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FILED
JAN 20 2005
DEPARTMENT OF REAL ESTATE

by James B. Stone

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	
JAVA LAN INC., dba Lenders)	DRE No. H-31310 LA
Express Service,)	OAH No. L-2004100332
)	
)	
Respondent.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On September 23, 2004, an Accusation was filed in this matter against Respondent JAVA LAN INC., dba Lenders Express Services.

On December 7, 2004, Respondent JAVA LAN INC., acting through Janalyn Josephine Harnach, its designated broker-officer, in connection with an investigation of possible violations of the Real Estate Law (Sections 10000 et seq., of the Business and Professions Code) and Regulations of the Commissioner (Title 10, Chapter 6, Code of Regulations), petitioned the Commissioner to

1 voluntarily surrender its corporate real estate broker license
2 pursuant to Section 10100.2 of the Business and Professions Code.

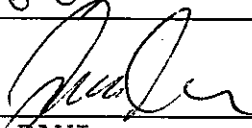
3 IT IS HEREBY ORDERED that Respondent JAVA LAN INC.'s
4 petition for voluntary surrender of its corporate real estate
5 broker license is accepted as of the effective date of this Order
6 as set forth below, based upon the understanding and agreement
7 expressed in Respondent's Declaration dated December 7, 2004,
8 (attached as Exhibit "A" hereto). Respondent's license
9 certificate, pocket card, and any branch office license
10 certificate(s) shall be sent to the below listed address so that
11 they reach the Department on or before the effective date of this
12 Order:

13 Department of Real Estate
14 Attn: Licensing Flag Section
15 P.O. Box 187000
16 Sacramento, CA 95818-7000

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

17 FEB 9 2005

18
19 DATED: 1-6-05

20 
21 JEFF DAVI
22 Real Estate Commissioner
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Exhibit "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	DRE No. H-31310 LA
)	
JAVA LAN INC., dba Lenders)	OAH No. L-2004100332
Express Service,)	
)	
Respondent.)	
)	

DECLARATION

My name is Janalyn Josephine Harnach, and I am currently an officer of JAVA LAN INC., which is licensed as a corporate real estate broker and/or has license rights with respect to said license. I am authorized to sign this declaration on behalf of JAVA LAN INC. I am acting on behalf of JAVA LAN INC. in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Government Code), JAVA LAN INC. wishes to voluntarily surrender its real estate license issued by the

1 Department of Real Estate ("Department"), pursuant to Business
2 and Professions Code Section 10100.2.

3 I understand that JAVA LAN INC., by so voluntarily
4 surrendering its license, can only have it reinstated in
5 accordance with the provisions of Section 11522 of the Government
6 Code. I also understand that by so voluntarily surrendering its
7 license, JAVA LAN INC. agrees to the following:

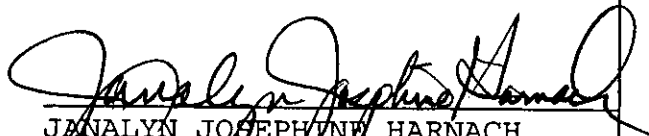
8 The filing of this Declaration shall be deemed as its
9 petition for voluntary surrender. It shall also be deemed to be
10 an understanding and agreement by JAVA LAN INC. that it waives
11 all rights it has to require the Commissioner to prove the
12 allegations contained in the Accusation filed in this matter at a
13 hearing held in accordance with the provisions of the
14 Administrative Procedures Act (Government Code Sections 11400 et
15 seq.), and that it also waives other rights afforded to it in
16 connection with the hearing such as the right to discovery, the
17 right to present evidence in defense of the allegations in the
18 Accusation and the right to cross examine witnesses. I further
19 agree on behalf of JAVA LAN INC. that upon acceptance by the
20 Commissioner, as evidenced by an appropriate order, all
21 affidavits and all relevant evidence obtained by the Department
22 in this matter prior to the Commissioner's acceptance, and all
23 allegations contained in the Accusation filed in the Department
24 Case No. H-29812 LA, may be considered by the Department to be
25 true and correct for the purpose of deciding whether or not to
26 grant reinstatement of JAVA LAN INC.'s license pursuant to
27 Government Code Section 11522.

