

FILED

JUN 26 2010

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

SECURITY PACIFIC MORTGAGE
CORPORATION,

Respondent.

No. H-29428 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On November 5, 2003, a Decision was rendered revoking the real estate broker license of Respondent, but granting Respondent the right to apply for a restricted broker license. A restricted broker license was issued to Respondent on December 8, 2003.

On June 3, 2008, 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.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license at this time.

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

1 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

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

5 Regulation 2911(a)—passage of two years since the most recent violation

6 The most recent Department Audit of Respondent indicates Respondent is still
7 violating provisions of the Real Estate Law.

8 Regulation 2911(i)—completion of, or sustained enrollment in formal educational
9 or vocational training courses

10 Respondent has not submitted proof that its designated officer has completed
11 required continuing education.

12 Regulation 2911(j)—discharge of, or bona fide efforts toward discharging debts.

13 Respondent has not provided proof that its designated officer has discharged all
14 tax liens.

15 Regulation 2911(k)—correction of business practices

16 Respondent has not provided proof that Respondent has corrected previous
17 business practices resulting in injury to others, or with the potential to cause such injury.

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

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

23 This Order shall become effective at 12 o'clock noon on JUL 16 2010

24 IT IS SO ORDERED _____

25 JEFF DAVI
26 Real Estate Commissioner
27

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105

FILED
NOV - 7 2003
DEPARTMENT OF REAL ESTATE

5 Telephone: (213) 576-6982 (Office)
6 -or- (213) 576-6911 (Direct)

By K. Rubenolt

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-29428 LA

12 SECURITY PACIFIC MORTGAGE)
13 CORPORATION, dba Prudential)
14 Properties of Big Bear, and)
15 Big Bear Escrow; and HAROLD LEROY)
16 RUBENDALL, individually and)
17 as designated officer of)
18 Security Pacific Mortgage)
19 Corporation,)

STIPULATION
AND
AGREEMENT

20 Respondents.)

21 It is hereby stipulated by and between Respondent
22 SECURITY PACIFIC MORTGAGE CORPORATION, represented by Lawrence H.
23 Lackman, Esq. (sometimes collectively referred to as Respondent),
24 and the Complainant, acting by and through Elliott Mac Lennan,
25 Counsel for the Department of Real Estate, as follows for the
26 purpose of settling and disposing of the Accusation filed on
27 March 20, 2002, in this matter:

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondent
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement (Stipulation).

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondent filed a Notice of Defense pursuant to
13 Section 11506 of the Government Code for the purpose of
14 requesting a hearing on the allegations in the Accusation.
15 Respondent hereby freely and voluntarily withdraws said Notice of
16 Defense. Respondent acknowledges that it understands that by
17 withdrawing said Notice of Defense it thereby waives its right to
18 require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that it will waive other rights
21 afforded to it in connection with the hearing such as the right
22 to present evidence in its defense and the right to cross-examine
23 witnesses.
24

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of
27

1 expedience and economy, Respondent chooses not to contest these
2 allegations, but to remain silent and understands that, as a
3 result thereof, these factual allegations, without being admitted
4 or denied, will serve as a prima facie basis for the disciplinary
5 action stipulated to herein. The Real Estate Commissioner shall
6 not be required to provide further evidence to prove said factual
7 allegations.

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

22 6. It is understood by the parties that the Real
23 Estate Commissioner may adopt this Stipulation as her Decision in
24 this matter thereby imposing the penalty and sanctions on
25 Respondent's real estate licenses and license rights as set forth
26 in the "Order" herein below. In the event that the Commissioner
27

1 in her discretion does not adopt the Stipulation, it shall be
2 void and of no effect and Respondent shall retain the right to a
3 hearing and proceeding on the Accusation under the provisions of
4 the APA and shall not be bound by any stipulation or waiver made
5 herein.

