

**FILED**

Department of Real Estate  
320 W. 4<sup>TH</sup> Street, Suite 350  
Los Angeles, CA 90013-1105

JAN 27 2011

Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE  
BY: [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of  
MCALISTER INVESTMENTS INC.;  
and DAVID LEE LAMBERT, individually  
and as designated officer of  
McAlister Investments Inc.,  
Respondents.

No. H-35816 LA  
L-2009120473

STIPULATION  
AND  
AGREEMENT

It is hereby stipulated by and between Respondent  
DAVID LEE LAMBERT, (sometimes referred to as "Respondent"), 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 March 26, 2009, in this matter:

1. All issues which were to be contested and all  
evidence which was to be presented by Complainant and Respondent  
at a formal hearing on the Accusation, which hearing was to be  
held in accordance with the provisions of the Administrative

1 Procedure Act ("APA"), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement ("Stipulation").

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

8 3. Respondent timely filed a Notice of Defense  
9 pursuant to Section 11506 of the Government Code for the purpose  
10 of requesting a hearing on the allegations in the Accusation.  
11 Respondent hereby freely and voluntarily withdraws said Notice of  
12 Defense. Respondent acknowledges that he understands that by  
13 withdrawing said Notice of Defense he thereby waives his right to  
14 require the Commissioner to prove the allegations in the  
15 Accusation at a contested hearing held in accordance with the  
16 provisions of the APA and that he will waive other rights  
17 afforded to him in connection with the hearing such as the right  
18 to present evidence in his defense the right to cross-examine  
19 witnesses.  
20

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

1 action stipulated to herein. The Real Estate Commissioner shall  
2 not be required to provide further evidence to prove said factual  
3 allegations.

4 5. This Stipulation is made for the purpose of  
5 reaching an agreed disposition of this proceeding and is  
6 expressly limited to this proceeding and any other proceeding or  
7 case in which the Department of Real Estate ("Department"), the  
8 state or federal government, or any agency of this state,  
9 another state or federal government is involved, and otherwise  
10 shall not be admissible in any other criminal or civil  
11 proceedings.

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

23 7. The Order or any subsequent Order of the Real  
24 Estate Commissioner made pursuant to this Stipulation shall not  
25 constitute an estoppel, merger or bar to any further  
26 administrative or civil proceedings by the Department of Real  
27

1 Estate with respect to any matters which were not specifically  
2 alleged to be causes for Accusation in this proceeding but do  
3 constitute a bar, estoppel and merger as to any allegations  
4 actually contained in the Accusations against Respondent herein.

5 8. Respondent understands that by agreeing to this  
6 Stipulation, Respondent agrees to pay, pursuant to Business and  
7 Professions Code Section 10148, the cost of the audit. The  
8 amount of said cost for the audit is \$3,361.54.

9 9. Respondent has received, read, and understand the  
10 "Notice Concerning Costs of Subsequent Audit". Respondent  
11 further understands that by agreeing to this Stipulation, the  
12 findings set forth below in the Determination of Issues become  
13 final, and the Commissioner may charge Respondent for the cost of  
14 any subsequent audit conducted on McAlister Investments Inc.  
15 pursuant to Business and Professions Code Section 10148 to  
16 determine if the violations have been corrected, if applicable.  
17 The maximum cost of the subsequent audit will not exceed  
18 \$3,361.54.

19  
20 ///

21 ///

22 ///

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

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

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

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

12  
13  
14  
15  
18  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

15  
18  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

18  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

1 for the prior and subsequent audits shall not exceed \$6,723.08.

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

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

15 DATED:           

11-8-10

EL

ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

\* \* \*

18           I have read the Stipulation and Agreement and discussed  
19 it with my attorney. Its terms are understood by me and are  
20 agreeable and acceptable to me. I understand that I am waiving  
21 rights given to me by the California Administrative Procedure Act  
22 (including but not limited to Sections 11506, 11508, 11509 and  
23 11513 of the Government Code), and I willingly, intelligently and  
24 voluntarily waive those rights, including the right of requiring  
25 the Commissioner to prove the allegations in the Accusation at a  
26 hearing at which I would have the right to cross-examine  
27

1 witnesses against me and to present evidence in defense and  
2 mitigation of the charges.

