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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 AMERICAN FIRST FINANCIAL CORP,) NO. H-11401 SF
a Corporation, and)
15 ROSANA EYVAZNEJAD,) ACCUSATION
16 Respondents.)
17)

18 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of
19 the State of California, for cause of Accusation in her official capacity against AMERICAN
20 FIRST FINANCIAL CORP (herein "AFFC") dba "The Mortgage Resolution" and ROSANA
21 EYVAZNEJAD (herein "EYVAZNEJAD") (herein collectively "Respondents"), is informed
22 and alleges as follows:

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24 At all times herein mentioned, Respondents were and now are, licensed and/or
25 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
26 Professions Code) (herein "the Code").

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At all times herein mentioned, AFFC was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through EYVAZNEJAD as designated officer-broker of AFFC, to qualify said corporation and to act for said corporation as a real estate broker.

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

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On June 21 2011, EYVAZNEJAD obtained a mortgage loan license endorsement.

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At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act for another or others for compensation or in expectation of compensation as real estate brokers within the State of California within the meaning of Sections:

- (a) 10131(a) of the Code, the operation and conduct of a real estate brokerage with the public wherein, Respondents sold or offered to sell, purchased or offered to purchase, solicited prospective sellers and purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity; and,
- (b) 10131(d) of the Code, the operation and conduct of a mortgage loan brokerage with the public wherein, Respondents solicited borrowers or lenders for or negotiated loans, including loan modifications, 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.

In so acting as real estate brokers, as described in Paragraph 4 above, Respondents received funds in trust (herein "trust funds") from or on behalf of sellers, purchasers, borrowers, lenders, and/or others in connection with the sale of real property and the negotiation and collection of payments, including advance fees.

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The aforesaid trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts (herein "trust fund accounts") maintained by Respondents for the handling of trust funds at the following banks:

- (a) Wells Fargo Bank, Palo Alto, CA , "American First Financial Corp" account number xxxxxx8614 (herein "Trust Account #1"); and
- (b) Citibank, Oakland, CA, "American First Financial Corp," account number xxxxxx6079 (herein "Bank Account #1").

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Between about November 1, 2008 and October 31, 2011, in connection with Respondents' loan brokerage activities described in Paragraph 5, above, Respondent AFFC:

- (a) employed and compensated Michael Barbieri, an unlicensed individual, to enter into loan modification agreements and collect advance fees, prior to submission to the Department of any or all materials used in the advance fee agreements from the following borrowers, in violation of Sections 10085 (advance fee materials), 10085.5 (collecting advance fees), 10130 (activities requiring a license), and 10137 (unlawful compensation) of the Code and Section 2970 (advance fee materials) of Title 10, Chapter 6, of the California Code of Regulations (herein "the Regulations"):

| <u>Borrower Name</u> | <u>Property Address</u> | <u>Advance Fee</u> | <u>Date</u> |
|----------------------|-------------------------|--------------------|-------------|
| Deon L. H. | Wisteria Drive | \$1,000 | 06/09/12 |
| Deon L. H. | Daphne Way | \$1,000 | 06/09/12 |

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| <u>Borrower Name</u> | <u>Property Address</u> | <u>Advance Fee</u> | <u>Date</u> |
|-------------------------------|--------------------------------------|--------------------|----------------------|
| Michael A. P. | Duren Circle Fairfield, CA | \$3,000 | 06/18/09 |
| William and Patricia S. | Kahaku Road Princiville, CA | \$2,995 | 06/30/09 |
| Imelda O. and Edwardo F. | Emerald Oak Rd Roseville, CA | \$1,021 | 07/02/09 |
| Gary W. Terry L. J. | Grayhorse Drive Auburn, CA | \$1,000 \$ 995 | 07/07/09 08/07/09 |
| Angela H. | Canyon Creek Trail Olivehurst, CA | \$1,995 | 07/13/09 |
| Dexter and Stephanie A. D. | Chilco St. Menlo Park, CA | \$ 995 \$1,000 | 07/27/09 09/01/09 |
| Jose L. and Amanda G. | E. Lafayette Street Stockton, CA | \$1,000 \$1,000 | 08/07/09 09/30/09 |
| Wayne B. | Jasmine Way Palo Alto, CA; | \$ 995 | 08/31/09 |

