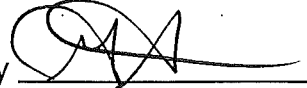


**FILED**

**July 19, 2012**

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	NO. H-5405 SAC
LOAN EXPRESS MORTGAGE AB, INC., a	)	
California corporation, ALFONSO CARPIO	)	
BARRETTO, LINDA JIMENEZ, MANUELITO	)	
MATA PAYURAN, TIMOTHY DREW SCHRECK,	)	
NEMESIO THOMPSON GAVIOLA, Jr., and	)	
ROGER DAMIAN FERRER,	)	
	)	
Respondents.	)	
_____	)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on December 13, 2011, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

A.

On December 13, 2011, no Notice of Defense having been filed herein by or on behalf of Respondent ROGER DAMIAN FERRER within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

1

Respondent LOAN EXPRESS MORTGAGE AB, INC., (hereinafter "Respondent LOAN EXPRESS"), Respondent ALFONSO CARPIO BARRETTO (hereinafter "Respondent BARRETTO"), Respondent LINDA JIMENEZ (hereinafter "Respondent JIMENEZ"), Respondent MANUELITO MATA PAYURAN (hereinafter "Respondent PAYURAN"), Respondent TIMOTHY DREW SCHRECK (hereinafter "Respondent SCHRECK"), Respondent NEMESIO THOMPSON GAVIOLA, Jr. also known as JUN

GAVIOLA (hereinafter "Respondent GAVIOLA") and Respondent ROGER DAMIAN FERRER (hereinafter "Respondent FERRER") are or were licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "the Code").

2

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, made the Accusation against Respondents in his official capacity

3

At all times herein mentioned, Respondent LOAN EXPRESS was and is licensed by the Department of Real Estate (hereinafter "the Department") as a corporate real estate broker

4

At all times herein mentioned, Respondent BARRETTO was and is licensed by the Department as an individual real estate broker.

5

At all times herein mentioned, Respondent BARRETTO was and is licensed by the Department as the designated broker/officer of Respondent LOAN EXPRESS. As said designated broker/officer, Respondent BARRETTO was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent LOAN EXPRESS for which a real estate license is required.

6

Whenever reference is made to an act or omission of Respondent LOAN EXPRESS, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent LOAN EXPRESS committed such act or omission while engaged in the furtherance of the business or operations of Respondent LOAN EXPRESS and while acting within the course and scope of their corporate authority and employment.

7

At all times herein mentioned, Respondent JIMENEZ was and is licensed by the Department as a real estate salesperson licensed in the employ of Respondent BARRETTO doing business as LOAN EXPRESS MORTGAGE AB.

///

Beginning May 9, 2008, and after, Respondent PAYURAN was and is licensed by the Department as an individual real estate broker. At all times herein mentioned, Respondent PAYURAN was licensed by the Department as a real estate salesperson licensed in the employ of Respondent BARRETTO doing business under the fictitious name of 1ST BAY AREA REALTY until May 8, 2008.

At all times herein mentioned, Respondent SCHRECK was licensed by the Department of Real Estate as an individual real estate broker until said license was surrendered effective February 1, 2012.

At all times herein mentioned, Respondent GAVIOLA was licensed by the Department as a real estate salesperson until said license expired on August 20, 2009. Respondent GAVIOLA was licensed as a real estate salesperson in the employ of Respondent SCHRECK from April 22, 2004, through June 20, 2007, and from July 23, 2007, through January 8, 2008, doing business under the fictitious name of ISLAND REALTY. Respondent GAVIOLA was licensed as a real estate salesperson in the employ of Respondent BARRETTO from June 21, 2007, through July 22, 2007.

At all times herein mentioned, Respondent FERRER was licensed by the Department as a real estate salesperson licensed in the employ of Respondent SCHRECK doing business as ISLAND REALTY until May 12, 2008.

Whenever reference is made to an act or omission of Respondent LOAN EXPRESS, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent LOAN EXPRESS committed such act or omission while engaged in the furtherance of the business or operations of Respondent LOAN EXPRESS and while acting within the course and scope of their corporate authority and employment.

At all times herein mentioned, Respondents LOAN EXPRESS, BARRETTO, GAVIOLA and JIMENEZ engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Section 10131(d) of the Code, soliciting borrowers or lenders for or negotiating loans or collecting payments or performing

services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

14

At all times herein mentioned, Respondents BARRETTO, SCHRECK, FERRER, PAYURAN, JIMENEZ and GAVIOLA engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchases of, solicited or obtained listings of, and/or negotiated the purchase or sale of real property.

