

*Amelia  
Garcia*

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ELLIOTT MAC LENNAN, Counsel (SBN 66674)  
Department of Real Estate  
320 W. 4<sup>TH</sup> Street, Suite 350  
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982 (Office)  
-or- (213) 576-6911 (Direct)

**FILED**  
JAN 12 2006  
DEPARTMENT OF REAL ESTATE

By *K. H. ...*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-31873 LA
LOANGUY.com, a California corporation,	)	
and MITCHEL FRANK LICHTERMAN,	)	<u>STIPULATION</u>
individually and as designated	)	<u>AND</u>
officer of Loanguy.com.	)	<u>AGREEMENT</u>
	)	
Respondents.	)	

It is hereby stipulated by and between Respondents  
LOANGUY.com, a corporate real estate broker, and MITCHEL FRANK  
LICHTERMAN, individually and as designated officer of  
Loanguy.com, (sometimes collectively referred to as  
"Respondents"), represented by Frank M. Buda, Esq. and the  
Complainant, acting by and through Elliott Mac Lennan, Counsel  
for the Department of Real Estate, as follows for the purpose of  
settling and disposing of the Accusation ("Accusation") filed on  
April 27, 2005, in this matter:

1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondents  
3 at a formal hearing on the Accusation, which hearing was to be  
4 held in accordance with the provisions of the Administrative  
5 Procedure Act ("APA"), shall instead and in place thereof be  
6 submitted solely on the basis of the provisions of this  
7 Stipulation and Agreement ("Stipulation").

8           2. Respondents have received, read and understand the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department of Real Estate in this  
11 proceeding.

12           3. Respondents timely filed a Notice of Defense  
13 pursuant to Section 11506 of the Government Code for the purpose  
14 of requesting a hearing on the allegations in the Accusation.  
15 Respondents hereby freely and voluntarily withdraw said Notice of  
16 Defense. Respondents acknowledge that they understand that by  
17 withdrawing said Notice of Defense they thereby waive their right  
18 to require the Commissioner to prove the allegations in the  
19 Accusation at a contested hearing held in accordance with the  
20 provisions of the APA and that they will waive other rights  
21 afforded to them in connection with the hearing such as the right  
22 to present evidence in their defense the right to cross-examine  
23 witnesses.  
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1                   4. This Stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expedience and economy, Respondents choose not to contest the  
4 allegations which give rise to the violations stipulated to  
5 herein, but to remain silent and understand that, as a result  
6 thereof, these factual allegations, without being admitted or  
7 denied, will serve as a prima facie basis for the disciplinary  
8 action stipulated to herein. The Real Estate Commissioner shall  
9 not be required to provide further evidence to prove said factual  
10 allegations.

11                   5. This Stipulation and Respondents decision not to  
12 contest the above-referenced allegations in the Accusation is  
13 made for the purpose of reaching an agreed disposition of this  
14 proceeding and is expressly limited to this proceeding and any  
15 other proceeding or case in which the Department of Real Estate  
16 ("Department"), the state or federal government, or any agency of  
17 this state, another state or federal government is involved.

18                   6. It is understood by the parties that the Real  
19 Estate Commissioner may adopt this Stipulation as his Decision in  
20 this matter thereby imposing the penalty and sanctions on  
21 Respondents' real estate licenses and license rights as set forth  
22 in the "Order" herein below. In the event that the Commissioner  
23 in his discretion does not adopt the Stipulation, it shall be  
24 void and of no effect and Respondents shall retain the right to a  
25 hearing and proceeding on the Accusation under the provisions of  
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1 the APA and shall not be bound by any stipulation or waiver made  
2 herein.

3 7. The Order or any subsequent Order of the Real  
4 Estate Commissioner made pursuant to this Stipulation shall not  
5 constitute an estoppel, merger or bar to any further  
6 administrative or civil proceedings by the Department of Real  
7 Estate with respect to any matters which were not specifically  
8 alleged to be causes for Accusation in this proceeding but do  
9 constitute a bar, estoppel and merger as to any allegations  
10 actually contained in the Accusations against Respondent herein.

11 8. Respondents understand that by agreeing to this  
12 Stipulation, Respondents agrees to pay, pursuant to Business and  
13 Professions Code Section 10148, the cost of audit (LA  
14 030378/030288) which led to this disciplinary action. The  
15 amount of said cost for the audit is \$6,292.25.  
16

17 9. Respondents have received, read, and understand the  
18 "Notice Concerning Costs of Subsequent Audit". Respondents  
19 further understand that by agreeing to this Stipulation, the  
20 findings set forth below in the Determination of Issues becomes  
21 final, and the Commissioner may charge Respondents for the cost  
22 of any subsequent audit conducted pursuant to Business and  
23 Professions Code Section 10148 to determine if the violations  
24 have been corrected. The maximum cost of the subsequent audit  
25 will not exceed \$6,292.25.  
26  
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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed  
2 that the following determination of issues shall be made:  
3

I.

