

Angelo

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)

FILED
MAR - 8 2007
DEPARTMENT OF REAL ESTATE

By *K. M. Berholt*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 AAV REAL ESTATE MORTGAGE)
13 EXCHANGE INC., dba Beneficial)
14 Calluslast.com and Real Estate)
15 Mortgage Exchange Inc.; and)
16 MEROOJOHN ORDUBEGIAN,)
17 individually and as designated)
18 officer of AAV Real Estate)
19 Mortgage Exchange Inc.,)

20 Respondents.)

No. H-33794 LA

A C C U S A T I O N

21 The Complainant, Janice Waddell, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against AAV REAL ESTATE MORTGAGE EXCHANGE INC. dba Beneficial
24 Calluslast.com and Real Estate Mortgage Exchange Inc.; and,
25 MEROOJOHN ORDUBEGIAN, individually and as designated officer of
26 AAV Real Estate Mortgage Exchange Inc., alleges as follows:

27 ///

1. :

1 The Complainant, Janice Waddell, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against AAV REAL ESTATE
4 MORTGAGE EXCHANGE INC. and MEROOJOHN ORDUBEGIAN.

5 2.

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

9 LICENSE HISTORY

10 3.

11
12 A. Respondent AAV REAL ESTATE MORTGAGE EXCHANGE INC.
13 (hereinafter "AAV"), is presently licensed and at all times
14 relevant herein was licensed under the Real Estate Law, Part 1 of
15 Division 4 of the California Business and Professions Code
16 (hereinafter "Code") as a corporate real estate broker.
17 Respondent AAV has been and is licensed by the Department of Real
18 Estate of the State of California (hereinafter "Department") as a
19 corporate real estate broker since March 24, 1993.

20 B. Respondent AAV was and is authorized to act by and
21 through Respondent MEROOJOHN ORDUBEGIAN, from on or before March
22 24, 1993 through the present, pursuant to the provisions of Code
23 Section 10159.2, who was and is responsible for the supervision
24 and control of the activities requiring a real estate license
25 conducted on behalf of Respondent AAV by its officers and
26 employees.

27 3.

1 Respondent MEROOJOHN ORDUBEGIAN (hereinafter
2 "ORDUBEGIAN") is presently licensed and at all times relevant
3 herein was licensed under the Code as a real estate broker.
4 Respondent ORDUBEGIAN has been licensed since on or before June
5 24, 1992. Since on or before March 24, 1993 and continuing to
6 the present, Respondent ORDUBEGIAN was and is the broker-officer
7 of Respondent AAV designated pursuant to Code Section 10159.2 to
8 be responsible for the supervision and control of the activities
9 conducted on behalf of AAV by its officers and employees,
10 including Nicholas Gottuso as necessary to secure full compliance
11 with the Real Estate Law. Respondent ORDUBEGIAN is also the
12 designated broker officer of The Bettis Company and Skylink
13 Financial Corporation.

14 AAV REAL ESTATE MORTGAGE EXCHANGE INC.

15 Mortgage Loan Brokerage

16 4.

17 At all times mentioned, in the City of La Canada,
18 County of Los Angeles, AAV acted as a real estate broker and
19 conducted licensed activities within the meaning of:
20

21 A. Code Section 10131(d). AAV operated a mortgage and
22 loan brokerage dba Beneficial Calluslast.com and Real Estate
23 Mortgage Exchange Inc. Said activity included soliciting
24 borrowers and lenders and negotiating the terms of loans secured
25 by real property between borrowers and third party lenders for or

26 ///

1 in expectation of compensation (hereafter "mortgage loan
2 brokerage"), and

3 B. In addition, AAV conducted broker-controlled
4 escrows through its escrow division under the exemption set forth
5 in California Financial Code Section 17006(a)(4) for real estate
6 brokers performing escrows incidental to a real estate
7 transaction where the broker is a party and where the broker is
8 performing acts for which a real estate license is required.

9
10 AUDIT EXAMINATION

11 AAV REAL ESTATE MORTGAGE EXCHANGE INC.

12 5.