15

Within the three year period prior to the filing of the Accusation, Respondent LOAN EXPRESS, Respondent GAVIOLA, Respondent JIMENEZ, and Respondent FERRER in the course and scope of conducting the activities set forth in Paragraphs 13 and 14, above, induced American Brokers Conduit (now J. P. Morgan Chase Bank as successor in interest) to make a loan in the sum of \$617,500.00 to be secured by real property at 5618 Lilyview Way in Elk Grove, California (hereinafter "Lilyview Way property"), to finance the purchase of said real property by representing to the lender, contrary to fact, as Respondents LOAN EXPRESS, GAVIOLA, JIMENEZ and FERRER knew or should have known at the time through the exercise of reasonable diligence, that: Respondent FERRER, as borrower, was purchasing the Lilyview Way property as his primary residence; the purchase price was \$650,000.00; and that Respondent FERRER had an income of \$12,500.00 per month.

16

In truth and in fact, as Respondents LOAN EXPRESS, GAVIOLA, JIMENEZ and FERRER knew or should have known at the time through the exercise of reasonable diligence, that: Respondent FERRER would not and did not reside in the Lilyview Way property and had no intention of doing so; Respondent FERRER did not have an income of \$12,500.00 per month; the actual sale price of the property was \$545,000.00; the inflated sales price increased the sale commissions payable through escrow to Respondent SCHRECK and Respondent GAVIOLA as selling agents and Respondent BARRETTO as listing agent for brokering the purchase/sale transaction; and, that Respondent JIMENEZ and Respondent GAVIOLA created escrow instructions for the payment of \$16,700.00 purportedly for repairs to the property, which payment Respondent JIMENEZ would deposit to her bank account for her own benefit.

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Escrow closed on the Lilyview Way transaction on June 14, 2007. At no time prior to close of escrow did Respondents LOAN EXPRESS, GAVIOLA, JIMENEZ or FERRER disclose the true facts to the lender.

The acts and/or omissions of Respondent LOAN EXPRESS, Respondent GAVIOLA Respondent JIMENEZ, and Respondent FERRER described in Paragraphs 15, 16, and 17, above, constituted substantial misrepresentations, fraud, deceit, and dishonest dealing.

DETERMINATION OF ISSUES

1

The acts and/or omissions of Respondent FERRER as alleged in Paragraphs 15 through 18, inclusive, above, constitute grounds for the revocation or suspension of Respondents' licenses and/or license rights under Section 10176(a) of the Code [making any substantial misrepresentation], Section 10176(i) of the Code [engaged in any other conduct, while acting in a licensed capacity whether of the same or different character than specified in this section, constituting fraud or dishonest dealing], Section 10177(g) [demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license] and/or Section 10177(j) of the Code [engaged in any other conduct, whether of the same or different character than specified in this section, constituting fraud or dishonest dealing].

2

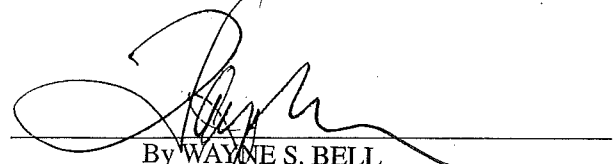
The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent ROGER DAMIAN FERRER under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon on AUG 08 2012, 2012.

DATED: July 19, 2012.  
Real Estate Commissioner

  
By WAYNE S. BELL  
Chief Counsel

FILED

DEC 13 2011

DEPARTMENT OF REAL ESTATE

By: 

1 Department of Real Estate  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789  
5  
6  
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE.

9 STATE OF CALIFORNIA

10 \*\*\*

11 In the Matter of the Accusation of )  
12 ) NO. H-5405 SAC  
13 ROGER DAMIAN FERRER, )  
14 ) DEFAULT ORDER  
15 Respondent. )

16 Respondent, ROGER DAMIAN FERRER, having failed to file a Notice of  
17 Defense within the time required by Section 11506 of the Government Code, is now in default.  
18 It is, therefore, ordered that a default be entered on the record in this matter.

19 IT IS SO ORDERED DECEMBER 13, 2011.

20 BARBARA J. BIGBY  
21 Acting Real Estate Commissioner

22  
23 By:   
24 PHILLIP IHDE  
25 Regional Manager  
26  
27