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**FILED**  
APR 25 1994  
DEPARTMENT OF REAL ESTATE

By *R. H. Schubert*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of ) No. H-25256 LA  
DONALD WILLIAM SCHUSTER, et al., )  
Respondents. )

ORDER STAYING EFFECTIVE DATE

On April 21, 1994, a Decision After Reconsideration was rendered in the above-entitled matter to become effective April 25, 1994.

IT IS HEREBY ORDERED that the effective date of the Decision After Reconsideration of April 21, 1994, is stayed for a period of thirty days.

The Decision After Reconsideration of April 21, 1994, shall become effective at 12 o'clock noon on May 25, 1994.

DATED: *25 April 94*

CLARK WALLACE  
Real Estate Commissioner,

By: *Randolph Brendia*  
RANDOLPH BRENDIA  
Regional Manager

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APR 25 1994

DEPARTMENT OF REAL ESTATE  
BY: *R. Medeiros*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-25256 LA
DONALD WILLIAM SCHUSTER, )	
Respondent. )	

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DECISION AFTER RECONSIDERATION

On February 8, 1994, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate broker licenses and license rights of Respondent. Said Decision is to become effective at 12 o'clock noon on April 25, 1994.

On April 5, 1994, Respondent petitioned for reconsideration of said Decision. I have considered the petition of Respondent and have concluded that good cause has been presented for reconsideration of the Decision of February 8, 1994, for the limited purpose of modifying the Order of the disciplinary action therein imposed.

I have reconsidered said Decision and it is hereby ordered that the Order of disciplinary action therein imposed

1 against the real estate broker license of Respondent DONALD  
2 WAYNE SCHUSTER be modified to read as follows:

3 ORDER

4 All licenses and licensing rights of Respondent DONALD  
5 WAYNE SCHUSTER under the Real Estate Law are revoked; provided,  
6 a restricted real estate broker license shall be issued to  
7 Respondent pursuant to Section 10156.5 of the Business and  
8 Professions Code if Respondent makes application therefor, and  
9 pays to the Department of Real Estate the appropriate fee for  
10 the restricted license within 90 days from the effective date of  
11 this decision. The restricted license issued to Respondent  
12 shall be subject to all of the provisions of Section 10156.7 of  
13 the Business and Professions Code and to the following  
14 limitations, conditions, and restrictions imposed under the  
15 authority of Section 10156.6 of that Code:

16 (1) (a) Any restricted real estate broker license  
17 issued to Respondent DONALD WAYNE SCHUSTER under the  
18 Real Estate Law is suspended for a period of ninety  
19 (90) days from the date any such license is issued,  
20 provided, however, that if Respondent petitions, said  
21 suspension or any portion thereof shall be stayed upon  
22 condition that Respondent pays a monetary penalty  
23 pursuant to Section 10175.2 of the Business and  
24 Professions Code, at the rate of \$50 for each day of  
25 the suspension for a maximum monetary penalty of  
26 \$4,500.

27 (b) Said payment shall be in the form of a cashiers  
check or certified check made payable to the Recovery

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Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Decision in this matter.

(c) No further cause for disciplinary action against the real estate license of Respondent occurs within one year from the effective date of the Decision in this matter.

(d) If Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within one year from the effective date of the Decision, the stay hereby granted shall become permanent.

(2) Respondent shall within six months from the effective date of this decision, take and pass the Professional Responsibility Examination administered by the Department and shall pay the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until he passes the examination.

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

(4) Respondent shall not be eligible to apply for the issuance of the unrestricted real estate license nor for removal of any of the conditions, limitations, or

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restrictions of a restricted license until one year has elapsed from the effective date of this decision.

(5) Respondent shall, within twelve months from the effective date of this decision, present evidence satisfactory to the Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of the real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

(6) Respondent shall report in writing to the Department of Real Estate as the Commissioner shall direct by his decision herein or by separate written order issued while the restricted license is in effect, such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall determine to be appropriate to protect the public interest.

