

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105

FILED
JUL 11 2000
DEPARTMENT OF REAL ESTATE

By K. Krieserhold

8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) NO. H-28152 LA
12 DAT YEN,)
13) STIPULATION AND AGREEMENT
14)
15 Respondent.)

16 It is hereby stipulated by and between DAT YEN and the
17 Complainant, acting by and through Elliott Mac Lennan, Counsel for
18 the Department of Real Estate, as follows for the purpose of
19 settling and disposing of the Accusation filed in this matter on
20 June 2, 1999:

21 1. Respondent has received, read and understands the
22 Statement to Respondent, the Discovery Provisions of the
23 Administrative Procedure Act (APA) and the Accusation filed by the
24 Department of Real Estate in this proceeding.

25 2. Respondent filed a Notice of Defense pursuant to
26 Section 11505 of the Government Code for the purpose of requesting
27 a hearing on the allegations in the Accusation. Respondent hereby

1 freely and voluntarily withdraws said Notice of Defense.
2 Respondent acknowledges that he understands that by withdrawing
3 said Notice of Defense he thereby waives his right to require the
4 Commissioner to prove the allegations in the Accusation at a
5 contested hearing held in accordance with the provisions of the
6 APA and that he will waive other rights afforded to him in
7 connection with the hearing such as the right to present evidence
8 in his defense and the right to cross-examine witnesses.

9 3. This Stipulation and Agreement (Stipulation) is
10 based on the allegations contained in the Accusation. In the
11 interest of expedience and economy, respondent chooses not to
12 contest these allegations, but to remain silent and understands
13 that, as a result thereof, these allegations, without being
14 admitted or denied, will serve as a prima facie basis for the
15 disciplinary action stipulated to herein. The Real Estate
16 Commissioner shall not be required to provide further evidence to
17 prove said allegations.

18 4. This Stipulation is based on respondent's decision
19 not to contest the allegations set forth in the Accusation as a
20 result of the agreement negotiated between the parties. This
21 Stipulation, based on respondent's decision not to contest the
22 Accusation, is expressly limited to this proceeding and any
23 further proceeding initiated by or brought before the Department
24 of Real Estate based upon the facts and circumstances alleged in
25 the Accusation, and made for the sole purpose of reaching an
26 agreed disposition of this proceeding. The decision of respondent
27 not to contest the allegations, as contained in the stipulated



1 Order, is made solely for the purpose of effectuating this
2 Stipulation. It is the intent and understanding of the parties
3 that this Stipulation shall not be binding or admissible against
4 respondent in any actions against respondent by third parties.

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

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

21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulation and solely for
23 the purpose of settlement of the pending Accusation without a
24 hearing, it is stipulated and agreed that the following
25 determination of issues shall be made:

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The conduct of respondent DAT YEN as described in Paragraph 3, above, is in violation of Sections 10145 and 10234 of the California Business and Professions Code (Code) and Sections 2831.2, 2832, 2834 and 2840 of Title 10, Chapter 6 of the California Code of Regulations, and is a basis for the suspension or revocation of said respondent's license and license rights pursuant to Section 10177(d) of the Code.

ORDER

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

I

The real estate broker license and license rights of respondent DAT YEN under the Real Estate Law (Part 1 of Division 4 of the Code) are hereby revoked.

DATED: 2-14-00

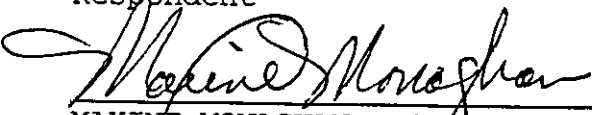
E. J. L.
ELLIOTT MAC LENNAN
Counsel for Complainant

* * * * *

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code) and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have

1 the right to cross-examine witnesses against me and to present
2 evidence in defense and mitigation of the charges.

3
4 DATED: 3/27/00 
5 DAT YEN
6 Respondent

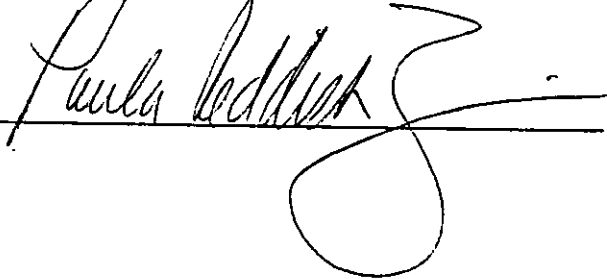
7 DATED: 3/23/00 
8 MAXINE MONAGHAN, ESQ.
9 Attorney for Respondent DAT YEN

