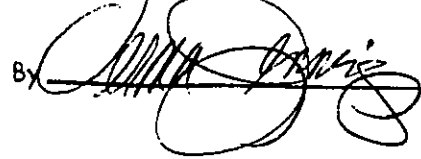


SP-2
Flag

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013

(213) 597-6982 general

FILED
NOV - 9 2000
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-28590 LA
)
MASSOUD AFSHARI,)
)
Respondent.)
_____)

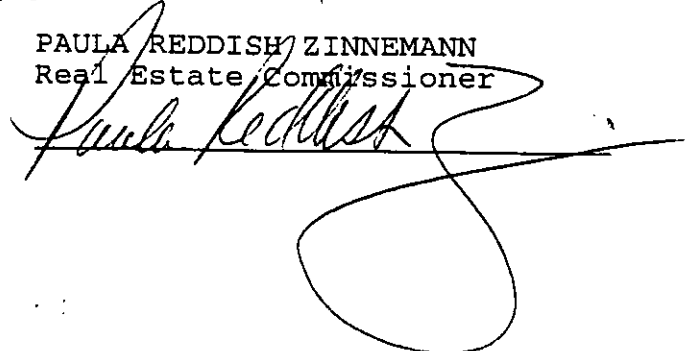
ORDER DENYING RECONSIDERATION

On September 12, 2000, a Decision was rendered in the above-entitled matter to become effective on October 12, 2000. On October 5, 2000, respondent petitioned for reconsideration, requesting a new hearing.

On October 6, 2000, a stay was granted to November 13, 2000 in expectation of the receipt of further support of his petition by October 30, 2000. No further materials have been received. I find no good cause to reconsider the Decision of September 12, 2000 and reconsideration is denied.

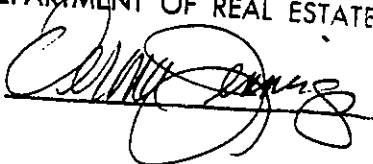
IT IS SO ORDERED November 6, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



SACD,
Play

FILED
OCT - 6 2000
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
MASSOUD AFSHARI,)
Respondent.)
_____)

No. H-28590 LA
L-2000060381

ORDER STAYING EFFECTIVE DATE

On September 12, 2000, a Decision was rendered in the above-entitled matter to become effective October 12, 2000.

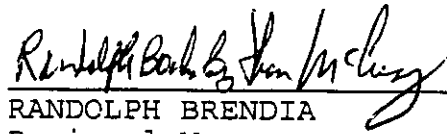
IT IS HEREBY ORDERED that the effective date of the Decision of September 12, 2000, is stayed for a period of 30 days.

The Decision of September 12, 2000, shall become effective at 12 o'clock noon on November 13, 2000.

DATED: October 6, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By:


RANDOLPH BRENDIA
Regional Manager



DEPARTMENT OF REAL ESTATE

By James Davis

In the Matter of the Accusation of)
)
)
 MASSOUD AFSHARI,)
)
)
 Respondent.)

DECISION

This Decision shall become effective at 12 o'clock noon
on October 12, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddy

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

In the Matter of the Accusation of:

MASSOUD AFSHARI,

Respondent.

Case No. H-28590 LA

OAH No. L-2000060381

PROPOSED DECISION

On August 9, 2000, in Los Angeles, California, Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Sean Crahan, Counsel, represented complainant.

Respondent Massoud Afshari represented himself.

The matter was submitted on August 9, 2000.

FACTUAL FINDINGS

1. Thomas McCrady, Deputy Real Estate Commissioner of the State of California (hereafter, "Department") filed Accusation No. H-28590 LA in his official capacity on May 31, 2000. Respondent filed a Notice of Defense dated June 14, 2000.
2. The Department issued real estate broker license number 00608566 to respondent and at all relevant times, the license was in full force and effect. On April 29, 1994, respondent submitted a Broker Change Application to the Department which added the Fictitious Business Name Omega Financial Group (hereafter, "Omega"). At the same time he filed a copy of a Fictitious Business Name Statement which had been filed in the Orange County clerk's office indicating he and Ali Sabbagh were co-partners in Omega.
3. On April 1, 1994, respondent and Ali Asghar Sabbagh, also known as Alan Saba, entered into an agreement which provided that respondent would become the designated broker of Omega, a mortgage company Sabbagh owned and operated. The agreement provided that all loans generated by respondent would be split 50-50, all loans

generated by Omega and assigned to respondent would be split 60-40, and Omega agreed to pay respondent a monthly fee of \$500 as broker compensation. The compensation was increased to \$600 per month after one year.

