

FILED

MAR 28 2012

DEPARTMENT OF REAL ESTATE

By P. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of )

No. H-11269 SF

MORTGAGE MODIFIERS INC., and )  
MIGUEL ANGEL LOPEZ-SOLETA, )

Respondents. )

ORDER GRANTING RECONSIDERATION

On February 17, 2012, a Decision was rendered in the above-entitled matter to become effective on March 19, 2012 and was stayed by separate Order to March 29, 2012.

On March 15, 2012, Respondents petitioned for reconsideration of the Decision of February 17, 2012. I find that there is good cause to reconsider said Order.

Reconsideration is hereby granted and pursuant to Section 11521(b) of the Government Code and the matter is reassigned to an Administrative Law Judge of the Office of Administrative Hearings for hearing.

This order shall be effective immediately.

Dated: 3/27/2012

Wayne S. Bell  
By WAYNE S. BELL  
Chief Counsel

FILED

MAR 16 2012

DEPARTMENT OF REAL ESTATE

By R. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of

MORTGAGE MODIFIERS INC., and  
MIGUEL ANGEL LOPEZ-SOLETA,

Respondents.

NO. H-11269 SF

ORDER STAYING EFFECTIVE DATE

On February 17, 2012, a Decision was rendered in the above-entitled matter to become effective on March 19, 2012.

On March 15, 2012, Respondent filed a petition for reconsideration of the Decision of February 17, 2012.

IT IS HEREBY ORDERED that the effective date of the Decision is stayed for a period of ten (10) days. The Decision of February 17, 2012, shall become effective at 12 o'clock noon on March 29, 2012.

DATED: March 15, 2012

BARBARA J. BIGBY  
Acting Real Estate Commissioner

William E. Moran

By WILLIAM E. MORAN  
Assistant Commissioner, Enforcement

FILED

FEB 27 2012

DEPARTMENT OF REAL ESTATE

By P. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of

MORTGAGE MODIFIERS INC., and  
MIGUEL ANGEL LOPEZ-SOLETA,

Respondents.

No. H-11269 SF

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 February 7, 2012, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondents MORTGAGE MODIFIERS INC., and MIGUEL ANGEL LOPEZ-SOLETA (Respondents) express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On December 5, 2011, E. J. Haberer II made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified and regular mail, to Respondents last known mailing address on file with the Department on December 19, 2011.

On February 7, 2012, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

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

3

At all times mentioned, Respondent MORTGAGE MODIFIERS INC., ("MMI") was and is licensed by the State of California Department of Real Estate ("Department") as a real estate broker corporation. All times after March 18, 2010, to present, MMI failed to have a designated-officer affiliated with its license.

4

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

5

At all times mentioned, Respondent MIGUEL ANGEL LOPEZ-SOLETA, ("LOPEZ-SOLETA") was and is licensed by the Department as a real estate salesperson. LOPEZ-SOLETA is the President, and 100 percent shareholder of MMI.

6

At all times mentioned, Respondents 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 the operation and conduct of a mortgage loan brokerage business with the public wherein you, for or in expectation of compensation, for another or others, solicited borrowers or lenders or negotiated loans or collected payments or performed 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.

7

After March 18, 2010, Respondents willfully caused, suffered, permitted, and/or disregarded the real estate law by allowing MMI to perform the acts and conduct the real estate activities described in Paragraph 6, above, including but not limited to the activities described in Paragraph 8, below.

After March 18, 2010, in the course of the employment and activities described in Paragraph 7, above, LOPEZ-SOLETA and/or other agents or employees of MMI whose identities are unknown at this time, on behalf of MMI, solicited and/or performed services for borrowers, in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of compensation. Such activities include, but are no limited to:

<b>Homeowner</b>	<b>Property Address</b>
Donald B.	610 Pepper Road, Petaluma, CA
William L. and Anne D.	42 Humboldt Avenue, San Anselmo, CA
Thea D.	646 Oak Street, Santa Rosa, CA
Michael M.	5730 Sobrante Avenue, El Sobrante, CA

In acting as described in paragraphs 7 through 8, above, Respondents willfully caused, suffered, and/or permitted MMI to willfully disregard Section 10130 of the Code.

In connection with the operation and conduct of the activities described in Paragraph 6, LOPEZ-SOLETA, on behalf of MMI, engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 ("advance fee") of the Code including but not limited to the following:

<b>Homeowner</b>	<b>Property Address</b>	<b>Amount</b>
Donald B.	610 Pepper Road, Petaluma, CA	\$1,995
William L. and Anne D.	42 Humboldt Avenue, San Anselmo, CA	\$1,995
Thea D.	646 Oak Street, Santa Rosa, CA	\$1,995
Michael M.	5730 Sobrante Avenue, El Sobrante, CA	\$1,995

In connection with the collection and handling of said advance fees:

(a) Respondents failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations ("Regulations");

(b) Respondents failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Section 10146 of the Code;

(c) Respondents failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations.