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

12 8. This stipulation and the order made pursuant to
13 this stipulation shall have no collateral estoppel or res
14 judicata effect in any proceeding(s) in which SECURITY PACIFIC
15 MORTGAGE CORPORATION and the Department are not parties. This
16 stipulation is made and accepted with the express understanding
17 and agreement that it is for the purpose of settling these
18 proceedings only, and is not intended as, nor shall be it be
19 deemed, used, argued, or accepted as an acknowledgement or
20 admission of fact in any other judicial, administrative, or other
21 proceeding in which the Department is not a party.

22 9. Respondent understands that by agreeing to this
23 Stipulation, Respondents agree to pay, pursuant to Business and
24 Professions Code Section 10148, the cost of the audit which led
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26
27

1 to this disciplinary action. The amount of said cost is
2 \$3,331.68.

3 10. Respondent has received, read, and understands
4 the "Notice Concerning Costs of Subsequent Audit". Respondents
5 further understand that by agreeing to this Stipulation, the
6 findings set forth below in the Determination of Issues become
7 final, and the Commissioner may charge Respondent for the cost of
8 any subsequent audit conducted pursuant to Business and
9 Professions Code Section 10148 to determine if the violations
10 have been corrected. The maximum cost of the subsequent audit
11 will not exceed \$3,331.68.

12 DETERMINATION OF ISSUES

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

15 1.

16 The conduct, acts and/or omissions of SECURITY PACIFIC
17 MORTGAGE CORPORATION, as described in Paragraph 4, is in
18 violation of Sections 10137 and 10145 of the Business and
19 Professions Code (Code) and Sections 2830.1, 2831.2, 2832.1,
20 2950(d), 2950(g) and 2951 of Title 10, Chapter 6, of the
21 California Code of Regulations and is a basis for the suspension
22 or revocation of Respondent's license and license rights as a
23 violation of the Real Estate Law pursuant to Code Sections
24 10177(d) and 10177(g).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The restricted real estate broker license issued to Respondent SECURITY PACIFIC MORTGAGE CORPORATION, under the Real Estate Law is revoked; provided, however, a new restricted real estate broker license shall be issued to Respondent, pursuant to Section 10156.5 of the Business and Professions Code if

Respondent:

(A) Makes application therefor and pay to the Department of Real Estate the appropriate fee for the restricted license within ninety (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 the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Business and Professions Code; and if

(B) Respondent SECURITY PACIFIC MORTGAGE CORPORATION shall, prior to and as a condition of the issuance of said restricted license, submit proof satisfactory to the Commissioner that any designated officer employed by Respondent has taken and completed at an accredited institution the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this

1 requirement includes evidence that the designated officer has
2 successfully completed the trust fund account and handling course
3 within 120 days prior to the effective date of the Decision in
4 this matter.

5 In the event of a change of designated officers after
6 the effective date but during the restricted period, the new
7 designated officer must take and complete at an accredited
8 institution the continuing education course on trust fund
9 accounting and handling specified in paragraph (3) of subdivision
10 (a) of Section 10170.5 of the Business and Professions Code.

11 Proof of satisfaction of this requirement includes evidence that
12 the designated officer has successfully completed the trust fund
13 account and handling course within 120 days prior to or after the
14 new designated officer's employment date.

15
16 1. The new restricted license issued to Respondent may
17 be suspended prior to hearing by Order of the Real Estate
18 Commissioner in the event of Respondent's conviction or plea of
19 nolo contendere to a crime which is substantially related to a
20 Respondent's fitness or capacity as a real estate licensee.

21 2. The new restricted license issued to Respondent
22 may be suspended prior to hearing by Order of the Real Estate
23 Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated provisions of the California Real Estate
25 Law, the Subdivided Lands Law, Regulations of the Real Estate
26 Commissioner or conditions attaching to the restricted license.
27

1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations or restrictions of
4 a restricted license until two (2) years have elapsed from the
5 effective date of this Decision.

6 4. Pursuant to Code Section 10148, Respondent shall
7 pay the Commissioner's reasonable cost for (a) the audit which
8 led to this disciplinary action and (b) a subsequent audits to
9 determine if Respondent SECURITY PACIFIC MORTGAGE CORPORATION is
10 now in compliance with the Real Estate Law. The cost of the
11 audit which led to this disciplinary action is \$3,331.68. In
12 calculating the amount of the Commissioner's reasonable cost, the
13 Commissioner may use the estimated average hourly salary for all
14 persons performing audits of real estate brokers, and shall
15 include an allocation for travel time to and from the auditor's
16 place of work. Said amount for the prior and subsequent audits
17 shall not exceed \$6,663.36.

