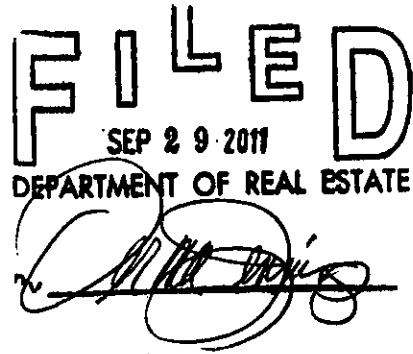


SASD
flag



BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
KYUNG SOON SEAWARD,
Respondent.

No. H-31559 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On December 12, 2005, a Decision was rendered revoking the real estate salesperson license of Respondent.

On April 13, 2010, Respondent petitioned for reinstatement of said real estate salesperson license. 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 salesperson license at this time.

///

///

///

1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

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

8 Regulation 2911(j) - satisfaction of monetary obligations

9 Respondent has not provided evidence that all court judgments and tax liens have
10 been satisfied.

11 Regulation 2911(k) - correction of past business practices

12 Respondent has not provided evidence of correcting past business practices
13 including unlicensed activities.

14 Regulation 2911(l) - significant or conscientious involvement in community,
15 church, or social programs

16 Respondent provided no proof of community involvement.

17 Regulation 2911(n) - Change in attitude from that which existed at the time of the
18 conduct in question as evidenced by any or all of the following:

19 (2) Evidence from others of a change in attitude

20 Respondent did not furnish the Department with letters of recommendation.

21 Given the violations found and the fact that Respondent has not established that
22 Respondent has complied with Regulations 2911 (j), (k), (l) and (n)(2), I am not satisfied that
23 Respondent is sufficiently rehabilitated to receive a real estate license.

24 ///

25 ///

26 ///

27 ///

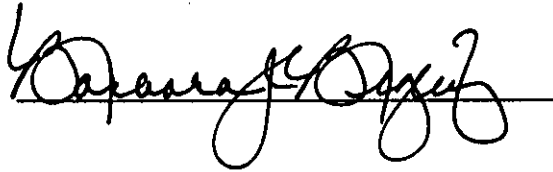
1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement of Respondent's real estate license is denied.

3 This Order shall become effective at 12 o'clock noon on OCT 19 2011

4 IT IS SO ORDERED

6/29/11

5 BARBARA J. BIGBY
6 Acting Real Estate Commissioner

7 
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED
FEB 13 2007
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-31559 LA
)
)
) FUNDING EXPRESS BANCORP INC.,)
) a corporation; IBRAHIM MOHAMAD)
) NABHAN, individually and as)
) designated officer of)
) Funding Express Bancorp Inc. and)
) KYUNG SOON SEAWARD,)
)
) Respondents.)

DECISION AFTER RECONSIDERATION

On December 12, 2005, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate broker license and license rights of Respondent IBRAHIM MOHAMAD NABHAN in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on January 11, 2006.

An Order Staying Effective Date was issued staying the effective date for IBRAHIM MOHAMAD NABHAN a total period of thirty (30) days until 12 o'clock noon on February 10, 2006.

1 On January 31, 2006, respondent IBRAHIM MOHAMAD NABHAN
2 petitioned for reconsideration of the Decision of December 12,
3 2005, and submitted argument in support of his petition for
4 reconsideration on January 31, 2006.

5 I have considered the petition of Respondent and have
6 concluded that good cause has been presented for
7 reconsideration of the Decision of December 12, 2005, for the
8 limited purpose of determining whether the disciplinary action
9 therein imposed should be reduced.

10 I have reconsidered said Decision and it is hereby
11 ordered that the disciplinary action therein imposed against
12 the real estate broker license of IBRAHIM MOHAMAD NABHAN
13 be reduced by modifying the Order of said Decision to read as
14 follows:

15 The real estate broker license and licensing rights of
16 Respondent IBRAHIM MOHAMAD NABHAN under the Real Estate Law are
17 revoked; provided, however, a restricted real estate broker
18 license shall be issued to Respondent pursuant to Section 10156.5
19 of the Business and Professions Code, if Respondent:

20 A. Makes application therefor and pays to the
21 Department of Real Estate the appropriate fee for the restricted
22 license within ninety (90) days from the effective date of this
23 Decision; and

24 B. The restricted license issued to Respondent shall
25 be subject to all of the provisions of Section 10156.7 of the
26

1 Code and the following limitations, conditions and restrictions
2 imposed under authority of Section 10156.6 of that Code:

3 1. The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real Estate
5 Commissioner in the event of Respondent's conviction or plea of
6 nolo contendere to a crime which is substantially related to
7 Respondent's fitness or capacity as a real estate licensee.

8 2. The restricted license issued to Respondent may
9 be suspended prior to hearing by Order of the Real Estate
10 Commissioner on evidence satisfactory to the Commissioner that
11 Respondent has violated provisions of the California Real Estate
12 Law, the Subdivided Lands Law, Regulations of the Real Estate
13 Commissioner or conditions attaching to the restricted license.

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

19 4. Respondent shall not engage in any of the
20 activities in the Proposed Decision of November 21, 2005 found as
21 violations of the Real Estate Law.
22

23 ///

24 ///

25 ///

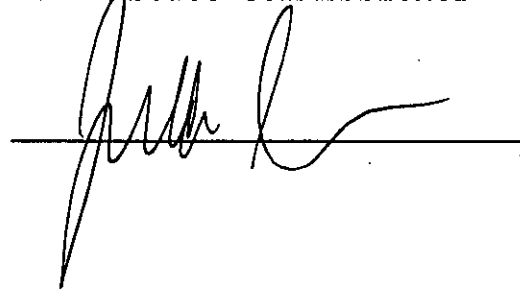
26 ///

1 As hereby modified and amended, the Decision of
2 December 12, 2005, shall become effective at 12 o'clock noon

3 on MAR - 5 , 2007.

4 IT IS SO ORDERED 2-7 , 2007

5 JEFF DAVI
6 Real Estate Commissioner

7 
8 _____
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

*facto
file*

FILED
FEB - 9 2008

DEPARTMENT OF REAL ESTATE

By *K. Hinderhoff*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-31559 LA

FUNDING EXPRESS BANCORP INC.,
a corporation; IBRAHIM MOHAMAD
NABHAN, individually and as
designated officer of
Funding Express Bancorp Inc. and
KYUNG SOON SEAWARD

Respondents.

ORDER GRANTING RECONSIDERATION

On December 12, 2005, a Decision was rendered in the
above-entitled matter. The Decision was to become effective at
12 o'clock noon on January 11, 2006.

An Order Staying Effective Date was issued for staying
the effective date for IBRAHIM MOHAMAD NABHAN a total period of
thirty (30) days until 12 o'clock noon on February 10, 2006.

On January 31, 2006, respondent IBRAHIM MOHAMAD NABHAN
petitioned for reconsideration of the Decision of December 12,

1 2005, and submitted argument in support of his petition for
2 reconsideration on January 31, 2006.