13 On November 21, 2006, the Department completed an audit
14 examination of the books and records of AAV pertaining to the
15 mortgage loan brokerage and broker-escrow activities described in
16 Paragraph 4, that require a real estate license. The audit
17 examination covered a period of time beginning on January 1, 2004
18 to August 31, 2006. The audit examination revealed violations of
19 the Code and the Regulations as set forth in the following
20 paragraphs, and more fully discussed in Audit Report LA 060015
21 and LA 0600081 and the exhibits and workpapers attached thereto.

22 TRUST ACCOUNT

23 6.

24 At all times mentioned, in connection with the
25 activities described in Paragraph 4, above, AAV accepted or
26 received funds including funds in trust (hereinafter "trust
27

1 funds") from or on behalf of actual or prospective parties to
2 transactions handled by AAV including borrowers and lenders and
3 thereafter made deposits and/or disbursements of such funds.
4 From time to time herein mentioned during the audit period, said
5 trust funds were deposited and/or maintained by AAV in the bank
6 account as follows:

7
8 "AAV Real Estate Mortgage Exchange Inc.
9 dba Beneficial Escrow Division
10 Account No. 774011188"
11 First Regional Bank
12 Glendale, California ("escrow trust account")

13
14 VIOLATIONS OF THE REAL ESTATE LAW

15 7.

16 In the course of activities described in Paragraphs 4
17 and 6, above, and during the examination period described in
18 Paragraph 5, Respondents AAV and ORDUBEGIAN, acted in violation
19 of the Code and the Regulations in that they:

20 (a) Permitted, allowed or caused the disbursement of
21 trust funds from the escrow trust account, where the disbursement
22 of funds reduced the total of aggregate funds in escrow trust
23 account, to an amount which, on August 31, 2006, was \$473.61,
24 less than the existing aggregate trust fund liability of AAV to
25 every principal who was an owner of said funds, without first
26 obtaining the prior written consent of the owners of said funds,
27 as required by Code Section 10145 and Regulations 2832.1,
2950(d), 2950(g) and 2951.

1 (b) Employed and compensated Nicholas Gottuso
2 ("Gottuso") as a loan agent who before he was licensed by the
3 Department as a real estate salesperson on May 15, 2005, for
4 performing acts for which a real estate license is required,
5 including soliciting and negotiating mortgage loans for borrowers
6 Durbin, Bridgeman, Cook, Nguyen Lindsey Jr., and Gobar, in
7 violation of Code Section 10137.

8 (c) AAV's aforesaid advertising flyer circulated during
9 2005 entitled "Loan Experts - Foothills Wide", failed to disclose
10 AAV's name, AAV's designation as performing acts for which a real
11 estate license is required, AAV's license number and issuing
12 Department on the flyer, in violation of Code Sections 10235.5,
13 10140.5, 10140.6 and Regulation 2847.3

14 (d) AAV's advertising flyer circulated during 2005
15 entitled "Loan Experts - Foothills Wide", is false, misleading or
16 deceptive in itself or through the omission of information
17 necessary to make a representation not misleading in the context
18 in which it is used, in violation of Code Section 10235 and
19 Regulation 2848. The flyer's claim is misleading because the
20 reference to "0 down up to \$1 Million" does not include all of
21 the eligibility requirements, condition and restrictions,
22 including but not limited to an acceptable FICO score and status
23 as a first-time buyer for a buyer in order to qualify for the
24 advertised mortgage loan.
25

26 ///

1 (e) Failed to maintain an adequate control record in
2 the form of a columnar record in chronological order of all trust
3 funds received, deposited and disbursed for the escrow trust
4 account, as required by Code Section 10145 and Regulations 2831,
5 2950(d) and 2951 for the escrow trust account. The chronological
6 control record was incomplete, inaccurate and did not discover
7 the \$473.61 shortage.

8 (f) Failed to maintain an adequate separate record for
9 each beneficiary or transaction, thereby failing to account for
10 all trust funds received, deposited and disbursed for the
11 collection trust account, as required by Code Section 10145 and
12 Regulation 2831.1, 2950(d) and 2951. The chronological control
13 record was incomplete and inaccurate.

14 (g) Permitted unlicensed and unbonded person, Ivan
15 Gutierrez, AAV's escrow officer, to be an authorized signatory
16 on the escrow trust account, in violation of Code Section 10145
17 and Regulation 2834.

18 (h) Failed to place trust funds, accepted on behalf of
19 another into the hands of the owner of the funds, a neutral
20 escrow depository or into a trust fund account in the name of the
21 broker at a bank or other financial institution, in violation of
22 Code Section 10145 and Regulation 2832.

