

Handwritten initials

1 Department of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105
3 Telephone: (213) 576-6982

FILED

SEP -9 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35664 LA
)	
TRINITY FINANCIAL INC. doing)	
business as Wholesale Mortgage)	<u>STIPULATION</u>
Source and Trinity Real Estate;)	<u>AND</u>
and RICHARD LEONARD ALKIRE,)	<u>AGREEMENT</u>
individually and as designated)	
officer of Trinity Financial Inc.,)	
)	
Respondents.)	

It is hereby stipulated by and between Respondents TRINITY FINANCIAL INC., and RICHARD LEONARD ALKIRE, individually and as designated officer of Trinity Financial Inc. (sometimes collectively referred to as "Respondents"), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on February 3, 2009, in this matter:

///

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

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

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

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 is made for the purpose of
11 reaching an agreed disposition of this proceeding and is
12 expressly limited to this proceeding and any other proceeding or
13 case in which the Department of Real Estate ("Department"), the
14 state or federal government, or any agency of this state, another
15 state or federal government is involved.

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

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

9 8. Respondents understand that by agreeing to this
10 Stipulation, Respondents agree to pay, pursuant to Business and
11 Professions Code Section 10148, the cost of the audit. The
12 amount of said cost for the audit is \$4,554.86.

13 9. Respondents have received, read, and understand the
14 "Notice Concerning Costs of Subsequent Audit". Respondents
15 further understand that by agreeing to this Stipulation, the
16 findings set forth below in the Determination of Issues become
17 final, and the Commissioner may charge Respondents for the cost
18 of any subsequent audit conducted pursuant to Business and
19 Professions Code Section 10148 to determine if the violations
20 have been corrected. The maximum cost of the subsequent audit
21 will not exceed \$4,554.86.

23 ///

24 ///

25 ///

26 ///

27

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
4 The conduct, acts or omissions of TRINITY FINANCIAL
5 INC. and RICHARD LEONARD ALKIRE, as described in Paragraph 4,
6 above, are in violation of Section 10145 of the Business and
7 Professions Code ("Code") and Section 2832(a) of Title 10,
8 Chapter 6 of the California Code of Regulations ("Regulations")
9 and is a basis for discipline of Respondents' license and license
10 rights as violation of the Real Estate Law pursuant to Code
11 Sections 10177(d) and 10177(g).

ORDER

12
13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14
15 I. All licenses and licensing rights of Respondents
16 TRINITY FINANCIAL INC., and RICHARD LEONARD ALKIRE are publicly
17 reproved.

18 II. Pursuant to Code Section 10148, Respondents
19 TRINITY FINANCIAL INC. and RICHARD LEONARD ALKIRE shall pay the
20 Commissioner's reasonable cost for (a) the audit which led to
21 this disciplinary action and (b) a subsequent audit to determine
22 if Respondents are now in compliance with the Real Estate Law.
23 The cost of the audit which led to this disciplinary action is
24 \$4,554.86. In calculating the amount of the Commissioner's
25 reasonable cost, the Commissioner may use the estimated average
26 hourly salary for all persons performing audits of real estate
27 brokers, and shall include an allocation for travel time to and

1 from the auditor's place of work. Said amount for the prior and
2 subsequent audits shall not exceed \$9,109.72.

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

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

16
17
18 DATED: 4-5-89

EJL
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

19
20
21 * * *

22 EXECUTION OF THE STIPULATION

23 We have read the Stipulation and have discussed it with
24 our attorney. Its terms are understood by us and are agreeable
25 and acceptable to us. We understand that we are waiving rights
26 given to us by the California Administrative Procedure Act
27 (including but not limited to Sections 11506, 11508, 11509 and

1 11513 of the Government Code), and we willingly, intelligently
2 and voluntarily waive those rights, including the right of
3 requiring the Commissioner to prove the allegations in the
4 Accusation at a hearing at which we would have the right to
5 cross-examine witnesses against us and to present evidence in
6 defense and mitigation of the charges.

