

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

FILED

FEB 21 2012

4 DEPARTMENT OF REAL ESTATE
5 BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 AESLEHC INC. doing business)
as Farwest Real Estate, Aeslehc)
14 ELMER MONDY as designated)
officer of Aeslehc Inc.; and)
15 BEVERLY ANNETTE WHITE,)

No. H-36862 LA
L-2010110182

STIPULATION
AND
AGREEMENT

16 Respondents,)
17)

18 It is hereby stipulated by and between Respondents
19 AESLEHC INC. and ELMER MONDY, individually and as designated
20 officer of AESLEHC INC., (sometimes collectively referred to as
21 "Respondents"), and the Complainant, acting by and through
22 Elliott Mac Lennan, Counsel for the Department of Real Estate, as
23 follows for the purpose of settling and disposing of the
24 Accusation ("Accusation") filed in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
27

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

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

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

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

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, another
9 state or federal 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 Respondents' 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 Respondents 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 7. The Order or any subsequent Order of the Real
21 Estate Commissioner made pursuant to this Stipulation shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department of Real
24 Estate with respect to any matters which were not specifically
25 alleged to be causes for Accusation in this proceeding but do
26 constitute a bar, estoppel and merger as to any allegations
27 actually contained in the Accusations against Respondent herein.

1 8. Respondents understand that by agreeing to this
2 Stipulation, Respondents agree to pay, pursuant to Business and
3 Professions Code Section 10148, the cost of the audit. The
4 amount of said cost for the audit is \$8,109.00.

5 9. Respondents have received, read, and understand the
6 "Notice Concerning Costs of Subsequent Audit". Respondents
7 further understand that by agreeing to this Stipulation, the
8 findings set forth below in the Determination of Issues become
9 final, and the Commissioner may charge Respondents for the cost
10 of any subsequent audit conducted pursuant to Business and
11 Professions Code Section 10148 to determine if the violations
12 have been corrected. The maximum cost of the subsequent audit
13 will not exceed \$8,109.00.

14 DETERMINATION OF ISSUES

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

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1 I.

2 The conduct, acts or omissions of AESLEHC INC. and
3 ELMER MONDY, as described in Paragraph 4, above, are in violation
4 of Sections 10145, 10148 and 11013(a) of the Business and
5 Professions Code ("Code") and Sections 2791.4, 2831, 2831.1,
6 2832.1, 2832(a), 2834, 2950(d), 2950(g) and 2951 of Title 10,
7 Chapter 6 of the California Code of Regulations ("Regulations")
8 and is a basis for discipline of Respondents' license and license
9 rights as violation of the Real Estate Law pursuant to Code
10 Sections 10177(d) and 10177(g).

11 II.

12 The conduct, acts or omissions of ELMER MONDY, as
13 described in Paragraph 4, above, are in violation of Code Section
14 10159.2 and is a basis for discipline of Respondent's license and
15 license rights as violation of the Real Estate Law pursuant to
16 Code Section 10177(h).

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 I.

20 All license and licensing rights of Respondent AESLEHC
21 INC. are revoked.

22 II.

23 The real estate broker license of Respondent
24 ELMER MONDY under the Real Estate Law is revoked; provided,
25 however, a restricted real estate salesperson license shall be

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1 issued to Respondent, pursuant to Section 10156.5 of the Business
2 and Professions Code, if Respondent:

3 A. Makes application therefor and pays to the
4 Department of Real Estate the appropriate fee for the restricted
5 license within ninety (90) days from the effective date of this
6 Decision.

7 B. All licenses and licensing rights of Respondent are
8 indefinitely suspended unless or until Respondent provides proof
9 satisfactory to the Commissioner that the trust fund deficit of
10 \$80,009.92, set forth in the Accusation has been restored,
11 including the identification of the source of funds used to cure
12 the deficit.

13 The restricted license issued to Respondent shall be
14 subject to all of the provisions of Section 10156.7 of the Code
15 and the following limitations, conditions and restrictions
16 imposed under authority of Section 10156.6 of that Code.

17
18 1. The restricted license issued to Respondent may be
19 suspended prior to hearing by Order of the Real Estate
20 Commissioner in the event of Respondent's conviction or plea of
21 nolo contendere to a crime which is substantially related to
22 Respondent's fitness or capacity as a real estate licensee.

23 2. The restricted license issued to Respondent may
24 be suspended prior to hearing by Order of the Real Estate
25 Commissioner on evidence satisfactory to the Commissioner that
26 Respondent has violated provisions of the California Real Estate
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1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations or restrictions of
6 a restricted license until two (2) years has elapsed from the
7 effective date of the issuance of the restricted license.