4 The conduct of LOANGUY.com, as described in Paragraph  
5 4, above, is in violation of Code Section 10145 of the Business  
6 and Professions Code ("Code") and Sections 2831, 2831.1, 2831.2  
7 and 2950(d) of Title 10, Chapter 6 of the California Code of  
8 Regulations ("Regulations") and is a basis for discipline of  
9 Respondent's license and license rights as a violation of the  
10 Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).  
11

II.

12 The conduct of MITCHEL FRANK LICHTERMAN, as described  
13 in Paragraph 4, above, constitutes a failure to keep Loanguy.com  
14 in compliance with the Real Estate Law during the time that he  
15 was the officer designated by a corporate broker licensee in  
16 violation of Code Section 10159.2. This conduct is a basis for  
17 discipline of Respondent's license pursuant to Code Section  
18 10177(d).  
19  
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ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:  
22

I.

23 Respondents LOANGUY.com and MITCHEL FRANK LICHTERMAN  
24  
25 are publicly reprovred.  
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II.

1 Pursuant to Section 10148 of the Business and  
2 Professions Code, Respondent shall pay the Commissioner's  
3 reasonable cost for (a) the audit which led to this disciplinary  
4 action and (b) a subsequent audits to determine if Respondents  
5 are now in compliance with the Real Estate Law. The cost of the  
6 audit which led to this disciplinary action is \$6,292.25. In  
7 calculating the amount of the Commissioner's reasonable cost, the  
8 Commissioner may use the estimated average hourly salary for all  
9 persons performing audits of real estate brokers, and shall  
10 include an allocation for travel time to and from the auditor's  
11 place of work. Said amount for the prior and subsequent audit  
12 shall not exceed \$12,584.50.  
13

14 Respondents shall pay such cost within 60 days of  
15 receiving an invoice from the Commissioner detailing the  
16 activities performed during the audit and the amount of time  
17 spent performing those activities.  
18

19 The Commissioner may suspend the license of Respondents  
20 pending a hearing held in accordance with Section 11500, et seq.,  
21 of the Government Code, if payment is not timely made as provided  
22 for herein, or as provided for in a subsequent agreement between  
23 the Respondents and the Commissioner. The suspension shall  
24 remain in effect until payment is made in full or until  
25 Respondents enter into an agreement satisfactory to the  
26 Commissioner to provide for payment, or until a decision  
27

1 providing otherwise is adopted following a hearing held pursuant  
2 to this condition.

3  
4 DATED: 12-19-05

EML  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

6 \* \* \*


7 EXECUTION OF THE STIPULATION

8 We have read the Stipulation and discussed it with our  
9 counsel. Its terms are understood by us and are agreeable and  
10 acceptable to us. We understand that we are waiving rights given  
11 to us by the California Administrative Procedure Act (including  
12 but not limited to Sections 11506, 11508, 11509 and 11513 of the  
13 Government Code), and we willingly, intelligently and voluntarily  
14 waive those rights, including the right of requiring the  
15 Commissioner to prove the allegations in the Accusation at a  
16 hearing at which we would have the right to cross-examine  
17 witnesses against us and to present evidence in defense and  
18 mitigation of the charges.  
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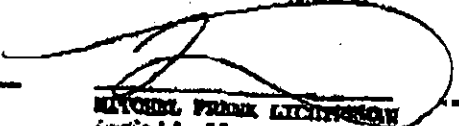
20 Respondents can signify acceptance and approval of the  
21 terms and conditions of this Stipulation by faxing a copy of its  
22 signature page, as actually signed by Respondents, to the  
23 Department at the following telephone/fax number: Elliott Mac  
24 Lennan at (213) 576-6917. Respondents agree, acknowledge and  
25 understand that by electronically sending to the Department a fax  
26 copy of Respondents' actual signature as they appear on the  
27

1 Stipulation, that receipt of the faxed copy by the Department  
2 shall be as binding on respondents as if the Department had  
3 received the original signed stipulation.