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Respondent can signify acceptance and approval of the terms and conditions of this Declaration by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Declaration, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Declaration.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of JAVA LAN INC. to surrender its license and all license rights attached thereto.

December 7, 2004 Whittier, CA
Date and Place


JANALYN JOSEPHINE HARNACH
Designated Broker-Officer

Sacto

FILED
NOV 29 2004
DEPARTMENT OF REAL ESTATE

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

By *Laura B. O'Neil*

In the Matter of the Accusation of

JAVA LAN INC., dba Lenders Express Service,

}
}

Case No. H-31310 LA

OAH No. L-2004100332

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 the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California on **DECEMBER 30, 2004**, 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: November 22, 2004

By *Martha J. Rosett*
MARTHA J. ROSETT, Counsel

cc: Java Lan Inc.
David E. Weiss, Esq.
SACTO; OAH

*Sacto
2/2/04*

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MARTHA J. ROSETT, Counsel (SBN 142072)
Department of Real Estate
320 West Fourth Street, Suite #350
Los Angeles, California 90013-1105.

DEPARTMENT OF REAL ESTATE

By *Janice B. Waddell*

(213) 576-6982
(213) 576-6907

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-31310 LA
)	
JAVA LAN INC., dba Lenders Express)	<u>A C C U S A T I O N</u>
Service,)	
)	
Respondent.)	
)	

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JAVA LAN INC., dba, "Lenders Express Service," is informed and alleges as follows:

1.

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

At all times material herein, Respondent JAVA LAN INC., dba, "Lenders Express Service," (hereinafter "Respondent JAVA"),

1 was and now is presently licensed and/or has license rights under
2 the Real Estate Law, Part 1 of Division 4 of the California
3 Business and Professions Code (hereinafter "Code"), as a
4 corporate real estate broker. Respondent JAVA is currently
5 authorized to act by and through Janalyn Josephine Harnach as the
6 designated officer and broker responsible, pursuant to the
7 provisions of Code Section 10159.2 for the supervision and
8 control of the activities conducted on behalf of JAVA by JAVA's
9 officers and employees. Janalyn Harnach first became the
10 designated officer of Respondent JAVA on or about March 11, 2004.

11 3.

12 Beginning on or around April 2, 2001, through the
13 present time, the following officers of Respondent JAVA have
14 served as the designated officer and broker responsible, pursuant
15 to the provisions of Code Section 10159.2, for the supervision
16 and control of the activities conducted on behalf of JAVA by
17 JAVA's officers and employees:

18 4/2/01-5/29/01: none

19 [Note: Cecil Smith Davis, of record, was deceased as of
20 April 2, 2001]

21 5/29/01-12/4/02: Robert Salamone

22 12/4/02-9/24/03: Richard Crump Romero

23 11/1/03-3/11/04: David Erwin Weiss

24 3/11/04-present: Janalyn Josephine Harnach

25 ///

26 ///

27

1 4.

2 At all times material herein, Robert Salvatore
3 Salamone, was licensed by the Department as a real estate broker.
4 Between on or before May 29, 2001 and on or about December 4,
5 2002, Respondent JAVA was authorized to act by and through Robert
6 Salamone (hereinafter "Salamone") as its designated officer and
7 broker responsible pursuant to Code Section 10159.2 for the
8 supervision and control of the activities conducted on behalf of
9 Respondent JAVA by JAVA's employees and officers.

10 5.

11 At all times material herein, and specifically during
12 the period covered by the examinations described below, between
13 April 2, 2001 and May 31, 2002, Salamone also transacted real
14 estate business under the dba of Re Max Classic Real Estate, and
15 served as a designated real estate broker-officer for Money Line
16 Classic Corp., a real estate corporation which license expired on
17 or about December 22, 2001.

18 6.