4. On March 19, 1998, in the Superior Court of the State of California, County of Orange, a civil complaint in the case of *Jamal Hejazi and Shahla Hejazi v. Massoud Afshari, Ali Ashgar Sabbagh, Omega Financial Group et. al*, Case No. 791932 was filed. The complaint alleged damages for fraud, conspiracy to defraud, notarial misconduct, negligence, unfair business practices, and injunctive relief. Respondent failed to appear and a default was entered against him. On May 7, 1999, the court issued a judgment against respondent and Sabbagh in the amount of \$100,000.00 plus attorneys fees and costs in the amount of \$118,122.09, and treble damages in the amount of \$10,000.00.

Based upon the complaint and the evidence offered at the trial, the following was established:

Plaintiffs, owners of real property on Woodstone Court in Las Vegas, Nevada and San Feliciano Drive in Woodland Hills, California, sought to refinance their existing loan secured by their San Feliciano property. They had seen advertisements from Omega offering loans secured by real property in an amount equal to 125 percent of the appraised value of the property. Plaintiffs met Sabbagh at the Omega office in Costa Mesa in 1997 and he told them that obtaining the loan would not be a problem and all they needed to do was sign the paperwork and he would fill in the particulars necessary to facilitate the loan. They then signed some blank forms for the purpose of obtaining the requested loan. Thereafter, an escrow was opened for the purported purpose of facilitating the loan and the defendants caused an appraiser to visit and appraise the plaintiffs' property on San Feliciano as well as Woodstone Court. The defendants told the plaintiffs the appraisal on the Woodstone Court property was necessary to accurately set forth plaintiffs' net worth on their loan application.

In approximately May 1997, an escrow closed for the refinance of the San Feliciano property. As a result, the plaintiffs' prior loan was satisfied and a new loan secured by a deed of trust in favor of Assurance Mortgage Corporation of America was obtained in the amount of \$214,600.00. Plaintiffs received the net sum of \$72,116.53. Plaintiffs had not executed any documents containing the particulars of the loan, they had not been provided the lender's criteria, and had not appeared before a notary public. However, a deed of trust, interspousal transfer deed, signature affidavit, and other documents bearing a notarial seal were created.

Defendants then caused another loan to be created without the knowledge or consent of the plaintiffs. The lender was Dollar Mortgage Corporation and another security interest in the San Feliciano property was created. This loan provided for a credit line of \$94,150.00.

In June 1997, the defendants caused a third loan to be created with Capital Commerce Mortgage Company as the lender. This loan was secured by a deed of trust on the

Woodstone Court property. Plaintiffs had not sought this loan nor had they signed any documents for the purpose of obtaining this loan. In July 1997, the defendants opened an escrow for the purpose of refinancing the then outstanding principal balance of \$44,200.00 demanded by Capital. In August 1997, the defendants opened another escrow to consummate a fourth loan and to pay off the then-existing encumbrances on the property on San Feliciano, and created a security interest in favor of Omega in the amount of \$310,000.00. Plaintiffs had no knowledge of this loan or any of these other loans and had signed no documents for the purpose of obtaining them.

Based upon the evidence offered at the trial, the court found respondent, Sabbagh, and Omega intentionally made misrepresentations of fact to the plaintiffs and caused them financial damage, they procured and offered false instruments to be filed and recorded in official county records, they caused the filing of false instruments in official county records which placed an encumbrance secured by a mortgage or deed of trust on real property, and they made false statements to a notary public to induce the notary public to improperly notarize false documents, all in violation of Business and Professions Code sections 17200 et seq., Penal Code sections 115, 115.5(a), 115.5(b), 531, 532, Civil Code sections 1709, 1710, and 2306. The court also found Omega and Sabbagh arranged for loans secured by residential real property without a license in violation of Business and Professions Code section 10130.

5. Respondent testified in his own behalf. He entered into an agreement with Sabbagh to be the designated broker of Omega in April 1994 and remained in that capacity until May 1998, when Sabbagh gave him two checks pursuant to the agreement and there were insufficient funds in Omega's account to cover the checks. Respondent testified he had nothing to do with the transaction which led to the complaint and judgment and did not even know about the lawsuit until after the judgment was entered. He asserted he had done nothing wrong. Respondent presently works for Ramada Vacation Suites, a Nevada corporation but he works out of the West Covina office as a broker and sales manager.