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5  
6 DATED: 12/20/05

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8   
9 LOANCOY, COA, a corporate Real  
10 estate broker,  
11 BY: MITCHEL FRANK LICHTERMAN,  
12 R.O., Respondent

13  
14 DATED: 12/20/05

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17 MITCHEL FRANK LICHTERMAN  
18 individually and as designated  
19 officer of LOANCOY, COA Respondent

20  
21 DATED: 12/20/05

22  
23   
24 FRANK A. EGAN, Esq.  
25 Attorney for Respondents  
26 Approved as to form

27 \* \* \*

28 The foregoing Stipulation and Agreement is hereby adopted as my  
29 Decision as to Respondents LOANCOY, COA and MITCHEL FRANK  
30 LICHTERMAN, individually and as designated officer of  
31 LOANCOY, COA, and shall become effective at 12 o'clock noon on  
32 \_\_\_\_\_, 2006.

33 It is SO ORDERED \_\_\_\_\_ 2006.

34  
35 JEFF NAVI  
36 Real Estate Commissioner



1 Stipulation, that receipt of the faxed copy by the Department  
2 shall be as binding on Respondents as if the Department had  
3 received the original signed Stipulation.  
4

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

6 LOANGUY.com, a corporate real  
7 estate broker,  
8 BY: MITCHEL FRANK LICHTERMAN,  
9 D.O., Respondent

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

11 MITCHEL FRANK LICHTERMAN  
12 individually and as designated  
13 officer of Loanguy.com, Respondent

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

15 FRANK M. BUDA, Esq.  
16 Attorney for Respondents  
17 Approved as to form

18 \* \* \*

19 The foregoing Stipulation and Agreement is hereby adopted as my  
20 Decision as to Respondents LOANGUY.com and MITCHEL FRANK  
21 LICHTERMAN, individually and as designated officer of  
22 LOANGUY.com, and shall become effective at 12 o'clock noon on  
23 FEB - 1, 2006.

24 IT IS SO ORDERED 1-4, 2006.

25 JEFF DAVI  
26 Real Estate Commissioner

27   
\_\_\_\_\_

*Accepted*

**FILED**  
APR 27 2005  
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, Counsel  
2 State Bar No. 66674  
3 Department of Real Estate  
320 West Fourth Street, Suite 350  
4 Los Angeles, California 90013-1105  
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By *W. Hedeholts*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) NO. H-31873 LA  
)  
LOANGUY.com, a California )  
13 Corporation and MITCHEL FRANK )  
LICHTERMAN, individually ) A C C U S A T I O N  
14 and as designated officer of )  
Loanguy.com, a California )  
15 Corporation, )  
)  
16 Respondents. )  
17

18 The Complainant, Maria Suarez, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of Accusation  
20 against LOANGUY.com, a California Corporation and MITCHEL FRANK  
21 LICHTERMAN, individually and as designated officer of  
22 Loanguy.com, a California Corporation, alleges as follows:

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1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against LOANGUY.com, a California Corporation ("LOANGUY") and MITCHEL FRANK LICHTERMAN, individually as designated officer of LOANGUY.com, a California Corporation ("LICHTERMAN").

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

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

4.

At all time herein mentioned, LICHTERMAN was licensed by the Department as the designated officer of LOANGUY to qualify it and to act for it as a real estate broker and, as provided by Code Section 10159.2, was responsible for the supervision and control of the activities conducted on behalf of LOANGUY by its officers, managers and employees as necessary to

1 secure full compliance with the provisions of the Real Estate  
2 Law including the supervision of the salespersons licensed to  
3 the corporation in the performance of acts for which a real  
4 estate license is required. LOANGUY'S corporate real estate  
5 broker license was originally issued on June 17, 2000.

6 LICHTERMAN was originally licensed as a real estate broker on  
7 December 6, 1995. LICHTERMAN has been the designated officer of  
8 LOANGUY since its inception.

9 5.

10 Whenever reference is made in an allegation in the  
11 Accusation to an act or omission of LOANGUY, such allegation  
12 shall be deemed to mean that the officers, directors, managers,  
13 employees, agents and real estate licensees employed by or  
14 associated with LOANGUY, including LICHTERMAN, committed such  
15 act or omission while engaged in the furtherance of LOANGUY'S  
16 business or operation and while acting within the course and  
17 scope of LOANGUY'S corporate authority, agency and employment.

18 6.