(7) The restricted license may be suspended, prior to and pending final determination after formal hearing, by order of the Real Estate Commissioner based upon evidence satisfactory to the Commissioner based upon

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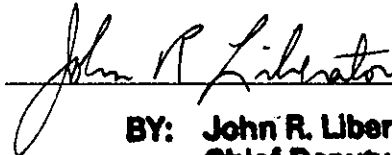
evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

As hereby modified and amended, the Decision of February 8, 1994, shall become effective at 12 o'clock noon on April 25, 1994.

IT IS SO ORDERED

April 21, 1994

CLARK WALLACE  
Real Estate Commissioner



BY: **John R. Liberator**  
**Chief Deputy Commissioner**

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FILED

APR 13 1994

DEPT. OF REAL ESTATE  
BY *[Signature]*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	No. H-25256 LA
	)	
DONALD WILLIAM SCHUSTER,	)	<u>ORDER STAYING</u>
et al.,	)	<u>EFFECTIVE DATE</u>
Respondents.	)	

On February 8, 1994, a Decision was rendered in the above-entitled matter to become effective March 16, 1994. On March 15, 1994, the effective date of said Decision was stayed until April 15, 1994.

IT IS HEREBY ORDERED that the effective date of the Decision of February 8, 1994, is stayed for an additional period of 10 days.

The Decision of February 8, 1994, shall become effective at 12 o'clock noon on April 25, 1994.

DATED: April 13, 1994.

CLARK WALLACE  
Real Estate Commissioner

By: *[Signature]*  
RANDOLPH BRENDIA  
Regional Manager

FILED

MAR 15 1994

DEPARTMENT OF REAL ESTATE  
BY R. Brendia

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-25256 JA
)	
DONALD WILLIAM SCHUSTER, et al., )	
)	
)	
Respondents. )	
)	

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ORDER STAYING EFFECTIVE DATE

On February 8, 1994, a Decision was rendered in the above-entitled matter to become effective March 16, 1994.

IT IS HEREBY ORDERED that the effective date of the Decision of February 8, 1994, is stayed for a period of thirty days.

The Decision of February 8, 1994, shall become effective at 12 o'clock noon on April 15, 1994.

DATED: 15 March 1994

CLARK WALLACE  
Real Estate Commissioner

By: Randolph Brendia  
RANDOLPH BRENDIA  
Regional Manager





DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) No. H-25256 LA  
  )  
RELIANCE MORTGAGE INCORPORATED, )  
MARSHALL EUGENE ANNAU, )  
MATTHEW CRAIG RUBIN, )  
DONALD WILLIAM SCHUSTER, )  
  )  
  ) Respondents. )  
\_\_\_\_\_ )

PROPOSED DECISION

This matter was presided over as an uncontested case by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California on February 1, 1994. This matter deals only with respondent DONALD WILLIAM SCHUSTER and no other respondent.

James R. Peel, Counsel, represented the complainant.

No appearance was made by or on behalf of respondent, DONALD WILLIAM SCHUSTER. On proof of compliance with Government Code Section 11505, the matter proceeded as a default pursuant to Government Code Section 11520.

The following Decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

The complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

DONALD WILLIAM SCHUSTER (hereinafter referred to as respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

III

At all times herein mentioned, respondent SCHUSTER was licensed by the Department of Real Estate (hereinafter Department) as a real estate broker.

IV

At all times herein mentioned, respondent RELIANCE MORTGAGE engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including soliciting borrowers or lenders and negotiating loans on real properties on behalf of others for or in expectation of compensation.

V

In and around August 1991, Marvin S. Maltzman entered into an agreement with respondents RELIANCE MORTGAGE and SCHUSTER to acquire a trust deed note. Respondents, in order to induce Maltzman to invest his funds, falsely represented to Maltzman that the note had a proven payment record and he couldn't lose, when in fact, respondents knew or should have known, that the payor, John Walker, had a poor payment record during 1990 and 1991 and usually was late in making the monthly payment. The Walker note has since gone into default and Maltzman may lose his entire investment of \$49,000 plus interest, costs and expenses of foreclosure, etc.