8 4. Respondent shall submit with any application for
9 license under an employing broker, or any application for
10 transfer to a new employing broker, a statement signed by the
11 prospective employing real estate broker on a form approved by
12 the Department of Real Estate which shall certify:

13 (a) That the employing broker has read the
14 Decision of the Commissioner which granted
15 the right to a restricted license; and
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17 (b) That the employing broker will exercise close
18 supervision over the performance by the restricted licensee
19 relating to activities for which a real estate license is
20 required.

21 5. Respondent shall, within nine months from the
22 effective date of this Decision, present evidence satisfactory to
23 the Real Estate Commissioner that Respondent has, since the most
24 recent issuance of an original or renewal real estate license,
25 taken and successfully completed the continuing education
26 requirements of Article 2.5 Chapter 3 of the Real Estate Law for
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1 renewal of a real estate license. If Respondent fails to satisfy
2 this condition, the Commissioner may order the suspension of the
3 restricted license until the Respondent present such evidence.
4 The Commissioner shall afford Respondent the opportunity for a
5 hearing pursuant to the Administrative Procedure Act to present
6 such evidence.

7 III.

8 Pursuant to Section 10148 of the Business and
9 Professions Code, Respondents AESLEHC INC., and ELMER MONDY shall
10 pay the Commissioner's reasonable cost for (a) the audit which
11 led to this disciplinary action and (b) a subsequent audit to
12 determine if Respondents are now in compliance with the Real
13 Estate Law. The cost of the audit which led to this disciplinary
14 action is \$8,109.00. In calculating the amount of the
15 Commissioner's reasonable cost, the Commissioner may use the
16 estimated average hourly salary for all persons performing audits
17 of real estate brokers, and shall include an allocation for
18 travel time to and from the auditor's place of work. Said amount
19 for the prior and subsequent audits, if any, shall not exceed
20 \$16,218.00.

21 Respondents shall pay such cost within 60 days of
22 receiving an invoice from the Commissioner detailing the
23 activities performed during the audit and the amount of time
24 spent performing those activities.

25 The Commissioner may suspend the license of Respondents
26 pending a hearing held in accordance with Section 11500, et seq.,
27 of the Government Code, if payment is not timely made as provided

1 for herein, or as provided for in a subsequent agreement between
2 the Respondent and the Commissioner. The suspension shall remain
3 in effect until payment is made in full or until Respondents
4 enter into an agreement satisfactory to the Commissioner to
5 provide for payment, or until a decision providing otherwise is
6 adopted following a hearing held pursuant to this condition.

7 IV.

8 All licenses and licensing rights of Respondent ELMER
9 MONDY are indefinitely suspended unless or until Respondent
10 provides proof satisfactory to the Commissioner, of having taken
11 and successfully completed the continuing education course on
12 trust fund accounting and handling specified in paragraph (3) of
13 subdivision (a) of Section 10170.5 of the Business and
14 Professions Code. Proof of satisfaction of this requirement
15 includes evidence that Respondent has successfully completed the
16 trust fund account and handling continuing education course
17 within 120 days prior to the effective date of the Decision.

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20 DATED: _____

9-2-11

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ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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EXECUTION OF THE STIPULATION

We have read the Stipulation. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

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

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the Department a facsimile copy of Respondents' actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the

1 Department had received the original signed stipulation.

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DATED:

6/15/11

Elmer Mondy
ABSLHC INC., a corporate real estate broker, Respondent
By: ELMER MONDY, as designated officer of Abslhc Inc.

DATED:

6/15/11

Elmer Mondy
ELMER MONDY,
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents ABSLHC, INC. and ELMER MONDY, individually and as designated officer of Abslhc Inc. and shall become effective at 12 o'clock noon on _____, 2011.

IT IS SO ORDERED _____, 2011.

BARBARA J. HIGBY
Acting Real Estate Commissioner



1 Department had received the original signed stipulation.

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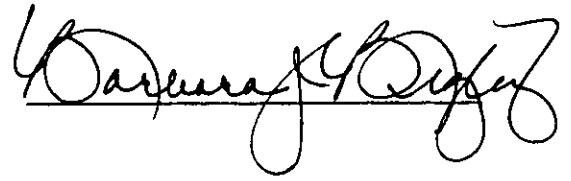
DATED: _____
AESLEHC INC., a corporate real estate broker, Respondent
By: ELMER MONDY, as designated officer of Aeslehc Inc.