19 At all times herein mentioned in the City of Los  
20 Angeles, California, LOANGUY engaged in the business as a real  
21 estate broker within the meaning of:  
22

23 A. Code Section 10131(a). LOANGUY operated as a  
24 residential and commercial real estate broker.  
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1 B. Code Section 10131(d). LOANGUY operated as a  
2 mortgage and loan broker under the fictitious business names of  
3 Fort Knox Lending and Home Buyer Discount.com; and

4 C. In addition, LOANGUY conducted broker-controlled  
5 escrows through its escrow division, Autolink Payment Services  
6 Escrow, under the exemption set forth in Section 17006(a)(4) of  
7 the California Financial Code for real estate brokers performing  
8 escrows incidental to a real estate transaction where the broker  
9 is a party and where the broker is performing acts for which a  
10 real estate license is required.

11 FIRST CAUSE OF ACCUSATION

12 ESCROW AUDIT OF LOANGUY.com

13  
14 7.

15 On June 17, 2004, the Department completed an audit  
16 examination of the books and records of LOANGUY pertaining to  
17 escrow activities of Autolink Payment Services Escrow, requiring  
18 a real estate license as described in Paragraph 6. The audit  
19 examination covered a period of time beginning on January 1,  
20 2003 to April 30, 2004. The audit examination revealed  
21 violations of the Code and the Regulations as set forth below,  
22 and more fully discussed in Audit Report LA 030378 and the  
23 exhibits and workpapers attached to said audit report.

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8.

At all times material herein, in connection with the activities described in Paragraph 6, above, Respondents LOANGUY and LICHTERMAN accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by Respondents LOANGUY and LICHTERMAN and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by Respondents LOANGUY and LICHTERMAN in the bank account as follows:

"Loanguy.com dba Autolink Payment Services Escrow Trust Account  
Account No. 050617637" ("escrow trust account")  
Mellon 1<sup>st</sup> Business Bank  
1800 Avenue of the Stars  
Los Angeles, Ca 90067

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1  
2 In the course of activities described in Paragraphs 6  
3 and 8 and above, and during the examination period described in  
4 Paragraph 7, Respondents LOANGUY and LICHTERMAN, acted in  
5 violation of the Code and the Regulations in that:

6 (a) misrepresented on the escrow instructions for  
7 LOANGUY's escrow division, Autolink Payment Services Escrow  
8 ("APSE") that APSE was licensed by the California Department of  
9 Insurance, in violation of Code Section 10176(a).

10 (b) as of April 30, 2004, the escrow trust account had  
11 a shortage in the amount of approximately \$234,560.60.

12 Respondents LOANGUY and LICHTERMAN caused, permitted and/or  
13 allowed, the withdrawal or disbursement of trust funds from the  
14 escrow trust account, thereby reducing the balance of funds in  
15 the account to an amount less than the aggregate trust fund  
16 liability of the broker to all owners of the trust funds without  
17 prior written consent of every principal who then was an owner  
18 of funds in the account, in violation of Code Section 10145 and  
19 Regulations 2832.1, 2950(d), 2950(g) and 2951.

20  
21 (c) Failed to maintain an adequate control record in  
22 the form of a columnar record in chronological order of all  
23 trust funds received, deposited into, and disbursed from the  
24 escrow trust account, as required by Code Section 10145 and  
25 Regulations 2831, 2950(d) and 2951.

1 (d) Failed to maintain an adequate separate record for  
2 each beneficiary or transaction, thereby failing to account for  
3 all trust funds received, deposited into, and disbursed from the  
4 escrow trust account, as required by Code Section 10145 and  
5 Regulation 2831.1, 2950(d) and 2951.

6 (e) Failed to perform a monthly reconciliation of the  
7 balance of all separate beneficiary or transaction records  
8 maintained pursuant to Regulation 2831.1 with the record of all  
9 trust funds received and disbursed by the escrow trust account,  
10 as required by Regulation 2831.2, 2950(d) and 2951.

11 (f) Permitted the withdrawal of trust funds from the  
12 escrow trust account by Fran Silkwood, former LOANGUY escrow  
13 officer, who was neither licensed by the Department nor bonded  
14 in an amount equal to or greater than the amount of trust funds  
15 subject to withdrawal by said person, in violation of Code  
16 Section 10145 and Sections 2834, 2950(d) and 2951 of the  
17 Regulations.  
18

19 (g) The audit revealed that Respondents failed to  
20 advise all parties in writing of LOANGUY's ownership of Autolink  
21 Payment Services Escrow, in violation of Code Section 10145 and  
22 Regulation 2950(h).