12

In acting as a real estate broker, as described in Paragraph 6, Respondents accepted or received funds in trust ("trust funds") from or on behalf of lenders, investors, note purchasers, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by Respondents.

13

The aforesaid trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts ("trust funds accounts") maintained by Respondents for the handling of trust funds, including but not limited to, the following:

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
Mortgage Modifiers Inc Miguel Lopez. Account No. xxxx5157 (hereinafter "Bank 1")	Circle Bank 35 East Washington Petaluma, CA 94952

14

In connection with the receipt and disbursement of trust funds, Respondents:

(a) Failed to deposit trust funds into one or more trust funds accounts in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(b) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations;

(c) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations;

(d) Failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each account as required by Section 2831.2 of the Regulations; and

(e) Failed to notify the Department within the next business day that Respondent had closed its main office as required by Section 2715 of the Regulations.

## DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondents exists pursuant to Section 10130 of the Code in conjunction with Section 10177(d) of the Code.

2

Cause for disciplinary action against Respondents exists pursuant to Section 10177(d) of the Code in conjunction with Sections 10085, 10085.5, and 10146 of the Code and Sections 2970 and 2972 of the Regulations.

3

Cause for disciplinary action against Respondents exists pursuant to Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

4

Cause for disciplinary action against Respondents exists pursuant to Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations.

5

Cause for disciplinary action against Respondents exists pursuant to Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations.

6

Cause for disciplinary action against Respondents exists pursuant to Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations.

7

Cause for disciplinary action against Respondents exists pursuant to Section 10177(d) of the Code in conjunction with Section 2715 of the Regulations.

8

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

ORDER

1

All licenses and licensing rights of Respondents MORTGAGE MODIFIERS INC., and MIGUEL ANGEL LOPEZ-SOLETA under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

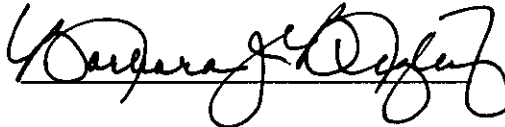
2

Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's reasonable cost for the audit which led to this disciplinary action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondents shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

This Decision shall become effective at 12 o'clock noon on MAR 19 2012.

DATED: 2/17/12

BARBARA J. BIGBY  
Acting Real Estate Commissioner



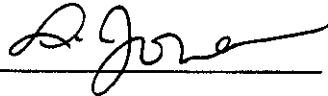


**FILED**

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007

December 19, 2011

DEPARTMENT OF REAL ESTATE

By 

Telephone: (916) 227-0789  
(916) 227-0781 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of )

MORTGAGE MODIFIERS INC., and )  
MIGUEL ANGEL LOPEZ-SOLETA, )

Respondents. )

No. H-11269 SF

ACCUSATION

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MORTGAGE MODIFIERS INC., and MIGUEL ANGEL LOPEZ-SOLETA (hereinafter "Respondents"), are informed and alleges as follows:

PRELIMINARY ALLEGATIONS

1

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

2

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code").

At all times mentioned, Respondent MORTGAGE MODIFIERS INC., (hereinafter "MMI") was and is licensed by the State of California Department of Real Estate (hereinafter "Department") as a real estate broker corporation. All times after March 18, 2010, to present, MMI failed to have a designated-officer affiliated with its license.

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

At all times mentioned, Respondent MIGUEL ANGEL LOPEZ-SOLETA, (hereinafter "LOPEZ-SOLETA") was and is licensed by the Department as a real estate salesperson. LOPEZ-SOLETA is the President, and 100 percent shareholder, of MMI.

At all times mentioned, Respondents 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 the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents, for or in expectation of compensation, for another or others, solicited borrowers or lenders or negotiated loans or collected payments or performed 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.

#### FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 6, inclusive, above, are incorporated by this reference as if fully set forth herein.

On or about November 11, 2009, Respondents willfully caused, suffered, permitted, and/or disregarded the real estate law by allowing MMI to perform the acts and conduct the real estate activities described in Paragraph 6, above, including but not limited to the activities described in Paragraph 9, below.

