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FILED
OCT - 9 2007
DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-29702 LA
LUCY TOPRAKJIAN,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On June 16, 2003, a Decision was rendered herein
revoking Respondent's real estate broker license.

On or about November 29, 2005, Respondent petitioned
for reinstatement of said license and the Attorney General
of the State of California has been given notice of the
filing of the petition.

I have considered Respondent's petition and the
evidence and arguments in support thereof. Respondent has
demonstrated to my satisfaction that Respondent meets the
requirements of law for the issuance to Respondent of an
unrestricted real estate broker license and that it would

1 not be against the public interest to issue said license
2 to Respondent.

3 NOW, THEREFORE, IT IS ORDERED that Respondent's
4 petition for reinstatement is granted and that a real estate
5 broker license be issued to Respondent if Respondent satisfies
6 the following conditions within twelve (12) months from the
7 date of this Order:

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

10 2. Submittal of evidence of satisfactory to the
11 Real Estate Commissioner that Respondent has, taken and passed
12 the written examination required to obtain a real estate broker
13 license.

14 This Order shall become effective immediately.

15 DATED: 9-28-88.

16
17 JEFF DAVI
18 Real Estate Commissioner
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FILED
AUG 13 2003
DEPARTMENT OF REAL ESTATE

By *[Signature]*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of	)	NO. H-29702 LA
	)	L-2002110347
LUCY TOPRAKJIAN,	)	
	)	<u>ORDER DENYING</u>
Respondent.	)	<u>RECONSIDERATION</u>

On June 16, 2003, a Decision was rendered in the above-entitled matter. The Decision was to become effective July 9, 2003, and was stayed by separate orders to August 18, 2003.

On July 25, 2003, Respondent petitioned for reconsideration of the Decision of June 16, 2003.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of June 16, 2003, and reconsideration is hereby denied.

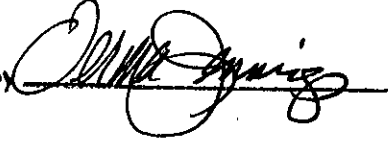
IT IS SO ORDERED August 8, 2003.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner

[Signature]

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FILED
AUG - 8 2003
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of

No. H-29702 LA

LUCY TOPRAKJIAN,

L-2002110347

Respondent..

ORDER STAYING EFFECTIVE DATE

On June 16, 2003, a Decision was rendered in the above-entitled matter to become effective July 9, 2003. On July 8, 2003, the effective date of said Decision was stayed until August 8, 2003.

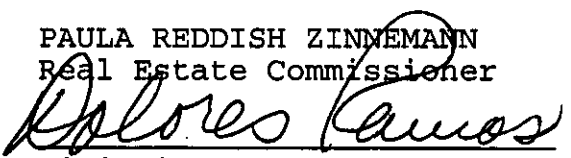
IT IS HEREBY ORDERED that the effective date of the Decision of June 16, 2003 is stayed for an additional period of 10 days.

The Decision of June 16, 2003 shall become effective at 12 o'clock noon on August 18, 2003.

DATED: August 8, 2003.

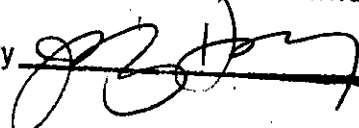
PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By:


DOLORES RAMOS
Regional Manager

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FILED
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DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-29702 LA
LUCY TOPRAKJIAN,) L-2002110347
Respondent.)

ORDER STAYING EFFECTIVE DATE

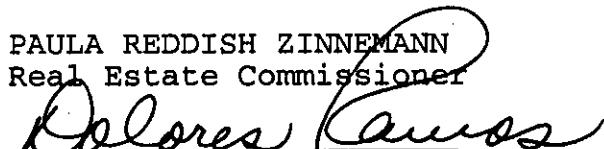
On June 16, 2003, a Decision was rendered in
the above-entitled matter to become effective July 9, 2003.

IT IS HEREBY ORDERED that the effective date of
the Decision of June 16, 2003, is stayed for a period of
thirty (30) days.

The Decision of June 16, 2003, shall become effective
at 12 o'clock noon on August 8, 2003.

DATED: July 8, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

By: 

DOLORES RAMOS
Regional Manager

FILED
JUN 19 2003
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

No. H-29702 LA

LUCY TOPRAKJIAN,

L-2002110347

Respondent.)