- (b) failed to deposit said trust funds into a trust account at a bank or other recognized depository, said trust funds were deposited into Bank Account #1, not designated as a trust account, in violation of Section 10145 (deposit trust funds into a trust account) and 10146 (deposit advance fees into a trust account) of the Code and Section 2832 (deposit trust funds into a trust account) of the Regulations;
- (c) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records with Bank Account #1 and Trust Account #1, in violation of Section 2831.2 (monthly reconciliation) of the Regulations;
- (d) failed to provide quarterly accountings of advance fees to borrowers, in violation of Section 2972 (quarterly accounting) of the Regulations;

- 1 (e) failed to retain or make available for the Department's review of 52 loan
2 modification files, in violation of 10148 (three (3) year record retention) of
3 the Code;
- 4 (f) engaged in real estate business activities during the time that Respondent was
5 not in good standing with the Secretary of State (herein "Secretary"), in
6 violation of Section 2742(c) (good standing with the Secretary) of the
7 Regulations; and
- 8 (g) in about September 2011, failed to provide a Lender Purchaser Disclosure
9 Statement to investor Miguel L. A. (herein "Miguel") prior to its receipt of
10 loan funds from Miguel in the amount of about \$3,230,000 secured by a deed
11 of trust on property located on 11th Avenue, Los Angeles, CA, in violation of
12 Section 10232.4 (Lender Purchaser Disclosure Statement required) of the Code.

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14 At all times mentioned herein, Respondent EYVAZNEJAD failed to exercise
15 reasonable supervision over the acts of Respondent AFFC and its agents and employees in such
16 a manner as to allow the acts and omissions on the part of AFFC, described above, to occur in
17 violation of Sections 10177(g) and (h) and 10159.2 of the Code and Section 2725 of the
18 Regulations.

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20 The facts alleged above are grounds for the suspension or revocation of the licenses
21 and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- 22 (a) as to Paragraph 8(a) and Respondent AFFC under Sections 10085, 10085.5,
23 10130 and 10137 of the Code and Section 2970 of the Regulations, in
24 conjunction with Section 10177(d) of the Code;
- 25 (b) as to Paragraph 8(b) and Respondent AFFC under Sections 10145 and
26 10146 of the Code and Section 2832 of the Regulations, in conjunction with
27 Section 10177(d) of the Code;

- 1 (c) as to Paragraph 8(c) and Respondent AFFC under Section 2831.2 of the
2 Regulations, in conjunction with Section 10177(d) of the Code;
3 (d) as to Paragraph 8(d) and Respondent AFFC under Section 2972 of the
4 Regulations, in conjunction with Section 10177(d) of the Code;
5 (e) as to Paragraph 8(e) and Respondent AFFC under Section 10148 of the
6 Code, in conjunction with Section 10177(d) of the Code;
7 (f) as to Paragraph 8(f) and Respondent AFFC under Section 2742(c) of the
8 Regulations, in conjunction with Section 10177(d) of the Code;
9 (g) as to Paragraph 8(g) and Respondent AFFC under Section 10232.4 of the
10 Code, in conjunction with Section 10177(d) of the Code; and
11 (h) as to Paragraph 9 and Respondent EYVAZNEJAD under Sections 10177(g)
12 and (h) and 10159.2 of the Code and Section 2725 of the Regulations, in
13 conjunction with Section 10177(d) of the Code.

14 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
15 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
16 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
17 Division 4 of the Business and Professions Code), for the cost of the investigation and
18 enforcement as permitted by law, and for such other and further relief as may be proper under
19 other applicable provisions of law.

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21 
22 TRICIA SOMMERS
23 Deputy Real Estate Commissioner
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25 Dated at Sacramento, California
26 this 7th day of June, 2012.
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