3 MAILING, FACSIMILE, E-MAIL

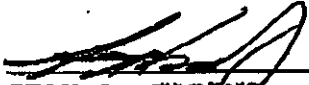
4 Respondent(s) (1) shall mail the original signed  
5 signature page of the stipulation herein to Elliott Mac Lennan:  
6 Attention: Legal Section, Department of Real Estate, 320 W.  
7 Fourth St., Suite 350, Los Angeles, California 90013-1105.  
8 Additionally, Respondent(s) shall also (2) facsimile a copy of  
9 signed signature page, or email a scanned signature page to the  
10 Department at the following telephone/fax number: (213) 576-6917.  
11 Attention: Elliott Mac Lennan or, in the case of email,  
12 Elliott\_MacLennan@dre.ca.gov

13 A facsimile or emailed scanned signature constitutes  
14 acceptance and approval of the terms and conditions of this  
15 stipulation. Respondent(s) agrees, acknowledges and understands  
16 that by electronically sending to the Department a facsimile copy  
17 or a scanned email signature of Respondent's actual signature as  
18 it appears on the stipulation, which receipt of the facsimile  
19 copy or scanned email signature by the Department shall be as  
20 binding on Respondent(s) as if the Department had received the  
21 original signed stipulation.

22  
23 DATED: 12/13/10

  
24 DAVID LEE LAMBERT, Respondent

25  
26 DATED: 12-13-10

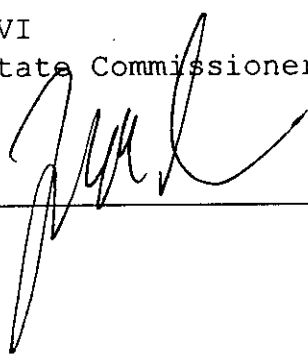
  
27 SEAN A. KADING  
Attorney for Respondent

\*\*\*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondent DAVID LEE LAMBERT and  
shall become effective at 12 o'clock noon on February 16, 2011 .

IT IS SO ORDERED 1-20, 2011.

JEFF DAVI  
Real Estate Commissioner

A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line.



*Santa*

**FILED**

JAN 27 2011

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

No. H-35816 LA

MCALISTER INVESTMENTS INC.;

and DAVID LEE LAMBERT,  
individually and as designated  
officer of McAlister  
Investments Inc.,,

Respondents.

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On March 26, 2009, an Accusation was filed in this  
matter against Respondent MCALISTER INVESTMENTS INC.

On December 13, 2010, Respondent petitioned the  
Commissioner to voluntarily surrender its real estate broker  
license rights pursuant to Section 10100.2 of the Business and  
Professions Code.

///

///

1 IT IS HEREBY ORDERED that Respondent MCALISTER  
2 INVESTMENTS INC.'s petition for voluntary surrender of its real  
3 estate broker license rights is accepted as of the effective date  
4 of this Order as set forth below, based upon the understanding  
5 and agreement expressed in Respondent's Declaration dated August  
6 16, 2010, (attached as Exhibit "A" hereto). Respondent's license  
7 certificate, pocket card and any branch office license  
8 certificate shall be sent to the below listed address so that  
9 they reach the Department on or before the effective date of this  
10 Order:

11  
12 Department of Real Estate  
13 Atten: Licensing Flag Section  
14 P.O. Box 187000  
15 Sacramento, CA 95818-7000

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

17 February 16, 2011.

18 DATED: 1-20, 2011

19 JEFF DAVIS  
20 Real Estate Commissioner  
21  
22  
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

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
McALISTER INVESTMENTS INC.; )  
and DAVID LEE LAMBERT, )  
individually and as designated )  
officer of McAlister )  
Investments Inc., )  
Respondents. )

No. H-35816 LA

DECLARATION

My name is Maurice McAlister and I am the President of  
McALISTER INVESTMENTS INC. which is licensed as a real estate  
broker and/or have license rights with respect to said license.  
I am authorized to sign this declaration on behalf of McALISTER  
INVESTMENTS INC.