18
19 Respondent SECURITY PACIFIC MORTGAGE CORPORATION shall
20 pay such cost within 60 days of receiving an invoice from the
21 Commissioner detailing the activities performed during the audit
22 and the amount of time spent performing those activities.

23 The Commissioner may suspend the license of Respondent
24 pending a hearing held in accordance with Section 11500, et seq.,
25 of the Government Code, if payment is not timely made as provided
26 for herein, or as provided for in a subsequent agreement between
27

1 the Respondent and the Commissioner. The suspension shall remain
2 in effect until payment is made in full or until Respondent
3 enters into an agreement satisfactory to the Commissioner to
4 provide for payment, or until a decision providing otherwise is
5 adopted following a hearing held pursuant to this condition.
6
7

8 DATED: 10-22-03

E. J. W.
9 ELLIOTT MAC LENNAN, Counsel for
10 the Department of Real Estate

11 * * *

12 EXECUTION OF THE STIPULATION

13 We have read the Stipulation and Agreement and have
14 discussed it with our counsel. Its terms are understood by us
15 and are agreeable and acceptable to us. We understand that we
16 are waiving rights given to us by the California Administrative
17 Procedure Act (including but not limited to Sections 11506,
18 11508, 11509 and 11513 of the Government Code), and we willingly,
19 intelligently and voluntarily waive those rights, including the
20 right of requiring the Commissioner to prove the allegations in
21 the Accusation at a hearing at which we would have the right to
22 cross-examine witnesses against us and to present evidence in
23 defense and mitigation of the charges.
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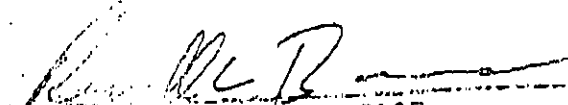
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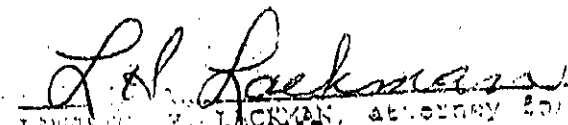
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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing only a copy of its signature page, electronically signed by Respondent, to the Department at the following telephone/fax number: Elliott Mac Lennan AG (213) 461-6917. Respondent hereby acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as they appear on the Stipulation and Agreement that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATE: 10-16-03


 ELLIOTT MAC LENNAN
 ELLIOTT MAC LENNAN AG
 515 W. HILL-CARD BARNES, P.O.
 Respondent

DATE: 10.16.03


 LAWRENCE L. LACKMAN, attorney for
 Respondent. Approved As to Form

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1 Respondent can signify acceptance and approval of the
2 terms and conditions of this Stipulation and Agreement by faxing
3 only a copy of its signature page, as actually signed by
4 Respondent, to the Department at the following telephone/fax
5 number: Elliott Mac Lennan at (213) 576-6917. Respondent
6 agrees, acknowledges and understands that by electronically
7 sending to the Department a fax copy of Respondent's actual
8 signature as they appear on the Stipulation and Agreement, that
9 receipt of the faxed copy by the Department shall be as binding
10 on Respondent as if the Department had received the original
11 signed Stipulation and Agreement.
12

13
14 DATED: _____

SECURITY PACIFIC MORTGAGE
CORPORATION
BY: RUSSELL CARL BARNES, D.O.,
Respondent

15
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19 DATED: _____

LAWRENCE H. LACKMAN, attorney for
Respondent. Approved As to Form

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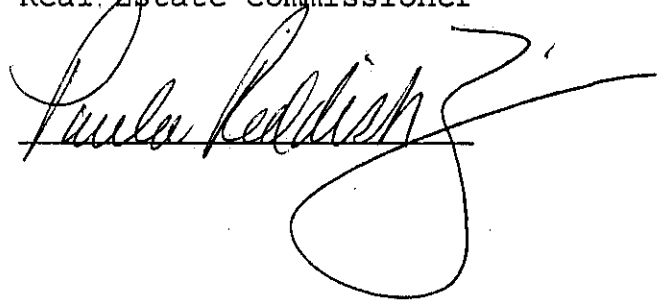
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* * *

1
2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision as to Respondent SECURITY PACIFIC MORTGAGE
4 CORPORATION and shall become effective at 12 o'clock noon on
5 DEC - 4, 2003.