7 MAILING AND FACSIMILE

8 Respondents (1) shall mail the original signed
9 signature page of the Stipulation herein to Elliott Mac Lennan:
10 Attention: Legal Section, Department of Real Estate, 320 W.
11 Fourth St., Suite 350, Los Angeles, California 90013-1105.
12 Additionally, Respondents shall also (2) facsimile a copy of
13 signed signature page, to the Department at the following
14 telephone/fax number: (213) 576-6917, Attention: Elliott Mac
15 Lennan.

16 A facsimile constitutes acceptance and approval of the
17 terms and conditions of this stipulation. Respondents agree,
18 acknowledge and understand that by electronically sending to the
19 Department a facsimile copy of Respondents' actual signature as
20 it appears on the stipulation that receipt of the facsimile copy
21 by the Department shall be as binding on Respondents as if the
22 Department had received the original signed stipulation.

23 ///

24 ///

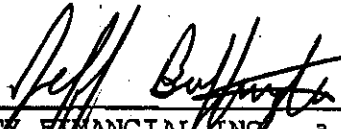
25 ///

26 ///

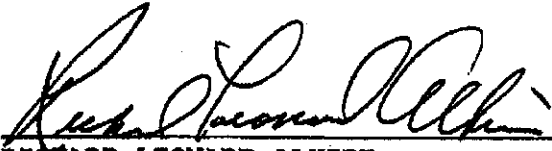
27 ///

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


DATED: 6/17/09


TRINITY FINANCIAL INC., a corporate
real estate broker, Respondent
BY: JEFF BUFFINGTON, CEO

DATED: 5-23-09


RICHARD LEONARD ALKIRE,
individually and as [FORMER]
designated officer of Trinity
Financial Inc., Respondent

DATED: 5/27/09


D.W. DUKE, ESQ.
Attorney for Respondent
RICHARD LEONARD ALKIRE
Approved as to form

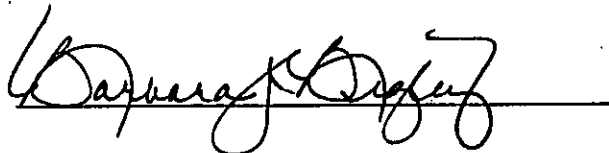
///
///
///
///
///
///
///
///
///

* * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision as to Respondents TRINITY FINANCIAL INC.
3 and RICHARD LEONARD ALKIRE, individually and as designated
4 officer of Trinity Financial Inc., and shall become effective at
5 12 o'clock noon on _____, September 29
6 _____ , 2009.

7 IT IS SO ORDERED 8/17 _____, 2009.

8 JEFF DAVI
9 Real Estate Commissioner

10
11
12 

13 BY: Barbara J. Bigby
14 Chief Deputy Commissioner

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

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

FEB - 3 2009

DEPARTMENT OF REAL ESTATE

BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 35664 LA

12 TRINITY FINANCIAL INC. doing)
13 business as Wholesale Mortgage)
14 Source and Trinity Real Estate;)
15 and RICHARD LEONARD ALKIRE,)
16 individually and as designated)
17 officer of Trinity Financial Inc.,)

A C C U S A T I O N

18 Respondents.)

17 The Complainant, Joseph Aiu, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against TRINITY FINANCIAL INC. dba Wholesale Mortgage and Source
20 and Trinity Real Estate; and RICHARD LEONARD ALKIRE, individually
21 and as designated officer of Trinity Financial Inc., alleges as
22 follows:
23

24 1.

25 The Complainant, Joseph Aiu, acting in her official
26 capacity as a Deputy Real Estate Commissioner of the State of
27 California, makes this Accusation against TRINITY FINANCIAL INC.

1 and RICHARD LEONARD ALKIRE.

2.

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

6 LICENSE HISTORY

7 3..

8 A. At all times mentioned, TRINITY FINANCIAL INC.
9 ("TFI") and RICHARD LEONARD ALKIRE ("ALKIRE") were licensed or
10 had license rights issued by the Department of Real Estate
11 ("Department") as real estate brokers. ALKIRE was originally
12 licensed as a real estate broker on August 7, 1992.

