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FILED
APR 30 2008
DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-27489 LA
)
EDUARDO ANTONIO CANAS,)
)
Respondent.)
_____)

ORDER DENYING REINSTATEMENT OF LICENSE

On December 23, 1998, a Decision was rendered herein revoking Respondent's real estate broker license, but granting Respondent the right to apply for and be issued a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on October 19, 1999.

Respondent's license was thereafter suspended on July 26, 2000, for failure to complete the required continuing education courses and the Professional Responsibility Examination, conditions of the restricted license.

///

1 Respondent's license rights expired on October 17,
2 2003 without reinstatement from suspension.

3 On July 18, 2005, Respondent petitioned for
4 reinstatement of said license and the Attorney General of
5 the State of California has been given notice of the filing
6 of the petition.
7

8 I have considered Respondent's petition and the
9 evidence and arguments in support thereof. Respondent has
10 failed to demonstrate to my satisfaction that Respondent has
11 undergone sufficient rehabilitation to warrant the issuance
12 to Respondent of an unrestricted real estate broker license,
13 in that:
14

15 I

16 In the Decision which revoked Respondent's real
17 estate broker license, there were Determination of Issues made
18 that there was cause to revoke Respondent's real estate license
19 for violations of the Real Estate Law including the employing
20 of an unlicensed person to perform acts requiring a real estate
21 license.

22 II

23 The burden of proving rehabilitation rests with the
24 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).
25 A petitioner is required to show greater proof of honesty and
26 integrity than an applicant for first time licensure. The
27 proof must be sufficient to overcome the prior adverse judgment

1 on the applicant's character (Tardiff v. State Bar (1980) 27
2 Cal. 3d 395).

3 The Department has developed criteria in Title 10,
4 Chapter 6, California Code of Regulations ("Regulations") 2911,
5 to assist in evaluating the rehabilitation of an applicant for
6 reinstatement of a license. Among the criteria relevant in this
7 proceeding are:

8 Regulation 2911(k): Respondent has not had an active
9 real estate license since 2000 and has not shown that he has
10 corrected business practices resulting in injury to others or
11 with the potential to cause such injury.

12 Given the fact that Respondent has not established
13 that Respondent has met the criteria of Regulation 2911(k),
14 I am not satisfied that Respondent is sufficiently rehabilitated
15 to receive a real estate broker license.

16 NOW, THEREFORE, IT IS ORDERED that Respondent's
17 petition for reinstatement of Respondent's real estate broker
18 license is denied.

19 I am satisfied, however, that it will not be against
20 the public interest to issue a restricted real estate broker
21 license to Respondent.

22 A restricted real estate broker license shall
23 be issued to Respondent pursuant to Code Section 10156.5
24 if Respondent within twelve (12) months from the date hereof:

25 (a) submits evidence satisfactory to the Real Estate
26 Commissioner that Respondent has, since the date of this Order,
27

1 taken and passed the written examination required to obtain a
2 real estate broker license.

3 (b) submits evidence satisfactory to the Real Estate
4 Commissioner that Respondent has, since Respondent's license
5 was revoked, taken and passed the Professional Responsibility
6 Examination administered by the Department including the
7 payment of the appropriate examination fee.

8 (c) makes application therefor and pays the
9 appropriate fee for said license.

10 The restricted license issued to Respondent shall be
11 subject to all of the provisions of Code Section 10156.7 and to
12 the following limitations, conditions and restrictions imposed
13 under authority of Code Section 10156.6:

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

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

3 3. Respondent shall not be eligible to apply
4 for the issuance of an unrestricted real estate license
5 nor for the removal of any of the conditions, limitations
6 or restrictions of a restricted license until two (2) years
7 from the date of issuance of any restricted license.
8

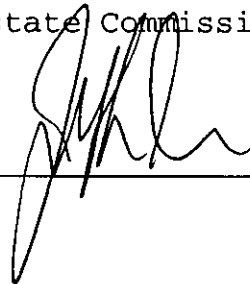
9 This Order shall become effective at 12 o'clock noon
10 MAY 20 2008

11 on _____

12 DATED: _____

4-22-08

13 JEFF DAVI
14 Real Estate Commissioner

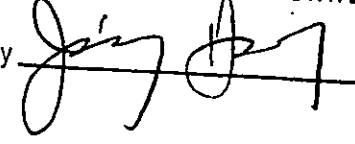


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FILED
AUG 01 2000

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
EDUARDO ANTONIO CANAS,)
Respondent.)

NO. H-27489 LA

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: EDUARDO ANTONIO CANAS:

On August 30, 1999, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of December 23, 1998, in case No. H-27489 LA. This Order, which was, after a Stay was granted, effective August 30, 1999, granted the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code. Among those terms, conditions and restrictions, you were required to present evidence within six months from August

1 30, 1999, that you have taken and passed the Professional
2 Responsibility Examination administered by the Department. As a
3 further condition you were required, within nine months from
4 August 30, 1999, to present evidence that you had, since the
5 most recent issuance of an original or renewal real estate
6 license, taken and completed the continuing education
7 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
8 for renewal of a real estate license. The Commissioner has
9 determined that as of the date of this Order, you have failed
10 to satisfy these conditions, and as such, you are in violation
11 of Section 10177(k) of the Business and Professions Code. (You
12 have no right to renew your restricted license if these
13 conditions are not satisfied by the date of its expiration.
14 Section 10156.7 of the Business and Professions Code.)

15 NOW, THEREFORE, IT IS ORDERED under authority of
16 Section 10156.7 of the Business and Professions Code of the
17 State of California that the restricted real estate broker
18 license heretofore issued to respondent and the exercise of any
19 privileges thereunder is hereby suspended pending final
20 determination made after hearing (see "Hearing Rights" set
21 forth below) or until such time as respondent provides evidence
22 satisfactory to the Real Estate Commissioner that he is now in
23 compliance with the aforesaid conditions

24 IT IS FURTHER ORDERED that all license certificates
25 and identification cards issued by Department which are in the
26 possession of respondent be immediately surrendered by personal
27 delivery or by mailing in the enclosed, self-addressed envelope

1 to:

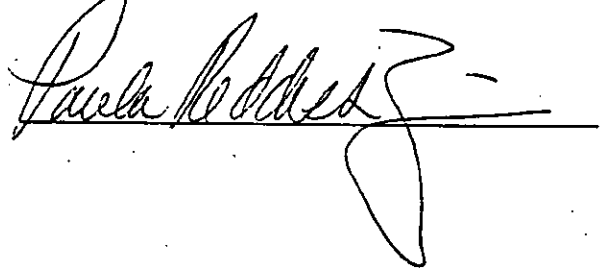
2 Department of Real Estate
3 Attn: Flag Section
4 P. O. Box 187000
5 Sacramento, CA 95818-7000.