DATED: _____
ELMER MONDY,
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents AESLEHC INC. and ELMER MONDY, individually and as designated officer of Aeslehc Inc. and shall become effective at 12 o'clock noon on March 22, 2012.

IT IS SO ORDERED 10/4, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



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

FILED

FEB 21 2012

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-36862 LA
)	L-2010110182
12 AESLEHC INC. doing business)	
13 as Farwest Real Estate, Aeslehc)	
14 Mortgage, and Tri West Lending;)	<u>STIPULATION</u>
15 ELMER MONDY as designated)	<u>AND</u>
16 officer of Aeslehc Inc.; and)	<u>AGREEMENT</u>
17 <u>BEVERLY ANNETTE WHITE,</u>)	
)	
18 Respondents,)	

18 It is hereby stipulated by and between Respondent
19 BEVERLY ANNETTE WHITE, (sometimes referred to as "Respondent"),
20 and the Complainant, acting by and through Elliott Mac Lennan,
21 Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation
23 ("Accusation") filed in this matter:

- 24 1. All issues which were to be contested and all
- 25 evidence which was to be presented by Complainant and Respondent
- 26 at a formal hearing on the Accusation, which hearing was to be
- 27

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

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

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

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondents choose not to contest these
24 allegations, but to remain silent and understand 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 action stipulated to herein. The Real Estate Commissioner shall

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

3 5. This Stipulation is made for the purpose of
4 reaching an agreed disposition of this proceeding and is
5 expressly limited to this proceeding and any other proceeding or
6 case in which the Department of Real Estate ("Department"), the
7 state or federal government, or any agency of this state, another
8 state or federal government is involved.

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

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

1 DETERMINATION OF ISSUES

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

4 I.

5 The conduct, acts or omissions of Respondent BEVERLY
6 ANNETTE WHITE, as described in Paragraph 4, above, constitutes
7 negligence and is a basis for discipline of Respondent's license
8 and license rights as violation of the Real Estate Law pursuant
9 to Code Section 10177(g) of the Business and Professions Code.

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12 I.

13 The real estate salesperson license of Respondent
14 BEVERLY ANNETTE WHITE under the Real Estate Law is revoked;
15 provided, however, a restricted real estate salesperson license
16 shall be issued to Respondent, pursuant to Section 10156.5 of the
17 Business and Professions Code, if Respondent:

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

22 The restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the Code
24 and the following limitations, conditions and restrictions
25 imposed under authority of Section 10156.6 of that Code.
26
27

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

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

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

17 4. Respondent shall submit with any application for
18 license under an employing broker, or any application for
19 transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker on a form approved by
21 the Department of Real Estate which shall certify:

22 (a) That the employing broker has read the
23 Decision of the Commissioner which granted
24 the right to a restricted license; and
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1 11508, 11509 and 11513 of the Government Code), and I willingly,
2 intelligently and voluntarily waive those rights, including the
3 right of requiring the Commissioner to prove the allegations in
4 the Accusation at a hearing at which I would have the right to
5 cross-examine witnesses against me and to present evidence in
6 defense and mitigation of the charges.

7
8 MAILING AND FACSIMILE

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

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

23
24
25 DATED: June 13, 2011

Beverly White
26 BEVERLY ANNETTE WHITE,
Respondent

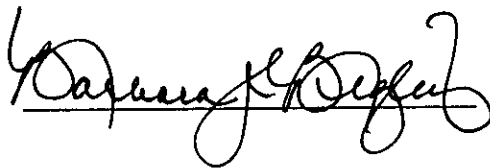
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to BEVERLY ANNETTE WHITE and shall
become effective at 12 o'clock noon on March 12, 2012.

IT IS SO ORDERED 10/4, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



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

OCT 13 2010

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-36862 LA
12	AESLEHC INC. doing business)	<u>A C C U S A T I O N</u>
13	as Farwest Real Estate, Aeslehc)	
14	Mortgage, and Tri West Lending;)	
15	ELMER MONDY as designated)	
16	officer of Aeslehc Inc.; and)	
17	BEVERLY ANNETTE WHITE,)	
	Respondents.)	

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against AESLEHC INC. dba Farwest Real Estate, Aeslehc Mortgage,
21 and Tri West Lending, and ELMER MONDY, as designated officer of
22 Aeslehc Inc., and BEVERLY ANNETTE WHITE, alleges as follows:

23 1.