19 On or about November 6, 2002, in the United States
20 District Court, Central District of California, in Case No. SACR
21 02-156(A)-GLT, Salamone was convicted of violating 18 U.S.C.
22 Sections 1343,2(b) (wire fraud, causing an act to be done), a
23 felony and crime of moral turpitude which is substantially
24 related to the qualifications, functions and duties of a real
25 estate licensee. Salamone was sentenced to serve five months in
26 prison, to be followed by two years supervised release, and was
27 ordered to make restitution in the amount of \$92,842.00 as well

1 as to pay a fine of \$3,000.00. On or about April 27, 2004,
2 Salamone voluntarily surrendered his real estate license in
3 Department Case No. H-30742 LA.

4 7.

5 All further references to "Respondent", unless
6 otherwise specified, include JAVA LAN INC., the party identified
7 in Paragraph 2 above, and also include the officers, directors,
8 employees, agents and real estate licensees employed by or
9 associated with said parties, who at all times material herein
10 were engaged in the furtherance of the business or operations of
11 said parties and who were acting within the course and scope of
12 their authority, agency or employment.

13 8.

14 At all times material herein, Respondent engaged in the
15 business of, acted in the capacity of, advertised or assumed to
16 act as a real estate broker in the State of California, within
17 the meaning of Code Section 10131(d), for another or others, for
18 or in expectation of compensation. Said activity included
19 performing solicitation, processing and servicing of mortgage
20 loans on behalf of borrowers and lenders and performing escrow
21 activities in relation to these loans pursuant to the exemption
22 set forth in Financial Code Section 17006(a)(4).

23 First Cause of Accusation

24 (Audit No. LA 020003-Escrow Trust Account)

25 9.

26 During the period between April 2, 2001 through
27 May 31, 2002, in connection with the aforesaid real estate

1 brokerage activities, Respondent accepted or received funds,
2 including funds in trust (hereinafter "trust funds") from or on
3 behalf of actual and prospective borrowers and lenders, and
4 thereafter made deposits and/or disbursements of such funds.
5 From time to time herein mentioned, said trust funds were
6 deposited into trust accounts maintained by Respondent at Union
7 Bank of California, P.O. Box 513840, Los Angeles, California,
8 90051-3840, identified as follows:

9 1. Account No. 9120149846, known as the "Java Lan Inc,
10 dba MoneyLine Express Escrow Division". This account was
11 used to handle escrow receipts and disbursements.

12 10.

13 On or about June 30, 2003, the Department completed its
14 examination of Respondent JAVA's books and records, pertaining to
15 the escrow activities described in Paragraphs 8 and 9 above,
16 covering a period from approximately April 2, 2001 through
17 May 31, 2002. The primary purpose of the examination was to
18 determine Respondent's compliance with the Real Estate Laws. The
19 examination, Audit No. LA 020003, revealed violations of the Code
20 and of Title 10, Chapter 6, California Code of Regulations
21 ("Regulations"), as set forth below, and as more specifically set
22 forth in the audit reports and attached exhibits.

23 11.

24 In the course of activities described in Paragraphs 8
25 and 9 above, and during the examination period described in
26 Paragraph 10, Respondent acted in violation of the Code and the
27 Regulations in that:

1 a) The escrow trust account had a shortage of
2 \$93,951.71 as of May 31, 2002, and there was no evidence that
3 each beneficiary of the trust account had provided written
4 consent to allow the balance to fall below the aggregate trust
5 fund liability, in violation of Code Section 10145 and Regulation
6 2832.1.

7 b) Funds from two other bank accounts, held in the
8 names of "Re Max Classic Real Estate," and "Money Line Classic
9 Corp.," were deposited into Respondent JAVA's escrow account and
10 escrow receipts were deposited into the Re Max Classic Real
11 Estate account, in violation of Code Section 10145.

12 c) Respondent JAVA's designated officer, Robert
13 Salamone, failed to disclose to all beneficiaries who had funds
14 in the JAVA escrow trust account that Respondent received
15 earnings credit from funds available in the escrow trust account,
16 in violation of Code Sections 10176(g) and 10145.

17 d) The SMS Monthly Reports (control records) of JAVA
18 escrow account were not accurate or complete. Not all SMS
19 Monthly Reports were made available for the audit and not all
20 manual daily control summary sheets were made available for the
21 audit, in violation of Regulation 2831 and Code Section 10145.