6 HEARING RIGHTS: Pursuant to the provisions of
7 Section 10156.7 of the Business and Professions Code, you have
8 the right to a hearing to contest the Commissioner's
9 determination that you are in violation of Section 10177(k).
10 If you desire a hearing, you must submit a written request.
11 The request may be in any form, as long as it is in writing and
12 indicates that you want a hearing. Unless a written request
13 for a hearing, signed by or on behalf of you, is delivered or
14 mailed to the Department at 320 West 4th Street, Suite 350, Los
15 Angeles, California, within 20 days after the date that this
16 Order was mailed to or served on you, the Department will not
17 be obligated or required to provide you with a hearing.

18 This Order shall be effective immediately.

19 DATED: July 26, 2000

20 PAULA REDDISH ZINNEMANN
21 Real Estate Commissioner

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Handwritten signature/initials

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, CA 90013-1105

FILED
AUG 26 1999
DEPARTMENT OF REAL ESTATE

By *Laura B. Dune*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	NO. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO)	
ANTONIO CANAS, individually)	
and as designated officer of)	
B & K Financial Corp.,)	
Respondents.)	

ORDER DENYING RECONSIDERATION

1. On December 23, 1998, a Decision was rendered in the above-entitled matter to be effective January 19, 1999. The effective date was stayed until August 30, 1999.

2. I have given consideration to the respondents' petition and to Complainant's argument. I find that there is no good cause to grant reconsideration of the Decision of December 23, 1998.

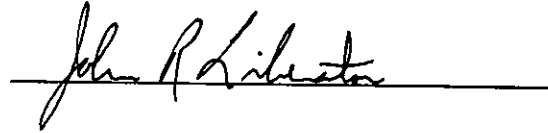
WHEREFORE, IT IS ORDERED AS FOLLOWS:

Respondent's petition for reconsideration is hereby denied

and the December 23, 1998 Decision shall take effect at 12 o'clock
noon on August 30, 1999.

IT IS SO ORDERED August 20, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



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FILED
JUL 20 1999
DEPARTMENT OF REAL ESTATE

By *Laura B. [Signature]*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	NO. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO)	
ANTONIO CANAS, individually)	
and as designated officer of)	
B & K Financial Corp.,)	
Respondents.)	

ORDER GRANTING FURTHER STAY

1. On December 23, 1998, a Decision was rendered in the above-entitled matter to be effective January 19, 1999.
2. By Order dated January 15, 1999, the effective date was stayed until February 18, 1999.
3. On February 16, 1999, respondents petitioned for reconsideration of the Decision of December 23, 1998. Said petition asserted that respondents had not received the letter advising them and their counsel that the transcript had been received and was available for review. Said petition raised no substantive issues for review upon reconsideration.

1 4. By Order dated February 18, 1999, the effective date
2 was stayed until March 1, 1999.

3 5. On February 25, 1999, reconsideration was granted for
4 the purpose of determining whether the disciplinary action imposed
5 against respondents should be reduced. Respondents were given
6 until April 2, 1999 in which to review the record of the hearing
7 and file written argument in further support of its petition for
8 reconsideration. Counsel for the Department of Real Estate was to
9 submit written reply within 20 days after receipt of respondents'
10 argument.

11 6. On March 31, 1999, respondents requested an extension
12 of time to file written argument for reconsideration. On April 15,
13 1999, counsel for the Department requested respondents' counsel to
14 inform him if and when respondents planned to file argument.
15 Counsel for the Department informed respondents' counsel that if
16 there was no communication by April 21, 1999, counsel for the
17 Department would assume no argument would be forthcoming. No
18 communication has been received by the Department from respondents
19 or their counsel.

20 7. On April 29, 1999, Complainant's counsel again wrote
21 respondents' counsel giving him until June 3, 1999 to file argument
22 in support of respondents' petition for reconsideration. No such
23 argument or other communication had been received by that date and
24 the Department ordered reconsideration to be denied, to be
25 effective July 20, 1999.

26 8. On July 19, 1999, Complainant's counsel received a
27 fax from respondent's counsel enclosing an argument dated June 1,



1 1999.

2 IT IS HEREBY ORDERED that the effective date of the Decision
3 of December 23, 1998, is stayed for an period of 30 days for the
4 purpose of receipt of argument by Complainant's counsel and review
5 of both respondents' and complainant's arguments.

6 The Decision of December 23, 1998, shall become effective at
7 12 o'clock noon on August 30, 1999.

8 DATED: July 20, 1999.

9 JOHN R. LIBERATOR,
10 Acting Real Estate Commissioner

11
12 By: *Randolph Brendia*
13 RANDOLPH BRENDIA
14 Regional Manager
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By Laura B. Orma

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	NO. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO)	
ANTONIO CANAS, individually)	
and as designated officer of)	
B & K Financial Corp.,)	
Respondents.)	

ORDER DENYING RECONSIDERATION

1. On December 23, 1998, a Decision was rendered in the above-entitled matter to be effective January 19, 1999.
2. By Order dated January 15, 1999, the effective date was stayed until February 18, 1999.
3. On February 16, 1999, respondents petitioned for reconsideration of the Decision of December 23, 1998. Said petition asserted that respondents had not received the letter advising them and their counsel that the transcript had been received and was available for review. Said petition raised no substantive issues for review upon reconsideration.

1 4. By Order dated February 18, 1999, the effective date
2 was stayed until March 1, 1999.

3 5. On February 25, 1999, reconsideration was granted for
4 the purpose of determining whether the disciplinary action imposed
5 against respondents should be reduced. Respondents were given
6 until April 2, 1999 in which to review the record of the hearing
7 and file written argument in further support of its petition for
8 reconsideration. Counsel for the Department of Real Estate was to
9 submit written reply within 20 days after receipt of respondents'
10 argument.