3 I find that there is good cause to reconsider the
4 Decision of December 12, 2005.

5 Respondent shall have until March 10, 2006, in which
6 to file written argument in further support of his petition for
7 reconsideration. Counsel for the Department of Real Estate
8 shall submit any written reply to said argument within thirty
9 (30) days thereafter.
10

11 IT IS SO ORDERED 2/9/06, 2006

12 JEFF DAVI
13 Real Estate Commissioner

14 William E. Moran

15 By William E. Moran
16 Assistant Commissioner, Enforcement
17
18
19
20
21
22
23
24
25
26
27

*Photo
2/1/06*

FILED
JAN 11 2008
DEPARTMENT OF REAL ESTATE

By *K. Hinderholt*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	DRE No. H-31559 LA
FUNDING EXPRESS BANCORP.,)	OAH No. L-2005040068
INC., IBRAHIM MOHAMAD NABHAN,)	
and KYUNG SOON SEWARD,)	
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On December 12, 2005, a Decision was rendered in the above-entitled matter to become effective January 11, 2006.

IT IS HEREBY ORDERED that the effective date of the Decision of December 12, 2005, is stayed for a period of thirty days, as to respondent IBRAHIM MOHAMAD NABHAN.

The Decision of December 12, 2005, shall become effective at 12 o'clock noon on February 10, 2005.

DATED: JANUARY 11, 2006

JEFF DAVI
Real Estate Commissioner

Phillip Ihde
By: Phillip Ihde
Regional Manager

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

FILED
DEC 22 2005
DEPARTMENT OF REAL ESTATE

By K. Medeiros

In the Matter of the Accusation of)
)
FUNDING EXPRESS BANCORP,)
INC., IBRAHIM MOHAMAD)
NABHAN, and KYUNG SOON)
SEAWARD,)
)
Respondent(s).)
_____)

No. H-31559 LA
L-2005050066

DECISION

The Proposed Decision dated November 21, 2005,
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 January 11, 2006.

IT IS SO ORDERED

12-12-05
JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

FUNDING EXPRESS BANCORP,
INC., IBRAHIM MOHAMAD
NABHAN, and KYUNG SOON
SEAWARD,

Respondents.

NO. H-31559 LA

OAH NO. L2005040066

PROPOSED DECISION

On October 26, 2005, Administrative Law Judge Timothy S. Thomas, Office of Administrative Hearings, heard this matter in Los Angeles, California.

Elliott Mac Lennan, Staff Counsel, represented the Department of Real Estate (hereinafter the department, or DRE).

James M. Steck, Attorney at Law, represented Ibrahim Mohamad Nabhan. No appearance was made by or on behalf of Funding Express Bancorp, Inc., or Kyung Soon Seaward.

The Accusation, First Amended Accusation, Statement to Respondent, a blank Notice of Defense, and selected provisions of the APA relating to discovery were properly and timely served on respondents Funding Express Bancorp, Inc., and Kyung Soon Seaward. Neither respondent filed a Notice of Defense. Therefore, the matter proceeded against those respondents by way of default pursuant to Government Code section 11520, subdivision (a).

The matter was submitted on October 26, 2005.

FACTUAL FINDINGS

1. Maria Suarez, Deputy Real Estate Commissioner, filed the First Amended Accusation in her official capacity.
2. Respondent Ibrahim Nabhan (hereinafter Nabhan) became licensed as a real estate broker on July 25, 1991, and he holds license number 01115214. This is the first disciplinary action brought against his broker's license.

3. Respondent Funding Express Bancorp, Inc. (Funding Express) is licensed by DRE as a corporate real estate broker. License number 01308404 was issued by the department on May 11, 2001. At all times relevant to this matter, Funding Express was engaged in the business of making loans secured by real property. It was not involved in the marketing or the sale of real estate. Its last known main office and mailing address was 1501 W. Ninth Street, Suite G, Upland, California 91786. Funding Express, which was incorporated in California on or about May 2, 2000, is wholly owned and operated by Eduardo Arita (Arita). Arita was not and is not licensed in any individual capacity by the department. The designated broker/officer for Funding Express was respondent Nabhan.

4. Respondent Kyung Soon Seaward (Seaward) was first licensed by DRE as a real estate salesperson on November 26, 1990. She holds license number 01096638. Between September 2, 1998, and May 3, 2004, Seaward was not employed by or otherwise authorized to act under the supervision of a licensed real estate broker. On April 7, 2003, Seaward's license expired and was not renewed until February 18, 2004.

5. Pursuant to Revenue and Taxation Code section 23302, the corporate status of Funding Express was suspended by the Franchise Tax Board and Secretary of State on September 2, 2003. According to the Secretary of State's official website, the corporation remained in a suspended status as of November 11, 2005.

6. Between December 4, and December 10, 2003, DRE auditor Kitlin Chan (Chan) conducted an audit of the books and records of Funding Express for the purpose of determining whether the company was properly accounting for trust funds in connection with its activities as a mortgage lender. Chan asked for and was provided corporation, broker and salesperson licenses, loan transaction files, invoices and payments information from companies providing appraisals of properties, statements and payment information from companies performing credit checks of potential borrowers, cancelled checks for loan commissions paid, and bank statements for the Funding Express operating account. These documents were provided to Chan by Arita or his wife, Elizabeth, who was the office manager. Nabhan was not present during the course of the field audit, but did attend the exit interview held on December 10, 2003.

7. Chan's audit covered the period from November 1, 2002, to October 31, 2003. Arita told Chan that Funding Express made 184 loans involving an approximate total of \$30,000,000 during the 12 months covered by the audit. Chan examined 23 loan transaction files at random during her audit. Her conclusions are not challenged by respondents and are adopted as findings herein as follows:

a) Respondents¹ failed to maintain a columnar record for trust funds received from escrow companies and not deposited into a trust account, in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, section 2831.

¹ All references to "respondents" in Finding 7 are to Funding Express and Nabhan.

b) Respondents failed to maintain separate trust fund records for the beneficiaries of the credit report fees and appraisal fees received from escrow companies, in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, section 2831.1.

c) Respondents failed to maintain a monthly reconciliation record of all trust funds received and disbursed with all separate beneficiary trust fund records, in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, section 2831.2.

d) Respondents, in at least 5 of the 23 loan files examined, paid the credit companies and appraisers after the funds received from escrow companies were deposited into the general operating account of Funding Express. In this way, trust funds received on behalf of principals and third parties were commingled with the broker's general funds in violation of Business and Professions Code section 10145 and California Code of Regulations, title 10, section 2835.

e) Respondents paid compensation for acts requiring a real estate license to individuals who were unlicensed or not properly employed under respondents' broker licenses, in violation of Business and Professions Code sections 10130 and 10137.

f) Respondents failed to notify the department of the employment of salespersons in a timely manner, in violation of Business and Professions Code section 10161.8 and California Code of Regulations, title 10, section 2752.

g) Respondents overcharged borrowers for credit report fees in four transactions, constituting undisclosed compensation within the meaning of Business and Professions Code section 10176, subdivision (g).

h) Respondents failed to maintain department-approved mortgage loan disclosure statements, signed and dated by the broker or the broker's representative, in the files of two borrowers, in violation of Business and Professions Code section 10240.

i) In all 23 files audited, respondents failed to disclose on department-approved mortgage loan disclosure statements the license numbers of the brokers or their representatives, in violation of Business and Professions Code sections 10236.4 and 10240.

j) Respondents failed to disclose to borrowers the Yield Spread Premiums from the lenders on the department-approved mortgage loan disclosure statement, in violation of Business and Professions Code sections 10240 and 10241.

k) In two transactions covered by the provisions of Financial Code section 4970, et seq., respondents failed to maintain records in the file that they provided or failed to provide covered loan notice to the borrowers no later than three business days prior to

signing of the loan documents, in violation of Financial Code section 4973, subdivision (k)(1).

l) Respondents charged finance points and fees in excess of \$1,000 or 6% of the original principal balance, exclusive of points and fees, in two transactions, in violation of Financial Code section 4979.6.