24 The Complainant, Robin Trujillo, acting in her official
25 capacity, makes this Accusation.
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1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
4

3.

5 A. At all times mentioned, AESLEHC INC. ("AI") was
6 licensed or had license rights issued by the Department of Real
7 Estate ("Department") as a real estate broker. On March 17,
8 2008, AI was originally licensed as a corporate real estate
9 broker.
10

11 B. On March 7, 2008, ELMER MONDY (sometimes "MONDY")
12 was licensed as the designated officer of AI.

13 C. At all times mentioned, ELMER MONDY was licensed or
14 had license rights issued by the Department as a real estate
15 broker. On October 19, 1985, MONDY was originally licensed as a
16 real estate salesperson. On June 23, 1988, MONDY was originally
17 licensed as a real estate broker.

18 D. At all times mentioned, BEVERLY ANNETTE WHITE
19 (sometimes "WHITE") was licensed or had license rights issued by
20 the Department as a real estate broker. On April 20, 1995, WHITE
21 was originally licensed as a real estate salesperson. From
22 December 5, 2008 to December 28, 2008, WHITE was employed as a
23 salesperson by AI. WHITE is the corporate secretary of AI.

24 E. At all times material herein, AI was licensed by
25 the Department as a corporate real estate broker by and through
26 MONDY, as the designated officer and broker responsible, pursuant
27 to Code Sections 10159.2 and 10211 of the Business and

1 Professions Code for supervising the activities requiring a real
2 estate license conducted on behalf AI of by AI's officers, agents
3 and employees, including MONDY and WHITE.

4 4.

5 At all times mentioned, in City of Marina Del Rey,
6 County of Los Angeles, Respondents AI and MONDY acted as real
7 estate brokers and conducted licensed activities within the
8 meaning of:

9 A. Code Section 10131(a). Respondents engaged in the
10 business of, acted in the capacity of, advertised or assumed to
11 act as real estate brokers dba Farwest Real Estate, including the
12 solicitation for listings of and the negotiation of the sale of
13 real property as the agent of others.

14 B. Code Section 10131(d). Respondents AI and MONDY
15 engaged in activities with the public dba Aeslehc Mortgage and
16 Tri West Lending, wherein lenders and borrowers were solicited
17 for loans secured directly or collaterally by liens on real
18 property, wherein such loans were arranged, negotiated, processed
19 and consummated on behalf of others for compensation or in
20 expectation of compensation and for fees often collected in
21 advance.
22

23 C. AI and MONDY conducted broker-controlled escrows
24 through AI's escrow, Farwest Real Estate Escrow Division, under
25 the exemption set forth in California Financial Code Section
26 17006(a)(4) for real estate brokers performing escrows incidental
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1 to a real estate transaction where the broker is a party and
2 where the broker is performing acts for which a real estate
3 license is required.

4 D. Respondent WHITE was employed as a salesperson by
5 AI between December 5, 2008 and December 28, 2008, pursuant to
6 Code Section 10132.

7 FIRST CAUSE OF ACCUSATON

8 Initial Broker Escrow Audit
9 Aeslehc Inc.
LA 080183

10 5.

11 On June 23, 2009, the Department completed an audit
12 examination of the books and records of AI pertaining to the
13 broker-escrow activities described in Paragraph 4 which require a
14 real estate license. The audit examination covered the period
15 from March 17, 2008 to January 8, 2009. The audit examination
16 revealed violations of the Code and the Regulations as set forth
17 in the following paragraphs, and more fully discussed in Audit
18 Report LA 080183 and the exhibits and work papers attached to
19 said audit report.
20

21 6.

22 At all times mentioned, in connection with the
23 activities described in Paragraph 4, above, AI accepted or
24 received funds including funds in trust (hereinafter "trust
25 funds") from or on behalf of actual or prospective parties
26 including buyers and sellers, for transactions escrowed by AI and
27

thereafter made deposits and or disbursements of such funds.

From time to time during the audit period, these trust funds were deposited and/or maintained by AI in the bank account as follows:

"dba Farwest Real Estate Escrow Division
No. 760017920
Broadway Federal Bank
4800 Wilshire Blvd.
Los Angeles, CA 90010 (B/A #1) (broker escrow bank account)

7.