11 6. On March 31, 1999, respondents requested an extension
12 of time to file written argument for reconsideration. On April 15,
13 1999, counsel for the Department requested respondents' counsel to
14 inform him if and when respondents planned to file argument.
15 Counsel for the Department informed respondents' counsel that if
16 there was no communication by April 21, 1999, counsel for the
17 Department would assume no argument would be forthcoming. No
18 communication has been received by the Department from respondents
19 or their counsel.

20 7. On April 29, 1999, Complainant's counsel again wrote
21 respondents' counsel giving him until June 3, 1999 to file argument
22 in support of respondents' petition for reconsideration. No such
23 argument or other communication have been submitted to date.

24 I have given consideration to the Petition, and in the
25 absence of argument in support thereof, I find that there is no
26 good cause to reconsider the Decision of December 23, 1998.

27 /



WHEREFORE, IT IS ORDERED AS FOLLOWS:

Respondents' petition for reconsideration is hereby denied and the December 23, 1998 Decision shall take effect at 12 o'clock noon on July 20, 1999.

IT IS SO ORDERED June 25, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner



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FILED
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DEPARTMENT OF REAL ESTATE

By *Laura B. Orme*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO ANTONIO)	
CANAS, individually and as)	
designated officer of B & K)	
Financial Corp.,)	
Respondents.)	

ORDER GRANTING RECONSIDERATION

On December 23, 1998, a Decision was rendered in the above-entitled matter. The Decision is to become effective on March 1, 1999.

On February 16, 1999, Respondents petitioned for reconsideration of the said Decision.

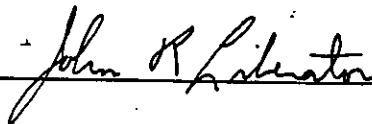
I find that there is good cause to reconsider the Decision of December 23, 1998. Reconsideration is hereby granted, pursuant to the terms and limitations set forth herein, for the limited purpose of determining whether the disciplinary action imposed against respondents by said Decision should be reduced.

///

1 Respondents shall have until April 2, 1999, in which to
2 review the record of the hearing in this matter and file written
3 argument in further support of its petition for reconsideration.
4 Counsel for the Department of Real Estate shall submit a written
5 reply to said argument within 20 days thereafter.

6 IT IS SO ORDERED February 25, 1999.

7 JOHN R. LIBERATOR
8 Acting Real Estate Commissioner

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By *Jana B. Orona*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO)	
ANTONIO CANAS, individually)	
and as designated officer of)	
B & K Financial Corp.)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On December 23, 1998, a Decision was rendered in the above entitled matter to become effective January 19, 1999. Thereafter in an Order signed January 15, 1999, the Decision was stayed until February 18, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of December 23, 1998, is stayed for an additional 10 days.

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The Decision of December 23, 1998, shall become effective at 12 o'clock noon on March 1, 1999.

DATED: February 18, 1999

JOHN R. LIBERATOR
Acting Real Estate Commissioner

Randolph Brendia by
RANDOLPH BRENDIA
Regional Manager *RB*

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FILED
JAN 15 1999
DEPARTMENT OF REAL ESTATE

By *Laura B. Orona*

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO)	
ANTONIO CANAS, individually)	
and as designated officer of)	
B & K Financial Corp.,)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On December 23, 1998, a Decision was rendered in the above-entitled matter to become effective January 19, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of December 23, 1998, is stayed for a period of 30 days.

The Decision of December 23, 1998, shall become effective at 12 o'clock noon on February 18, 1999.

DATED: *15 Jan. 99*

JOHN R. LIBERATOR
Acting Real Estate Commissioner

By: *Randolph Brendia*
RANDOLPH BRENDIA
Regional Manager

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FILED
DEC 28 1998
DEPARTMENT OF REAL ESTATE
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	NO. H-27489 LA
B & K FINANCIAL CORP., a)	L-1998010356
corporation; and EDUARDO)	
ANTONIO CANAS, individually)	
and as designated officer of)	
B & K Financial Corp.,)	
Respondents.)	

DECISION AFTER REJECTION

The matter came on for hearing before John Thomas Montag, Administrative Law Judge of the Office of Administrative Hearings at Los Angeles, California, on July 9, 1998.

V. Ahda Sands, Counsel, represented the Complainant.

Respondents appeared and were represented by Eugene Salmonsens, Esq.

Evidence was received and the matter stood submitted on July 9, 1998.

At the outset, respondents made a motion to recuse Ms. Sands and other members of the Department because, prior to her becoming employed by the department, she had represented one

1 William Hankins, Jr. Hankins' son, at a bail hearing, allegedly
2 said he had that he arranged loans for B&K. This statement
3 attributed to Hankins' son did prompt a request for the audit
4 which did take place. No evidence at this hearing established a
5 connection between Hankins, Jr. or his son with B & K Financial.
6 The motion to recuse Ms. Sands and other members of the
7 department was denied.

8 On July 28, 1998, the Administrative Law Judge
9 submitted a Proposed Decision which I declined to adopt as the
10 decision of the Real Estate Commissioner. Pursuant to Section
11 11517(c) of the Government Code of the State of California,
12 Respondent was served with a copy of the Proposed Decision dated
13 July 28, 1998, and with Notice that the case would be decided by
14 me upon the record, including the transcript of proceedings held
15 on July 9, 1998, and upon any written argument offered by the
16 parties.

17 No Argument was submitted by Respondent or Complainant.

18 I have given careful consideration to the record in
19 this case, including the transcript of proceedings of
20 July 9, 1998.

21 FINDINGS OF FACT

22 I have determined that the Findings of Fact in the
23 Proposed Decision of the Administrative Law Judge, dated
24 July 28, 1998, are adopted as the Findings of Fact of the Real
25 Estate Commissioner in this proceeding.

26 DETERMINATION OF ISSUES

27



1 I have determined that all Determination of Issues of
2 the Administrative Law Judge dated July 28, 1998, are adopted
3 herein as the Determination of Issues of the Real Estate
4 Commissioner.

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 I

8 The corporate real estate license and license rights of
9 Respondent, B & K FINANCIAL CORP., under the Real Estate Law are
10 hereby revoked; provided, however, a restricted corporate real
11 estate corporate license shall be issued to Respondent B & K
12 FINANCIAL CORP pursuant to Section 10156.5 of the Business and
13 Professions Code if Respondent (1) makes application therefor,
14 through a qualified broker, and pays to the Department of Real
15 Estate the appropriate fee for the restricted license within
16 ninety (90) days from the effective date of this Decision.