8. Funding Express maintained no trust fund account at all. Arita admitted this fact to Chan, but said office procedure required escrow funds be paid directly to the appraiser and the credit report provider. However, as indicated in Finding 7(d), monies were received by Funding Express in its fiduciary capacity but commingled with its own funds in over 20% of the transactions reviewed by Chan.

9. On June 6, 2003, a commission was paid by Funding Express and Nabhan to Seaward in the amount of \$3,727.08. On August 1, 2003, Seaward served as a loan officer in one of the transactions reviewed by Chan. Funding Express and Nabhan paid Seaward a commission related to that transaction in the amount of \$4,847.80. At the times of both transactions, Seaward's salesperson's license was in an expired status. Furthermore, at no time had DRE been notified that Seaward was acting in a capacity for Funding Express or Nabhan that required a license.

10. On March 14, 2003, a commission was paid to Arita, an unlicensed individual, in the amount of \$1,593.40 on a loan transaction in which the loan agent was identified in the record as Nabhan.

11. Nabhan is licensed as a real estate broker, but during the relevant time his primary business was conducted as the owner and operator of an automobile dealership. His only work as a broker was as the designated officer of Funding Express. He testified that he was the designated officer of Funding Express from October 2002 to November 2003, although department records indicate his designation first occurred on May 11, 2001, and that the designation was not cancelled until November 29, 2004. The records further reveal Nabhan again became the designated officer on March 30, 2005, which designation "expired" on May 10, 2005, apparently contemporaneously with the expiration of the corporate license.

12. Nabhan testified he visited the office of Funding Express twice weekly during the time he was the company's designated officer. The purpose of his visits was to "review files." He did not participate directly in any transaction, nor did he meet with any customer of Funding Express. In exchange for these services, Nabhan was paid \$2,700 per month by Funding Express.

13. Nabhan testified he reviewed five files per week and found all of them to be in compliance with real estate laws and regulations during the relevant twelve-month period. He testified he was unaware that Funding Express was using unlicensed individuals to transact business that required licensure, and claimed to be unaware that unlicensed

individuals, including Arita, were being paid commissions. Likewise, Nabhan testified that he was unaware receipts in the nature of trust funds were being commingled with the company's operating funds. He testified he reviewed "accounts," but looked only at individual checks shown to him by Arita. Nabhan never conducted an audit or review independently of what was put before him by Arita or Arita's wife.

14. Nabhan claims that he was duped by Arita. Specifically, Nabhan asserts: 1) Arita or someone at Funding Express forged his signature on documents presented to DRE which purported to name Nabhan as the broker of record on a date or dates earlier than he had actually agreed to serve; and 2) Funding Express knowingly maintained a separate set of files regarding transactions not in compliance with real estate laws and regulations, and did not show those files to Nabhan.

15. Nabhan failed to maintain established policies, rules, procedures or systems to review and monitor the licensed activities of Funding Express. Nabhan failed to exercise reasonable and proper levels of supervision over the real estate activities of Funding Express, in violation of Business and Professions Code section 10159.2 and California Code of Regulations, title 10, section 2725. Nabhan's contention that Funding Express maintained a separate set of files and intentionally hid them from him is without any corroboration, and is belied by the fact that a DRE auditor was able to access the subject files, at random, without any difficulty. To conclude that Funding Express kept these files secret from Nabhan but readily provided them to a regulatory auditor, a person Arita had to know was in a position to make findings and recommendations detrimental to the continuing viability of his business, is unsupported by the facts and simple logic. Complainant established that respondent Nabhan actively aided and abetted Arita and Funding Express in its scheme to conduct a business requiring licensure by the department without the benefit of such a license. In carrying out the scheme, Funding Express, Seaward and Nabhan committed numerous violations of real estate law and regulations that caused harm to consumers, as enumerated in Finding 7.

16. The violations of the Real Estate Law committed by respondents herein were willful.

LEGAL CONCLUSIONS

1. Cause exists to discipline the corporate license of respondent Funding Express pursuant to Business and Professions Code section 10177, subdivision (d), and California Code of Regulations, title 10, section 2742, subdivision (c), in that Funding Express operated the business of a real estate broker while not in good legal standing with the Secretary of State, based on Factual Findings 3, 5 and 7.

2. Cause exists to discipline the corporate license of respondent Nabhan pursuant to Business and Professions Code sections 10159.2 and 10177, subdivision (h), in that Nabhan failed to ensure compliance by Funding Express with the real estate laws and regulations, thereby allowing Funding Express to operate the business of a real estate broker

while not in good legal standing with the Secretary of State, based on Factual Findings 2, 3, 5, 7, 11 and 15.

3. Cause exists to discipline the corporate license of respondent Funding Express pursuant to Business and Professions Code section 10176, subdivision (e), in that Funding Express commingled with its own money the money of others received by them in trust, based on Factual Findings 7(d) and 8.

4. Cause does not exist to discipline respondents pursuant to Business and Professions Code section 10176, subdivision (g), in that it was not established that any licensee took any secret or undisclosed compensation, commission or profit or failed to reveal the full amount of the compensation, commission or profit under any agreement authorizing or employing the licensee, based on Factual Findings 2 through 15.

5. Cause exists to discipline respondents pursuant to Business and Professions Code section 10176, subdivision (i), in that respondents engaged in conduct that constitutes fraud or dishonest dealing, based on Factual Findings 2 through 16.

6. Cause exists to discipline respondents pursuant to Business and Professions Code section 10177, subdivision (d), and Finance Code section 4975, in that respondents willfully disregarded or violated the Real Estate Law or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law, based on Factual Findings 2 through 16.

7. Cause exists to discipline the corporate license of respondent Nabhan pursuant to Business and Professions Code section 10177, subdivision (g), in that Nabhan demonstrated negligence or incompetence in performing acts for which he is required to hold a license, based on Factual Findings 2, 3, 5, 6, 7, 11, 12, 13 and 15.

8. Cause exists to discipline the corporate license of respondent Nabhan pursuant to Business and Professions Code sections 10159.2, subdivision (a), and 10177, subdivision (h), in that Nabhan failed to supervise or control the activities conducted on behalf of Funding Express by its officer and employees as necessary to secure full compliance with the provisions of the Real Estate Law, including the supervision of salespersons licensed to Funding Express in the performance of acts for which a real estate license is required, based on Factual Findings 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15.

9. Cause exists to discipline the license of respondent Seaward pursuant to Business and Professions Code section 10130, in that Seaward engaged in the business or capacity of real estate salesperson without a valid and active real estate license, based on Factual Findings 4 and 9.

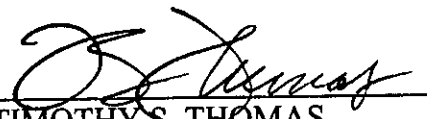
10. Cause exists to discipline the licenses of respondents Funding Express and Nabhan pursuant to Business and Professions Code section 10137, in that they employed and

and compensated persons not licensed as real estate salespersons who performed acts requiring licensure, based on Factual Findings 7(e), 4 and 9.