According to the agreement, Sabbagh was to pay respondent \$500 per month and he did so for one year, when the amount was raised to \$600 per month. Sabbagh was not licensed and respondent knew that. Respondent knew other licensees were performing licensed activities and was not concerned that Sabbagh was not licensed.

6. Respondent's duties with Omega were minimal. He reported the hiring and termination of salespersons to the Department and reviewed documents. He did not review the trust account or any of the documents associated with it. He claimed he went to the Omega office multiple times a week, but his testimony was not credible. He did not know the names of others licensees, and the deposition of a receptionist indicates respondent came to the office about once a month. That is a more believable version of respondent's role in the conduct of Omega's affairs than his testimony at the hearing.

Respondent claimed he did not know others were signing his name to loan documents but that testimony is likewise not credible. He was contradicted by a statement he made to a Department investigator and by the deposition of the receptionist, who routinely signed his name to documents. If respondent reviewed documents, he would have known his signature appeared on documents he did not sign. If he did not know, he was negligent in exercising his supervisory authority.

The evidence established respondent simply loaned his name and his license to Sabbagh for \$500 or \$600 a month for four years, and performed few, if any, of the duties required of a real estate broker. Respondent knew Sabbagh ran Omega and probably knew he performed work for which a license was required, but he did nothing to prevent it. He came into the office infrequently, and probably only to pick up his check. Meanwhile, he worked for another corporation. Respondent's negligence resulted in substantial harm to a client of Omega's, yet respondent maintains he has done nothing wrong and has no intention of repaying any of the money required by the judgment.

For four years, respondent abdicated his responsibility as a licensed real estate broker and allowed an unlicensed person to operate a mortgage brokerage company without supervision. As a result, a client was damaged by Sabbagh's fraudulent conduct. The only appropriate penalty is revocation of respondent's real estate license.

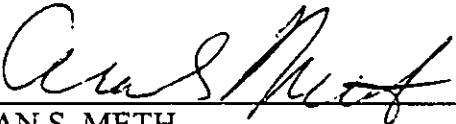
LEGAL CONCLUSIONS

1. Cause to revoke or suspend respondent's real estate broker's license was established for violation of Business and Professions Code section 10177.5 by reason of Findings 2, 3, 4, and 5.
2. Cause to revoke respondent's real estate broker's license was established by reason of Findings 2, 3, 4, 5, and 6.

ORDER

All licenses and licensing rights of respondent Massoud Afshari under the Real Estate Law are revoked.

DATED: August 16, 2000



ALAN S. METH
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILED
JUN 29 2000
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)

MASSOUD AFSHARI,)

Respondent.)

Case No. H-28590 LA
OAH No. L-2000060381

By

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 West Fourth Street, Suite 630, Los Angeles, California, on **August 9, 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.

Dated: June 29, 2000.

DEPARTMENT OF REAL ESTATE

By:


SEAN CRAHAN, Counsel

cc: Massoud Afshari
Sacto.
OAH

SEAN CRAHAN, Counsel
State Bar No. 49351
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

(213) 597-6982 General
(213) 597-6907 Direct

FILED
MAY 31 2000
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-28590 LA
MASSOUD AFSHARI,)
Respondent.)
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 MASSOUD AFSHARI is informed and alleges as follows.

1.

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

2.

MASSOUD AFSHARI (hereinafter 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, hereafter referred to as the Code). At all times mentioned herein, respondent was and now is licensed by the Department of

1 Real Estate of the State of California (herein "the Department")
2 as a real estate broker. Respondent was doing business as Omega
3 Financial Group.
4

5 3.

6 On or about May 13, 1999, in a civil action by Jamal G.
7 Hejazi and Shahla Hejazi against Massoud Afshari, et al., in the
8 Orange County Superior Court, case number 791932, a final judgment
9 was entered for \$218,122.09 against respondent. Said judgment was
10 based on fraud, misrepresentation or deceit in a transaction for
11 which respondent was required to be licensed. Said judgment is
12 final.

13 4.

14 The entry of the final judgment, set forth above,
15 constitutes cause for suspension or revocation of respondent's
16 real estate licenses and license rights under Code Section
17 10177.5.

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1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of this Accusation and, that upon proof
3 thereof, a decision be rendered imposing disciplinary action
4 against all licenses and license rights of respondent MASSOUD
5 AFSHARI under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.
8 Dated at Los Angeles, California
9 this 31st day of May, 2000.
10
11

12 THOMAS McCRADY
13 Deputy Real Estate Commissioner
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22 cc: Massoud Afshari
23 Thomas McCrady
24 Recovery Program, Sacto.
25 Sacto. Licensing
26 JLN
27