6 IT IS SO ORDERED November 5, 2003

7
8 PAULA REDDISH ZINNEMANN
9 Real Estate Commissioner

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FILED
MAR 12 2003
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By K. Niederholtz

* * *

In the Matter of the Accusation of)	NO. H-29428 LA
)	
SECURITY PACIFIC MORTGAGE)	
CORPORATION, dba Prudential)	
Properties of Big Bear, and Big Bear)	
Escrow; and HAROLD LEROY)	
RUBENDALL, individually and formerly)	
as designated officer of Security)	
Pacific Mortgage Corporation,)	
)	
Respondents.)	
)	

DECISION

This Decision, against HAROLD LEROY RUBENDALL only, is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on December 5, 2002, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent HAROLD LEROY RUBENDALL's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On March 20, 2002, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent HAROLD LEROY RUBENDALL's ("RUBENDALL") last known mailing addresses on file with the Department on March 20, 2002.

2.

On December 5, 2002, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent RUBENDALL's default was entered herein.

3.

Security Pacific Mortgage Corporation ("Security Pacific") and RUBENDALL (hereinafter sometimes referred to as Respondent) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

4.

At all times mentioned, RUBENDALL was licensed by the Department as designated officer of Security Pacific to qualify Security Pacific and to act for Security Pacific as a real estate broker as provided by Section 10159.2 of the Business and Professions Code (Code).

5.

At all times mentioned, in the City of Montebello, Los Angeles County, Security Pacific acted as a real estate broker, within the meaning of:

A. Section 10131(d) of the Code in that Security Pacific operated as a mortgage and loan broker, including soliciting borrowers and lenders and negotiating and servicing loans on real property; and,

B. Section 17006(a)(4) of the California Financial Code in that Security Pacific conducted broker-controlled escrows through its escrow division under the exemption set forth in for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

6.

On January 17, 2001, the Department completed an examination of the books and records of Security Pacific pertaining to the activities described in Finding 5, above. The audit examination covered a period of time beginning June 1, 2000 through November 30, 2000. The audit examination revealed violations of the Code and the

Regulations as set forth below, and more fully discussed in Audit Reports LA 000085/000251 and exhibits/workpapers attached to said audit.

7.

At all times mentioned, in connection with the activities described in Paragraph 6, above, Security Pacific accepted or received funds in trust (trust funds) from or on behalf of borrowers and lenders, and thereafter made disposition of such funds. Respondent Security Pacific maintained the following trust accounts during the audit period into which were deposited certain of these funds at:

"Big Bear Escrow, Escrow Trust Account (T/A #1)
Account No. 0031-021-472"
Imperial Bank
Inglewood, CA 90301

"Security Pacific Mortgage Corp. BB Escrow Trust Account
Account No. 1033883" (T/A #2)
First Mountain Bank,
Big Bear Lake, CA 92315

"Security Pacific Mortgage Corp. Trust Account (T/A #3)
Account No. 001 032771"
First Mountain Bank
Big Bear Lake, CA 92315

8.

With respect to the activities referred to in Findings 5, 6 and 7, it is found that Security Pacific:

(a) Permitted, allowed, or caused a deficit to accumulate in T/A #2, which on December 28, 2000, was in the amount of \$2,403.07, in violation of Code Section 10145 and Section 2832.1 of the Title 10, Chapter 6, California Code ("Code") of Regulations ("Regulations")

(b) Failed to maintain an adequate control record in the form of a columnar record in chronological order of all trust funds received for T/A #2, in violation of Regulation 2831.