DETERMINATION OF ISSUES

I

The conduct of respondent, as found above, is grounds to suspend or revoke all licenses and license rights of respondent pursuant to Section 10176(a) and 10177(g) of the Code.

II

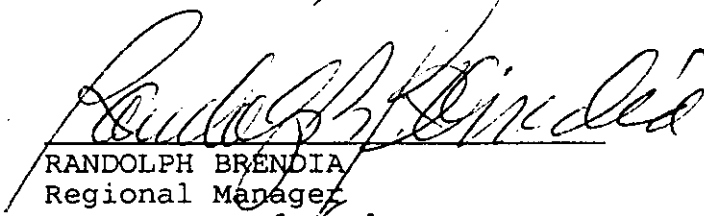
The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and license rights of respondent DONALD WILLIAM SCHUSTER, under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

DATED: \_\_\_\_\_

1 Feb. 1997



RANDOLPH BRENDIA  
Regional Manager  
Department of Real Estate

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**FILED**  
DEC 29 1993  
DEPARTMENT OF REAL ESTATE

By *Emily Jakeda*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-25256 LA
RELIANCE MORTGAGE INCORPORATED, )	L-59622
MARSHALL EUGENE ANNAU, and )	
MATTHEW CRAIG RUBIN, )	
Respondents. )	

ORDER DENYING RECONSIDERATION

On November 5, 1993, a Decision was rendered in the above-entitled matter to become effective December 31, 1993, as to Respondent MARSHALL EUGENE ANNAU.

On or about December 1, 1993, Respondent petitioned for reconsideration of the Decision of November 5, 1993.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of November 5, 1993, and reconsideration is hereby denied.

DATED: December 29, 1993

CLARK WALLACE  
Real Estate Commissioner

*John R. Liberator*

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DEC - 1 1993

DEPARTMENT OF REAL ESTATE  
BY R. Meierholt

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )	No. H-25256 LA
RELIANCE MORTGAGE INCORPORATED, )	L-59622
MARSHALL EUGENE ANNAU and )	
MATTHEW CRAIG RUBIN, )	
Respondents. )	

ORDER STAYING EFFECTIVE DATE

On November 5, 1993, a Decision was rendered in the above-entitled matter to become effective December 2, 1993, as to Respondent MARSHALL EUGENE ANNAU.

IT IS HEREBY ORDERED that the effective date of the Decision of November 5, 1993, is stayed for a period of thirty days.

The Decision of November 5, 1993, shall become effective at 12 o'clock noon on December 31, 1993.

DATED: 1 Dec. 1993

CLARK WALLACE  
Real Estate Commissioner

By: Randolph Brendia  
RANDOLPH BRENDIA  
Regional Manager

FILED

NOV 12 1993

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE  
BY Richard

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-25256 LA
	)	
RELiance MORTGAGE INCORPORATED,	)	L-59622
MARSHALL EUGENE ANNAU and	)	
MATTHEW CRAIG RUBIN,	)	
	)	
Respondents.	)	

DECISION

The Proposed Decision dated October 6, 1993, of the Administrative Law Judge of the Office of Administrative Hearings has been considered by me.

Pursuant to Section 11517(b) of the Government Code of the State of California, the disciplinary action imposed upon respondent MATTHEW CRAIG RUBIN is reduced by modifying the Order of the Proposed Decision to be as follows:

"The Accusation herein filed on December 11, 1992, against respondent MATTHEW CRAIG RUBIN is DISMISSED."

Except as hereby modified and amended, the Proposed Decision dated October 6, 1993, is hereby adopted as the Decision of the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on December 2, 1993.