17 The restricted license issued to Respondent shall be
18 subject to all of the provisions of Section 10156.7 of the
19 Business and Professions Code and to the following limitations,
20 conditions and restrictions imposed under authority of Section
21 10156.6 of that Code:

22 1. The restricted license issued to Respondent shall
23 not confer any property right in the privileges to be exercised
24 thereunder:

25 (a) Said restricted license and any privileges
26 granted thereunder may be suspended prior to hearing, by Order of
27 the Real Estate Commissioner in the event of Respondent's



1 conviction (including a plea of nolo contendere) to a crime which
2 is substantially related to Respondent's qualifications,
3 functions, duties, fitness or capacity as a real estate licensee,
4 or receipt of evidence satisfactory to the Commissioner that
5 Respondent has violated the conditions attaching to this
6 restricted license.

7 (b) Said restricted license and any privileges
8 granted thereunder may be suspended prior to hearing, by Order
9 of the Real Estate Commissioner on the receipt of evidence
10 satisfactory to the Commissioner that Respondent has violated
11 provisions of the California Real Estate Law, the Subdivided
12 Lands Law, or Regulations of the Real Estate Commissioner.

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

18 II

19 All licenses and license rights of Respondent EDUARDO
20 ANTONIO CANAS under Part 1 of Division 4 of the Business and
21 Professions Code are revoked; provided, however, a restricted
22 real estate broker license shall be issued to Respondent EDUARDO
23 ANTONIO CANAS pursuant to Section 10156.5 of the Code if
24 Respondent CANAS makes application therefor and pays to the
25 Department of Real Estate the appropriate fee for said licenses
26 within ninety (90) days from the effective date of the Decision.

27 1. The restricted license issued to Respondent EDUARDO



1 ANTONIO CANAS shall be subject to all of the provisions of
2 Section 10156.7 of the Business and Professions Code and to the
3 following limitations, conditions and restrictions imposed under
4 authority of Section 10156.6 of said Code and to the following
5 limitations, conditions and restrictions imposed under authority
6 of Section 10156.6 of said Code:

7 (a) The restricted license may be suspended prior
8 to hearing by order of the Real Estate Commissioner in the event
9 of Respondent EDUARDO ANTONIO CANAS's conviction or plea of nolo
10 contendere to a crime which bears a significant relation to
11 Respondent's fitness or capacity as a real estate licensee.

12 (b) The restricted license may be suspended prior
13 to hearing by Order of the Real Estate Commissioner on evidence
14 satisfactory to the Commissioner that Respondent EDUARDO ANTONIO
15 CANAS has, during the time he holds a restricted license,
16 violated provisions of the California Real Estate Law, the
17 Subdivided Lands Law, Regulations of the Real Estate
18 Commissioner, or the conditions attaching to these restricted
19 licenses.

20 (c) Respondent EDUARDO ANTONIO CANAS shall not,
21 during the time he holds a restricted license, become an officer
22 or designated officer of a corporate broker, nor become the
23 broker for a business of any form, unless he owns 51 or more
24 percent of such corporation or business.

25 (d) Respondent EDUARDO ANTONIO CANAS shall not be
26 eligible to apply for the issuance of an unrestricted real estate
27 license nor the removal of any of the conditions, limitations or



1 restrictions of a restricted license until two (2) years has
2 elapsed from the date of issuance of the restricted license to
3 Respondent.

4 (e) Respondent EDUARDO ANTONIO CANAS shall report
5 in writing to the Department of Real Estate as the Real Estate
6 Commissioner shall direct by his Order herein or by separate
7 written order issued while Respondent holds a restricted license,
8 such information concerning Respondent's activities for which a
9 real estate license is required as the Commissioner shall deem to
10 be appropriate to protect the public interest.

11 (f) Respondent EDUARDO ANTONIO CANAS shall,
12 within nine months from the effective date of this Decision,
13 present evidence satisfactory to the Real Estate Commissioner
14 that Respondent has, since the most recent issuance of an
15 original or renewal real estate license, taken and successfully
16 completed the continuing education requirements of Article 2.5 of
17 Chapter 3 of the Real Estate Law for renewal of a real estate
18 license. If Respondent fails to satisfy this condition, the
19 Commissioner may order the suspension of the restricted license
20 until the Respondent presents such evidence. The Commissioner
21 shall afford Respondent the opportunity for a hearing pursuant to
22 the Administrative Procedure Act to present such evidence.

23 (g) Respondent EDUARDO ANTONIO CANAS shall,
24 within six months from the effective date of this Decision, take
25 and pass the Professional Responsibility Examination administered
26 by the Department including the payment of the appropriate
27 examination fee. If Respondent fails to satisfy this condition,



1 the Commissioner may order suspension of Respondent's license
2 until Respondent passes the examination.

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This Decision shall become effective at 12 o'clock noon
on January 19, 1999.

IT IS SO ORDERED December 23, 1998.

JIM ANTT, JR.
Real Estate Commissioner

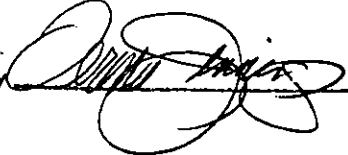
John R. Liberator

BY: John R. Liberator
Chief Deputy Commissioner

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FILED
AUG 28 1998

DEPARTMENT OF REAL ESTATE

By 

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-27489 LA
B & K FINANCIAL CORP.,)	L-1998010356
a corporation; and)	
EDUARDO ANTONIO CANAS,)	
individually and as)	
designated officer of)	
B & K Financial Corp.,)	
)	
Respondents.)	

NOTICE

TO: B & K FINANCIAL CORP. and EDUARDO ANTONIO CANAS,
Respondents, and EUGENE R. SALMONSEN, their Counsel.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated July 28, 1998, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated July 28, 1998, is attached hereto for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein

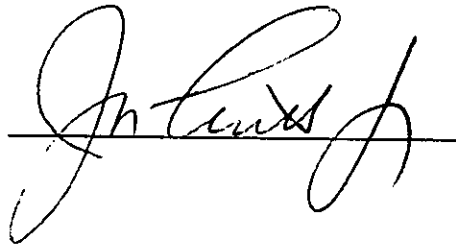
1 including the transcript of the proceedings held on July 9, 1998,
2 and any written argument hereafter submitted on behalf of
3 respondents and complainant.