23 (i) Permitted and/or caused the disbursement of trust
24 funds to credit report companies on the representation that these
25 amounts were needed to pay for credit report fees, which payments
26
27

1 exceeded the actual costs of these services. Respondents did not
2 disclose these "mark-ups" to borrower-beneficiaries Lindsey Jr.,
3 Gobar, Bartolucci, Cook, Nguyen, Neaya, Marin, and Lopez of said
4 trust funds, nor not obtain their consent to these "mark-ups".
5 Respondents retained the difference between the amounts paid and
6 the actual costs of the services, in violation of Code Sections
7 10176(a) and 10176(g).

8 (j)(1) Failed to retain a true and correct copy of a
9 Department of Real Estate approved Mortgage Loan Disclosure
10 Statement signed by the borrowers, loan agents and broker for
11 borrowers Sanchez, Lopez, Miller, Neaya, Durbin, Bridgeman,
12 Eastman, Cook, Nguyen, Lindsey, Jr., Gobar, Palomino, Bartolucci
13 and Marin, in violation of Code Section 10240;

14 (j)(2) Failed to disclose yield spread premiums from
15 lenders on the Mortgage Loan Disclosure Statement for borrowers
16 Durbin, Gobar, Palomino and Bartolucci, in violation of Code
17 Section 10240, 10241 and Regulation 2840; and

18 (j)(3) Failed to display AAV's corporation's license
19 number on the Mortgage Loan Disclosure Statements for Durbin,
20 Cook and Nguyen, in violation of Code Section 10236.4.

21 (k) Failed to notify the Department of the termination
22 of six salespersons, Nicholas Bradley, Laurie Cohen, Patricia
23 Futia, Keith Gibbons, Lynette Hull and Saphia Warren, as required
24 by Code Section 10161.8 and Regulation 2752; and

25
26 ///

1 (1) ORDUBEGIAN had no system in place for regularly
2 monitoring his compliance with the Real Estate Law especially in
3 regard to establishing policies to review trust fund handling, as
4 required by Code Section 10159.2 and Regulation 2725.

5 8.

6 The conduct of Respondents AAV and ORDUBEGIAN described
7 in Paragraph 7, above, violated the Code and the Regulations as
8 set forth below:

9	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10		
11	7(a)	Code Section 10145 and Regulations
12		2832.1, 2950(d), 2950(g), and 2951
13		
14	7(b)	Code Section 10137
15		
16	7(c)	Code Sections 10235.5, 10140.5,
17		10140.6 and Regulation 2847.3
18		
19	7(d)	Code Section 10235 and Regulation
20		2848
21		
22	7(e)	Code Section 10145 and Regulations
23		2831, 2950(d) and 2951
24		
25		
26	7(f)	Code Section 10145 and Regulations
27		2831.1, 2950(d) and 2951

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

7(g) Code Section 10145 and Regulation
2834

7(h) Code Section 10145 and Regulation
2832

7(i) Code Sections 10176(a) and 10176(g)

7(j) Code Sections 10240, 10241 and
10236.4 and Regulation 2840

7(k) Code Section 10161.8 and Regulation
2752

7(l) Code Section 10159.2 and
Regulation 2725

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

///
///
///

NEGLIGENCE

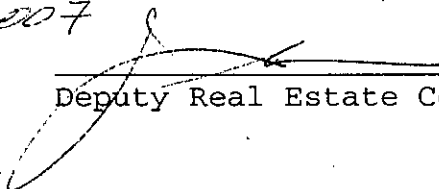
9.

The overall conduct of Respondents AAV and ORDUBEGIAN constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents AAV and ORDUBEGIAN pursuant to Code Section 10177(g).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents AAV REAL ESTATE MORTGAGE EXCHANGE INC. and MEROOJOHN ORDUBEGIAN, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including restitution pursuant to the provisions of the Administrative Procedure Act.