IT IS SO ORDERED November 5, 1993

CLARK WALLACE  
Real Estate Commissioner

John R. Liberator  
BY: John R. Liberator  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of ) Agency No. H-25256 LA  
 )  
RELIANCE MORTGAGE INCORPORATED, ) OAH No. L-59622  
MARSHALL EUGENE ANNAU and )  
MATTHEW CRAIG RUBIN, )  
 )  
Respondents. )  
 )

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PROPOSED DECISION

This matter came regularly on for hearing before Carolyn Dee Magnuson, Administrative Law Judge of the Office of Administrative Hearings in Los Angeles, California on June 8, 1993. The complainant was represented by James R. Peel, Staff Counsel. Martin J. Spear, attorney at law, represented all defendants.<sup>1</sup>

Oral and documentary evidence was received and the matter submitted. The Administrative Law Judge finds the following facts.

I

The Complainant, Steven J. Ellis, brought the Accusation solely in his capacity as a Deputy Real Estate Commissioner of the Department of Real Estate ("DRE" or "Department") of the State of California.

II

At all relevant times, respondent Reliance Mortgage Incorporated ("RMI") was licensed by the Department as a corporate real estate broker, holding license number 01073824; respondent Annau was licensed as the designated broker/officer for RMI and held individual license number 00603341; respondent Rubin was licensed as a real estate salesperson, holding license number 00967241. All respondents are presently licensed or have

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<sup>1</sup> On the motion of the complainant, the case against respondent Donald William Schuster was severed from the instant case.



licensing rights under the Real Estate Law, Part I of Division 4 of the Business and Professions Code.

### III

After March 1, 1992, Matthew C. Rubin was the sole stockholder in RMI, as well as its CEO, President and CFO.<sup>2</sup> As of February 1, 1992, RMI employed one salesperson.

### IV

At all times herein mentioned, respondent RMI engaged in the business of, acted in the capacity of, advertised or assumed to act as, a real estate broker in the State of California within the meaning of Section 10131(d) of the Business and Professions Code, negotiating and arranging real estate loans for private lenders and financial institutions, servicing real estate loans, warehousing loans, and performing broker escrows.

### V

As of February 28, 1992, RMI maintained two trust accounts, as follows:

1. RMI Escrow Trust Account No. 020-150548; and
2. RMI Collection Trust Account No. 020-150505,

both located at City National Bank, 1730 West Olympic Boulevard, Los Angeles, California 90015.

### VI

Between March 27, 1992 and May 28, 1992, DRE conducted an audit of RMI's books and records to determine if RMI accounted for trust funds and handled other real estate activities in accordance with the real estate law and the Commissioner's regulations. The period covered by the audit was March 1, 1991 through February 28, 1992.

### VII

It was determined, and respondents agreed, that RMI did not maintain a reconciliation of all separate beneficiary or

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<sup>2</sup> Prior to then, 37.5% of the stock was owned by Sidney Kline, who was not a DRE licensee nor an officer of the corporation, and 25% was owned by Martin G. Godin, Esq., who was the corporate Secretary but not a DRE licensee. The balance of the stock was owned by Matthew Rubin, who functioned as CEO/President/CFO of the corporation.

transaction records with the record of all trust funds received and disbursed.

Respondents' statements, that there was a high turnover in personnel in the business which prevented them from making the required reconciliations, were an explanation only, and not an acceptable excuse, for the failure.

#### VIII

The DRE auditor prepared reconciliations for each of RMI's trust accounts and calculated RMI's accountability for each account. As of February 28, 1992, there was a shortage of \$5,092.16 in the escrow account. \$4,690.18 of that amount resulted from the issuance of a duplicate payment in that amount to attorney Martin Godin in his capacity as trustee of one of RMI's lenders. That overpayment was returned by Mr. Godin.

The cause of the remaining shortage was not satisfactorily established by the evidence, although respondents stipulated to the auditor's conclusion that the missing \$1,025.28 might have resulted from unauthorized interest payments.

However, it did not appear that the deficit was the result of intentional wrongdoing on the part of one or more of the respondents.