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

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

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

9 The filing of this Declaration shall be deemed as  
10 McALISTER INVESTMENTS INC.'s petition for voluntary surrender.  
11 It shall also be deemed to be an understanding and agreement by  
12 McALISTER INVESTMENTS INC. that, it waives all rights it has to  
13 require the Commissioner to prove the allegations contained in  
14 the Accusation ("Accusation") filed in this matter at a hearing  
15 held in accordance with the provisions of the Administrative  
16 Procedures Act (Government Code Sections 11400 et seq.), and  
17 that McALISTER INVESTMENTS INC. also waives other rights  
18 afforded to it in connection with the hearing such as the right  
19 to discovery, the right to present evidence in defense of the  
20 allegations in the Accusation and the right to cross examine  
21 witnesses.

22 This Declaration is not an admission by McALISTER  
23 INVESTMENTS INC. as to the allegations in the Accusation. This  
24 Declaration is made for the purpose of reaching a resolution of  
25 allegations contained in the DRE Case number H-35816 LA, and is  
26 expressly limited to this proceeding and any other proceeding or  
27

1 case in which the Department of Real Estate is a party and shall  
2 not otherwise shall not be admissible or relied upon by any  
3 third parties for any purpose.

4 I further agree on behalf of McALISTER INVESTMENTS  
5 INC. that upon acceptance by the Commissioner, as evidenced by  
6 an appropriate order, all affidavits and all relevant evidence  
7 obtained by the Department in this matter prior to the  
8 Commissioner's acceptance, and all allegations contained in the  
9 Accusation filed in the Department Case No. H-35816 LA, may be  
10 considered by the Department for the purpose of deciding whether  
11 or not to grant reinstatement of McALISTER INVESTMENTS INC.'s  
12 license pursuant to Government Code Section 11522.

13 I declare under penalty of perjury under the laws of  
14 the State of California that the above is true and correct and  
15 that I am acting freely and voluntarily on behalf of McALISTER  
16 INVESTMENTS INC. to surrender its license and license rights  
17 attached thereto.

18  
19 Dec. 13, 2010 - Arizona 2010  
20 Date and Place

21  
22 Maurice McAlister  
23 BY: MAURICE McALISTER,  
24 President,  
25 McAlister Investments Inc.  
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**

MAR 26 2009

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 )

No. H- 35816 LA

12 McALISTER INVESTMENTS INC.; )  
13 and DAVID LEE LAMBERT, )  
14 individually and as designated )  
15 officer of McAlister )  
Investments Inc. )

A C C U S A T I O N

16 Respondents. )

17 The Complainant, Robin Trujillo, a Deputy Real Estate  
18 Commissioner of the State of California, acting in her official  
19 capacity, for cause of Accusation against McALISTER INVESTMENTS  
20 INC., and DAVID LEE LAMBERT, individually and as McAlister  
21 Investments Inc. is informed and alleges as follows:

22 1.

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

26 ///

1 2.

2 1. At all times mentioned, McALISTER INVESTMENTS INC.  
3 ("MII"), was originally licensed or had license rights issued by  
4 the Department of Real Estate ("Department") as a corporate real  
5 estate broker on December 18, 1994.

6 2. At all times mentioned, DAVID LEE LAMBERT  
7 ("LAMBERT"), was licensed or had license rights issued by the  
8 Department as a real estate broker. On October 17, 2001, LAMBERT  
9 was originally licensed as a real estate broker. On May 26,  
10 2005, LAMBERT was licensed as the designated officer of MII.

11 3.

12 At all times mentioned, in the City of Laguna Hills, County  
13 of Orange, MII and LAMBERT acted as real estate brokers and  
14 conducted licensed activities within the meaning of Code Section  
15 10131(d). Respondents engaged in activities with the public  
16 wherein lenders and borrowers were solicited for loans secured  
17 directly or collaterally by liens on real property, wherein such  
18 loans were arranged, negotiated, processed, consummated and  
19 serviced on behalf of others for compensation or in expectation  
20 of compensation and for fees often collected in advance.

21 4.

22 On August 11, 2008, the Department completed an audit  
23 examination of the books and records of MII pertaining to the  
24 mortgage and loan activities including loan servicing described  
25 in Paragraph 3, which require a real estate license. The audit  
26 examination covered a period of time beginning on November 1,  
27

1 2006 to June 30, 2008. The audit examination revealed violations  
2 of the Code and the Regulations as set forth below, and more  
3 fully discussed in Audit Report LA 070359 and the exhibits and  
4 work papers attached to the audit report.

5 5.