10 * * * * *

11 The foregoing Stipulation and Agreement is hereby adopted
12 as my Decision and Order and shall become effective at 12 o'clock
13 noon on August 1, _____, 2000

14 IT IS SO ORDERED July 7, 2000

15 PAULA REDEISH ZINNEMANN
16 Real Estate Commissioner

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*Stamps
Jury*

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
320 West 4th Street, Suite 630
Los Angeles, California 90013-1105

Telephone (213) 576-6911

FILED
JAN 20 2000
DEPARTMENT OF REAL ESTATE

By *K. Stuber*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
)	No. H-28152 LA
DAT YEN,)	
)	<u>FIRST AMENDMENT</u>
Respondent.)	<u>TO ACCUSATION</u>
_____)	

The Accusation filed June 2, 1999, is amended as follows:

Paragraph 9, lines 2-3, page 5, delete the words "failed to provide and/or"

Paragraph 12, page 6, substitute the following paragraph in place of the present paragraph:

12

PRIOR DISCIPLINE

On April 26, 1996, in Case No. H-2073 SA, an Accusation was filed against Respondent DAT YEN that resulted in a stipulated agreement for the imposition of discipline effective June 2, 1998, for said Respondent for violations of Sections 10137, 10145,

1 10161.8, 10176(g), 10177(d), 10177(h) and 10240 of the Code, and
2 for violations of Sections 2725, 2731, 2752, 2830, 2831, 2831.1,
3 2831.2, 2840, 2842.5 and 2951 of the Regulations.

4 WHEREFORE, Complainant prays that a hearing be conducted
5 on the allegations made by the Accusation and the First Amendment
6 to Accusation and, that upon proof thereof, a decision be rendered
7 imposing disciplinary action against the license and license
8 rights of DAT YEN under the Real Estate Law (Part 1 of Division 4
9 of the Business and Professions Code) and for such other and
10 further relief as may be proper under other applicable provisions
11 of law.

12 Dated at Los Angeles, California
13 this 20th day of January, 2000.

14 THOMAS MC CRADY

15 Deputy Real Estate Commissioner

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23 cc: Dat Yen
24 c/o Cal Lending Network
25 Flexible Funding Group
26 Home Realty
27 Sunbelt Finance
Sacto.
PI
Maxine Monaghan, Esq.



Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC - 6 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

DAT YEN,

By *K. H. Cederholm*

Case No. H-28152 LA

OAH No. L-1999070399

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 W. Fourth St., Ste. 630, Los Angeles, 90013 on February 16, 2000, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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

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

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

DEPARTMENT OF REAL ESTATE

Dated: December 6, 1999

By *K. H. Cederholm*
Counsel

cc: Dat Yen
RE 501 (Rev. 8/97) Maxine Monaghan, Esq.
Sacto
OAH
kw JC

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ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
320 West 4th Street, Suite 630
Los Angeles, California 90013-1105

FILED
JUN - 2 1999
DEPARTMENT OF REAL ESTATE

(213) 576-6911 (direct); 576-6982 office By *R. Medeiros*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
DAT YEN,)	No. H-28152 LA
Respondent.)	<u>A C C U S A T I O N</u>
_____)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against DAT YEN aka Dat Pat Yen, Dat Tien, Nguyen Dat Tien and Pat Yen, dba Cal Lending Network, Flexible Funding Group, Home Realty and Sunbelt Finance, is informed and alleges in his official capacity as follows:

1

DAT YEN, sometimes referred to as Respondent, is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

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1
2 All references to the "Code" are to the California
3 Business and Professions Code and all references to "Regulations"
4 are to Title 10, Chapter 6, California Code of Regulations.

5
6 At all times mentioned, DAT YEN was licensed or had
7 license rights issued by the Department of Real Estate
8 (Department). DAT YEN was initially licensed by the Department as
9 a real estate broker on August 17, 1978. On June 2, 1998, his
10 license was revoked and re-issued as a restricted broker license
11 as a result of the discipline imposed in DRE Case No. H-2073 SA
12 described below as Prior Discipline, in Paragraph 12.

13
14 At all times mentioned, in the City of Alhambra, Los
15 Angeles County, Respondent DAT YEN acted as a real estate broker
16 in the State of California within this meaning of Section
17 10131(d) of the Code, including the operation of a mortgage and
18 loan brokerage business. In addition, Respondent conducted broker
19 controlled escrows under the exemption set forth in Section
20 17006(a)(4) of the California Financial Code.