Dated at Los Angeles, California

this *12 January 2007*


Deputy Real Estate Commissioner

cc: AAV Real Estate Mortgage Exchange Inc.
c/o Meroojohn Ordubegian D.O.
Janice Waddell
Sacto
Audits - Elenita R. Morales

1 ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED

SEP 24 2008

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 AAV REAL ESTATE MORTGAGE)
EXCHANGE INC., dba Beneficial)
14 Calluslast.com and Real Estate)
Mortgage Exchange Inc.; and)
15 MEROOJOHN ORDUBEGIAN,)
individually and as designated)
16 officer of AAV Real Estate)
Mortgage Exchange Inc.,)
17)
18 Respondents,)

No. H-33794 LA
STIPULATION
AND
AGREEMENT

19 It is hereby stipulated by and between Respondents
20 AAV REAL ESTATE MORTGAGE EXCHANGE INC., a corporate real estate
21 broker, and MEROOJOHN ORDUBEGIAN, individually and as designated
22 officer of AAV Real Estate Mortgage Exchange Inc. (sometimes
23 collectively referred to as "Respondents"), represented by Frank
24 M. Buda, Esq. and the Complainant, acting by and through Elliott
25 Mac Lennan, Counsel for the Department of Real Estate, as follows
26 for the purpose of settling and disposing of the Accusation
27

1 ("Accusation") filed on March 8, 2007, in this matter:

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

9 2. Respondents have received, read and understand the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Department of Real Estate in this
12 proceeding.

13 3. Respondents timely filed a Notice of Defense
14 pursuant to Section 11506 of the Government Code for the purpose
15 of requesting a hearing on the allegations in the Accusation.
16 Respondents hereby freely and voluntarily withdraw said Notice of
17 Defense. Respondents acknowledge that they understand that by
18 withdrawing said Notice of Defense they thereby waive their right
19 to require the Commissioner to prove the allegations in the
20 Accusation at a contested hearing held in accordance with the
21 provisions of the APA and that they will waive other rights
22 afforded to them in connection with the hearing such as the right
23 to present evidence in their defense the right to cross-examine
24 witnesses.
25

26 ///
27

1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation and Respondents' decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited to
13 this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department"), the state or federal
15 government, or any agency of this state, another state or federal
16 government is involved, and otherwise shall not be admissible in
17 any other criminal or civil proceedings.

18 6. It is understood by the parties that the Real
19 Estate Commissioner may adopt this Stipulation as his Decision in
20 this matter thereby imposing the penalty and sanctions on
21 Respondents' real estate licenses and license rights as set forth
22 in the "Order" herein below. In the event that the Commissioner
23 in his discretion does not adopt the Stipulation, it shall be
24 void and of no effect and Respondents shall retain the right to a
25 hearing and proceeding on the Accusation under the provisions of
26
27

1 the APA and shall not be bound by any stipulation or waiver made
2 herein.

3 7. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation shall not
5 constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department of Real
7 Estate with respect to any matters which were not specifically
8 alleged to be causes for Accusation in this proceeding but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondents herein.

11 8. Respondents understand that by agreeing to this
12 Stipulation, Respondents agree to pay, pursuant to Business and
13 Professions Code Section 10148, the cost of audit which led to
14 this disciplinary action. The amount of said cost for the audit
15 is \$8,097.15.

16 9. Respondents have received, read, and understand the
17 "Notice Concerning Costs of Subsequent Audit". Respondents
18 further understand that by agreeing to this Stipulation, the
19 findings set forth below in the Determination of Issues become
20 final, and the Commissioner may charge Respondents for the cost
21 of any subsequent audit conducted pursuant to Business and
22 Professions Code Section 10148 to determine if the violations
23 have been corrected. The maximum cost of the subsequent audit
24 will not exceed \$8,097.15.

25
26 ///

DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
3

I.

4 The conduct of AAV REAL ESTATE MORTGAGE EXCHANGE INC.,
5 and MEROOJOHN ORDUBEGIAN, as described in Paragraph 4, above, is
6 in violation of Sections 10145 and 10240 of the Business and
7 Professions Code ("Code") and Sections 2752, 2832 and 2834 of
8 Title 10, Chapter 6 of the California Code of Regulations
9 ("Regulations") and is a basis for the suspension or revocation
10 of Respondents' licenses and license rights as a violation of the
11 Real Estate Law pursuant to Code Section 10177(d).
12

II.