13 B. At all times material herein, TFI was licensed by
14 the Department of Real Estate of the State of California
15 ("Department") as a corporate real estate broker by and through
16 ALKIRE, as the designated officer and broker responsible,
17 pursuant to Code Section 10159.2 of the Business and Professions
18 Code for supervising the activities requiring a real estate
19 license conducted on behalf TFI of by TFI's officers, agents and
20 employees, including ALKIRE. TFI was originally licensed as a
21 corporate real estate broker on July 23, 2004. From March 9,
22 2006 to July 22, 2008, ALKIRE had been the designated officer of
23 TFI.
24

25 ///

26 ///

27

BROKERAGE

4.

At all times mentioned, in the City of Temecula, County of Riverside, TFI acted as a corporate real estate broker within the meaning of:

A. Code Section 10131(a). 1ST AMERICAN operated a residential resale brokerage dba Gold Shield Realty and Gold Shield Realty Group; and

B. Code Section 10131(d). 1ST AMERICAN operated a mortgage and loan brokerage dba Wholesale Mortgage Source and Trinity Real Estate.

AUDIT EXAMINATION

5.

On April 20, 2007, the Department completed an audit examination of the books and records of TFI pertaining to the residential resale and mortgage loan activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on July 23, 2004 to January 31, 2007. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report SD 060028 and SD 060030, and the exhibits and work papers attached to said audit report.

///

///

TRUST ACCOUNT

6.

TFI did not maintain a trust account during the audit period.

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents TFI and ALKIRE, acted in violation of the Code and the Regulations in that they:

(a) Failed to provide or retain a true and correct copy of a Good Faith Estimate that satisfies the requirements of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A 2601 et seq.), that (1) sets forth the broker's real estate license number; and (2) a clear and conspicuous statement on the face of the document stating that the Good Faith Estimate does not constitute a loan commitment; and, further sets forth all applicable disclosures including but not limited to (3) yield spread premiums rebates by the lenders, outside of closing, for borrowers Alegria, Hilton and Aubuchon, in violation of Code Section 10240(a) and (c) and Regulations 2840 and 2840.1.

(b) Failed to place trust funds, including credit report and appraisal fees, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the trustee at a bank or

1 other financial institution, as required by Code Section 10145
2 and Regulation 2832(a).

3 (c) Misrepresentation to sellers that TFI held earnest
4 money deposits from borrowers Antonio Arrerola, Jose Alegria and
5 Mateo Nolasco, in violation of Section 10176(a) and/or 10177(g).

6 (d) Failed to notify the Department of the employment
7 of Lisa Rush and the termination of Robert Vogan, as required by
8 Code Section 10161.8 and Regulation 2752.; and

9 (e) Failed to retain the salesperson license
10 certificate for Verkuylen, Di Pinza and Mathews, in violation of
11 Code Section 10160 and Regulation 2753.

12 DISCIPLINE STATUTES AND REGULATIONS

13 8.

14 The conduct of Respondents TFI and ALKIRE described in
15 Paragraph 7, above, violated the Code and the Regulations as set
16 forth below:

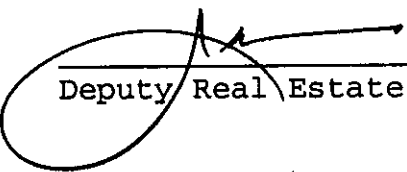
17 <u>PARAGRAPH</u>	18 <u>PROVISIONS VIOLATED</u>
19 7(a)	20 Code Section 10240 and Regulations 21 2840 and 2840.1
22 7(b)	23 Code Section 10145 and Regulation 24 2832(a)
25 7(c)	26 Code Sections 10176(a) and/or 27 10177(g)

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 the license and license rights of Respondents
5 TRINITY FINANCIAL INC. and RICHARD LEONARD ALKIRE, under the Real
6 Estate Law (Part 1 of Division 4 of the Business and Professions
7 Code) and for such other and further relief as may be proper
8 under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this

11 January 2009



Deputy Real Estate Commissioner

11
12
13
14
15
16
17
18
19
20
21
22
23
24 cc: Trinity Financial Inc.
25 c/o Richard Leonard Alkire D.O.
26 Joseph Aiu
27 Sacto
Audits - Zaky Wanis