21
22 Audit Report LA 980079

23 On October 8, 1998, the Department completed a field
24 audit examination of the books and records of DAT YEN pertaining
25 to his mortgage and loan activities and escrow activities
26 requiring a real estate license as described in Paragraph 4. The
27 audit examination covered a period of time beginning on May 1,

1 1998 to August 31, 1998. The audit examination revealed violations
2 of the Code and the Regulations as set forth in the following
3 paragraphs.

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5 At all times mentioned, in connection with the
6 activities described in Paragraph 4, above, DAT YEN accepted or
7 received funds in trust (trust funds) from or on behalf of actual
8 or prospective buyers and sellers and thereafter made disposition
9 of such funds. Respondent maintained an escrow trust account
10 during the audit period into which he deposited certain of these
11 funds:

12 Cal-Lending Network
13 Account Number 10774-10723
14 Bank Of America
24801 Del Prado Avenue.
Dana Point, CA 92629

15 7

16 With respect to the trust funds referred to in Paragraph
17 5, it is alleged that DAT YEN:

18 (a) Failed to perform a monthly reconciliation of the
19 balance of all separate beneficiary or transaction records
20 maintained pursuant to Regulation 2831.1 with the record of all
21 trust funds received and disbursed from the trust account, as
22 required by Regulation 2831.2;

23 (b) Failed to place funds, in the name of the broker as
24 trustee, as required by Section 2832 of the Regulations;
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27

1 (c) Permitted an unlicensed person who was not bonded,
2 Amanda Pham, to be an authorized signatory on the trust account,
3 in violation of Section 2834 of the Regulations.

4 8

5 The conduct of Respondent DAT YEN, described in
6 Paragraph 7, above, violated the Code and the Regulations as set
7 forth below:

8 PARAGRAPH

PROVISIONS VIOLATED

9 7(a) Section 10145 of the Code, and
10 Section 2831.2 of the Regulations

11 7(b) Section 10145 of the Code
12 Section 2832 of the Regulations

13 7(c) Section 10145 of the Code
14 Section 2834 of the Regulations
15

16 Each of the foregoing violations separately constitutes cause for
17 the suspension or revocation of the real estate license and
18 license rights of DAT YEN under the provisions of Section 10177(d)
19 of the Code.

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2 The audit examination revealed that DAT YEN failed to
3 provide and/or maintain a statement in writing containing all the
4 information required by Section 10241 of the Code to various
5 borrowers including but not limited to James Criner, Francisco
6 Nogales and Leta Beal before these borrowers became obligated to
7 perform under the terms of their loans. This omission is a
8 violation of Section 10240 of the Code and Section 2840 of the
9 Regulations. This omission constitutes cause for the suspension
10 or revocation of the real estate license and license rights of DAT
11 YEN under Section 10177(d) of the Code.

10

12
13 The conduct of DAT YEN, as described in the audit
14 report, to wit, naming his fictitious business name of Cal Lending
15 Network as beneficiary of the loans secured or collateralized by
16 liens on real property for the Francisco Nogales and Leta Beal
17 trust deeds, instead of naming the lender Gibraltar Financing
18 Corporation or his/her nominee as beneficiary without first having
19 obtained said lenders written authorization. This conduct and
20 violation are cause to suspend or revoke the real estate licenses
21 and license rights of Respondent DAT YEN pursuant to Section 10234
22 of the Code.

11

23
24 The overall conduct of DAT YEN constitutes negligence or
25 incompetence. This conduct and violation are cause for the
26 suspension or revocation of the real estate license and license
27



1 rights of Respondent DAT YEN under the provisions of Section
2 10177(g) of the Code.

3 12

4 PRIOR DISCIPLINE

5 On April 26, 1996, in Case No. H-2073 SA, an Accusation
6 was filed against Respondent YEN that resulted in discipline
7 effective May 2, 1995, for said Respondent for violations of
8 Sections 10176(a), 10176(b), 10176(c), 10176(i), 10177(d) and
9 10177(g) of the Code.

10 WHEREFORE, Complainant prays that a hearing be conducted
11 on the allegations made by the accusation and, that upon proof
12 thereof, a decision be rendered imposing disciplinary action
13 against the license and license rights of DAT YEN under the Real
14 Estate Law (Part 1 of Division 4 of the Business and Professions
15 Code) and for such other and further relief as may be proper under
16 other applicable provisions of law.

17 Dated at Los Angeles, California
18 this 2nd day of June, 1999.

19 THOMAS MC CRADY

20 Deputy Real Estate Commissioner

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22
23
24 cc: Dat Yen
25 c/o Cal Lending Network
26 Flexible Funding Group
27 Home Realty
Sunbelt Finance
Sacto.
PI