#### IX

As of February 28, 1992, there was a shortage in the loan servicing account of \$10,768.69. \$7,126.59 of that amount existed because RMI had issued checks to investors, and thereafter, the borrowers' checks had been dishonored, even though RMI waited ten days after receiving a loan payment before paying the lender.

The origin of the remaining shortage was not established by the evidence, although the respondents stipulated to the auditor's conclusion that \$3,466.88 of the amount resulted from unauthorized interest payments.

Again, it appeared that the shortage resulted from poor management practices rather than from the respondents' misconduct.

#### X

On April 11, 1991, respondent Rubin on behalf of RMI entered into an agreement with Aaron L. Raznick, who was acting in his capacity as Trustee of Raznick & Sons Pension and Profit Sharing Plans, whereby the Raznick trust would "warehouse" a

trust deed in the amount of \$155,000 for a period of six months. During that time, RMI would be looking for a permanent lender.

The Raznick trust was paid six months' interest up front, as well as two points, to accept the loan.<sup>3</sup> The agreement was negotiated by an RMI employee, Mr. Schuster, and it was he who offered Mr. Raznick the inducement of a buy back if the loan had not been placed within the six month period. Rubin ratified the offer.

Respondent Annau was not involved in the Raznick transaction.

## XI

In October, 1991, Mr. Raznick contacted RMI about the repayment of the loan. Although RMI thereafter consistently agreed that it would soon repay the loan, it never did. Eventually, Mr. Raznick foreclosed on the loan and approximately \$160,000 was realized from the sale.

Mr. Raznick claimed that he had incurred costs of \$46,351.92 in connection with the loan. However, the cost analysis provided by Mr. Raznick was prepared by someone else, and it was clear he had no personal knowledge of the accuracy of the figures.

Moreover, of the loss claimed, \$30,650 was "lost profits" i.e. unpaid interest, calculated on the unsubstantiated premise that the money tied up in the RMI loan could have been invested elsewhere at the same rate. \$3,900 was unpaid late fees, penalties which were imposed by Raznick to increase his profit.

Therefore, \$34,500 of Mr. Raznick's claimed costs were not out of pocket expenses at all.

The balance of the claimed costs, \$11,801, would reduce the amount realized by Mr. Raznick from the sale of the property to \$148,199 which is \$4,824 more than the Raznick trust's original investment.

While the profit is far less than that anticipated, it is, none-the-less, a profit.

---

<sup>3</sup> The Raznick trust actually paid \$143,375 for the \$155,000 note and trust deed. The \$11,625 difference was the six months' interest. Two points amounted to \$3,100. Therefore, in total, the Raznick trust received \$14,725 at the initiation of the loan.

Mr. Raznick was a sophisticated investor. He knew that he was receiving very favorable terms on the loan because there was substantial risk involved.

XII

At the time the agreement was made with Mr. Raznick, respondent Rubin intended to honor the contract and expected to be able to do so. The agreement was breached only because, when the time came, RMI was unable to perform. There was no wrongful conduct by either respondent Rubin or RMI in obtaining the loan from the Raznick trust and no substantial misrepresentation made.

XIII

No evidence was produced supporting the allegations contained in Paragraphs IX and X of the instant Accusation.

XIV

In October, 1991, a Desist and Refrain Order was issued by the Department against respondents RMI and Annau for violations of Sections 10145(a) and 10232 of the Business and Professions Code and title 10 of the California Code of Regulations, sections 2831.2, 2741(b) and 2726.

The conduct which the Desist and Refrain order sought to end included the failure of the licensees to properly handle trust fund monies, as in the present case.

XV

RMI is no longer in business.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Cause exists to discipline respondents' respective licenses as follows:

1. Respondent Reliance Mortgage, Inc. for violation of Business & Professions Code sections 10177(d) (willfully violating real estate laws), 10177(g) (demonstrated negligence or incompetence), and 10086 (for failing to cease violation of 10 CCR sections 2831, 2831.1) and 2831.2.