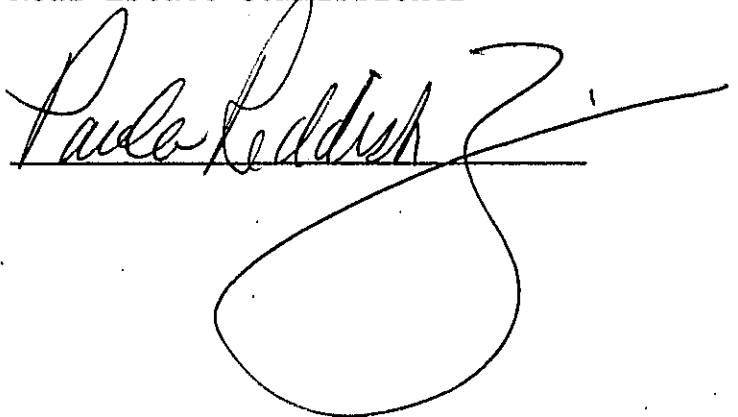
DECISION

The Proposed Decision dated May 7, 2003,
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 July 9, 2003.

IT IS SO ORDERED June 16, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of Accusation of:

LUCY TOPRAKJIAN,

Respondent.

Case No. H-29702

OAH No. L 2002110347

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, State of California, Office of Administrative Hearing, heard this matter in Los Angeles, California on April 7th, 2003.

James R. Peel, Counsel, represented Complainant Maria Suarez, a Deputy Real Estate Commissioner, Department of Real Estate of the State of California (Department).

Respondent Lucy Toprakjian was present throughout the hearing and represented herself.

The matter was submitted on April 7th, 2003.

FACTUAL FINDINGS

1. Complainant Maria Suarez, a Deputy Real Estate Commissioner of the Department, filed the Accusation in this proceeding in her official capacity.
2. Respondent Lucy Toprakjian is presently licensed by the Department as a real estate broker. Her broker's license was originally issued on June 12, 1991. It will expire on August 8th, 2003 unless renewed. Prior to receiving that license, Respondent held a real estate salesperson license. She first obtained that license on March 21st, 1986.
3. At all times pertinent to this proceeding, Respondent was licensed as a real estate broker by the Department.
4. Michael Ralph Diaz is not licensed by the Department as a real estate broker or salesperson.

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

6. Respondent is doing business as Best Mortgage & Finance LT Realty and employs Michael Ralph Diaz in the conduct of her real estate and real estate financing business. He is also her son-in-law.

7. Elena Atencio and her husband David were searching for a residence to purchase. On October 31, 2000, they met Respondent at an open house Respondent was holding. The dwelling was already sold but Respondent offered to show them other locations that they might like. Ms. Atencio told Respondent that they already had a broker – James McGee. She told Respondent that McGee had offered them a fifty per cent rebate on his commission if they purchased a house through him. Respondent told them that she would do the same for them.

8. The Atencios agreed to meet Respondent at her home, which was also her office, later that day. When they arrived, Respondent introduced them to her employee, Michael Ralph Diaz. She told the Atencios that Diaz was a broker who worked with her. Diaz handed the Atencios a business card that identified him as the Loan Programs Manager for Best Mortgage & Finance LT Realty.

9. The meeting between the Atencios, Respondent and Diaz lasted about fifteen minutes. During that time the rebate was verbally agreed to, the Atencios filled out a loan application. Diaz assured them that he would shop around for the best loan he could obtain. He estimated that it would cost them about 1 ½ points and be at an interest rate of 8.5 or 8.9 per cent. Although the Atencios never met with Diaz again, they stayed in contact with him by telephone. Diaz was the person who handled all the questions about their real estate transaction and loan application.

10. On November 1st, 2000, the Atencio's entered into an escrow agreement to purchase a residence at 24996 Los Alamos, Laguna Niguel, California. Respondent was their broker. The total purchase price was \$225,000. Respondent was designated as the selling agent and was to receive a three per cent commission on the transaction. Diaz handled the negotiations and actions necessary to fund the loan required to finance the transaction.

11. Within a few days of opening the escrow, Elena Atencio realized that the 50% rebate of Respondent's broker fee had not been noted in the paper work which had been signed. She called Respondent to request that that be reflected. Respondent denied that there was any such agreement. Respondent also told Atencio that Atencio could not back out of the transaction then without losing her deposit. After considerable discussion, Respondent agreed to credit the Atencios \$1,000.00 in the escrow out of Respondent's broker fee. The

Atencios still felt that they had an agreement that Respondent would split the broker fee with them.

12. There were problems in obtaining a loan on the property. Elena Atencio had some credit problems. The sale was nearly cancelled by the seller for the delays.

13. The seller's agent in the transaction faxed a letter to the Atencio's which stated, in part:

"The seller on Los Alamos has requested for the documents to be supplied to Jody Hayward by 3:00 p.m. today or her seller will not extend the escrow and we will be canceling immediately. Your lender Michael Diaz has not supplied written loan approval and verification that docs are being drawn. He has used so many dates and time frames that never come through. As we see this is a [sic] unprofessional way doing business, we look like we are lying to both sellers."