After March 18, 2010, in the course of the employment and activities described in Paragraph 8, above, LOPEZ-SOLETA and/or other agents or employees of MMI whose identities are unknown at this time, on behalf of MMI, solicited and/or performed services for borrowers, in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of compensation. Such activities include, but are not limited to:

HOMEOWNER	PROPERTY ADDRESS
Donald B.	610 Pepper Road, Petaluma, CA
William L. and Anne D.	42 Humboldt Avenue, San Anselmo, CA
Thea D.	646 Oak Street, Santa Rosa, CA
Michael M.	5730 Sobrante Avenue, El Sobrante, CA

In acting as described in paragraphs 8 and 9, above, Respondents willfully caused, suffered, and/or permitted MMI to willfully disregard Section 10130 of the Code.

The facts described above as to the First Cause of Action constitute cause to suspend or revoke all licenses and license rights of Respondents pursuant to the provisions of Section 10130 of the Code in conjunction with Section 10177(d) of the Code.

///

///

///



1 10085.5, and 10146 of the Code and Sections 2970 and 2972 of the Regulations, and are cause  
2 for the suspension or revocation of Respondents license and license rights.

3 In addition, the Department is entitled to reimbursement of the costs of its audit  
4 pursuant to Section 10148 of the Code.

5 THIRD CAUSE OF ACTION

6 16

7 Each and every allegation in Paragraphs 1 through 15, inclusive, above, are  
8 incorporated by this reference as if fully set forth herein.

9 17

10 In acting as a real estate broker, as described in Paragraph 6, Respondents  
11 accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lenders,  
12 investors, note purchasers, borrowers, and others in connection with the servicing, solicitation,  
13 negotiation, processing, and consummation of mortgage loan investments by Respondents.

14 18

15 The aforesaid trust funds accepted or received by Respondents were deposited or  
16 caused to be deposited by Respondents into one or more bank accounts (hereinafter "trust funds  
17 accounts") maintained by Respondents for the handling of trust funds, including but not limited  
18 to the following:

19

TITLE AND ACCOUNT NUMBER	BANK
Mortgage Modifiers Inc Miguel Lopez Account No. xxxx5157 (hereinafter "Bank 1")	Circle Bank 35 East Washington Petaluma, CA 94952

20  
21  
22

23 19

24 In connection with the receipt and disbursement of trust funds, Respondents:  
25 (a) Failed to deposit trust funds into one or more trust funds accounts in the  
26 name of Respondent as trustee at a bank or other financial institution, in conformance with  
27 Section 10145 of the Code and Section 2832 of the Regulations;

1 (b) Failed to maintain a written control record of all trust funds received and  
2 disbursed, containing all information required by Section 2831 of the Regulations;

3 (c) Failed to maintain separate beneficiary or transaction records containing  
4 all information required by Section 2831.1 of the Regulations;

5 (d) Failed to reconcile the balance of separate beneficiary or transaction  
6 records with the control record of trust funds received and disbursed at least once a month,  
7 and/or failed to maintain a record of such reconciliations for each account as required by Section  
8 2831.2 of the Regulations; and

9 (e) Failed to notify the Department within the next business day that  
10 Respondent had closed its main office as required by Section 2715 of the Regulations.

11 20

12 The facts alleged in the Third Cause of Action are grounds for the suspension or  
13 revocation of Respondent's license and license rights under the following sections of the Code  
14 and Regulations:

15 (1) As to Paragraph 19(a), under Section 10177(d) of the Code in conjunction  
16 with Section 10145 of the Code and Section 2832 of the Regulations;

17 (2) As to Paragraph 19(b), under Section 10177(d) of the Code in  
18 conjunction with Section 2831 of the Regulations;

19 (3) As to Paragraph 19(c), under Section 10177(d) of the Code in conjunction  
20 with Section 2831.1 of the Regulations;

21 (4) As to Paragraph 19(d), under Section 10177(d) of the Code in  
22 conjunction with Section 2831.2 of the Regulations; and

23 (5) As to Paragraph 19(e), under Section 10177(d) of the Code in conjunction  
24 with Section 2715 of the Regulations.

25 In addition, the Department is entitled to reimbursement of the costs of its audit  
26 pursuant to Section 10148 of the Code.

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the  
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing  
3 disciplinary action against all licenses and license rights of Respondents under the Real Estate  
4 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further  
5 relief as may be proper under other provisions of law.

6  
7 

8 E. J. HABERER II  
9 Deputy Real Estate Commissioner

10 Dated at Oakland, California,  
11 this 5TH day of December, 2011

12  
13 DISCOVERY DEMAND

14 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of  
15 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the  
16 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate  
17 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the  
18 Office of Administrative Hearings deems appropriate.