

*Suits*  
*Page*

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APR 13 1987

DEPT. OF REAL ESTATE  
*By Laura B. Ornela*

8 DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of ) NO. H-22880 LA  
12 KISMET REAL ESTATE INVESTMENTS, )  
13 INC., a California corporation; ) A C C U S A T I O N  
14 and WILLARD MICHLIN, )  
15 individually and as designated )  
16 officer of Kismet Real Estate )  
17 Investments, Inc., )  
18 Respondents. )

18 The Complainant, Randolph Brendia, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of accusation  
20 against KISMET REAL ESTATE INVESTMENTS, INC. a California  
21 corporation, and WILLARD MICHLIN, individually and as the  
22 designated officer of Kismet Real Estate Investments, Inc.  
23 alleges as follows:

24 1. The Complainant, Randolph Brendia, a Deputy Real  
25 Estate Commissioner of the State of California, makes this  
26 Accusation in his official capacity.

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1           2. Each respondent is presently licensed and/or has  
2 license rights under the Real Estate Law, Part 1 of Division 4 of  
3 the California Business and Professions Code (hereinafter referred  
4 to as the "Code").

5           3. At all times mentioned herein, respondent KISMET  
6 REAL ESTATE INVESTMENTS, INC. (hereinafter respondent "KISMET")  
7 was and now is licensed by the California Department of Real  
8 Estate (hereinafter "Department") as a corporate real estate  
9 broker.

10           4. At all times material herein, respondent WILLARD  
11 MICHLIN (hereinafter "MICHLIN") was and now is licensed by the  
12 Department as a real estate broker in his individual capacity. At  
13 all times mentioned herein from January 27, 1986 to the present,  
14 respondent MICHLIN was the designated officer of respondent  
15 KISMET. As the designated officer of respondent KISMET,  
16 respondent MICHLIN was responsible under Section 10159.2 of the  
17 Code for the supervision of the activities of the officers and  
18 employees of said respondents for which license is required.

19           5. All further references to respondents KISMET and  
20 MICHLIN, and each of them, shall be deemed to refer to, in  
21 addition to said respondents, the officers, directors,  
22 employees, agents and real estate licensees employed by or  
23 associated with said respondents who at all times mentioned herein  
24 were engaged in the furtherance of the business or operations of  
25 said respondents, and each of them, and who were acting in the  
26 course and scope of their authority and employment.

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1 TITLE OF ACCOUNT

BANK

2 Kismet Real Estate  
3 Escrow Account  
4 Account No. [REDACTED]  
(hereinafter "Trust Account No. 1")

Westside Savings and Loan  
Association  
Westwood, Calif.

5 Willard Michlin Escrow Account for  
6 Kismet Real Estate Investments, Inc.  
Account No. [REDACTED]  
(hereinafter "Trust Account No. 2")

First Los Angeles Bank  
Los Angeles, Calif.

7           9. At all times material herein, respondent KISMET  
8 disbursed, caused to be disbursed, or permitted the disbursement  
9 of funds from Trust Account No. 1 for purposes not authorized by  
10 and without the consent of, each person for whom the funds were  
11 held in trust in said account. The said unauthorized  
12 disbursements of funds had reduced, as of August 15, 1986, the  
13 balance of funds in Trust Account No. 1 to an amount which was  
14 \$1,520.41 less than the then-existing aggregate trust fund  
15 liability of respondent KISMET to all owners of said funds. Of  
16 the said \$1,520.41 shortage, \$1,085.49 represents interest earned  
17 from said Trust Account No. 1 and not disbursed by respondent  
18 KISMET to the owners of trust funds in said account.

19           10. At all times material herein, respondent KISMET  
20 disbursed, caused to be disbursed, or permitted the disbursement  
21 of funds from Trust Account No. 2 for purposes not authorized by,  
22 and without the consent of, each person for whom the funds were  
23 held in trust in said account. The said unauthorized  
24 disbursements of funds by respondent KISMET had reduced, as of  
25 August 15, 1986, the balance of funds in Trust Account No. 2 to an  
26 amount which was approximately \$1,635.72 less than the then  
27 existing aggregate trust fund liability of respondent KISMET to

1 all owners of said funds.

2           11. At all times material herein, respondent KISMET  
3 failed to designate Trust Account No. 1 and Trust Account No. 2 as  
4 "trust accounts" on the signature cards of said accounts and also  
5 failed to maintain said accounts in the name of KISMET REAL ESTATE  
6 INVESTMENTS, INC., as trustee thereof.

7           12. At all times material herein, respondent KISMET  
8 failed to maintain a complete record of trust funds received into  
9 and disbursed from Trust Accounts Nos. 1 and 2 by not maintaining  
10 daily balance of the columnar records for said accounts.