4 Written argument of respondents to be considered by me
5 must be submitted within fifteen (15) days after receipt of the
6 transcript of the proceedings of July 9, 1998, at the Los Angeles
7 office of the Department of Real Estate unless an extension of the
8 time is granted for good cause shown.

9 Written argument of complainant to be considered by me
10 must be submitted within fifteen (15) days after receipt of the
11 argument of respondents at the Los Angeles office of the Department
12 of Real Estate unless an extension of the time is granted for good
13 cause shown.

14 DATED: 8/10, 1998.

15
16 JIM ANTT, JR.
17 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the)	CASE NO. H-27489 LA
Accusation of:)	
)	OAH NO. L 1998010356
B & K FINANCIAL CORP.,)	
a corporation; and)	
EDUARDO ANTONIO CANAS, individually)	
and as Designated Officer of)	
B & K Financial Corp.,)	
)	
Respondents.)	
)	
)	

PROPOSED DECISION

John Thomas Montag, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on July 9, 1998.

V. Ahda Sands, Real Estate Counsel, represented the Department of Real Estate.

Eugene R. Salmonsens, Attorney at Law, represented respondents, B & K Financial Corp., and Eduardo Antonio Canas. Karen Broussard, the 100% shareholder owner of B & K Financial Corp., and Eduardo Antonio Canas were present throughout the hearing.

At the commencement of the hearing, respondents presented a written motion to recuse V. Ahda Sands, counsel for the Department, as well as any and all Department of Real Estate personnel who had participated in the investigation and preparation of this case for hearing, upon the ground that they had a conflict of interest which would preclude their participation in the case.

This motion was based on the fact that V. Ahda Sands, before joining the staff of the Department of Real Estate, had been counsel for one William Hankins Jr., an individual who had allegedly been "a thorn in the side of the Department of Real Estate for over twenty years." Counsel for the respondents undertook representation of said William Hankins Jr., after V. Ahda Sands discontinued her representation of Hankins.

William Hankins Jr. was shot to death on January 6, 1995. His son, named Willie Hankins, who may also have used the

name William Hankins Jr., while in criminal custody in the early part of 1997, allegedly said at a bail hearing that he arranged loans for B & K. William Hankins Jr., either the father or the son, had no connection of any kind with respondent B & K Financial Corp., and neither individual arranged loans for said respondent.

Respondents maintain that the alleged connection between Hankins (father or son) triggered the audit and investigation in this case, and further caused the Department and its investigating personnel to view this case in a prejudicial manner. The Department denies any such prejudice and indicates that it had a citizen's complaint concerning respondents.

Respondents' motion for recusal was denied. There was absolutely no connection between respondents and the notorious Hankins family. Neither was there any evidence which would indicate that the Department approached the investigation and prosecution of this case with anything other than objectivity. Moreover, it matters not what triggers an audit and investigation. The evidence presented at the full and fair hearing concerning this matter determines whether there is evidence to support the allegations of the Accusation.

Following denial of the Motion To Recuse, evidence was received, the record was closed and the matter was submitted on July 9, 1998.

FINDINGS OF FACT

I

On December 19, 1997, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, filed Accusation No. H-27489 against B & K Financial Corp. and Eduardo Antonio Canas, alleging that respondents had committed various violations of the Business and Professions Code, and of Title 10, California Code of Regulations, in the conduct of their mortgage loan business, as set forth in more detail hereinafter, and had employed and compensated an unlicensed person to perform acts requiring a real estate license, in violation of Section 10137 of the Business and Professions Code. Respondents timely filed Notices of Defense and requested a hearing to defend against the Accusation.

II

Respondent, Eduardo Antonio Canas, was previously licensed by the Department as a real estate salesperson. On October 22, 1996, the Department licensed him as a real estate broker, under License No. 01156538. Said broker's license was valid at all relevant times herein.

/

III

Karen Broussard took her first formal steps to begin a mortgage loan business on May 28, 1996, at which time she executed Articles of Incorporation for B & K Financial Corp.. Karen Broussard was, and still is, the sole shareholder of B & K Financial Corp., giving her 100% ownership of the corporation and any profits which it might realize. She filed her Articles of Incorporation with the California Secretary of State on June 3, 1996. On June 4, 1996, she executed and filed with the Secretary of State, the required Statement by Domestic Stock Corporation, wherein she listed herself as President and Chief Executive Officer, and one Valerie Jackson as Secretary. The corporation was assigned Corporation No. 1784989. (Exhibit C.)

IV

On September 10, 1996, Ms. Broussard recorded in the Los Angeles County Recorder's Office, a Fictitious Business Name Statement for B & K Financial Corp., showing that it would be conducting business under the name of "American Lending USA, Co." (Exhibit B.)

V

Sometime prior to September 1, 1996, respondent, Eduardo Antonio Canas, entered into an agreement with B & K Financial Corp., wherein he agreed to become the designated broker for the company, with the title of Chief Financial Officer. The agreement further provides that Canas shall have no ownership in the Company, that he shall meet once a week with the Company to sign and acknowledge prospective loan packages, and that, for such services, he shall receive compensation of \$500.00 per month from the Company, beginning on September 1, 1996. (Exhibit G.)

VI

On December 14, 1996, the Department issued Corporation License No. 01215916 to respondent, B & K Financial Corp., showing thereon that respondent Eduardo Antonio Canas was the Designated Officer. The Department's records further show that B & K Financial Corp. would be conducting business under the fictitious name, American Lending USA, Co. (Exhibit 3).

VII

On December 14, 1996, respondent, Eduardo Antonio Canas, was issued a license by the Department as an officer of Respondent B & K Financial Corp. (Exhibit 2). Issuance of this license designated him as the officer and broker responsible, pursuant to the provisions of Section 10159.2(a) of the Business and Professions Code, for supervising the activities conducted on behalf of B & K Financial Corp., by the officers and employees of

said corporation, which required a real estate license. This license file also shows that B & K Financial Corp. would be doing business under the fictitious name of American Lending USA, Co.

VIII

On various days during the period from June 20, 1997 through July 11, 1997, the Department conducted an audit of the records of B & K Financial Corp., to determine whether B & K Financial Corp. was operating in accordance with the Real estate Law and the Commissioner's Regulations. Records were audited for the period from December 14, 1996 through May 29, 1997.