2. Respondent Annau for violation of Business & Professions Code sections 10177(d) (willfully violating real estate laws), 10177(g) (demonstrated negligence or incompetence), 10177(h) (failure to properly supervise) and 10086 (for failing to cease violation of 10 CCR sections 2831, 2831.1 and 2831.2).

3. Respondent Rubin for violation of Business & Professions Code sections 10177(d) (willfully violating real estate laws) and 10177(g) (demonstrated negligence or incompetence).

II

Cause does not exist under the provisions of Business and Professions Code section 10176(a) to discipline any respondent's license for making a substantial misrepresentation.

III

Giving due consideration to the evidence of extenuation, mitigation and rehabilitation, the public interest will not be adversely affected by the issuance of properly conditioned, restricted licenses to respondents Rubin & Annau.

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

The corporate real estate broker's license and license rights previously issued to respondent Reliance Mortgage, Inc. are revoked.

II

All real estate broker licenses and license rights previously issued to respondent Marshall Annau are revoked; provided, however, that a restricted real estate salesperson's license shall be issued to respondent Annau, pursuant to Section 10156.6 of the Business and Professions Code, if respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for said license within six (6) months from the effective date of the decision herein, subject to the restrictions set forth in paragraph IV below.

III

The real estate salesperson's license and license rights previously issued to respondent Matthew Rubin are revoked; provided, however, that a restricted real estate salesperson's

*Modified*

Modified (Dismissed)  
license shall be issued to respondent Rubin, pursuant to Section 10156.6 of the Business and Professions Code, if respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for said license within six (6) months from the effective date of the decision herein, subject to the restrictions set forth in paragraph IV below.

IV

The restricted licenses issued to respondents Annau and Rubin respectively shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of said Code:

1. Said restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction (including conviction on a plea of nolo contendere) of a crime which bears a significant relationship to respondent's qualifications, functions, or duties as a real estate licensee.

2. Said restricted license may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of a restricted license until three (3) years have elapsed from the date of issuance of the restricted license to respondent.

4. Respondent shall submit with his application for said restricted license under an employing broker, or any application in the future for transfer to a new employing broker, a statement signed by the prospective employing broker which shall certify:

- a. That s/he had read the Decision of the Commissioner which granted the right to a restricted license; and
- b. That s/he will exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

5. Respondent shall obey all laws of the United States and the State of California.

6. Respondent shall, within twelve months from the effective date of the decision herein, present evidence which is satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The commissioner shall afford the respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

7. Respondent shall, within six months from the effective date of the restricted license, take and pass the professional responsibility examination administered by the Department, including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent passes the examination.

Upon full compliance with the terms and conditions set forth herein and upon the expiration of the three year period, respondent's license shall be fully restored; provided, however, in the event respondent violates or fails to comply with any of the terms and conditions, the Commissioner, after notice to the respondent and an opportunity to be heard, may terminate this order granting a restricted license, or make such other orders modifying or changing the terms and conditions herein, as he deems just and reasonable in his discretion.

V

The allegations set forth in paragraphs IX and X of the Accusation are dismissed.

Dated: October 6, 1993

*Carolyn D. Magnuson*  
CAROLYN D. MAGNUSON  
Administrative Law Judge  
Office of Administrative Hearings

*Sacto OAH*

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**

APR -9 1993

DEPARTMENT OF REAL ESTATE  
BY *R. Heberhold*

*In the Matter of the Accusation of*

RELIANCE MORTGAGE INCORPORATED,  
et al.,

}

Case No. H-25256 LA

OAH No. L-59622

*Respondent*

**NOTICE OF HEARING ON ACCUSATION**

**To the above named respondent:**

**You are hereby notified that a hearing will be held before the Department of Real Estate at \_\_\_\_\_  
Office of Administrative Hearings, 314 West First Street  
Los Angeles, CA 90012**