In the course of activities described in Paragraphs 4 and 6 above and during the audit examination period of March 17, 2008 to January 8, 2009, described in Paragraph 5, Respondents AI and MONDY, acted in violation of the Code and the Regulations in that AI and MONDY:

(a) Wildwood Canyon Estate Escrow. While acting in the capacity as an escrow holder for the Wildwood Canyon Estate, AI failed to render to each principal of the Wildwood Canyon Estate escrow transaction a written statement setting forth all receipts and disbursements together with the name of the person to whom any such disbursement was made at the close of escrow, in violation of Code Sections 10145, 10176(i) and/or 10177(g) and Regulation 2950(i) and 2951.

On November 31, 2008, AI and MONDY received signed escrow cancellation instructions for the Wildwood Canyon Estate in Yuaipa, California; however, AI failed to return an \$80,009.92

1 of the \$100,000 deposited by developer Norman Tangram
2 Development.

3 (b) AI's broker escrow is not an acceptable depository
4 for the Wildwood Canyon Estate in Yuaipa, California, consisting
5 of a ten homes subdivision. The \$100,000 earnest money deposit
6 was received by AI, as escrow holder, from Norman Tangram
7 Development, and paid into B/A #1, in violation of Code Section
8 11013(a) and Regulation 2791.4. An acceptable escrow depository
9 includes escrow companies licensed by the California Department
10 of Corporations, banks, trust companies, savings and loan
11 associations, title insurers and underwritten title companies.

12 (c) B/A #1 was not in the name of the broker as trustee
13 at a bank or other financial institution, nor designated as a
14 trust account, into which trust funds were deposited, including
15 the Wildwood Canyon Estate earnest money deposit, in violation of
16 Code Section 10145 and Regulations 2832(a), 2950(d) and 2951.

17
18 8.

19 The conduct of Respondents AI and MONDY described in
20 Paragraph 7, violated the Code and the Regulations below:

21 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
22 7(a)	Code Sections 10145, 10176(i)
23	and/or 10177(g) and Regulations
24	2950(i) and 2951
25	
26 7(b)	Code Section 11013 (a) and
27	Regulation 2791.4.

1
2 7(c)

Code Section 10145 and Regulations

3 2832(a), 2950(d) and 2951

4 The foregoing violations constitute cause for the suspension or
5 revocation of the real estate license and license rights of AI
6 and MONDY, under the provisions of Code Sections 10176(i),
7 10177(d) and/or 10177(g).

8
9 SECOND CAUSE OF ACCUSATION

10 Final Broker Escrow Audit
11 Aeslech, Inc.
12 LA 090105

13 9.

14 This final and more detailed audit examination (LA
15 090105) follows upon an initial preliminary prior audit
16 examination (LA 080183), covering the same audit period and
17 repeating some of the same violations and adding others herein.

18 Accordingly, on January 26, 2010, the Department
19 completed an audit examination of the books and records of AI
20 pertaining to the broker-escrow activities described in Paragraph
21 4 that require a real estate license. The audit examination
22 covered the period from March 17, 2008 to January 8, 2009. The
23 audit examination revealed violations of the Code and the
24 Regulations as set forth in the following paragraphs, and more
25 fully discussed in Audit Report LA 090105 and the exhibits and
26 work papers attached to said audit report.

27 ///

1
2 In the course of activities described in Paragraphs 4
3 and 6 above and during the audit examination period of March 17,
4 2008 to January 8, 2009, described in Paragraph 9, Respondents
5 AI, MONDY and WHITE, where indicated, acted in violation of the
6 Code and the Regulations in that Respondents:

7 (a) AI and MONDY. Permitted, allowed or caused the
8 disbursement of trust funds from B/A #1, the broker escrow bank
9 account, where the disbursement of trust funds reduced the total
10 of aggregate trust funds, to an amount which, on January 8, 2009
11 was \$80,009.92, less than the existing aggregate trust fund.
12 liability of AI to every principal who was an owner of trust
13 funds including the Norman Tangram Development purchase of the
14 Wildwood Canyon Estate, without first obtaining the prior written
15 consent of the owners of the trust funds, in violation of Code
16 Sections 10145, 10176(i) and/or 10177(j) and/or 10177(g) and
17 Regulations 2832.1, 2950(g) and 2951.

18
19 To date the Wild Canyon deposit remains not restored to
20 B/A #1 nor remitted to Norman Tangram Development.

21 (b) (1) AI and MONDY. Norman Tangram Development
22 earnest money deposit and escrow of Wildwood Canyon Estate by AI.
23 Buyer Norman Tangram Development (Tangram) sought to purchase the
24 Wildwood Canyon Estate in Yucaipa, California, a 10 new home
25 subdivision. Tangram tendered \$100,000 as an earnest money
26 deposit to be held by AI, acting in the capacity as an escrow
27

holder for the purchase and sale of Wildwood Canyon Estate.