(c) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by T/A #2 in violation of Regulation 2831.2.

(d) Received an interest equivalent in the form of an "earnings credit", in the amount of \$26,438.00 from Imperial Bank for T/A #1, (the escrow trust account), between the period of January 2000 through November 2000, in violation of Code Section 10145(d) and Regulation 2830.1(e).

(e) Compensated James B. Figueiredo, a real estate salesperson employed by Security Pacific, to perform acts for which a real estate license is required, for transactions that included Terry/Patricia Folk, Nelson/Cynde Richardson and Thomas/Kimberly Hutchins. Figueiredo's license had expired on February 22, 2000, and was not renewed until January 2, 2001. This is in violation of Code Section 10137.

(f) Failed to retain on file for a period of three years a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement as signed by borrowers Dennis & Nancy Hack, Gill & Sheila Kennard, and Thomas Lam and Jean Sullliven, in violation of Code Section 10240.

9.

The overall conduct of Respondent RUBENDALL constitutes a failure on his part, as officer designated by a corporate broker licensee, responsible for the supervision and control over the activities conducted on behalf of Security by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

10.

The overall conduct of Respondent RUBENDALL constitutes negligence or incompetence.

DETERMINATION OF ISSUES

1.

The conduct, acts/or omissions of Respondent RUBENDALL, as described in Finding 9, herein above, are in violation of Code Section 10159.2.

2.

Cause for disciplinary action against Respondent RUBENDALL exists pursuant to Code Section 10177(h).

3.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

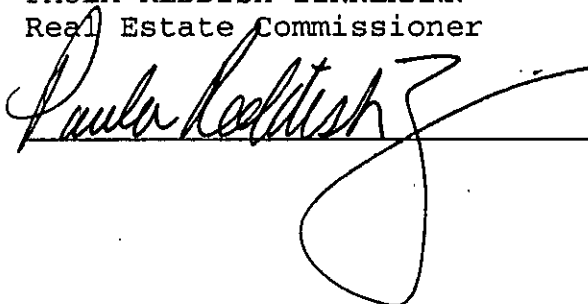
ORDER

The license and license rights of Respondent HAROLD LEROY RUBENDALL under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on April 1, 2003.

DATED: March 6, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

A handwritten signature in cursive script, reading "Paula Reddish Zinnemann", written over a horizontal line.

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FILED
DEC 5 2002
DEPARTMENT OF REAL ESTATE
By K. Niederholt

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-29428 LA
)
) SECURITY PACIFIC MORTGAGE,)
) doing business as Prudential)
) Properties of Big Bear, and Big)
) Bear Escrow; and HAROLD LEROY)
) RUBENDALL, individually and)
) formerly as designated officer of)
) Security Pacific Mortgage)
) Corporation,)
)
) Respondents.)

DEFAULT ORDER

Respondent HAROLD LEROY RUBENDALL, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

DEC 5 2002

IT IS SO ORDERED

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



M. DOLORES RAMOS
Regional Manager

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

FILED
MAY 23 2002
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

By *K. Schubert*

SECURITY PACIFIC MORTGAGE CORP.,
et al.,

}
}

Case No. H-29428 LA

OAH No. L-2002050334

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 West Fourth Street, Ste. 630, Los Angeles, CA** on **September 3 & 4, 2002**, 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: May 23, 2002

By *E. L.*
ELLIOTT MAC LENNAN, Counsel

cc: Security Pacific Mtg. Co.
Larry Lackman, Esq.
Sacto/OAH/JP/Audits

*Acco
gung*

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar No. 66674
3 Department of Real Estate
320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105
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FILED
MAR 20 2002
DEPARTMENT OF REAL ESTATE

By *K. Mederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-29428 LA
)
SECURITY PACIFIC MORTGAGE)
CORPORATION, dba Prudential)
Properties of Big Bear, and Big Bear)
Escrow; and HAROLD LEROY) A C C U S A T I O N
RUBENDALL, individually and formerly)
as designated officer of Security)
Pacific Mortgage Corporation,)
)
Respondents.)