ORDER

1. Corporate real estate broker license number 01308404, issued to respondent Funding Express, is hereby revoked.
2. Real estate salesperson's license number 01096638, issued to respondent Seaward, is hereby revoked.
3. Real estate broker's license number 01115214, issued to respondent Nabhan, is hereby revoked.

DATED: November 21, 2005


TIMOTHY S. THOMAS
Administrative Law Judge
Office of Administrative Hearings

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982
6 -or- (213) 576-6907 (Direct)
7



8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA
10

* * *

11 In the Matter of the Accusation of)
12) DRE No. H-31559 LA
13) OAH No. L-2005040066
14 FUNDING EXPRESS BANCORP, INC.,)
15 a corporation, also known as) FIRST AMENDED
16 Funding Bankcorp, Inc.,) A C C U S A T I O N
17 IBRAHIM MOHAMAD NABHAN,)
18 individually and as designated)
officer of Funding Express)
Bancorp, Inc.; and)
KYUNG SOON SEAWARD,)
Respondents.)

19 The Complainant, Maria Suarez, a Deputy Real Estate
20 Commissioner of the State of California, does hereby amend the
21 Accusation filed against FUNDING EXPRESS BANCORP, INC., a
22 corporation, also known as Funding Express Bankcorp, Inc.;
23 IBRAHIM MOHAMAD NABHAN, individually and as designated broker-
24 officer of FUNDING EXPRESS BANCORP, INC.; and KYUNG SOON SEAWARD
25 (hereafter sometimes collectively referred to as "Respondents"),
26 is informed and alleges in her official capacity as follows:
27

1.

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "Code").

2.

At all times material herein, Respondent FUNDING EXPRESS BANCORP, INC., also known as Funding Express Bankcorp, Inc. (hereafter "FUNDING EXPRESS") was and still is licensed by the Department of Real Estate of the State of California (hereafter "Department") as a corporate real estate broker. Respondent FUNDING EXPRESS was first licensed by the Department as a corporate real estate broker on or about May 11, 2001. At all times relevant herein, Respondent FUNDING EXPRESS was authorized to act by and through Respondent IBRAHIM MOHAMAD NABHAN as the designated officer and broker responsible, pursuant to the provisions of Code Section 10159.2 for the supervision and control of the activities conducted on behalf of FUNDING EXPRESS by FUNDING EXPRESS' officers and employees.

3.

At all times material herein, Respondent IBRAHIM MOHAMAD NABHAN (hereafter "NABHAN") was and still is licensed by the Department as a real estate broker. Respondent NABHAN has been licensed since on or before July 25, 1991. At all times relevant herein, Respondent NABHAN was the broker-officer of FUNDING EXPRESS designated pursuant to Code Section 10159.2 to be

1 responsible for the supervision and control of the activities
2 conducted on behalf of FUNDING EXPRESS by its officers and
3 employees as necessary to secure full compliance with the Real
4 Estate Law. Between on or about August 19, 2002 and July 7,
5 2004, Respondent NABHAN also served as the designated broker-
6 officer of Empire Lending Corporation.

7 4.

8 On or about May 2, 2000, Respondent FUNDING EXPRESS
9 became incorporated under the laws of the State of California,
10 under corporate number C2215692. At all times relevant herein,
11 Respondent FUNDING EXPRESS is and was owned by Eduardo and
12 Elizabeth Arita. As of December 4, 2003, Eduardo Arita was the
13 Chief Executive Officer of FUNDING EXPRESS and Elizabeth Arita
14 was the Secretary and Chief Financial Officer. To date, neither
15 Eduardo Arita nor Elizabeth Arita have ever been licensed by the
16 Department in any capacity.
17

18 5.

19 All further references to "Respondents", unless
20 otherwise specified, include the parties identified in Paragraphs
21 2 through 4 above, and also include the employees, agents and
22 real estate licensees employed by or associated with said
23 parties, who at all times herein mentioned were engaged in the
24 furtherance of the business or operations of said parties and who
25 were acting within the course and scope of their authority and
26 employment.
27

6.

At all times material herein, Respondents FUNDING EXPRESS and NABHAN engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers for others in the State of California, within the meaning of Code Section 10131(d), including the operation and conduct of a real estate loan and loan servicing business with the public wherein Respondents solicited borrowers for loans secured by interest in real property and/or serviced loans secured by interest in real property in expectation of compensation.

7.

Respondent KYUNG SOON SEAWARD (hereafter "SEAWARD") was and still is licensed by the Department as a real estate salesperson and engaged in licensed acts pursuant to Code Section 10132. Respondent SEAWARD was first licensed by the Department on or about November 26, 1990. At no time relevant herein was Respondent FUNDING EXPRESS and/or Respondent NABHAN ever the employing broker of record for Respondent SEAWARD under the real estate licensing laws.

FIRST CAUSE OF ACCUSATION

(Suspension of Corporate Status)

8.

On or about May 2, 2000, Respondent FUNDING EXPRESS became incorporated under the laws of the State of California by filing its Articles of Incorporation with the Secretary of State

1 of the State of California.

2 9.

3 On or about September 2, 2003, Respondent FUNDING
4 EXPRESS' corporate powers, rights and privileges were suspended
5 pursuant to the provisions of California Revenue and Taxation
6 Code Section 23302.

7 10.

8 As of June 24, 2005, Respondent FUNDING EXPRESS'
9 corporate powers, rights and privileges remained suspended,
10 reinstatement never having been effected. Between on or about
11 September 3, 2003 and continuing through June 24, 2005,
12 Respondent FUNDING EXPRESS engaged in the business of a real
13 estate broker while not in good legal standing with the Office of
14 the Secretary of State.

15 11.

16 Respondent FUNDING EXPRESS' operation of the business
17 of a real estate broker while not in good legal standing with the
18 Office of the Secretary of State constitutes cause to suspend or
19 revoke Respondent FUNDING EXPRESS' license and license rights
20 pursuant to Business and Professions Code (hereafter "Code")
21 Section 10177(d) for violation of Regulation 2742(c) of Title 10,
22 Chapter 6 of the California Code of Regulations (hereafter
23 "Regulations").
24

25 12.

26 Respondent NABHAN's failure to ensure Respondent
27

1 FUNDING EXPRESS' compliance with the laws of the State of
2 California, and allowing Respondent FUNDING EXPRESS to operate in
3 the business of a real estate broker while not in good legal
4 standing with the Office of the Secretary of State, constitutes
5 cause to suspend or revoke Respondent NABHAN's license and
6 license rights pursuant to Code Sections 10159.2 and 10177(h).

7 SECOND CAUSE OF ACCUSATION

8 (Audit Findings)

9 13.

10 Complainant hereby incorporates by reference the
11 allegations contained in Paragraphs 1 through 10 above in this
12 Second Cause of Accusation.

13 14.

14 On or about February 26, 2004, the Department completed
15 its examination of Respondent FUNDING EXPRESS' and Respondent
16 NABHAN's books and records, pertaining to the real estate
17 activities described in Paragraph 6 above, covering a period from
18 approximately November 1, 2002 through October 31, 2003. The
19 primary purpose of the examination was to determine Respondent's
20 compliance with the Real Estate Law. The examination, Audit No.
21 LA030176, revealed violations of the Business and Professions
22 Code, of Title 10, Chapter 6, California Code of Regulations
23 ("Regulations"), as more specifically set forth in the Audit
24 Reports and Exhibits attached thereto.
25
26
27

15.