The audit confirmed, inter alia, that during said period of time, and before, respondents were engaged in the business of, acted in the capacity of, and advertised or assumed to act as, real estate brokers for others in the State of California within the meaning of Section 10131(d) of the Business and Professions Code, including the operation and conduct of mortgage loan activities with the public wherein, on behalf of others, and for compensation, or in expectation of compensation, they solicited lenders and borrowers for loans which were secured either directly, or collaterally, by a lien on real property, and arranged, negotiated, processed and consummated said loans.

IX

Respondents are charged with five separate violations of the Real Estate Law and the Regulations promulgated pursuant thereto. The first violation alleged is a failure of respondents to provide the Department with all of the records which the Department had requested for the audit, in contravention of Section 10148 of the Business and Professions Code.

The evidence clearly shows that not all of the records requested by the auditor were produced. Specifically, bank statements, appraisal invoices and canceled checks for appraisal fees were not provided to the auditor. Production of these documents should not have been a burdensome task for respondents. The evidence showed that during the period being audited, B & K Financial Corp. negotiated only five loans. Under all of the circumstances of this case, however, this proved to be a minor violation, and it does not appear that there was any intent on the part of respondents to hide information from the Department by not producing these records.

B & K Financial Corp. did not maintain a Trust Account during the period in question. The auditor was rightly concerned about the manner in which appraisal fees incurred in connection with the loan applications were handled by respondents. If B & K paid the appraisal fees itself, from its own funds, prior to the close of escrow, and subsequently received a refund of those appraisal fees from escrow at the time of funding the loan, there

would be no Code violation. The evidence at the hearing clearly proved that this was the manner in which appraisal fees were handled. The appraiser always insisted on payment in advance, which was made by B & K, and the appraisal fees were later reimbursed to B & K through escrow. Respondents testified that this was the procedure. The escrow officer testified that in all instances, the lender had specifically instructed her to pay the appraisal fees directly to B & K. This indicated to the escrow officer that B & K had already paid the appraisal fees and was being reimbursed for that fee through escrow.

Thus, while the violation has been proven, and it certainly would have made things easier for the auditor if the documents had been produced, as requested, there was no nefarious purpose for the omission to produce, and the violation, under the circumstances, is relatively minor.

X

The second violation alleged against respondents is that B & K Financial Corp. solicited borrowers and negotiated loans prior to being licensed as a corporate broker by the Department, in violation of Section 10130 of the Business and Professions Code.

Concerning this charge, the evidence revealed that B & K Financial Corp. was both owned and operated solely by Karen Broussard. The corporation had no employees, and paid no salaries. The \$500.00 per month which was paid to respondent, Eduardo Canas was not a salary payment and he was not an employee of the corporation. The agreement between Canas and B & K specifically provides that each was a separately owned entity, independent of each other. Canas operated only in the specific capacity of Designated Officer, within the meaning of the Business and Professions Code. During the course of the audit, Broussard admitted that B & K had no sales persons.

Respondent Canas never once visited the offices of the corporation, which was operated out of Karen Broussard's home. The corporation maintained a mail receipt box at a different location, which was not an office, and the mail for the corporation was picked up at that box only by Karen Broussard.

Canas met with Broussard once a week at a restaurant and apparently reviewed some documents there. There was only occasional telephone contact between them at other times. Canas had no licensed salespersons acting as loan agents for B & K Financial Corp.

B & K maintained only one bank account from which all expenses of the corporation were paid. Karen Broussard was the only signatory on the account.

During the period covered by the audit, B & K solicited borrowers, negotiated loans, and consummated five real estate loans, identified by the borrowers' names as:

- a. The Ledesma loan;
- b. The Beatty loan;
- c. The Gonzales loan;
- d. The Harris loan; and
- e. The Sierra/Castillo loan.

The exact dates on which the loan applications were completed in the Ledesma and Gonzales loans is not known, but they were submitted to the lender, Quality Mortgage USA Inc. prior to B & K becoming licensed by the Department. This is confirmed by the fact that the loans were funded on January 9, 1997 and December 16, 1996, respectively, and it would have not been possible to fund those loans on those dates unless the loan applications had been submitted prior to the date on which B & K received its license from the Department, namely, December 14, 1996.

The application date for the Beatty loan was October 28, 1996. The date of application for the Harris loan and the Sierra/Castillo loan was October 14, 1996. All three loan applications were accepted prior to B & K receiving its license from the Department on December 16, 1996. Moreover, the Harris loan was funded on November 19, 1996, and the Sierra/Castillo loan was funded on November 15, 1996. Both of these loans closed prior to B & K receiving its license from the Department.

Moreover, Karen Broussard admitted to the auditor that she had taken all of the loan applications and had negotiated all five of these loans, although she did not sign any of the loan applications. Further, respondent Canas testified at the hearing. He did not claim that he had taken any of these loan applications, nor did he claim that he had negotiated any of these loans.

Thus, it is clear that B & K solicited borrowers and negotiated loans prior to being licensed as a corporate broker by the Department, in violation of Section 10130 of the Business and Professions Code.

XI

The third violation alleged is respondents' failure to deliver Mortgage Loan Disclosure Statements to the borrowers on the five loans in question within three days of the signing of the loan application in violation of Section 10240 of the Business and Professions Code and Section 2842.5 of Title 10, California Code

of Regulations. This violation was not proved and cannot be used as a basis for disciplinary action against respondents.

It is true that Karen Broussard had not kept signed copies of the Mortgage Loan Disclosure Statements in each of the five loan files maintained by B & K, because she did not realize that she was supposed to do so. She was obtaining funds for these loans from what she called a "wholesale lender" and she had sent all of the original documents to said lender for its files. Nonetheless, she said that she had furnished signed Mortgage Loan Disclosure Statements to each of the borrowers in the five loans which she had processed during the period in question. Broussard was supported on this question by the testimony of Nona Green-Sims, who is the owner and operator of California Homeowners Escrow, Inc., the escrow company which handled all five of the loans in question. She testified that she does not process any escrow unless the Mortgage Loan Disclosure Statement is present in the file. In any loan which she handles, "those documents are there."

XII

The fourth violation alleged is that during the audit period, B & K used the following unlicensed fictitious business names: "American Lending USA Co.", "B & K Financial/Amer Lend", and "American Lending" on documents examined, in violation of Section 2731 of Title 10, California Code of Regulations.