22 e) The separate escrow transaction records of the
23 escrow account were not accurate or complete, in violation of
24 Regulation 2831.1 and Code Section 10145.

25 f) The monthly records of reconciliation for the
26 escrow trust account were not accurate and were not up to date.
27 The records of reconciliation contained exception items from

1 approximately June 2001 to May 2002, in violation of Regulation
2 2831.2.

3 g) The escrow bank account was not designated as a
4 trust account, in violation of Regulation 2832 and Code Section
5 10145.

6 h) A non-licensee was authorized to sign on the escrow
7 trust account without fidelity bond coverage.

8 i) Respondent JAVA used an unlicensed fictitious
9 business name, "MoneyLine Escrow Division," to conduct its broker
10 escrow activities during the period from August 2001 to May 2002,
11 prior to obtaining a license bearing said fictitious name, in
12 violation of Regulation 2731.

13 The foregoing violations constitute cause for the
14 suspension or revocation of Respondent's real estate licenses and
15 license rights under the provisions of Code Sections 10177(d),
16 10176(e), and/or 10177(g).

17 Second Cause of Accusation

18 (Audit No. LA 020002: Mortgage Broker Activities)

19 12.

20 On or about May 30, 2003, the Department completed its
21 examination of Respondent JAVA's books and records, pertaining to
22 the mortgage loan activities described in Paragraph 8 above,
23 covering a period from approximately April 2, 2001 through May
24 31, 2002. The primary purpose of the examination was to
25 determine Respondent's compliance with the Real Estate Laws. The
26 examination, Audit No. LA 020002, revealed violations of the Code
27 and Regulations, as set forth below, and as more specifically set

1 forth in the audit reports and attached exhibits.

2 13.

3 In the course of activities described in Paragraph 8
4 above, and during the examination period described in Paragraph
5 12, Respondent acted in violation of the Code and the Regulations
6 in that:

7 a) Respondent failed to obtain or provide an approved
8 Mortgage Loan Disclosure Statement to the borrowers in any of the
9 twelve loan files examined, including files in the names of
10 Yolanda Sosa, Maria Sosa, Martha Esparza, Pusto Pillwitz, Jeff
11 Peterson, Jonathan Moranchel, Kathy Jackson, Raquel Bazan, Martha
12 Moreno, Maria Campos, Maria and Cristobal Chaves, and Jeanette
13 Turner, in violation of Code Section 10240(c).

14 b) Respondent failed to disclose to borrowers rebates
15 received from the lenders. Rebates not disclosed included
16 rebates for \$1,959.25 and \$2,742.95 in the Jeannette Turner
17 transaction pertaining to 15019 Mc Rae Ave.; and a \$2,750.00
18 rebate in the Jeff Peterson transaction pertaining to 7812 La
19 Costa Circle. Respondent's failure to disclose to borrowers
20 rebates from lenders is in violation of Code Section 10240.

21 c) Respondent used an unlicensed fictitious business
22 name, Classic Financial, a dba which had been cancelled effective
23 February 19, 1999. Use of an unlicensed dba is in violation of
24 Regulation 2731.

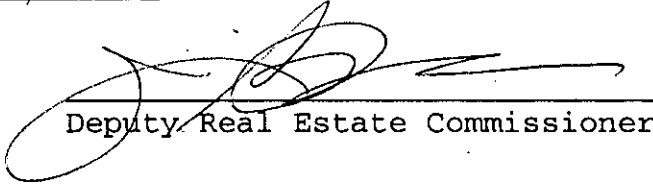
25 The foregoing violations constitute cause for the
26 suspension or revocation of Respondent's real estate licenses and
27 license rights under the provisions of Code Sections 10240,

1 10177(d), and/or 10177(g).

2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and license rights of Respondent
6 JAVA LAN INC., dba "Lenders Express Service," under the Real
7 Estate Law (Part 1 of Division 4 of the Business and Professions
8 Code), and for such other and further relief as may be proper
9 under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 13 day of September, 2004.

12
13 
14 Deputy Real Estate Commissioner
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24 cc: JAVA LAN INC.
25 Janice Waddell
26 Sacto.
27 EE
Audits