11           13. At all times material herein, respondent KISMET  
12 failed to maintain an adequate separate record for each  
13 beneficiary or transaction by not keeping said separate records in  
14 a columnar format and not running a daily balance in said records.

15           14. At all times material herein, respondent KISMET  
16 maintained Trust Account Nos. 1 and 2 as interest-bearing accounts  
17 without the authorization or approval of each person for whom  
18 funds were held in trust in said accounts. On or about August 4,  
19 1986, respondent KISMET caused Trust Account No. 1 to be closed.  
20 From January 1, 1986 to and including August 4, 1986, Trust  
21 Account No. 1 generated \$1,085.49 in interest. Respondent KISMET  
22 has retained said \$1,085.49 in interest for its own benefit and  
23 failed to disburse said interest to the owners of trust funds in  
24 Trust Account No. 1.

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1 accounts in the name of the broker as trustee thereof, as alleged  
2 in Paragraph 11 hereinabove, is a violation of Regulation 2830  
3 and constitutes grounds for the suspension or revocation of the  
4 real estate license and real estate license rights of respondent  
5 KISMET under the provisions of Section 10177(d) of the Code.

6 THIRD CAUSE OF ACCUSATION

7 (Violation by respondent KISMET or Regulation 2831  
8 and Section 10177(d) of the Code)

9 19. As a Third Cause of Accusation, complainant  
10 incorporates herein by this reference the Preamble and each of  
11 the allegations in Paragraphs 1 through 8 and 12 hereinabove.

12 20. The failure of respondent KISMET to keep a complete  
13 record of all trust funds received and disbursed, as described in  
14 Paragraph 12 hereinabove, is a violation of Regulation 2831 and  
15 constitutes grounds for the suspension or revocation of the real  
16 estate license and real estate license rights of respondent KISMET  
17 under the provisions of Section 10177(d) of the Code.

18 FOURTH CAUSE OF ACCUSATION

19 (Violation by respondent KISMET of Regulation 2831.1  
20 and Section 10177(d) of the Code)

21 21. As a Fourth Cause of Accusation, complainant  
22 incorporate herein by this reference the Preamble and each of the  
23 allegations in Paragraphs 1 through 8 and 13 hereinabove.

24 22. The failure of respondent KISMET to keep a complete  
25 and proper separate record for each beneficiary or transaction, as  
26 described in Paragraph 13 hereinabove, is a violation of  
27 Regulation 2831.1 and constitutes grounds for the suspension or

1 revocation of the real estate licenses and real estate license  
2 rights of respondent KISMET under the provisions of Section  
3 10177(d) of the Code.

4 FIFTH CAUSE OF ACCUSATION

5 (Violation by respondent KISMET of Sections 10145  
6 and 10177(d) of the Code and Regulation 2830)

7 23. As a Fifth Cause of Accusation, complainant  
8 incorporates herein by this reference the Preamble and each of the  
9 allegations in Paragraphs 1 through 8 and 14 hereinabove.

10 24. The conduct of respondent KISMET in maintaining Trust  
11 Account No. 1 and Trust Account No. 2 as interest-bearing accounts  
12 without the permission of and without being requested to do so by  
13 the owners of trust funds in said accounts and in retaining the  
14 interest earned from Trust Account No. 1 without disbursing said  
15 interest to the owners of trust funds in said account, as  
16 described in Paragraph 14 hereinabove, constitutes a violation of  
17 Section 10145 of the Code and Regulation 2830. Said conduct and  
18 violations constitute grounds for the suspension or revocation of  
19 the real estate license and license rights of respondent KISMET  
20 under the provisions of Section 10177(d) of the Code.

21 SIXTH CAUSE OF ACCUSATION

22 (Violation by respondent MICHLIN of Section 10177(h) of the Code)

23 25. As a Sixth Cause of Accusation, complainant  
24 incorporates herein by this reference the Preamble and each of the  
25 allegations in Paragraphs 1 through 14 and 16, 18, 20, 22, and 24  
26 hereinabove.

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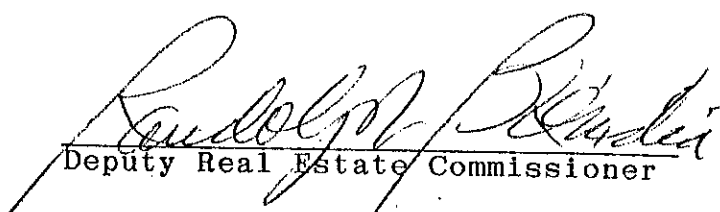
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1 4 of the Business and Professions Code) and for such other and  
2 further relief as may be proper under other applicable provisions  
3 of law.

4 Dated at Los Angeles, California  
5 this 13th day of April, 1987.

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9 Deputy Real Estate Commissioner  
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25 cc: Kismet Real Estate Investments, Inc.  
26 Willard Michlin  
27 ✓ Sacto.  
MJF

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