

FILED
NOV 22 2006
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

By K. M. [Signature]

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

11 * * *

11 In the Matter of the Accusation of) No. H-32559 LA
12)
12 MELVIN LEE KIM, doing business) STIPULATION
13 as The Loan Company,) AND
14) AGREEMENT
15 Respondent,)

16 It is hereby stipulated by and between Respondent
17 MELVIN LEE KIM dba The Loan Company (sometimes referred to as
18 "Respondent") and the Complainant, acting by and through Elliott
19 Mac Lennan, Counsel for the Department of Real Estate, as follows
20 for the purpose of settling and disposing of the Accusation
21 ("Accusation") filed on March 10, 2006, in this matter:

- 22
23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedure Act ("APA"), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement ("Stipulation").

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

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

20 4. This Stipulation is based on the factual
21 allegations contained in the Accusation. In the interest of
22 expedience and economy, Respondent chooses not to contest these
23 allegations, but to remain silent and understands that, as a
24 result thereof, these factual allegations, without being admitted
25 or denied, will serve as a prima facie basis for the disciplinary
26 action stipulated to herein. The Real Estate Commissioner shall
27

1 not be required to provide further evidence to prove said factual
2 allegations.

3 5. This Stipulation and Respondent's decision not to
4 contest the Accusation is made for the purpose of reaching an
5 agreed disposition of this proceeding and is expressly limited to
6 this proceeding and any other proceeding or case in which the
7 Department of Real Estate ("Department"), the state or federal
8 government, or any agency of this state, another state or federal
9 government is involved.

10 6. It is understood by the parties that the Real
11 Estate Commissioner may adopt this Stipulation as his Decision in
12 this matter thereby imposing the penalty and sanctions on
13 Respondent's real estate licenses and license rights as set forth
14 in the "Order" herein below. In the event that the Commissioner
15 in his discretion does not adopt the Stipulation, it shall be
16 void and of no effect and Respondent shall retain the right to a
17 hearing and proceeding on the Accusation under the provisions of
18 the APA and shall not be bound by any stipulation or waiver made
19 herein.
20

21 7. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department of Real
25 Estate with respect to any matters which were not specifically
26 alleged to be causes for Accusation in this proceeding but do
27

1 constitute a bar, estoppel and merger as to any allegations
2 actually contained in the Accusations against Respondent herein.

3 DETERMINATION OF ISSUES

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

6 I.

7 The conduct of MELVIN LEE KIM as described in Paragraph
8 4, hereinabove, is in violation of Section 10240(a) and 10241 of
9 the Business and Professions Code ("Code") and is a basis for the
10 suspension or revocation of Respondent's license and license
11 rights as a violation of the Real Estate Law pursuant to Code
12 Sections 10177(d) and 10177(g).

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16 All licenses and licensing rights of Respondent
17 MELVIN LEE KIM, under the Real Estate Law are suspended for a
18 period of thirty days from the effective date of this Decision;
19 provided, however, that if Respondent requests, said suspension,
20 or a portion thereof, shall be stayed upon condition that:

21 1. Pursuant to Section 10175.2 of the Business and
22 Professions Code, Respondent pays a monetary penalty of one
23 hundred dollars (\$33.33) per day or One Thousand Dollars (\$1,000)
24 in total.

25 2. Said payment shall be in the form of a cashier's
26 check or certified check made payable to the Recovery Account of
27

1 the Real Estate Fund. Said check must be received by the
2 Department prior to the effective date of the Decision.
3 in this matter.

4 3. No further cause for disciplinary action against
5 the real estate license of Respondent occurs within two (2) years
6 from the effective date of the Decision in this matter.

7 4. If Respondent fails to pay the monetary penalty in
8 accordance with the terms and conditions of the Decision, the
9 Commissioner may, without a hearing, order the immediate
10 execution of all or any part of the stayed suspension in which
11 event Respondent shall not be entitled to any repayment nor
12 credit, prorated or otherwise, for money paid to the Department
13 under the terms of this Decision.

14 5. If Respondent pays the monetary penalty and if no
15 further cause for disciplinary action against the real estate
16 license of Respondent occur within two (2) years from the
17 effective date of the Decision, the stay hereby granted shall
18 become permanent.
19

20 6. Respondent shall obey all laws, rules and
21 regulations governing the rights, duties and responsibilities of
22 real estate licensees in the State of California.
23
24

25 DATED: 8-25-04

26 *EL*
27 ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

I have read the Stipulation. Its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

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

DATED: 09-19-06

Melvin Kim
MELVIN KIM Respondent

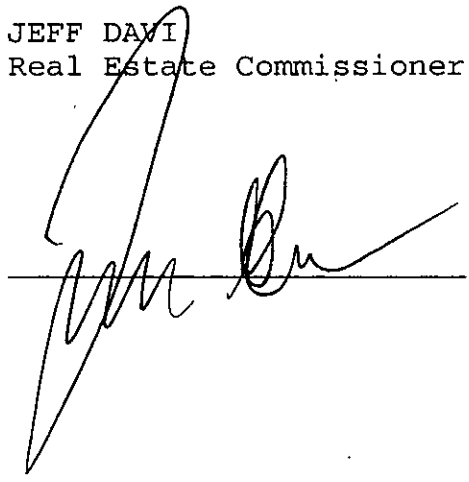
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* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent MELVIN LEE KIM and shall
become effective at 12 o'clock noon on DEC 12,
2006.

IT IS SO ORDERED 11-15, 2006.

JEFF DAVIS
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davis', is written over a horizontal line. The signature is stylized and cursive.