During the time period covered by the audit examination described in Paragraph 14 above, in connection with the broker escrow, real estate sales, loan and loan servicing activity described above, Respondents FUNDING EXPRESS and NABHAN did not maintain a trust account for trust funds received on behalf of principals.

16.

The audit examination revealed the following violations of the Code and Regulations, as more specifically set forth in Audit Report No. LA030176 and the Exhibits attached to said Audit:

(a) Respondents failed to maintain a columnar record for trust funds which were received from escrow companies and not deposited into a trust account, in violation of Code Section 10145 and Regulation 2831.

(b) Respondents failed to maintain separate trust fund records for the beneficiaries of the credit report fees and appraisal fees received from escrow companies, in violation of Code Section 10145 and Regulation 2831.1.

(c) Respondents failed to maintain a monthly reconciliation record of all trust funds received and disbursed with all separate beneficiary trust fund records, in violation of Code Section 10145 and Regulation 2831.2.

(d) Respondents, in at least five (5) of the twenty-

three (23) loan files examined, including Holguin, Cancino, Rivera, Salgado and Castillo, paid the credit companies and appraisers after the funds received from escrow companies were deposited into the general operating Account No. 2018458034. In this way, trust funds received on behalf of principals and third parties were commingled with the broker's general funds. This commingling was in violation of Code Section 10145 and Regulation 2835.

(e) Respondents paid compensation for acts requiring a real estate license to the following individuals who were either unlicensed or were licensed but not properly employed under Respondents' broker licenses:

Indiv. (Status)	Transaction	Date	Amt. of Comp.
Jeannette Pacheco	Childress	7/28/03-	\$2,493.43 (Ch.#3713)
Mario Izquierdo (Unlicensed)	Martinez	4/24/03 ("bonus") (loan forgive) Ch.#3457	\$5,758.97 (25.00) (2,866.97) \$2,867.00
Eduardo Arita	Fernandez	7/18/03	\$1,593.40 (Ch.#3658)
Kyung Seaward (RES-NBA)	Moreno	8/1/03	\$4,847.80
Sara Sanchez (RES-NBA)	Cancino	6/17/03	\$ 758.13

This was in violation of Code Section 10130 and 10137. (See also THIRD CAUSE OF ACCUSATION below.)

(f) Respondents failed to notify the Department of

1 employment of salespersons in a timely manner, including Sara
2 Sanchez and Martha Flores Garcia, in violation of Code Section
3 10161.8 and Regulation 2752.

4 (g) Respondents overcharged borrowers for credit
5 report fees in the Cancino, Rivera, Holguin, Ayala and Velasco
6 transactions, constituting undisclosed compensation, in violation
7 of Code Section 10176(g).

8 (h) Respondents failed to maintain Department approved
9 mortgage loan disclosure statements signed and dated by broker or
10 broker's representative, in the files of borrowers Prado and
11 Lopez, in violation of Code Section 10240.

12 (i) Respondents failed to disclose on Department
13 approved mortgage loan disclosure statements, the license numbers
14 of Respondents or their representatives, in the 23 files audited,
15 in violation of Code Sections 10236.4 and 10240.
16

17 (j) Respondents failed to disclose to borrowers the
18 Yield Spread Premiums from the lenders on the Department approved
19 mortgage loan disclosure statement, in violation of Code Sections
20 10240 and 10241.

21 (k) Respondents, in two (2) loan transactions covered
22 by the provisions of Financial Code Section 4970, et. seq.,
23 failed to maintain records in the file that they provided or
24 failed to provide covered loan notice to the borrowers no later
25 than three business days prior to signing of the loan documents.
26 The two (2) covered loan transactions were the Martinez and
27

1 Fernandez transactions. This was in violation of Financial Code
2 Section 4973(k)(1).

3 (1) Respondents charged financed points and fees in
4 excess of \$1,000 or 6% of the original principal balance,
5 exclusive of points and fees in the two (2) covered loan
6 transactions, Martinez and Fernandez, in violation of Financial
7 Code Section 4979.6.

8 (m) Respondents failed to maintain established
9 policies, rules, procedures or systems to review and monitor the
10 licensed activities of FUNDING EXPRESS. NABHAN failed to
11 exercise reasonable and proper levels of supervision over the
12 real estate activities of FUNDING EXPRESS, in violation of Code
13 Section 10159.2 and Regulation 2725.

14 17.

15 The conduct, acts and omissions of Respondents FUNDING
16 EXPRESS and NABHAN, violated the Code and Regulations as set
17 forth above and constitutes cause for the suspension or
18 revocation of all real estate licenses and license rights of
19 Respondents under the provisions of Code Sections 10176(e),
20 10176(g), 10176(i), 10177(d) and/or 10177(g) and Financial Code
21 Section 4975.

22 18.

23 The conduct, acts and omissions of Respondent NABHAN,
24 in failing to ensure FUNDING EXPRESS was in compliance with the
25 Real Estate Law, was in violation of Code Section 10159.2, and
26
27

1 constitutes cause for the suspension or revocation of Respondent
2 NABHAN's license and license rights pursuant to Code Sections
3 10177(d), 10177(g) and 10177(h).

4 19.

5 The conduct, acts and omissions of Respondent SEAWARD
6 in performing acts requiring a real estate license in expectation
7 of compensation when not employed by a real estate broker and in
8 accepting compensation from a person other than the broker under
9 whom he was at the time licensed constitutes cause for discipline
10 of Respondent SEAWARD's license pursuant to Code Sections 10130
11 and 10137.

12 THIRD CAUSE OF ACCUSATION

13 (Unlicensed Activity)

14 20.

15 Complainant hereby incorporates by this reference the
16 allegations contained in Paragraphs 1 through 19 above.

17 Unlicensed Acts by Mario Izquierdo

18 21.

19 At times material herein, Mario Izquierdo was employed
20 by Respondents. To date, Mario Izquierdo has never been licensed
21 by the Department in any capacity.

22 22.

23 On or about December 26, 2002, Avery Mark Santos and
24 Jhoanna Santos (hereafter "Santoses") represented by Ruben del
25 Rio of FUNDING EXPRESS, entered into a Residential Purchase
26
27

1 Agreement and Joint Escrow Instructions (and Receipt for Deposit)
2 for the purchase of 10440 Quill Avenue, #104, Sunland,
3 California. On December 30, 2002, the Santosos met at their home
4 with Mario Izquierdo from FUNDING EXPRESS. Izquierdo prompted
5 the Santosos to apply for an FHA loan and presented the Santosos
6 with a Good Faith Estimate that they signed, but were asked not
7 to date. Izquierdo also presented a counter offer from the
8 seller, which he also asked the Santosos to sign, but not date.
9 Izquierdo's solicitation of borrowers and presentation of a Good
10 Faith Estimate are acts requiring a real estate license.

11 23.