18 The Complainant, Maria Suarez, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against SECURITY PACIFIC MORTGAGE CORPORATION dba Prudential
21 Properties of Big Bear and Big Bear Escrow, and HAROLD LEROY
22 RUBENDALL, individually and formerly as designated officer of
23 Security Pacific Mortgage Corporation, alleges as follows:
24

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1.

1 The Complainant, Maria Suarez, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against SECURITY PACIFIC
4 MORTGAGE CORPORATION dba Prudential Properties of Big Bear and
5 Big Bear Escrow (SECURITY PACIFIC) and HAROLD LEROY RUBENDALL,
6 individually and formerly as designated officer of Security
7 Pacific Mortgage Corporation (RUBENDALL).

2.

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

3.

13 SECURITY PACIFIC and RUBENDALL (sometimes hereinafter
14 referred to as Respondents) are presently licensed or have
15 license rights under the Real Estate Law (Part 1 of Division 4
16 of the Business and Professions Code, hereinafter "Code").

4.

17 At all time herein mentioned, RUBENDALL was licensed
18 by the Department as the designated officer of SECURITY PACIFIC
19 to qualify it and to act for it as a real estate broker and, as
20 provided by Code Section 10159.2, was responsible for the
21 supervision and control of the activities conducted on behalf of
22 SECURITY PACIFIC by its officers, managers and employees as
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1 necessary to secure full compliance with the provisions of the
2 Real Estate Law including the supervision of the salespersons
3 licensed to the corporation in the performance of acts for which
4 a real estate license is required. RUBENDALL was originally
5 licensed as a real estate broker on August 3, 1984. SECURITY
6 PACIFIC'S real estate broker license was originally issued on
7 November 12, 1997. Effective June 1, 2000, that license was
8 revoked with a right to the issuance of a restricted real estate
9 license which was issued on June 1, 2000, pursuant to Case No.
10 H-28344 LA, as more fully described in Paragraph 12, below.

11 5.

12 Whenever reference is made in an allegation in the
13 Accusation to an act or omission of SECURITY PACIFIC, such
14 allegation shall be deemed to mean that the officers, directors,
15 managers, employees, agents and real estate licensees employed
16 by or associated with SECURITY PACIFIC, including RUBENDALL,
17 committed such act or omission while engaged in the furtherance
18 of its business or operation and while acting within the course
19 and scope of its corporate authority, agency and employment.

20 6.

21 At all times herein mentioned, SECURITY PACIFIC, on
22 behalf of others in expectation of compensation, engaged in the
23 business, acted in the capacity of, advertised or assumed to act
24 as a real estate broker within the meaning of:

25 A. Section 10131(d) of the Code. SECURITY PACIFIC
26 operated as a mortgage and loan broker, including soliciting
27 borrowers and lenders and negotiating and servicing loans on

1 First Mountain Bank, CA 92315

2 "Security Pacific Mortgage Corp. Trust Account (T/A #3)
3 Account No. 001 032771"
4 First Mountain Bank, CA 92315

5 9.

6 With respect to the trust funds referred to in
7 Paragraph 8, it is alleged that SECURITY PACIFIC:

8 (a) Permitted, allowed or caused the disbursement of
9 trust funds from T/A #2, to an amount which, on December 28,
10 2000, was \$2,403.07, less than the existing aggregate trust fund
11 liability of SECURITY PACIFIC to every principal who was an
12 owner of said funds, without first obtaining the prior written
13 consent of the owners of said funds, as required by Code Section
14 10145 and Regulations 2832.1, 2950(d) and (g), and 2951.

15 (b) Failed to maintain an adequate control record in
16 the form of a columnar record in chronological order of all
17 trust funds received for T/A #2, as required by Regulations
18 2831, 2950(d) and 2951.

19 (c) Failed to perform a monthly reconciliation of the
20 balance of all separate beneficiary or transaction records
21 maintained pursuant to Regulation 2831.1 with the record of all
22 trust funds received and disbursed by T/A #2 as required by
23 Regulations 2831.2, 2950(d) and 2951.