6 At all times mentioned, in connection with the  
7 activities described in Paragraph 4, MII maintained a trust  
8 account during the audit period, as follows:

9 "McAlister Family Trust: Maurice L. McAlister  
10 and Dianne McAlister  
11 14963000028"  
Downey Savings (trust account)  
Newport Beach, CA 92660

12 6.

13 With respect to the licensed activities referred to in  
14 Paragraphs 3 and 5, and the audit examination including the  
15 exhibits and work papers referred to in Paragraph 4, it is  
16 alleged that MII and LAMBERT:

17 (a) Conducted licensed activities between the period of  
18 November 17, 2006 to June 22, 2007, while McALISTER's corporate  
19 real estate broker license had expired, in violation of Code  
20 Section 10130.

21 (b) Failed to record trust deeds or assignments naming  
22 the lenders as beneficiaries for loans to lender-purchasers for  
23 borrowers Alvitre, Caulder LLC, Sanchez, Lambert, C.C.D.L  
24 Investment Inc., Hoferer Construction & Inv. Inc., The Meadows at  
25 Lone Cone LLC, Rodrigo Ramirez, and Tim Louch, that are secured  
26 by trust deeds on real property, within ten (10) working days  
27



1 after receipt of funds from the lenders, in violation of Code  
2 Section 10234.

3 (c) Failed to provide or retain a true and correct copy  
4 of a Mortgage Loan Disclosure Statement and Good Faith Estimate  
5 that satisfies the requirements of the Real Estate Settlement  
6 Procedures Act of 1974 (12 U.S.C.A 2601 et seq.), that (1) sets  
7 forth the broker's real estate license number; and (2) a clear  
8 and conspicuous statement on the face of the document for  
9 borrowers Rodrigo Ramirez and Tim Louch, in violation of Code  
10 Section 10240(c).

11 (d) The trust account was not in the name of the broker  
12 as trustee at a bank or other financial institution, nor  
13 designated as a trust account, in violation of Code Section 10145  
14 and Regulation 2832(a); and

15 (e) Permitted Maurice L. McAlister, Dianne McAlister,  
16 Kelly Lambert, Laurie Beth Gray, Karla McAlister, Cheryl Jones  
17 and Laura Betor, unlicensed and unbonded persons, to be  
18 authorized signatories on the trust account, in violation of Code  
19 Section 10145 and Regulation 2834.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

7.

The conduct of Respondents MII and LAMBERT described in Paragraph 6, violated the Code and the Regulations as set forth:

PARAGRAPH

PROVISIONS VIOLATED

6(a)

Code Section 10130

6(b)

Code Section 10234

6(c)

Code Section 10240 and Regulation  
2840

6(d)

Code Section 10145 and Regulation  
2832(a)

6(e)

Code Section 10145 and Regulation  
2834

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents MII and LAMBERT under the provisions of Code Sections 10130, 10177(d) and/or 10177(g).

///

///

///

///

///

1 7.

2 The overall conduct of Respondents MII and LAMBERT  
3 constitutes negligence. This conduct and violation are cause for  
4 the suspension or revocation of the real estate license and  
5 license rights of said Respondents pursuant to Code Section  
6 10177(g).

7 8.

8 The overall conduct of Respondent LAMBERT constitutes a  
9 failure on Respondent's part, as officer designated by a  
10 corporate broker licensee, to exercise the reasonable supervision  
11 and control over the licensed activities of LAMBERT as required  
12 by Code Section 10159.2, and to keep MII in compliance with the  
13 Real Estate Law, and is cause for the suspension or revocation of  
14 the real estate license and license rights of LAMBERT pursuant to  
15 the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

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 the license and license rights of Respondents  
5 McALISTER INVESTMENTS INC. and DAVID LEE LAMBERT, individually  
6 and as designated officer of McAlister Investments Inc. under the  
7 Real Estate Law (Part 1 of Division 4 of the Business and  
8 Professions Code) and for such other and further relief as may be  
9 proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 19 day of February 2009.

12  
13   
14  
15 Deputy Real Estate Commissioner

16  
17  
18  
19  
20  
21  
22  
23  
24 cc: McAlister Investments Inc.  
25 David Lee Lambert  
26 Robin Trujillo  
27 Sacto  
Audits - Gina Chou