More specifically, it is alleged that B & K used the name "American Lending USA Co. on each of the five loan applications in question, as well as on the business cards of Karen Broussard and Eduardo Canas. The problem with this allegation is that B & K Financial Corp. was specifically licensed by the Department to use that fictitious business name (Exhibits 2 and 3). It is difficult to perceive why this charge was brought when the Department's own records in Sacramento, which were certainly available to the auditor, clearly show authorization for such fictitious name, and B & K had recorded that fictitious name with the Los Angeles County Recorder on September 10, 1996, which was prior to any proven date for any of the loan applications.

On the five Mortgage Loan Disclosure Statements reviewed by the auditor, which were unsigned copies, the Broker's name is shown as "B & K Financial/Amer Lend." This is clearly an abbreviation utilized by respondent, B & K, for brevity's sake, on a document prepared after the loan applications, on which the full and correct fictitious name appears. It was not used with any intent to deceive or mislead and such use of an abbreviation is not a violation of the Code section.

Similarly, the name "American Lending" appears on the initial hand written loan application, which is a document preliminary to the final, typed, formal loan application and is

clearly an abbreviation for the full fictitious name, which was used on the final loan application, as noted above. Use of the abbreviated name on this preliminary form was obviously not done with an intent to deceive or mislead, and use of the abbreviated name on this preliminary form is not a violation of the Code. Respondent B & K was not trying to hide its true identity, nor was it attempting to do business under a fictitious name other than its own.

XIII

The fifth and final violation alleged is that during the period from, on or about October 14, 1996 through November 20, 1996, respondents B & K and Canas employed and compensated Karen Broussard, a person then not licensed by the Department, to perform acts requiring a real estate license, for and in the name of B & K, including, but not limited to soliciting borrowers for applications for loans to be secured directly by liens on real property, in violation of Section 10137 of the Business and Professions Code. Section 10137 of the Business and Professions Code provides that such conduct is grounds for suspension or revocation of the real estate licenses and license rights of any persons who engage in such prohibited conduct.

The facts set forth in Findings II, III, V, VI, VII, VIII and X, above, clearly establish this violation. The acts described in Finding X are acts which did require a real estate license, and when she performed such acts, Karen Broussard was not licensed by the Department to do so. Each of the five named loans, solicited and negotiated by Karen Broussard when she was unlicensed, constitutes a separate and distinct cause for discipline. B & K Financial Corp. and Eduardo Canas, as its Designated Officer, are both responsible for having allowed the unlicensed activity to be done by Karen Broussard.

DETERMINATION OF ISSUES

I

Cause exists to discipline the licenses and license rights of respondents, B & K Financial Corp., a corporation, and Eduardo Antonio Canas, individually and as Designated Officer of B & K Financial Corp., for violation of Section 10148 of the Business and Professions Code, by reason of Findings II, III, V, VI, VII and IX.

II

Cause exists to discipline the licenses and license rights of respondents, B & K Financial Corp., a corporation, and Eduardo Antonio Canas, individually and as Designated Officer of

B & K Financial Corp., for violation of Section 10130 of the Business and Professions Code, by reason of Findings II, III, V, VI, VII, VIII and X.

III

Cause does not exist to discipline the licenses and license rights of respondents, B & K Financial Corp., a corporation, and Eduardo Antonio Canas, individually and as Designated Officer of B & K Financial Corp., for violation of Section 10240 of the Business and Professions Code and Section 2842.5 of Title 10, California Code of Regulations, by reason of Finding XI.

IV

Cause does not exist to discipline the licenses and license rights of respondents, B & K Financial Corp., a corporation, and Eduardo Antonio Canas, individually and as Designated Officer of B & K Financial Corp., for violation of Section 2731 of Title 10, California Code of Regulations, by reason of Finding XII.

V

Cause exists to discipline the licenses and license rights of respondents, B & K Financial Corp., a corporation, and Eduardo Antonio Canas, individually and as Designated Officer of B & K Financial Corp., for violation of Section 10137 of the Business and Professions Code, by reason of Findings II, III, V, VI, VII, VIII, X and XIII.

VI

In imposing discipline in this case, consideration must be given to the fact that the violations committed by respondents were caused more by negligence and inadvertence, than by intentional bad conduct. Each respondent was commencing a business with which they were not completely familiar, and while they did engage in unlicensed activity, their actions were, for the most part, simply premature. They had commenced the steps to be appropriately licensed, and they were eventually granted licenses by the Department. However, they began to conduct their business activity several months too soon.

ORDER

I

All licenses and license rights of respondent, B & K Financial Corp., a corporation, under the Real Estate Law, are

NOT RECORDED

suspended for a period of ninety (90) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

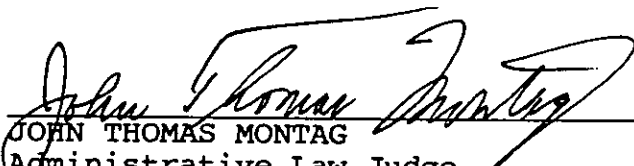
II

All licenses and license rights of respondent, Eduardo Antonio Canas, individually and as Designated Officer of B & K Financial Corp., under the Real estate Law are suspended for a period of ninety (90) days from the effective date of this Decision; provided, however, that seventy (70) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

Dated: July 28, 1998


JOHN THOMAS MONTAG
Administrative Law Judge
Office of Administrative Hearings


REC'D. Flag

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 29 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
B & K FINANCIAL CORP.,)
et al.,)
)
Respondents.)

Case No. H-27489 LA
OAH No. L-1998010356

By: 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on July 9, 1998, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: May 29, 1998.

cc: B&K Financial Corp.
Eduardo Antonio Canas
Eugene R. Salmonsens, Esq.
Sacto.
OAH

DEPARTMENT OF REAL ESTATE

By: 
V. AHDA SANDS, Counsel

SACTO.
Flag

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
FEB 26 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
B & K FINANCIAL CORP.,)
et al.,)
)
Respondents.)

Case No. H-27489 LA
OAH No. L-1998010356

By: 

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **May 5, 1998**, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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.

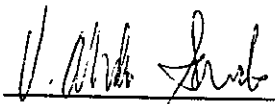
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real 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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: February 26, 1998.