12 On December 31, 2002, escrow on the Quill Avenue
13 transaction described in Paragraph 22 above (hereafter "Quill
14 Avenue transaction") was opened with American Trust Escrow and
15 included a Supplement to Residential Purchase Agreement and Joint
16 Escrow Instructions dated December 26, 2002. On January 29,
17 2003, Izquierdo called the Santosos and asked the Santosos to
18 consider getting a conventional loan on the property because the
19 Homeowner Association President had not provided the standard FHA
20 documents. Izquierdo stated that the Santosos would need someone
21 to co-sign for a conventional loan. The Santosos declined to
22 switch to a conventional loan in favor of an FHA loan. On
23 January 31, 2003, Izquierdo called the Santosos again and
24 requested they consider a co-signer with the conventional loan.
25 The Santosos declined to go with a co-signer or a conventional
26
27

1 loan. The Santosos instructed Izquierdo that they were sticking
2 to the FHA loan on the property. Izquierdo's solicitation of
3 borrowers is conduct requiring a real estate license.

4 24.

5 Izquierdo was also identified on April 24, 2003, as the
6 loan officer for a loan to Almicar and Vilma Martinez to be
7 secured by real property located at 2014 Fern Ave., Ontario, CA,
8 FUNDING EXPRESS loan #0302-453 (hereafter "Martinez loan").
9 Respondents paid Izquierdo a commission on this transaction in
10 the amount of \$2,867.00 per FUNDING EXPRESS Wells Fargo check
11 #3457. Izquierdo's conducting business as a "loan officer" is
12 conduct requiring a real estate license.

13 Unlicensed acts by Jeannette Pacheco

14 25.

15 At times relevant herein, Jeannette Pacheco was
16 employed by the Respondents. To date, Jeannette Pacheco has
17 never been licensed by the Department in any capacity.
18

19 26.

20 On July 28, 2003, Jeannette Pacheco signed as the
21 broker for a loan to Daniel and Ann Childress to be secured by
22 real property located at 14361 Victor Drive, Moreno Valley, CA,
23 FUNDING EXPRESS loan #0306-576. Subsequently, on August 12,
24 2003, Jeannette Pacheco was identified as the loan officer and
25 received a commission payment of \$2,493.43 from Respondent
26 FUNDING EXPRESS per FUNDING EXPRESS Wells Fargo check #3713.
27

1 Pacheco's conduct in signing as a "broker" for a loan and in
2 acting as a "loan officer" is conduct requiring a real estate
3 license.

4 Unlicensed acts by Eduardo Arita

5 27.

6 At all times relevant herein, Eduardo Arita and
7 Elizabeth Arita were owners and officers of Respondent FUNDING
8 EXPRESS. At no time relevant herein have either Eduardo Arita or
9 Elizabeth Arita been licensed by the Department in any capacity.

10 28.

11 Eduardo Arita signed as the broker for FUNDING EXPRESS
12 on June 10, 2003, and on July 18, 2003 was identified as the loan
13 officer for a loan to Jose and Melanie Fernandez to be secured by
14 real property located at 16309 Silverbirch Rd., Moreno Valley,
15 CA. On July 18, 2003, Eduardo Arita also received a commission
16 payment in the amount of \$1,593.40 per FUNDING EXPRESS Wells
17 Fargo check #3658. Eduardo Arita's conduct as a "loan officer"
18 is conduct requiring a real estate license.

19 Unlicensed acts by Jayson Stephen Romero

20 29.

21 Beginning on or before October 17, 1998, Jayson Stephen
22 Romero was licensed by the Department as a real estate
23 salesperson. His license expired on October 16, 2002. Jayson
24 Stephen Romero has not renewed his salesperson license and his
25 two year renewal rights have expired. Therefore, at no time
26
27

1 relevant herein was Jayson Stephen Romero licensed by the
2 Department in any capacity.

3 30.

4 On February 19, 2003, Jayson Stephen Romero, while his
5 real estate license was expired, acted in the capacity of a real
6 estate broker by representing, in writing, that he was the broker
7 in the Cancino loan, FUNDING EXPRESS loan #0302-446. On
8 February 26, 2003, Romero represented himself as the broker in
9 the Martinez loan transaction, FUNDING EXPRESS loan #0302-453.

10 Unlicensed acts by Sara Sanchez

11 31.

12 Sara Sanchez was first licensed by the Department as a
13 conditional real estate salesperson on or about January 31, 2003,
14 at which time her license was not activated under the employ of a
15 real estate broker. Sanchez' license was not activated under the
16 employ of a real estate broker until on or about December 31,
17 2003, at which time she was employed by Respondents.

18 32.

19 On June 16, 2003, prior to being licensed as a
20 salesperson under the supervision of Respondent FUNDING EXPRESS
21 as her employing broker, Sanchez was identified as the loan
22 officer for a loan to Gerardo Cancino to be secured by real
23 property located at 26537-A & 26537-B East 6th St., Highland, CA,
24 FUNDING EXPRESS loan #0302-446. On June 17, 2003, Respondents
25
26
27

1 paid Sanchez a commission payment in the amount of \$758.13 per
2 FUNDING EXPRESS Wells Fargo check #3560.

3 Unlicensed acts by Respondent KYUNG SOON SEAWARD

4 33.

5 Respondent KYUNG SOON SEAWARD (hereafter "SEAWARD") was
6 and still is licensed by the Department as a real estate
7 salesperson and engaged in licensed acts pursuant to Code Section
8 10132. Respondent SEAWARD was first licensed by the Department
9 on or about November 26, 1990. According to the Department's
10 records, since that time, Respondent SEAWARD has been employed by
11 the following brokers:

<u>Dates</u>	<u>Broker of Record</u>
13 7/9/1992- 14 4/21/1994	Empire of America Realty Credit Corp.
15 11/22/1996- 16 9/2/1998	Ocean West Enterprises Inc.
17 5/03/2004- 11/01/2004	Global Professional Associates

18 Between September 2, 1998 and May 3, 2004, Respondent
19 SEAWARD was not employed by and/or otherwise properly licensed to
20 act under the supervision of a licensed real estate broker. At
21 no time relevant herein was Respondent SEAWARD ever licensed to
22 perform acts requiring a real estate license under the
23 supervision of Respondent FUNDING EXPRESS and/or Respondent
24 NABHAN. On or about April 7, 2003, Respondent SEAWARD's license
25 expired. It was not renewed until February 18, 2004.

26 ///

34.

On August 1, 2003, while SEAWARD's license was expired, SEAWARD was identified as a loan officer for a loan to Yolanda Moreno secured by real property located at 4726 Larry Ave., Baldwin Park, CA, FUNDING EXPRESS loan #0307-577. Respondents FUNDING EXPRESS and/or NABHAN paid SEAWARD a commission payment of \$4,847.80 per FUNDING EXPRESS Wells Fargo check #3698.

35.

The conduct, acts and omissions of Respondents FUNDING EXPRESS and NABHAN, as set forth above, constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents FUNDING EXPRESS and NABHAN under the provisions of Code Sections 10137, 10177(d) and/or 10177(g).

36.

The conduct, acts and omissions of Respondent SEAWARD, violated Code Section 10130 as set forth above and constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondent SEAWARD under the provisions of Code Sections 10177(d).

///

///

///

///

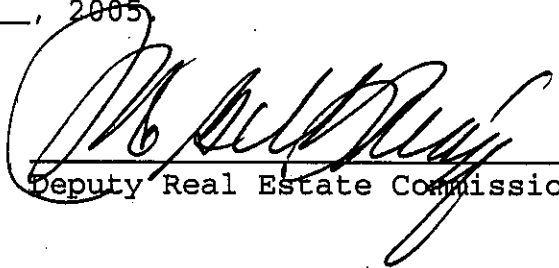
///

///

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/or license rights of Respondents
5 FUNDING EXPRESS BANCORP, INC., a corporation, also known as
6 Funding Express Bankcorp, Inc.; IBRAHIM MOHAMAD NABHAN,
7 individually and as designated officer of Funding Express
8 Bancorp, Inc.; and KYUNG SOON SEAWARD, under the Real Estate Law
9 (Part 1 of Division 4 of the Business and Professions Code), and
10 for such other and further relief as may be proper under other
11 applicable provisions of law.

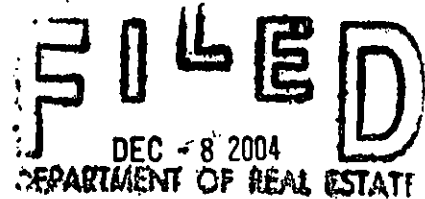
12 Dated at Los Angeles, California

13 this 29th day of July, 2005.

14
15
16 
17 Deputy Real Estate Commissioner
18
19
20

21 cc: Funding Express Bancorp., Inc.
22 Ibrahim Mohamad Nabhan
23 James M. Steck, Esq.
24 Eduardo Arita
25 Elizabeth Arita
26 Kyung Soon Seaward
27 Sacto.
Maria Suarez
LA Audit/Chan
OAH

1 CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105
3
4 Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)



5
6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) No. H-31559 LA
13 FUNDING EXPRESS BANKCORP, INC,)
a corporation;) A C C U S A T I O N
14 IBRAHIM MOHAMAD NABHAN,)
individually and as designated)
15 officer of Funding Express)
Bancorp, Inc.; and)
16 KYUNG SOON SEAWARD,)
Respondents..)

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against FUNDING EXPRESS BANKCORP, INC., a corporation (hereafter
20 "FEBI"); IBRAHIM MOHAMAD NABHAN (hereafter "NABHAN"); and KYUNG
21 SOON SEAWARD (hereafter "SEAWARD") (hereafter sometimes
22 collectively referred to as "Respondents"), is informed and
23 alleges in her official capacity as follows:

24 1.

25 Respondents are presently licensed and/or have license
26 rights under the Real Estate Law, Part 1 of Division 4 of the
27

1 California Business and Professions Code (hereafter "Code").

2 2.

3 At all times material herein, Respondent FEBI was and
4 still is licensed by the Department of Real Estate of the State
5 of California (hereafter "Department") as a corporate real
6 estate broker.

7 3.

8 At all times material herein, NABHAN was and still is
9 licensed by the Department individually as a real estate broker
10 and as designated officer of FEBI.

11 4.

12 SEAWARD was and still is licensed by the Department as
13 a real estate salesperson and engaged in licensed acts pursuant
14 to Code Section 10132; however, in August 2003, SEAWARD's license
15 expired. Also, SEAWARD was never licensed under FEBI.

16 5.

17 At all times material herein, Mario Izquierdo, Daniel
18 Rene Barillas, Eduardo Arita, Jannette Pacheco and Jayson Stephen
19 Romero were not licensed by the Department as real estate
20 salespersons or as real estate brokers. Daniel Rene Barillas was
21 previously licensed as a real estate salesperson. His license
22 was revoked on July 11, 2003 in Case Nos. H-29770 LA and
23 H-29796 LA. Jayson Stephen Romero was licensed as a real estate
24 salesperson. His license expired on October 16, 2002.

25 6.

26 At all times material herein, Respondents FEBI, NABHAN
27 and SEAWARD engaged in the business of, acted in the capacity

1 of, advertised or assumed to act as real estate brokers for
2 others in the State of California, within the meaning of Code
3 Section 10131(d), including the operation and conduct of a real
4 estate loan and loan servicing business with the public wherein
5 Respondents solicited borrowers for loans secured by interest in
6 real property and/or serviced loans secured by interest in real
7 property in expectation of compensation.

8 7.

9 All further references to "Respondents", unless
10 otherwise specified, include the parties identified in Paragraphs
11 2 through 6 above, and also include the employees, agents and
12 real estate licensees employed by or associated with said
13 parties, who at all times herein mentioned were engaged in the
14 furtherance of the business or operations of said parties and who
15 were acting within the course and scope of their authority and
16 employment.

17 FIRST CAUSE OF ACCUSATION

18 (Unlicensed Activity)

19 8.

20 On or about December 26, 2002, Avery Mark Santos and
21 Jhoanna Santos (hereafter "Santoses") represented by Ruben del
22 Rio of FEBI, entered into a Residential Purchase Agreement and
23 Joint Escrow Instructions (and Receipt for Deposit) for the
24 purchase of 10440 Quill Avenue, #104, Sunland, California. On
25 December 30, 2002, the Santoses met at their home with Mario
26 Izquierdo from FEBI and Izquierdo prompted the Santoses to apply
27 for an FHA loan and presented the Santoses with a Good Faith

1 Estimate that they signed, but were asked not to date. Izquierdo
2 also presented a counter offer from the seller and had the
3 Santos sign, but not date. On December 31, 2002, escrow was
4 opened with American Trust Escrow and included a supplement to
5 residential purchase agreement and joint escrow instructions
6 dated December 26, 2002. On January 29, 2003, Izquierdo called
7 the Santos and asked the Santos to consider getting a
8 conventional loan on the property because the Homeowner
9 Association President had not provided the standard FHA
10 documents. Izquierdo stated that the Santos would need someone
11 to co-sign for a conventional loan and the Santos declined in
12 favor of an FHA loan. On January 31, 2003, Izquierdo called the
13 Santos again and requested they consider a co-signer with the
14 conventional loan. The Santos declined to go with a co-signer
15 or a conventional loan. The Santos instructed Izquierdo that
16 they were sticking to the FHA loan on the property.

17 9.

18 On July 28, 2003, Jannette Pacheco signed as the broker
19 for a loan to Daniel and Ann Childress to be secured by real
20 property located at 14361 Victor Drive, Moreno Valley, CA, FEBI
21 loan #0306-576. Subsequently, on August 12, 2003, Jannette
22 Pacheco was identified as the loan officer and received a
23 commission payment of \$2493.43 from FEBI per FEBI's Wells Fargo
24 check #3713.

25 10.

26 On August 1, 2003, while SEAWARD's license was expired,
27 SEAWARD was identified as a loan officer for a loan to Yolanda

1 Moreno secured by real property located at 4726 Larry Ave.,
2 Baldwin Park, CA, FEBI loan #0307-577. SEAWARD received a
3 commission payment of \$4847.80 per FEBI Wells Fargo check #3698.

4 11.

5 Sara Sanchez engaged in unlicensed activity. Prior to
6 being licensed with FEBI, Sanchez was identified, on June 16,
7 2003, as the loan officer for a loan to Gerardo Cancino to be
8 secured by real property located at 26537-A & 26537-B East 6th
9 St., Highland, CA, FEBI loan #0302-446 (hereafter "Cancino
10 loan"), and on June 17, 2003, received commission payment in the
11 amount of \$758.13 per FEBI Wells Fargo check #3560.

12 12.

13 Izquierdo is not licensed by the Department but was
14 identified on April 24, 2003 as the loan officer for a loan to
15 Almicar and Vilma Martinez to be secured by real property located
16 at 2014 Fern Ave., Ontario, CA, FEBI loan #0302-453 (hereafter
17 "Martinez loan"), and received commission payment in the amount
18 of \$2867.00 per FEBI Wells Fargo check #3457.