13 The conduct of MEROOJOHN ORDUBEGIAN, as described in
14 Paragraph 4, constitutes a failure to keep AAV REAL ESTATE
15 MORTGAGE EXCHANGE INC. in compliance with the Real Estate Law
16 during the time that he was the officer designated by a corporate
17 broker licensee. This conduct is a violation of Code Section
18 10177(h) and is a basis for the suspension or revocation of
19 Respondent's license therein.
20
21

22 ///

23 ///

24 ///

25 ///

26 ///

27

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

AAV REAL ESTATE MORTGAGE EXCHANGE INC., and MEROOJOHN ORDUBEGIAN

under the Real Estate Law are suspended for a period of sixty
days from the effective date of this Decision; provided, however,
that if Respondents request, all sixty days of said suspension
(or a portion thereof) shall be stayed upon condition that:

1. Respondents each pay a monetary penalty pursuant to
Section 10175.2 of the Business and Professions Code at the rate
of \$25.00 per day for each day of the suspension for a monetary
penalty of \$1,500 each or a total monetary penalty of \$3,000.

2. Said payment shall be in the form of a cashier's
check or certified check made payable to the Recovery Account of
the Real Estate Fund. Said check must be received by the
Department prior to the effective date of the Decision in this
matter.

3. No further cause for disciplinary action against
the real estate licenses of Respondents occurs within two years
from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in
accordance with the terms of the Decision, the Commissioner may,
without a hearing, order the immediate execution of all or any

1 part of the stayed suspension, in which event the Respondents
2 shall not be entitled to any repayment nor credit, prorated or
3 otherwise, for money paid to the Department under the terms of
4 this Decision.

5 5. If Respondents pay the monetary penalty and if no
6 further cause for disciplinary action against the real estate
7 licenses of Respondents occurs within two years from the
8 effective date of the Decision, the stay hereby granted shall
9 become permanent.

10 II.

11 Pursuant to Section 10148 of the Business and
12 Professions Code, Respondents AAV REAL ESTATE MORTGAGE EXCHANGE
13 INC. and MEROOJOHN ORDUBEGIAN shall pay the Commissioner's
14 reasonable cost for (a) the audit which led to this disciplinary
15 action (b) a subsequent audit to determine if Respondents are now
16 in compliance with the Real Estate Law. The cost of the audit
17 which led to this disciplinary action is \$8,097.15. In
18 calculating the amount of the Commissioner's reasonable cost, the
19 Commissioner may use the estimated average hourly salary for all
20 persons performing audits of real estate brokers, and shall
21 include an allocation for travel time to and from the auditor's
22 place of work. Said amount for the prior and subsequent audits
23 shall not exceed \$16,194.30.

24 ///

25 ///

26 ///

27

1 Respondents shall pay such cost within 60 days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities.

5 The Commissioner may suspend the licenses of
6 Respondents pending a hearing held in accordance with Section
7 11500, et seq., of the Government Code, if payment is not timely
8 made as provided for herein, or as provided for in a subsequent
9 agreement between the Respondents and the Commissioner. The
10 suspension shall remain in effect until payment is made in full
11 or until Respondents enter into an agreement satisfactory to the
12 Commissioner to provide for payment, or until a decision
13 providing otherwise is adopted following a hearing held pursuant
14 to this condition.

15 III.

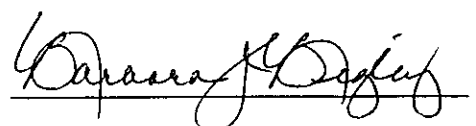
16 All licenses and licensing rights of Respondent
17 MEROOJOHN ORDUBEGIAN are indefinitely suspended unless or until
18 Respondent provides proof satisfactory to the Commissioner, of
19 having taken and successfully completed the continuing education
20 course on trust fund accounting and handling specified in
21 paragraph (3) of subdivision (a) of Section 10170.5 of the
22 Business and Professions Code. Proof of satisfaction of this
23 requirement includes evidence that respondent has successfully
24 completed the trust fund account and handling continuing
25 education course within 120 days prior to the effective date of
26 the Decision in this matter.
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents AAV REAL ESTATE MORTGAGE
EXCHANGE INC. and MEROOJOHN ORDUBEGIAN, individually and as
designated officer of AAV Real Estate Mortgage Exchange Inc. and
shall become effective at 12 o'clock noon on
October 23, 2008.

IT IS SO ORDERED 8/17, 2008.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner