during his thirty-year experience within the industry has had no prior or subsequent complaints lodged against him from the Department or members of the public. In the instant matter before the Department, no evil intent or maliciousness has been detected in Respondent's intent or attitude regarding the matters herein and Respondent Rowe's remorse appears genuine. Respondent Rowe is desirous of maintaining his license.



## LEGAL CONCLUSIONS

1. Respondent Rowe violated Section 2831, 2950 (d) and 2951 of the Code of Regulations, ("the Regulations"), by reason of Finding ( 8a).
2. Respondent Rowe violated the provisions of Business and Professions Code ("Code"), Section 10145 and Sections 2831.2, 2950 (d) and 2951 of the Regulations, by reason of Finding 8 (b).
3. Respondent Rowe, violated Sections 10145 of the Code and Sections 2830.1, 2950 (d) and (g), and 2951 of the Regulations, by reason of Finding 8 (c).
4. Respondent Rowe violated Section 10145 and 10176 (I) of the Code, by reason of Finding 8 (d).
5. Respondent Rowe and OFI violated Regulation 2950 (h), by reason of Finding 8 (e).
6. OFI violated Section 10168.8 of the Code and Section 2752 of the Regulations, by reason of Finding 8 (f).
7. Respondent Rowe and OFI violated Sections 10240 of the Code and Section 2840 of the Regulations, by reason of Finding 8 (g).
8. The overall conduct of OGI and Respondent Rowe constitutes negligence and is cause to revoke or suspend their respective real estate licenses and license rights under Sections 10177 (g) of the Code and Sections 10159.2 and 10177 (d) of the Code.
9. Due notice of the time and place of the hearing of this Accusation having been given to Omega Funding, Incorporated, (OFI), and there being no appearances at the hearing on the Accusation by or on behalf of OFI, OFI is hereby found in default as to this matter.
10. Except as expressly found herein to be true, the remaining charging allegations of the Accusation and amendments therein are found to be unproven by clear and convincing evidence or surplusage.
11. In light of all of the foregoing, and particularly evidence of mitigation as set forth in Findings 10, 11 and 13, it would not be contrary to the public interest to permit Respondent Rowe to retain his broker's license, provided the same is conditioned as set forth below.

## ORDER

**WHEREFORE, THE FOLLOWING ORDER** is hereby made:

The corporate real estate brokers license of OMEGA FUNDING, INC., (OFI), together with all licensing rights appurtenant thereto, is revoked.

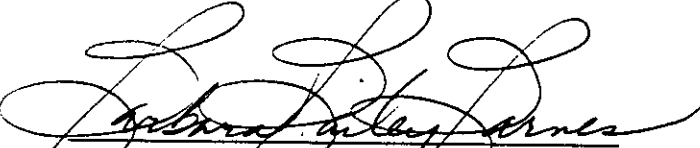
All licenses and licensing rights of Respondent, SAMUEL J. ROWE, under the real estate law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent Rowe pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays 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 Business and Professions Code and to the following limitations, conditions and restrictions imposed under the authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by the Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by the Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years has elapsed from the effective date of this Decision
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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

6. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein, or by separate written order issued while the restricted license is in effect, such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Dated: July 29, 1999

  
BARBARA BAILEY BARNES,  
Administrative Law Judge Pro tem  
Office of Administrative Hearings

*Sachs*  
*York*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILE**  
JUN 8 1999  
DEPARTMENT OF REAL ESTATE

\*\*\*\*\*

In the Matter of the Accusation of )  
 ) Case No. H-27999 LA  
 ) OAH No. L-1999030208  
OMEGA FUNDING, INC., )  
 )  
et al., )  
 )  
 )  
 )  
Respondents. )

By *Laura B. Arma*

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, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JULY 1, 1999, at the hour of 1:30 p.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: JUN 8 1999

DEPARTMENT OF REAL ESTATE

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

cc: Omega Funding Inc.  
Fred Joseph Arnold  
Samuel J. Rowe  
Alejandrina Ochoa  
Chase Wholesale Funding Inc.  
Isauro Diaz, Esq.  
Audit Section  
Sacto.  
OAH

*Sacto May*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

FILED  
APR 6 1999  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of ) Case No. H-27999 LA  
) OAH No. L-1999030208  
OMEGA FUNDING, INC. et al., )  
)  
)  
)  
Respondents. )

By *Lana B. Oron*

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, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on JUNE 1, 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 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 6 1999

DEPARTMENT OF REAL ESTATE

By: *E. J. Lennan*  
ELLIOTT MACLENNAN, Counsel

cc: Omega Funding Inc.  
Fred Joseph Arnold  
Samuel J. Rowe  
Alejandrina Ochoa, Sacto., OAH

*Sachs*  
*Jan*

ELLIOTT MAC KENNAN, Counsel  
State Bar No. 66674  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012  
  
(213) 897-3937

**FILED**  
FEB 11 1999  
DEPARTMENT OF REAL ESTATE  
By Lana B. Quora

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DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )  
 )  
 OMEGA FUNDING, INC. )  
 FRED JOSEPH ARNOLD, )  
 and SAMUEL J. ROWE )  
 individually and as )  
 designated officers of )  
 Omega Funding, Inc., )  
 and ALEJANDRINA OCHOA, )  
 )  
 Respondents. )

No. H-27999 LA

A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against OMEGA FUNDING, INC., FRED JOSEPH ARNOLD, and SAMUEL J.  
ROWE, individually and as designated officers of Omega Funding,  
Inc., and ALEJANDRINA OCHOA is informed and alleges in his  
official capacity as follows:

/  
/  
/

1  
2 OMEGA FUNDING, INC. (OFI), FRED JOSEPH ARNOLD (ARNOLD),  
3 and SAMUEL J. ROWE (ROWE), individually and as designated officers  
4 of OMEGA FUNDING, Inc., and ALEJANDRINA OCHOA, sometimes  
5 collectively referred to as Respondents, are presently licensed  
6 and/or have license rights under the Real Estate Law (Part 1 of  
7 Division 4 of the California Business and Professions Code).

## 2

8  
9 All references to the "Code" are to the California  
10 Business and Professions Code and all references to "Regulations"  
11 are to Title 10, Chapter 6, California Code of Regulations, unless  
12 indicated otherwise.

## 3

13  
14 Since November 23, 1996, OFI was licensed by the  
15 Department of Real Estate of the State of California (Department)  
16 as a corporate real estate broker by and through ARNOLD and ROWE  
17 as designated officer. ROWE was the designated officer of OFI from  
18 its inception on November 23, 1996 through March 18, 1997. ARNOLD  
19 was the designated officer of OFI from March 19, 1997 to date.

## 4

20  
21 Since November 23, 1996, ARNOLD and ROWE were licensed  
22 by the Department as the designated officers of OFI to qualify it  
23 and to act for it as a real estate broker and, as provided by  
24 Section 10159.2 of the Code, were responsible for the supervision  
25 and control of the activities conducted on behalf of OFI by its  
26 officers, managers and employees as necessary to secure full  
27 compliance with the provisions of the Real Estate Law including





1 the supervision of the salespersons licensed to the corporation in  
2 the performance of acts for which a real estate license is  
3 required.

4 5

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

13 6

14 At all times mentioned, OCHOA was licensed or had  
15 license rights issued by the Department of Real Estate  
16 (Department) as a real estate salesperson. OCHOA was initially  
17 licensed by the Department on April 3, 1995 as a real estate  
18 salesperson. Effective March 26, 1998, OCHOA's license was  
19 suspended on terms and conditions for thirty days as described in  
20 Paragraph 19.

21 7

22 At all times mentioned, in Victorville, Riverside  
23 County, OFI acted as a real estate broker within this meaning of:

24 A. Section 10131(d) of the Code, including the  
25 operation of a mortgage and loan brokerage with the public; and  
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B. In addition, OFI conducted broker controlled escrows under the exemption set forth in Section 17006(a)(4) of the California Financial Code.

8

On September 15, 1997, the Department completed a audit examination of the books and records of OFI pertaining to its mortgage and loan and escrow activities described in Paragraph 7. The audit examination covered a period of time beginning on November 23, 1996 and ending on July 31, 1997. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

9

In connection with the activities described in Paragraph 7, above, OFI accepted or received funds in trust (trust funds) from or on behalf of borrowers and lenders. Thereafter OFI made disposition of such funds. OFI maintained the following escrow trust account during the audit period:

"Omega Funding, Inc. Trust Account  
Account Number 251703264"  
Citizens Business Bank  
Victorville, CA 92392

"Omega Funding, Inc. General Account  
Account Number 251222746"  
Citizens Business Bank  
Victorville, CA 92392

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1  
2 With respect to the trust funds referred to in Paragraph  
3 9, OFI:

4 (a) and ARNOLD permitted, allowed or caused the  
5 disbursement of trust funds from the escrow trust account where  
6 the disbursement of the funds reduced the total of aggregate funds  
7 in the escrow trust account, to an amount which, on July 31, 1997,  
8 was \$8,131.23 less than the existing aggregate trust fund  
9 liability of OFI to every principal who was an owner of the funds,  
10 without first obtaining the prior written consent of the owners of  
11 the funds, as required by Section 10145 of the Code and Sections  
12 2832.1, 2950(d), 2950(g) and 2951 of the Regulations;

13 (b) and ROWE and ARNOLD failed to maintain an adequate  
14 control record in the form of a columnar record in chronological  
15 order of all trust funds received into the escrow trust account,  
16 as required by Sections 2831, 2950(d), and 2951 of the  
17 Regulations;

18 (c) and ARNOLD failed to maintain a separate record for  
19 each beneficiary or transaction, thereby failing to account for  
20 all trust funds received, deposited, and disbursed by the escrow  
21 trust account as required by Sections 2831.1, 2950(d) and 2951 of  
22 the Regulations;

23 (d) and ROWE and ARNOLD failed to perform a monthly  
24 reconciliation of the balance of all separate beneficiary or  
25 transaction records maintained pursuant to Section 2831.1 of the  
26 Regulations with the record of all trust funds received and  
27



1 disbursed by the escrow trust account as required by Sections  
2 2831.2, 2950(d) and 2951 of the Regulations;

3 (e) and ROWE and ARNOLD maintained an interest-bearing  
4 trust account without the knowledge of the account obligors,  
5 without disclosing to the obligors how interest will be  
6 calculated, and including mixing the obligors trust funds with  
7 that of OFI, in violation of Sections 10145 and 10176(e) of the  
8 Code and Sections 2830.1 2950(d), 2950(g) and 2951 of the  
9 Regulations;

10 (f) and ROWE and ARNOLD permitted a suspended real  
11 estate salesperson, ALEXANDRINA OCHOA, to be an authorized  
12 signatory on the escrow trust account without a fidelity bond, in  
13 violation of Section 2834 of the Regulations;

14 (g) and ARNOLD deposited trust funds from lenders  
15 intended for borrowers Alfonso Quintero, Juilette Miller, Isabel  
16 Moreno, Robert Campbell, and Humberto Navarro into its general  
17 account. This conduct constitutes commingling of trust funds in  
18 violation of Sections 10145 and 10176(e) of the Code.

19 (h) and ARNOLD deposited loan commissions from Humberto  
20 Navarro, Ale Paredes, David Shade, Margarita Saucedo and Altha  
21 Lara into the escrow trust account. This conduct constitutes  
22 commingling in violation of Sections 10145 and 10176(e) of the  
23 Code.

24 (i) and ARNOLD paid general operating expenses of OFI  
25 from the escrow trust account. This conduct constitutes  
26 conversion of trust funds in violation of Sections 10145 and  
27 10176(i) of the Code;



1 (j) and ARNOLD failed to make payments on Humberto &  
2 Josephina Navarro's debts despite receiving a loan for that  
3 purpose on April 2, 1997; using instead the proceeds of \$8,014.29  
4 to pay OFI's general operating expenses. This conduct constitutes  
5 conversion of trust funds in violation of Sections 10145 and  
6 10176(i) of the Code;

7 (k) ROWE and ARNOLD failed to make all payments on  
8 Robert Campbell's debts despite receiving a \$14,751.61 loan for  
9 that purpose; instead using the remaining proceeds of \$2,560 after  
10 debt repayment on behalf of Robert Campbell to pay OFI's general  
11 operating expenses. This conduct constitutes conversion of trust  
12 funds in violation of Sections 10145 and 10176(i) of the Code;

13 (l) and ROWE and ARNOLD failed to advise parties to the  
14 escrow including Alfonso Quintero, Juliette Miller, Isabel Moreno,  
15 Robert Campbell, and Humberto Navarro of its ownership of the  
16 escrow company, in violation of Regulation 2950(h); and

17 (m) and ROWE and ARNOLD failed to contain a statement  
18 which included the name of the licensee and the State of  
19 California department issuing the license or authority under which  
20 it operated the escrow company. This conduct constitutes a  
21 violation of Section 17403.4 of the California Financial Code and  
22 is cause to suspend or revoke OFI's real estate license and  
23 license rights under Section 10177(g).

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The conduct of Respondents OFI, ROWE and ARNOLD,  
described in Paragraph 10, violated the Code and the Regulations  
now set forth:

PARAGRAPHPROVISIONS VIOLATED

10(a)	Section 10145 of the Code, and Sections 2832.1, 2950(d), 2950(g) and 2951 of the Regulations
10(b)	Section 10145 of the Code, and Sections 2831, 2950(d), and 2951 of the Regulations
10(c)	Section 10145 of the Code, and Sections 2831.1, 2950(d), 2950(g) and 2951 of the Regulations
10(d)	Section 10145 of the Code, and Sections 2831.2, 2950(d) and 2951 of the Regulations
10(e)	Section 10145 of the Code, and Sections 2830.1, 2950(d), 2950(g) and 2951 of the Regulations
10(f)	Section 10145 of the Code, and Section 2834 of the Regulations



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- 10(g) Sections 10145 and 10176(e) of the Code,
- 10(h) Sections 10145 and 10176(e) of the Code
- 10(i) Sections 10145 and 10176(i) of the Code
- 10(j) Sections 10145 and 10176(i) of the Code
- 10(k) Sections 10145 and 10176(i) of the Code
- 10(l) Section 10145 of the Code and  
Section 2950(h) of the Regulations
- 10(m) Section 17006 of the Financial Code

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of OFI, ROWE and ARNOLD under Sections 10176(e), 10176(i), 10177(d), 10177(g) of the Code and Section 17006 of the Financial Code, as indicated.

12

The audit examination revealed that OFI employed and compensated Charles Bryars as a loan officer performing licensed activities without notifying the Department of his employment, as required by Section 10161.8 of the Code and Section 2752 of the Regulations. This conduct and violation are also cause to suspend

1 or revoke OFI's license and license rights under Section 10177(d)  
2 of the Code.

3 13

4 The audit examination revealed that OFI failed to notify  
5 the Department in a timely manner of the termination of employment  
6 Charles Bryars, Robert Peterson, and Victorie Telford, as required  
7 by Section 10161.8 of the Code and Section 2752 of the  
8 Regulations. This conduct and violation are further cause to  
9 suspend or revoke OFI's license and license rights under Section  
10 10177(d) of the Code.

11 14

12 The audit also revealed that OFI, in the course of its  
13 mortgage and loan brokerage activities described in Paragraph 7,  
14 employed and compensated OCHOA for performing acts for which a  
15 real estate license is required including interviewing borrowers  
16 and negotiating loans secured by liens on real property for  
17 borrowers Lorena Valencia, Ernest Vargas, Lex Anderson, Manuel  
18 Jacobo, Carlos Del Hierro, and Elleen C. Wake, in violation of  
19 Section 10137 of the Code. This conduct and violation are cause  
20 to suspend or revoke the licenses and license rights of OFI and  
21 ROWE under Section 10137 of the Code.

22 15

23 The audit examination revealed that OFI and ARNOLD  
24 failed to initiate and maintain written Broker-Salesperson  
25 agreement with OFI's salesperson Richard Bergmann, in violation of  
26 Regulation 2726. This conduct and violation are also cause to  
27





1 suspend or revoke their licenses and license rights under Sections  
2 10177(d) and 10177(h) of the Code.

3 16

4 The audit examination revealed that OFI failed to  
5 provide a statement in writing containing all the information  
6 required by Section 10241 of the Code to borrowers Joel & Patricia  
7 Caver, Lorena & Martin Valencia, Rose & Ernest Vargas and Lex  
8 Anderson before these borrowers became obligated to perform under  
9 the terms of their loans. This omission is a violation of Section  
10 10240 of the Code and Section 2840 of the Regulations and  
11 constitutes cause for the suspension or revocation of the real  
12 estate license and license rights of OFI under Section 10177(d) of  
13 the Code.

14 17

15 The overall conduct of OFI, ROWE and ARNOLD constitutes  
16 negligence. This conduct is cause to suspend or revoke their  
17 respective real estate licenses and license rights under Section  
18 10177(g) of the Code.

19 18

20 The overall conduct of ROWE and ARNOLD, constitutes a  
21 failure on their part, as officers designated by a corporate  
22 broker licensee, responsible for the supervision and control over  
23 the activities conducted on behalf of OFI by its officers,  
24 managers and employees as necessary to secure full compliance with  
25 the provisions of the Real Estate Law during their respective  
26 tenures as designated officers. This conduct is cause for the

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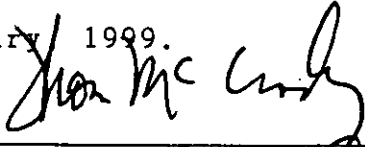
1 suspension or revocation of their real estate license and license  
2 rights under to Sections 10159.2 and 10177(d) of the Code.

3 19

4 On May 8, 1997, in Case No. H-27189 LA, an Accusation  
5 was filed against respondent OCHOA that resulted in discipline for  
6 her for a violation of Section 10137 of the Code. The discipline  
7 in the form of a suspension for thirty was effective on March 26,  
8 1998, stayed by a monetary penalty or reimbursement of \$5,100.

9 WHEREFORE, Complainant prays that a hearing be conducted  
10 on the allegations made by the Accusation and, that upon proof  
11 thereof, a decision be rendered imposing disciplinary action  
12 against the license and license rights of OMEGA FUNDING, INC. and  
13 FRED JOSEPH ARNOLD, SAMUEL J. ROWE, individually and as designated  
14 officer of OMEGA FUNDING, Inc., and OCHOA ALEXANDRINA, under the  
15 Real Estate Law (Part 1 of Division 4 of the Business and  
16 Professions Code) and for such other and further relief as may be  
17 proper under other applicable provisions of law, including the  
18 imposition of a fine of up to \$10,000 pursuant to the provisions  
19 of Section 10139.5 of the Business and Professions Code.

20 Dated at Los Angeles,  
21 this 11th day of February 1999.



22 \_\_\_\_\_  
23 Deputy Real Estate Commissioner

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cc: Omega Funding, Inc.  
c/o Fred J. Arnold, D.O.  
Sacto  
PM

cc: Samuel J. Rowe, President  
c/o, Omega Funding, Inc.  
Sacto  
PM

cc: Alejandrina Ochoa  
c/o, Omega Funding, Inc.  
Sacto  
PM