**on June 8, 9, 10, & 11, 1993, at the hour of 9:00 a.m.  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.**

**You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.**

**You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.**

**The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.**

DEPARTMENT OF REAL ESTATE

**Dated:** April 9, 1993

By *James R. Peef*  
Counsel

cc: Reliance Mtg. Corp.  
Marshall Eugene Annau  
Matthew Craig Rubin  
Donald William Schuster  
RE 501 (1/92) Martin J. Spear, Esq.  
Sacto OAH

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JAMES R. PEEL, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, CA 90012  
(213) 897-3937

FILED  
DEC 11 1992  
DEPARTMENT OF REAL ESTATE  
*Laura B. Olson*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) NO. H-25256 LA  
)  
RELIANCE MORTGAGE INCORPORATED ) A C C U S A T I O N  
MARSHALL EUGENE ANNAU )  
MATTHEW CRAIG RUBIN )  
DONALD WILLIAM SCHUSTER, )  
)  
)  
)  
Respondents. )  
\_\_\_\_\_ )

The Complainant, Steven J. Ellis, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against RELIANCE MORTGAGE INCORPORATED, MARSHALL EUGENE ANNAU,  
MATTHEW CRAIG RUBIN, DONALD WILLIAM SCHUSTER, alleges as follows:

I

The Complainant, Steven J. Ellis, a Deputy Real Estate  
Commissioner of the State of California makes this Accusation in  
his official capacity.

II

RELIANCE MORTGAGE INCORPORATED, MARSHALL EUGENE ANNAU,  
MATTHEW CRAIG RUBIN, DONALD WILLIAM SCHUSTER (hereinafter referred

1 to as respondent or respondents) are presently licensed and/or  
2 have license rights under the Real Estate Law (Part 1 of Division  
3 4 of the Business and Professions Code, hereinafter Code).

4 III

5 At all times herein mentioned, respondent RELIANCE  
6 MORTGAGE was licensed by the Department of Real Estate  
7 (hereinafter Department) as a corporate real estate broker,  
8 respondent ANNAU was licensed as the designated broker officer for  
9 respondent RELIANCE MORTGAGE, respondent RUBIN was licensed as a  
10 real estate salesperson, and respondent SCHUSTER was licensed as a  
11 real estate broker.

12 IV

13 At all times herein mentioned, respondent RELIANCE  
14 MORTGAGE engaged in the business of, acted in the capacity of,  
15 advertised or assumed to act as a real estate broker in the State  
16 of California within the meaning of Section 10131((d) of the Code,  
17 including soliciting borrowers or lenders and negotiating loans on  
18 real properties on behalf of others for or in expectation of  
19 compensation.

20 V

21 During 1991 and 1992, in connection with the aforesaid  
22 real estate brokerage activities, respondent RELIANCE MORTGAGE  
23 accepted or received funds from borrowers and lenders and  
24 thereafter made disbursements of such funds. These funds were  
25 deposited by respondent in Account No. 020-150548 (T/A 1), and  
26 Account No. 020-150505 (T/A 2), at City National Bank, 1730 West  
27 Olympic Blvd., Los Angeles.

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VI

In connection with respondent RELIANCE MORTGAGE'S activities as a real estate broker as described above respondent acted in violation of the Real Estate Law, Business and Professions Code (hereinafter Code), and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

1. Respondent violated Section 10145(a) of the Code by having an established shortage of \$5,715.46 in T/A 1 as of February 28, 1992.

2. Respondent violated Section 10145(a) of the Code by having an established shortage of \$10,768.69 in T/A 2 as of February 28, 1992.

3. Respondent violated Regulation 2831.2 by failing to perform a reconciliation of records maintained pursuant to Regulation 2831 with records maintained pursuant to Regulation 2831.1

VII

Prior discipline. On or about October 2, 1991, in Case No. H-24843 LA, a Desist and Refrain Order was issued by the Department against respondents RELIANCE MORTGAGE and MARSHALL EUGENE ANNAU for violations of Section 10145(a) of the Code and Regulation 2831.2.