Subsequently, the escrow was cancelled by a signed authorization from buyer Tangram and the seller to return the earnest money deposit to Tangram.

(b) (2) AI failed to return \$80,009.92 of the \$100,000 earnest money deposit to Tangram after the cancellation of the Wildwood Canyon escrow. Yet, as of the audit end date of January 8, 2009, the adjusted bank balance in B/A #1 remained only \$19,990.08, not \$100,000, revealing that \$80,009.92 had been converted by AI and MONDY.

(b) (3) Additionally, AI provided to Department auditor Godswill Keraroru fraudulent bank statements, reconciliation report(s), control and separate records, which were inaccurate, misleading and which sought to conceal the true bank balance in B/A #1 of \$19,990.08. A comparison of the bank statements received directly from the Broadway Federal Bank, with the bank statements AI provided for the initial audit (LA 080013) revealed accounting records including notable discrepancies as tabulated:

<u>Date</u>	<u>Description</u>	<u>Amount*</u>	<u>Amount**</u>
06/11/08	Inglewood Open account	\$5,000.00	\$200.00
06/20/08	Inglewood Deposit	\$5,000.00	None
07/30/08	Incoming wire	\$97,845.53	None
09/10/08	To 760017185	<\$30,176.07>	None

* Amount obtained from the bank statement received directly from Broadway Bank

** Amount obtained from the bank statement provided by Aeslech Inc.

1 (b) (4) WHITE, the sole signatory on B/A #1, made these
2 unauthorized withdrawals from B/A #1, in violation of Code
3 Sections 10145, 10176(i) and/or 10177(j) and/or 10177(g).

<u>Date</u>	<u>Check #</u>	<u>Description/Payee</u>	<u>Amount</u>
07/25/2008	1002	Channel Escrow	\$1,695.00
08/27/2008	1015	Cash/Beverly White	\$ 600.00
08/27/2008	1014	Farmers Insurance/05 Benz, Acura and LandRover	\$1,133.44
09/11/2008	1022	Channel Escrow/Payroll and Bills	\$1,900.00
09/19/2009	1025	Channel Escrow/Payroll I	\$1,200.00

10
11 (b) (5) The conduct of Respondents AI, MONDY and WHITE,
12 are in violation Code Sections 10176(a), 10176(b), 10176(c),
13 10176(i) and/or 10177(j) and/or 10177(g).

14 (b) (6) The conduct of Respondent WHITE, is in violation
15 Code Sections 10176(i) and/or 10177(j) and/or 10177(g).

16 (c) AI and MONDY. Failed to maintain an accurate and
17 adequate control record in the form of a columnar record in
18 chronological order of all trust funds received, deposited and
19 disbursed from AI's bank, Broadway Federal Bank, B/A #1, in
20 violation of Code Section 10145 and Regulations 2831, 2950(d) and
21 2951.

22
23 The control record of trust funds received and
24 disbursed was not accurate. The bank statements received
25 directly from Broadway Federal Bank revealed that certain
26 transactions were not entered into the control record. The
27 control record omitted almost all of the transactions that

1 were posted on the statements received directly from Broadway
2 Federal Bank. Certain items omitted from the control record,
3 in violation of Code Sections 10145, 10176(i) and/or 10177(j)
4 and/or 10177(g) are tabulated herein:

<u>Date</u>	<u>Description</u>	<u>Amount*</u>	<u>Amount**</u>
06/11/08	Inglewood Open account	\$5,000.00	\$200.00
06/20/08	Inglewood Deposit	\$5,000.00	None
07/30/08	Incoming wire	\$97,845.53	None
09/10/08	To 760017185	<\$30,176.07>	None

9 * Amount obtained from the bank statement received directly from Broadway Bank
10 ** Amount obtained from the bank statement provided by Aeslech Inc.

11 (d) AI and MONDY. Failed to maintain a separate record
12 for each beneficiary or transaction, thereby failing to account
13 for all trust funds received, deposited and disbursed from B/A
14 #1, in violation of Code Section 10145 and Regulations 2831.1,
15 2950(d) and 2951.