19 13.

20 Eduardo Arita engaged in unlicensed activity. Eduardo
21 Arita signed as the broker for FEBI on June 10, 2003 and was
22 identified as the loan officer for a loan to Jose and Melanie
23 Fernandez to be secured by real property located at 16309
24 Silverbirch Rd., Moreno Valley, CA, FEBI loan #0303-472, on
25 July 18, 2003. On July 18, 2003, Eduardo Arita also received a
26 commission payment in the amount of \$1593.40 per FEBI Wells Fargo
27 check #3658.

1
2 14.

3 On February 19, 2003, Jayson Stephen Romero, while his
4 real estate license was expired, in violation of Code Section
5 10130, in writing, represented himself as the broker in the
6 Cancino loan, FEBI loan #0302-446. On February 26, 2003, Romero
7 represented himself as the broker in the Martinez loan
8 transaction, FEBI loan #0302-453.

9 15.

10 The conduct, acts and omissions of Respondents FEBI
11 and NABHAN, as set forth above, constitutes cause for the
12 suspension or revocation of all real estate licenses and license
13 rights of Respondents FEBI and NABHAN under the provisions of
14 Code Sections 10137, 10177(d) and/or 10177(g). The conduct,
15 acts and omissions of Respondent SEAWARD, violated Code Section
16 10130 as set forth above and constitutes cause for the
17 suspension or revocation of all real estate licenses and license
18 rights of Respondent SEAWARD under the provisions of Code
19 Sections 10177(d).

20 SECOND CAUSE OF ACCUSATION

21 (Audit Findings)

22 16.

23 On February 26, 2004, the Department concluded its
24 examination of Respondents FEBI's and NABHAN's books and records
25 pertaining to Respondents FEBI's and NABHAN's activities as
26 real estate brokers in Audit No. LA030176, covering a period
27 from approximately November 1, 2002 to October 31, 2003. The

1 examination revealed violations of the Code and California Code
2 of Regulations, Title 10, Chapter 6 (hereafter "Regulations"),
3 as set forth below, and as more specifically set forth in Audit
4 Report No. LA030176 and the Exhibits attached to said Audit.

5 17.

6 At all times herein, in connection with the broker
7 escrow, real estate sales, loan and loan servicing activity
8 described above, Respondents FEBI and NABHAN did not accept or
9 receive funds, including funds in trust (hereafter "trust
10 funds").

11 18.

12 Respondents FEBI and NABHAN acted in violation of the
13 Code and the Regulations in that they:

14 (a) failed to maintain a columnar record for trust
15 funds which were received from escrow companies and not
16 deposited into a trust account, in violation of Code Section
17 10145 and Regulation 2831.

18 (b) failed to maintain separate trust fund records
19 for the beneficiaries of the credit report fees and appraisal
20 fees received from escrow companies, in violation of Code
21 Section 10145 and Regulation 2831.1.

22 (c) failed to maintain a monthly reconciliation
23 record of all trust funds received and disbursed with all
24 separate beneficiary trust fund records, in violation of Code
25 Section 10145 and Regulation 2831.2.

26 (d) Twenty-three (23) loan files were examined during
27 the audit. In at least five of the loan files examined,

1 including Holguin, Cancino, Rivera Salgado and Castillo, FEBI
2 paid the credit companies and appraisers after the funds
3 received from escrow companies were deposited into the general
4 operating Account No. 2018458034. This constitutes commingling,
5 in violation of Code Section 10145 and Regulation 2835.

6 (e) failed to notify the Department of employment for
7 salespersons in a timely manner, including Sara Sanchez and
8 Martha Flores Garcia, in violation of Code Section 10161.8 and
9 Regulation 2752.

10 (f) overcharged borrowers, including Cancino, Rivera,
11 Holguin, Ayala and Velasco, for credit report fees in
12 transactions including constituting undisclosed compensation, in
13 violation of Code Section 10176(g).

14 (g) failed to maintain Department approved mortgage
15 loan disclosure statements signed and dated by broker or
16 broker's representative, in the files of borrowers Prado and
17 Lopez, in violation of Code Section 10240.

18 (h) failed to disclose on Department approved
19 mortgage loan disclosure statements, the license numbers for
20 Respondents or their representatives, in the 23 files audited,
21 in violation of Code Sections 10236.4 and 10240.

22 (i) failed to disclose to borrowers the Yield Spread
23 Premiums from the lenders on the Department approved mortgage
24 loan disclosure statement, in violation of Code Sections 10240
25 and 10241.

26 (j) failed to maintain records in the file that they
27 provided or failed to provide covered loan notice to the

1 borrowers no later than three business days prior to signing of
2 the loan documents in the two (2) covered loan transactions,
3 Martinez and Fernandez, in violation of Financial Code Section
4 4973(k)(1).

5 (k) charged financed points and fees in excess of
6 \$1,000 or 6% of the original principal balance, exclusive of
7 points and fees in the two (2) covered loan transactions,
8 Martinez and Fernandez, in violation of Financial Code Section
9 4979.6.

10 (l) failed to maintain established policies, rules,
11 procedures or systems to review and monitor the licensed
12 activities of FEBI. NABHAN failed to exercise reasonable and
13 proper levels of supervision over the real estate activities of
14 FEBI, in violation of Code Section 10159.2 and Regulation 2725.

15 19.

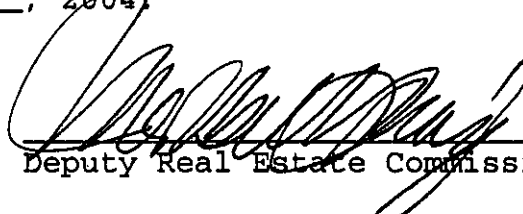
16 The conduct, acts and omissions of Respondents FEBI
17 and NABHAN, violated the Code and Regulations as set forth above
18 and constitutes cause for the suspension or revocation of all
19 real estate licenses and license rights of Respondents under the
20 provisions of Code Sections 10176(e), 10176(g), 10176(i),
21 10177(d) and/or 10177(g) and Financial Code Section 4975. In
22 addition, the conduct, acts and omissions of Respondent NABHAN,
23 in failing to ensure FEBI was in compliance with the Real Estate
24 Law, constitutes cause for the suspension or revocation of
25 Respondent NABHAN's license and license rights pursuant to Code
26 Sections 10177(d), 10177(g) and 10177(h).

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/or license rights of Respondents
5 FUNDING EXPRESS BANKCORP, INC., a corporation; IBRAHIM MOHAMAD
6 NABHAN, individually and as designated officer of Funding
7 Express Bancorp, Inc.; and KYUNG SOON SEAWARD, under the Real
8 Estate Law (Part 1 of Division 4 of the Business and Professions
9 Code), and for such other and further relief as may be proper
10 under other applicable provisions of law.

11 Dated at Los Angeles, California

12 this 8th day of December, 2004.

13
14
15 
16 Deputy Real Estate Commissioner
17
18
19
20
21
22

23 cc: Funding Express Bankcorp, Inc.
24 Ibrahim Mohamad Nabhan
25 Kyung Soon Seaward
26 Sacto.
27 LA Audit/Chan
DW
Maria Suarez