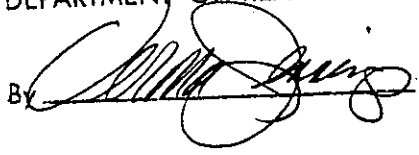
DEPARTMENT OF REAL ESTATE

cc: B&K Financial Corp.
Eduardo Antonio Canas
Sacto.
OAH

By: 
V. AHDA SANDS, Counsel

SACTO
May

1 V. AHDA SANDS, Counsel
State Bar No. 146983
2 Department of Real Estate
107 South Broadway, Room 8107
3 Los Angeles, California 90012
4 (213) 897-3937

FILED
DEC 19 1997
DEPARTMENT OF REAL ESTATE
By 

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8 DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-27489 LA
12 B & K FINANCIAL CORP.,) A C C U S A T I O N
a corporation; and)
13 EDUARDO ANTONIO CANAS,)
individually and as)
14 designated officer of)
B & K Financial Corp.,)
15 Respondents.)
16 _____)

17 Complainant, Thomas McCrady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of
19 accusation against B & K FINANCIAL CORP., a corporation; and
20 EDUARDO ANTONIO CANAS, individually and as designated officer
21 of B & K Financial Corp. (herein "Respondents"), alleges as
22 follows:

23 1.
24 The term "the Regulations" as used herein refers to
25 provisions of Title 10, Chapter 6, California Code of
26 Regulations. The term "the Code" as used herein refers to the
27 California Business and Professions Code.

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2.

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents.

3.

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Code.

4.

At all times mentioned herein, from December 14, 1996, to present, Respondent B & K FINANCIAL CORP. (herein "B&K"), a corporation, was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker by and through EDUARDO ANTONIO CANAS (herein "CANAS") as the officer and broker responsible pursuant to the provisions of Section 10159.2(a) of the Code for supervising the activities requiring a real estate license conducted on behalf of B&K by B&K's officers and employees.

5.

At all times mentioned herein from October 22, 1996, to present, Respondent CANAS was licensed by the Department as a real estate broker. Respondent was previously licensed by the Department as a salesperson from March 22, 1993, to October 21, 1996.

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6.

All further references herein to "Respondents" include the parties identified in Paragraphs 4 and 5, above, and also include the officers, directors, employees, agents and real estate licensees employed by or associated with said parties and who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

7.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers for others in the State of California within the meaning of Section 10131(d) of the Code including the operation and conduct of mortgage loan activities with the public wherein, on behalf of others and for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by a lien on real property; arranged, negotiated, processed and consummated said loans.

8.

In connection with the aforesaid real estate broker activities, Respondents accepted or received funds in trust (hereinafter "trust funds") from or on behalf of borrowers and lenders and note owners and thereafter made disbursements of such funds.

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1 FIRST CAUSE OF ACCUSATION

2 AUDIT VIOLATIONS

3 9.

4 On July 11, 1997, the Department concluded its
5 examination of Respondents' books and records pertaining to the
6 real estate broker activities described in Paragraph 9, above,
7 for the period December 14, 1996, through May 29, 1997, which
8 examination revealed violations of the Code and of the
9 Regulations as set forth in the following paragraphs.

10 10.

11 In connection with the trust funds referred to in
12 Paragraph 9, above, Respondents acted in violation of the Code
13 and the Regulations:

14 (a) Not all records requested for the audit were
15 provided to the auditor in violation of Section 10148 of the
16 Code. Specifically, bank statements, appraisal invoices and
17 canceled checks for appraisal fees were not provided by B&K.

18 (b) B&K solicited borrowers and negotiated loans
19 prior to being licensed as a corporate broker by the Department
20 in violation of Section 10130 of the Code.

21 (c) Mortgage Loan Disclosure Statements found in
22 the loan files examined were not delivered to the borrowers
23 within three days of the signing of the loan application in
24 violation of Section 10240 of the Code and Regulation 2842.5.
25 Specifically, Mortgage Loan Disclosure Statements found in the
26 loan files examined were not signed by the borrower, the broker
27 or the broker's licensed representative.



1 (d) During the audit period, B&K used the
2 unlicensed fictitious business names "American Lending USA
3 Co.", B&K Financial/Amer Lend", and "American Lending" on
4 documents examined, in violation of Regulation 2731.

5 11.

6 The acts and omissions of Respondents B&K and CANAS
7 described in Paragraph 10, above, violated the Code and the
8 Regulations as set forth below:

9	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10	10(a)	Sec. 10148 of the Code
	10(b)	Sec. 10130 of the Code
11	10(c)	Sec. 10240 of the Code
		Sec. 2842.5 of the Regulations
12	10(e)	Sec. 2731 of the Regulations

13 Each of the foregoing violations separately
14 constitutes cause for the suspension or revocation of all
15 licenses and license rights of Respondents B&K and CANAS
16 pursuant to the provisions of Section 10177(d) of the Code.

17 SECOND CAUSE OF ACCUSATION

18 EMPLOYING UNLICENSED PERSON

19 12.

20 From on or about October 14, 1996, through
21 November 20, 1996, in the course of the activities described in
22 Paragraph 9, above, Respondents B&K and CANAS employed and
23 compensated Karen Broussard, a person then not licensed by the
24 Department, to perform acts requiring a real estate license for
25 and in the name of B&K, including but not limited to soliciting
26 borrowers for applications for loans to be secured directly by
27 liens on real property.

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 B & K FINANCIAL CORP., a corporation; and EDUARDO ANTONIO
6 CANAS, individually and as designated officer of B & K
7 Financial Corp., under the Real Estate Law (Part 1 of Division
8 4 of the Business and Professions Code) and for such other and
9 further relief as may be proper under other applicable
10 provisions of law.

11 The Commissioner may order the imposition of a fine
12 not to exceed Ten Thousand Dollars (\$10,000) against any real
13 estate broker who, following a license disciplinary hearing, is
14 found to have violated Section 10137 of the Code by employing
15 or compensating a person not licensed as a real estate broker
16 or a real estate salesperson to solicit borrowers or lenders
17 for or negotiate loans secured directly or collaterally by
18 liens on real property.

19 Dated at Los Angeles, California

20 this 19th day of December, 1997


21
22 For THOMAS MCCREADY
23 Deputy Real Estate Commissioner

24 cc: B&K Financial Corp.
25 Eduardo Antonio Canas
26 Sacto.
27 RW