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VIII

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2 In or around April 1991, Aaron L. Raznick, Trustee  
3 entered into an agreement with respondents RELIANCE MORTGAGE and  
4 RUBIN to acquire a first trust deed note in the amount of  
5 \$155,000. Respondents RELIANCE MORTGAGE and RUBIN agreed that the  
6 note would be "warehoused" for a period of six months and in the  
7 event RELIANCE was unable to sell the note to another investor,  
8 they would repurchase the note from Raznick no later than October  
9 15, 1991. Demand was made upon respondents RELIANCE MORTGAGE and  
10 RUBIN on the due date but respondents have refused to honor their  
11 obligations in this matter.

12 IX

13 In and around August 1991, Marvin S. Maltzman entered  
14 into an agreement with respondents RELIANCE MORTGAGE and SCHUSTER  
15 to acquire a trust deed note. Respondents, in order to induce  
16 Maltzman to invest his funds, falsely represented to Maltzman that  
17 the note had a proven payment record and he couldn't lose, when in  
18 fact, respondents knew or should have known, that the payor, John  
19 Walker, had a poor payment record during 1990 and 1991 and usually  
20 was late in making the monthly payment. The Walker note has since  
21 gone into default and Maltzman may lose his entire investment of  
22 \$49,000 plus interest, costs and expenses of foreclosure, etc.

23 X

24 In or around December 1991, Howard Stone entered into an  
25 agreement with respondents RELIANCE MORTGAGE, ANNAU and SCHUSTER,  
26 to acquire a trust deed note. The terms of the agreement provided  
27 that 30 days was the agreed upon warehouse period, beginning the

1 1st day after the close of escrow. Respondents represented to  
2 Stone that if he was not taken off the Magdaleno trust deed note  
3 within the agreed upon term of 30 days, respondent RELIANCE  
4 MORTGAGE would pay Stone \$850 within 72 hours of the expiration of  
5 the warehouse term, and an additional \$850 for each subsequent  
6 month during which Stone remained on the note. Demand was made  
7 upon respondents RELIANCE MORTGAGE, ANNAU, and RUBIN, but  
8 respondents have refused to honor their obligations in this  
9 matter.

10 XI

11 The conduct of respondents, as alleged, above, subjects  
12 their real estate licenses and license rights, to suspension or  
13 revocation, as follows:

14 A. As to respondent RELIANCE MORTGAGE, for violation of  
15 Sections 10086, 10176(a), 10177(d), and 10177(g) of the Code.

16 B. As to respondent ANNAU, for violation of Sections  
17 10086, 10176(a), 10177(d), 10177(g) and 10177(h) of the Code.

18 C. As to respondent RUBIN, for violation of Sections  
19 10176(a) and 10177(g) of the Code.

20 D. As to respondent SCHUSTER, for violation of Sections  
21 10176(a) and 10177(g) of the Code.

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1                    WHEREFORE, complainant prays that a hearing be conducted  
2 on the allegations of this Accusation and, that upon proof  
3 thereof, a decision be rendered imposing disciplinary action  
4 against all licenses and license rights of respondents RELIANCE  
5 MORTGAGE INCORPORATED, MARSHALL EUGENE ANNAU, MATTHEW CRAIG RUBIN,  
6 DONALD WILLIAM SCHUSTER under the Real Estate Law (Part 1 of  
7 Division 4 of the Business and Professions Code) and for such  
8 other and further relief as may be proper under other applicable  
9 provisions of law.

10                   Dated at Los Angeles, California  
11                   this 11th day of December, 1992.

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14                     
15                   Deputy Real Estate Commissioner  
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24                   cc: Reliance Mortgage Incorporated  
25                   Marshall Eugene Annau  
26                   Matthew Craig Rubin  
27                   Donald William Schuster  
                 Sacto.  
                 MLB

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