14. In order to get a loan and close the escrow, Elena Atencio had to make a larger down payment on the purchase. This required her to withdraw \$26,672 from a savings account earlier than the maturity date for a withdrawal. Respondent reimbursed Elena Atencio the \$300.00 penalty that had to be paid.

15. A loan on the property was obtained from GreenPoint Mortgage Funding on or about December 14, 2000.

16. The transaction closed. The Atencios were not given a Good Faith Estimate of Closing Cost Statement prior to the close of escrow. They were not given a Mortgage Loan Disclosure Statement before the close either. (Respondent has been unable to provide a copy of the statement from her files.)

17. The rate of interest charged on the loan on the property was 9.625% which was not in the range of 8.5 to 8.9 % indicated by Diaz to the Atencios. Points charged on the loan were 2.5% as opposed to the 1.5% also indicated by Diaz.

16. The Settlement Statement sent out by the escrow company following the close set forth, in part, the following charges:

703. Commission to Respondent (assigned to Best Mortgage Finance)	\$6,750.00
808. Administration/Compliance Fee to Best Mortgage Finance	\$1,200.00
809. Processing Fee to Best Mortgage Finance	\$ 350.00
810. Notary Fee to Best Mortgage Finance	\$ 150.00
811. Broker Points to Best Mortgage Finance	\$5,343.75
812. Rebate to Best Mortgage Finance "P.O.C."	\$1,068.75

17. Elena Atencio was not aware the administrative fee would be charged. She was also not aware of the processing and notary fees or amount of the broker points to Best Mortgage Finance. She had no knowledge of the rebate to Best Mortgage Finance.

18. The Atencio's were credited in the escrow with the \$1,000.00 which Respondent agreed to pay following her discussion with Elena Atencio over splitting Respondent's commission on the transaction with them. The Atencio's did not receive the balance of the fee split verbally agreed upon which was \$2,375.00.

19. Respondent paid Michael Ralph Diaz \$1,000.00 for his work on the Atencio's transaction. This was the standard rate she paid him for such work.

20. Respondent currently is employed on a full time basis by First World Financial as a loan officer. She sells real estate on weekends.

21. Michael Ralph Diaz no longer works for Respondent. He is with another company as a supervisor.

22. Respondent denies that there was an agreement to split her commission with the Atencios. No explanation was offered as to why she agreed and gave them a credit of \$1,000.00 after Elena Atencio tried to get Respondent to amend the escrow instructions to recognize the commission splitting agreement.

23. Respondent asserts that her employee, Michael Ralph Diaz, never conducted any duties that required a real estate broker or salesperson license. This contention is refuted by the other testimony in presented in this case that Diaz was introduced as a broker, presented a business card saying he was the Loan Program Manager for Respondent's Best Mortgage & Finance LT Realty company, the amount and manner of his compensation from Respondent (See Paragraph 22 above.), took care of all the arrangements for the Atencio loan, and was looked to by the seller's agent in the Atencio transaction as the person who was handling all the details of trying securing a loan. (See Paragraph 13 above.)

24. Respondent has been unable to produce records from her files on the Atencio escrow to show that the Atencios received the appropriate disclosures prior to the close of escrow.

25. There have been no other disciplinary actions filed against Respondent either as a Real Estate Broker or Salesperson.

26. Elena Atencio was a credible witness. She recently came to this country from Russia. She was earnestly endeavoring to purchase a dwelling. She closed the transaction despite her concerns about the financing for fear of losing financially if it was not completed pursuant to the escrow agreement. Efforts to resolve the issues which arose with Respondent were unsuccessful.

LEGAL CONCLUSIONS

1. Cause exists to take disciplinary action against Respondent's broker license, pursuant to Business and Professions Code ("Code") Section 10137 and 10177(d), in that she employed Michael Ralph Diaz, who was unlicensed by the Department, to negotiate the Atencio loan, an action, under the provisions of Code Section 10131 (d), requiring a license from the Department, as more fully set forth in Paragraphs 2,3,4,6,8,9,10,13,15 and 23 of the Factual Findings.

2. Cause exists to take disciplinary action against Respondent's broker license, pursuant to Code Section 10176 (a) and (b), in that she made a substantial misrepresentation and false promise to induce the Atencio's to use her broker services in promising to split her broker's commission with them and then not honoring that agreement, as more fully set forth in Paragraphs 7, 9, 11, 18, and 22 of the Factual Findings.

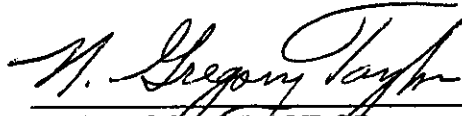
3. Cause exists to take disciplinary action against Respondent's broker license, pursuant to Code Section 10177 (d), in that Respondent failed to provide the Atencios with a Mortgage Loan Disclosure Statement as required by Code Section 10240, as more fully set forth in Paragraphs 16 and 24 of the Factual Findings.