Handwritten signature

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
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Los Angeles, California 90013-1105

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FILE
MAR 10 2008
DEPARTMENT OF REAL ESTATE

By *Khushroo*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-32559 LA
MELVIN LEE KIM, doing)	<u>A C C U S A T I O N</u>
business as The Loan Company,)	
)	
Respondent.)	

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MELVIN LEE KIM dba The Loan Company, ("KIM"), alleges as follows:

1.

The Complainant, Janice Waddell, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California makes this accusation against KIM.

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1 2.

2 All references to the "Code" are to the California
3 Business and Professions Code and all references to "Regulations"
4 are to Title 10, Chapter 6, California Code of Regulations.

5 LICENSE HISTORY

6 3.

7 At all times mentioned, KIM was licensed or had license
8 rights issued by the Department of Real Estate (Department) as a
9 restricted real estate broker. On July 17, 1978, KIM was
10 originally licensed as a real estate broker.

11 4.

12 At all times mentioned, in the City of Mission Viejo,
13 County of Orange, KIM acted as a real estate broker and conducted
14 licensed activities within the meaning of Code Section 10131(d).
15 KIM operated a mortgage and loan brokerage dba The Loan Company.

16 5.

17 On July 27, 2004, the Department completed an audit
18 examination of the books and records of KIM dba The Loan Company
19 pertaining to the mortgage and loan brokerage activities
20 described in Paragraph 4 that require a real estate license. The
21 audit examination covered a period of time beginning on January
22 1, 2003 to June 30, 2004. The audit examination revealed
23 violations of the Code and the Regulations as set forth in the
24 following paragraphs, and more fully discussed in Audit Report LA
25 030480 and the exhibits and workpapers attached to said audit
26 report.

6.

1
2 At all times mentioned, in connection with the
3 activities described in Paragraph 4, above, KIM accepted or
4 received funds in trust (trust funds) from or on behalf of
5 borrowers and lenders and thereafter made disposition of such
6 funds. KIM did not maintain a trust account during the audit
7 period.

8
9 7.

10 With respect to the activities referred to in
11 Paragraphs 4, 5 and 6, it is alleged that KIM:

12 (a) Failed to provide and/or maintain a statement in
13 writing containing all the information required by Code Section
14 10241 to various borrowers including but not limited to Patel,
15 Shepard and Hernandez & Valadez, in violation of Code Sections
16 10240(c) and Regulation 2840.

17 (b) Failed to provide and/or maintain a statement in
18 writing containing all the information required by Code Section
19 10241 to various borrowers including but not limited to Patel,
20 Shepard and Lassalle and Paez signed by the broker, in violation
21 of Code Section 10240(a) and Regulation 2840.

22 (c) Failed to provide and/or maintain a statement in
23 writing containing all the information required by Code Section
24 10241 to various borrowers including but not limited to Lassalle,
25 Hernandez, Paez, Joseph Edmund Comstock Trust, Tran, Miller and
26 Garcia, before these borrowers became obligated to perform under
27

1 the terms of their respective loans, as required by Code Sections
2 10240 and 10176(g) and Regulation 2840. Additionally, rebates
3 from lenders for Yield Spread Premiums totaling \$25,454, were not
4 timely disclosed in the Mortgage Loan Disclosure Statements/Good
5 Faith Estimates provided to the aforesaid borrowers.

6 (d) Permitted and/or caused the disbursement of trust
7 funds to pay credit report fees on the representation that these
8 amounts were needed to pay for credit report costs, which
9 payments exceeded the actual costs of these services by
10 Respondent. Respondent KIM did not disclose these "mark-ups" to
11 the beneficiaries of said trust funds, did not obtain their
12 consent to these "mark-ups" and pocketed the difference between
13 the amounts paid and the actual costs of the services. KIM's
14 failure to disclose credit report fees charged in excess of the
15 amount billed to borrowers by the credit reporting company
16 including, but not limited to borrowers Hernandez & Valadez and
17 The Joseph Edmund Comstock Trust, constitutes the taking of a
18 secret profit by means of compensation undisclosed to the
19 aforesaid borrowers, in violation of Code Sections 10176(a),
20 10176(g) and 10177(g).
21

22 ///

23 ///

24 ///

25 ///

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27

8.

The conduct of Respondent KIM, described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Sections 10240(c) and 10241 and Regulation 2840
7(b)	Code Sections 10240(a) and 10241 and Regulation 2840
7(c)	Code Sections 10176(g), 10240 and 10241(b) and Regulation 2840
7(d)	Code Sections 10176(a), 110176(g) and/or 10177(g)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of KIM under the provisions of Code Sections 10176(a), 10176(g), 10177(d) and/or 10177(g).

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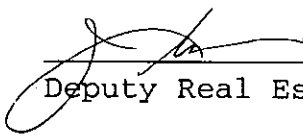
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2 The overall conduct of KIM constitutes negligence or
3 incompetence. This conduct and violation are cause for the
4 suspension or revocation of the real estate license and license
5 rights of Respondent KIM pursuant to Code Section 10177(g).

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against the license and license rights of Respondent
10 MELVIN LEE KIM, under the Real Estate Law (Part 1 of Division 4
11 of the Business and Professions Code) and for such other and
12 further relief as may be proper under other applicable provisions
13 of law.
14

15 Dated at Los Angeles, California

16 this *21 February 2006*

17
18
19 
20 Deputy Real Estate Commissioner
21
22
23
24

25 cc: Melvin Lee Kim
26 Janice Waddell
27 Sacto
Audits - Rolly Acuna