16 The separate record of trust funds received and
17 disbursed was not accurate. The bank statements received
18 directly from Broadway Federal Bank revealed that certain
19 transactions were not entered into the separate record. The
20 separate record omitted almost all of the transactions that
21 were posted on the statements received directly from Broadway
22 Federal Bank. Certain items omitted from the separate
23 record, in violation of Code Sections 10145, 10176(i) and/or
24 10177(j) and/or 10177(g) are tabulated herein:

25 //

	<u>Date</u>	<u>Check #</u>	<u>Description/Payee</u>	<u>Amount</u>
1				
2	07/25/2008	1002	Channel Escrow	\$1,695.00
3	08/27/2008	1015	Cash/Beverly White	\$ 600.00
4	08/27/2008	1014	Farmers Insurance/05 Benz, Acura and LandRover	\$1,133.44
5	09/11/2008	1022	Channel Escrow/Payroll and Bills	\$1,900.00
6	09/19/2009	1025	Channel Escrow/Payroll I	\$1,200.00

7 (e) AI and MONDY. Failed to perform a monthly
8 reconciliation of the balance of all separate beneficiary or
9 transaction records maintained pursuant to Regulation 2831.1 with
10 the record of all trust funds received, deposited and disbursed
11 from B/A #1, the control record, pursuant Regulation 2831, in
12 violation of Code Section 10145 and Regulations 2831.2, 2950(d)
13 and 2951.

14 AI did not maintain an accurate monthly trust account
15 reconciliation of all the separate records with the records of
16 all trust funds received and disbursed for by B/A #1, the control
17 record, also known as the daily journal, into which were
18 deposited trust funds and disbursed therefrom.

19 The reconciliation reflected transactions entered on
20 the fraudulent bank statement provided by AI to the Department
21 auditor. Transactions on the actual bank statements received
22 directly from Broadway Federal Bank were not reflected in the
23 reconciliation. The reconciliation provided by AI omitted almost
24 all of the transactions that were on the bank statements that
25 were received directly from the bank. Certain transactions that
26 were omitted from the bank statements, in violation of Code
27

1 Sections 10145, 10176(i) and/or 10177(j) and/or 10177(g), are
2 herein tabulated:

<u>Date</u>	<u>Description</u>	<u>Amount*</u>	<u>Amount**</u>
06/11/08	Inglewood Open account	\$5,000.00	\$200.00
06/20/08	Inglewood Deposit	\$5,000.00	None
07/30/08	Incoming wire	\$97,845.53	None
09/10/08	To 760017185	<\$30,176.07>	None

6 * Amount obtained from bank statement received directly from Broadway Federal Bank

7 ** Amount obtained from the bank statement provided by Aeslech Inc.

8 (f) AI and MONDY. As previously set forth in Paragraph
9 7(c), above, with respect to the initial audit, B/A #1 was not in
10 the name of the broker as trustee at a bank or other financial
11 institution, nor designated as a trust account, into which trust
12 funds were deposited including the \$100,000 earnest money deposit
13 for Wildwood Canyon in violation of Code Section 10145 of the
14 Code and Regulations 2832(a), 2950(d) and 2951.

16 (g)(1) AI and MONDY. Designated officer MONDY, the
17 broker licensee charged with responsibility for AI's and its
18 officers compliance with the Real Estate Law and AI's trust fund
19 handling, was not a signatory on AI's bank account. B/A #1, into
20 which trust funds were deposited, including the \$100,000 earnest
21 money deposit for Wildwood Canyon, in violation of Code Section
22 10145 and Regulations 2834(b), 2950(d) and 2951; and

23 (g)(2) AI and MONDY. On September 19, 2009, "R. Rene
24 West" aka Roderick Rene West, an unlicensed person and a denied
25 salesperson applicant in H-28323 LA effective July 20, 2000, and
26 not a signatory on AI's escrow bank account, B/A #1, signed check
27

1 #1025 to Channel Escrow, formerly a licensed escrow company with
2 the Department of Corporation, licensee #9632250. Check #1025
3 was drafted on September 19, 2009. Channel Escrow was initially
4 licensed on February 17, 2006's escrow. Channel Escrow's license
5 ended on April 25, 2008. Roderick Rene West's Channel Escrow
6 check was made for Channel Escrow's payroll sixteen (16) months
7 after the end of its licensure with the Department of
8 Corporations, in violation of Code Sections 10145 and 10176(i)
9 and/or 10177(j) and/or 10177(g) and Regulation 2834.

10 (h) AI and MONDY. As previously set forth in
11 Paragraph 7(b), above, with respect to the initial audit, AI's
12 broker escrow is not an acceptable depository for the Wildwood
13 Canyon Estate, consisting of a ten home subdivision. The
14 \$100,000 earnest money deposit was received by AI, as escrow
15 holder, from Norman Tangram Development, and deposited into B/A
16 #1, in violation of Code Section 11013(a) and Regulation 2791.4.