4. Cause exists to take disciplinary action against Respondent's broker license, pursuant to Code Section 10176 (a), in that Respondent made a substantial misrepresentation in telling the Atencios that Michael Ralph Diaz was a real estate broker when, in fact, he was not one, as is more fully set forth in Paragraphs 4, 6, 8 and 23 of the Factual Findings.

ORDER

All licenses and licensing rights of Respondent Lucy Toprakjian under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) are revoked.

DATED: May 7, 2003



N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILE
DEC 3 2002
DEPARTMENT OF REAL ESTATE
James B. Peel

Sacto
In the Matter of the Accusation)

Case No. H-29702 LA
OAH No. L-2002110347

LUCY TOPRAKJIAN,)

Respondent(s).)

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 the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630, Los Angeles, California, on APRIL 7, 2003, 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: December 3, 2002

DEPARTMENT OF REAL ESTATE

By:

James R. Peel
JAMES R. PEEL, Counsel

cc: Lucy Toprakjian
Sacto.
OAH

RE 501 (Rev. 8/97)

JRP:lbo

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DEPARTMENT OF REAL ESTATE

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
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8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)
10

Laura B. Stone

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of	)	No. H-29702 LA
12 LUCY TOPRAKJIAN,	)	A C C U S A T I O N
13	)	
14 Respondent.	)	
15	)	

16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against LUCY TOPRAKJIAN alleges as follows:

I

20 The Complainant, Maria Suarez, acting in her official
21 capacity as a Deputy Real Estate Commissioner of the State of
22 California, makes this Accusation against LUCY TOPRAKJIAN.

II

24 LUCY TOPRAKJIAN (hereinafter referred to as
25 "Respondent") is presently licensed and/or has license rights
26 under the Real Estate Law (Part 1 of Division 4 of the Business
27 and Professions Code) (hereinafter Code).

1 III

2 At all times herein mentioned, Respondent, was licensed
3 by the Department of Real Estate of the State of California as a
4 real estate broker.

5 IV

6 Michael Ralph Diaz is not licensed by the Department of
7 Real Estate as a real estate broker or salesperson.

8 V

9 At all times herein mentioned, Respondent, on behalf of
10 others in expectation of compensation, engaged in the business,
11 acted in the capacity of, advertised or assumed to act as a real
12 estate broker in the State of California within the meaning of
13 Section 10131(a) and (d) of the Code, including soliciting
14 borrowers and lenders and negotiating loans on real property.

15 VI

16 In connection with Respondent's activities as a real
17 estate broker, as described above, Respondent acted in violation
18 of the Real Estate Law, the Code and California Code of
19 Regulations (hereinafter Regulations), Title 10, Chapter 6, as
20 follows:

21 Violated Section 10137 of the Code by employing Diaz to
22 solicit and negotiate loans on real property, as set forth below.
23 These activities require a real estate license under Sections
24 10131(d) of the Code.

25 On or about October 31, 2000, Diaz negotiated a loan on
26 24996 Los Alamos, Laguna Niguel, California, for borrowers David
27 and Elena Atencio.

1 VII

2 As an inducement to enter into this loan transaction,
3 Respondent falsely promised the borrowers that she would pay them
4 one-half of her commission. Respondent refused and continues to
5 refuse to honor her promise to the borrowers.

6 VIII

7 Respondent violated Section 10240 of the Code by
8 failing to provide the borrowers with the required mortgage loan
9 disclosure statement.

10 IX

11 During the course of the transaction, Respondent
12 falsely represented to the borrowers that Diaz was a licensed
13 real estate broker.

14 X

15 The conduct of Respondent, as alleged above, subjects
16 her real estate licenses and license rights to suspension or
17 revocation, as follows:

18 1. Pursuant to Sections 10137 and 10177(d) of the Code
19 for the conduct alleged in Paragraph VI.

20 2. Pursuant to Sections 10176(a) and 10176(b) of the
21 Code for the conduct alleged in Paragraph VII.

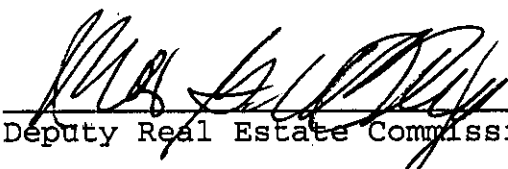
22 3. Pursuant to Section 10177(d) of the Code for the
23 conduct alleged in Paragraph VIII.

24 4. Pursuant to Section 10176(a) of the Code for the
25 conduct alleged in Paragraph IX.

26 ///

27 ///

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 license rights of respondent LUCY
5 TOPRAKJIAN 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 24th day of September, 2002.

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13 Deputy Real Estate Commissioner
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24 cc: Lucy Toprakjian
25 Sacto.
26 Maria Suarez
27 RLJ

lbo