24 (d) Received an interest equivalent in the form of an
25 earnings credit interest, in the amount of \$26,438.00 from
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1 Imperial Bank for T/A #1, the escrow trust account, between the
2 period of January 2000 through November 2000. SECURITY
3 PACIFIC's earning credit relationship with Imperial Bank was
4 calculated on the amount of fund flow activity through the
5 escrow trust account. The earning credit resulted in an
6 interest equivalency prohibitively inuring to SECURITY PACIFIC
7 in violation of Code Section 10145(d)(5) and Regulation
8 2830.1(e).

9
10 (e) Compensated James B. Figueiredo a real estate
11 salesperson employed by SECURITY PACIFIC to perform acts for
12 which a real estate license is required, for the Terry/Patricia
13 Folk, Nelson/Cynde Richardson and Thomas/Kimberly Hutchins real
14 property sale transactions, after his license expired on
15 February 22, 2000, and was not renewed until January 2, 2001, in
16 violation of Code Section 10137.

17 (f) Failed to retain on file for a period of three
18 years a true and correct copy of a Department of Real Estate
19 approved Mortgage Loan Disclosure Statement as signed by
20 borrowers Dennis & Nancy Hack, Gill & Sheila Kennard, and Thomas
21 Lam and Jean Sullliven, in violation of Code Section 10240.

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1 The conduct of Respondent SECURITY PACIFIC, described
 2 in Paragraph 9, violated the Code and the Regulations as set
 3 forth below:
 4

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9 (a)	Code Section 10145 and Regulations 2832.1, 2950 (d) & (g) and 2951
9 (b)	Regulations 2831, 2950 (d) and 2951
9 (c)	Code Section 10145 and Regulation 2831.2
9 (d)	Code Section 10145 (d) (5) and Regulation 2830.1 (e)
9 (e)	Code Section 10137
9 (f)	Code Section 10240 and Regulation 2840

25 Each of the foregoing violations separately constitutes cause
 26 for the suspension or revocation of the real estate license and
 27

1 license rights of SECURITY PACIFIC under the provisions of Code
2 Sections 10177(d) and/or 10177(g).

3 11.

4 The overall conduct of Respondent RUBENDALL
5 constitutes a failure on his part, as officer designated by a
6 corporate broker licensee, to exercise the reasonable
7 supervision and control over the licensed activities of SECURITY
8 PACIFIC MORTGAGE CORPORATION as required by Code Section
9 10159.2, and to keep it in compliance with the Real Estate Law,
10 and is cause for the suspension or revocation of the real estate
11 license and license rights of RUBENDALL pursuant to the
12 provisions of Code Sections 10159.2 and 10177(h).

14 PRIOR DISCIPLINE

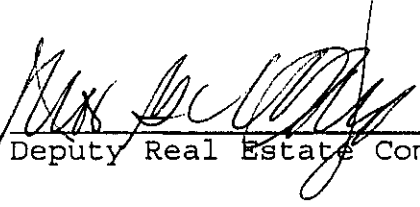
15 12.

16 On December 16, 1999, in Case No. H-28344 LA, an
17 Accusation was filed against respondent SECURITY PACIFIC
18 MORTGAGE CORPORATION that resulted in discipline for violations
19 of Code Sections 10145 and 10240 pursuant to Code Section
20 10177(d) and Regulations 2726, 2731 and 2834. Said discipline
21 became effective June 1, 2000.

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1 WHEREFORE, complainant prays that a hearing be
2 conducted on the allegations of this Accusation and, that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and licensing rights of Respondents
5 SECURITY PACIFIC MORTGAGE CORPORATION, and HAROLD LEROY
6 RUBENDALL, individually and as designated officer of
7 Security Pacific Mortgage Corporation, under the Real Estate Law
8 (Part 1 of Division 4 of the Business and Professions Code) and
9 for such other and further relief as may be proper under other
10 applicable provisions of law.

11
12 Dated at Los Angeles, California
13 this 20th day of March, 2002

14
15 
16 _____
17 Deputy Real Estate Commissioner
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24

25 cc: Security Pacific Mortgage Corporation
26 Harold Leroy Rubendall
27 Sacto
JP
MS
Audits