17 An acceptable escrow depository includes escrow
18 companies licensed by the California Department of Corporations,
19 banks, trust companies, savings and loan associations, title
20 insurers and underwritten title companies.

21 (i) AI and MONDY. After notice and subpoena on August
22 12, 2009, AI failed to retain all records of AI's activity during
23 the audit period requiring a real estate broker license, in
24 violation of Code Section 10148.
25
26
27

11.

1 The conduct of Respondents AI, MONDY and WHITE, as
2 indicated, described in Paragraph 10, above, violated the Code
3 and the Regulations as set forth below:
4

5 PARAGRAPH

PROVISIONS VIOLATED

6 10(a)

Code Sections 10145, 10176(i)
7 and/or 10177(j) and/or 10177(g) and
8 Regulations 2832.1, 2950(g) and
9 2951
10

11 10(b)

Code Sections 10145, 10176(a),
12 10176(b), 10176(c), 10176(i) and/or
13 10177(j) and/or 10177(g)
14

15 10(c)

Code Section 10145, 10176(i) and/or
16 10177(j) and/or 10177(g) and
17 Regulation 2831, 2950(d) and 2951
18

19 10(d)

Code Section 10145, 10176(i) and/or
20 10177(j) and/or 10177(g) and
21 Regulations 2831.1, 2950(d) and
22 2951
23

24 10(e)

Code Section 10145, 10176(i) and/or
25 10177(j) and/or 10177(g) and
26
27

1 Regulations 2831.2, 2950(d) and
2 2951

3
4 10(f) Code Sections 10145 and Regulations
5 2832(a), 2950(d) and 2951

6
7 10(g) Code Sections 10145 and 10176(i)
8 and/or 10177(j) and/or 10177(g) and
9 Regulation 2834, 2950(d) and 2951

10
11 10(h) Code Section 11013 (a) and
12 Regulation 2791.4.

13
14 10(i) Code Section 10148

15
16
17 The foregoing violations constitute cause for the suspension or
18 revocation of the real estate license and license rights of AI
19 and MONDY, under the provisions of Code Sections 10176(a),
20 10176(b), 10176(c), 10176(i) and/or 10177(j), 10177(d) and/or
21 10177(g).

22 12.

23
24 The overall conduct of Respondents AI, MONDY and WHITE,
25 constitutes negligence or incompetence. This conduct and
26 violation are cause for the suspension or revocation of the real
27 estate license and license rights of Respondents AI, MONDY and

1 WHITE, pursuant to Code Section 10177(g).

2 13.

3 The overall conduct of Respondents AI, MONDY and WHITE,
4 constitutes a breach of fiduciary duty with respect to
5 Respondent's real estate consumers and clientele. This conduct
6 and violation are cause for the suspension or revocation of the
7 real estate license and license rights of respondents pursuant to
8 Code Section 10177(g).

9 14.

10 The overall conduct of Respondent MONDY constitutes a
11 failure on Respondent's part, as officer designated by a
12 corporate broker licensee, to exercise the reasonable supervision
13 and control over the licensed activities of AI and its officer's
14 and employees, as required by Code Section 10159.2, and to keep
15 AI in compliance with the Real Estate Law, and is cause for the
16 suspension or revocation of the real estate license and license
17 rights of MONDY pursuant to the provisions of Code Sections
18 10177(h), 10177(d) and/or 10177(g).

19 WHEREFORE, Complainant prays that a hearing be
20 conducted on the allegations of this Accusation and that upon
21 proof thereof, a decision be rendered imposing disciplinary
22 action against the license and license rights of Respondents
23 AESLEHC INC., ELMER MONDY and BEVERLY ANNETTE WHITE, under the
24 Real Estate Law (Part 1 of Division 4 of the Business and
25 Professions Code) and for such other and further relief as may be
26
27

1 proper under other applicable provisions of law including
2 restitution pursuant to the Administrative Procedures Act.

3 Dated at Los Angeles, California

4 this 12 day of October 2010.


5 Deputy Real Estate Commissioner

6
7
8
9 cc: Aeslehc Inc.
10 c/o Elmer Mondy D.O.
11 Beverly Annette White
12 Robin Trujillo
13 Sacto
14 Enforcement - Kim Ngo
15 Audits - Godswill Keraoru
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