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1                   The conduct of Respondent LOANGUY and LICHTERMAN,  
 2 described in Paragraph 9, violated the Code and the Regulations  
 3 as set forth below:  
 4

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code Section 10176(a)
9(a)	Code Section 10145 and Regulations 2832.1, 2950(d) 2950(g) and 2951
9(c)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
9(d)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
9(e)	Code Section 10145 and Regulations 2831.2, 2950(d) and 2951
9(f)	Code Section 10145 and Regulation 2834, 2950(d) and 2951
9(g)	Code Section 10145 and Regulation 2950(h)

23 Each of the foregoing violations separately constitutes cause  
 24 for the suspension or revocation of the real estate license and  
 25 license rights of LOANGUY and LICHTERMAN under the provisions of  
 26 Code Sections 10176(a), 10177(d) and/or 10177(g).  
 27

SECOND CAUSE OF ACCUSATION

MORTGAGE LOAN BROKER AUDIT OF LOANGUY.com

11.

On June 17, 2004, the Department completed an audit examination of the books and records of LOANGUY pertaining to mortgage loan broker activities of Autolink Payment Services Escrow ("APSE"), requiring a real estate license as described in Paragraph 6. The audit examination covered a period of time beginning on January 1, 2003 to April 30, 2004. The audit examination revealed violations of the Code and the Regulations as set forth below, and more fully discussed in Audit Report LA 030288 and the exhibits and workpapers attached to said audit report.

12.

In the course of activities described in Paragraphs 6 and 8 and above, and during the examination period described in Paragraph 11, Respondents the LOANGUY and LICHTERMAN, acted in violation of the Code and the Regulations in that:

(a) Failed to cancel borrowers Scott & Janette Zeitlin's refinance transaction for their real property within three (3) business days of receiving timely notification to do so, in violation of Code Sections 10240 and 10241 and Regulation 2840.

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1 (b) Failed to provide and/or maintain a statement in  
2 writing containing all the information required by Section 10241  
3 of the Code to various borrowers including but not limited to  
4 Macknight, Ashkinazi, Johnson, OH and Bateman, before these  
5 borrowers became obligated to perform under the terms of their  
6 loans, as required by Code Sections 10240 and 10241 and  
7 Regulation 2840. Respondents failed to disclose LOANGUYS's  
8 license number and failed to state "THIS IS NOT A LOAN  
9 COMMITMENT."

10 (c) Failed to display LOANGUY's corporation's license  
11 number on the Mortgage Loan Disclosure Statement Good Faith  
12 Estimates provided to borrowers Ashkinazi, Johnson, OH and  
13 Bateman, in violation of Code Section 10236.4.

14 (d) received advance fees from borrowers Zeitlin,  
15 Macknight, Ashkinazi and Bateman in the form of a \$500 fee to  
16 "lock-in" the interest rate for the refinance loans. Instead of  
17 depositing these advance fees into the escrow trust account, as  
18 required, LOANGUY and LICHTERMAN deposited these advance fees  
19 into LOANGUY's operating account thereby mixing and commingling  
20 broker funds with trust funds in violation of Code Sections  
21 10146 and 10176(e) and Regulation 2972; and,

22 (e) failed to provide and/or maintain a statement in  
23 writing containing all the information required by Code Section  
24 10085 and Regulation 2970 to various borrowers with respect to  
25 the receipt of advance fees from Macknight, Ashkinazi and  
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1 Zeitlin, including failing to include the amount paid by these  
2 borrowers, the "lock-in" interest rate, and a definite date of  
3 full performance of the services promised, as required by Code  
4 Section 10146.

5 13.

6 The conduct of Respondent LOANGUY and LICHTERMAN,  
7 described in Paragraph 9, violated the Code and the Regulations  
8 as set forth below:

9 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10 12(a)	Code Sections 10240 and 10241 11 and Regulation 2840
12	
13 12(b)	Code Sections 10240 and 10241 14 and Regulation 2840
15	
16 12(c)	Code Section 10236.4
17	
18 12(d)	Code Section 10146 and 19 10176(e) and Regulation 2972
20	
21 12(e)	Code Section 10146
22	
23	

24 Each of the foregoing violations separately constitutes cause  
25 for the suspension or revocation of the real estate license and  
26 license rights of LOANGUY and LICHTERMAN under the provisions of  
27 Code Sections 10176(e), 10177(d) and/or 10177(g).

1                   The overall conduct of Respondent LICHTERMAN  
2 constitutes a failure on his part, as officer designated by a  
3 corporate broker licensee, to exercise reasonable supervision  
4 and control over the licensed activities of LOANGUY as required  
5 by Code Section 10159.2, and to keep LOANGUY in compliance with  
6 the Real Estate Law, and is cause for the suspension or  
7 revocation of the real estate license and license rights of  
8 LICHTERMAN pursuant to Code Sections 10177(d), 10177(g) and/or  
9 10177(h).  
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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 licensing rights of Respondents  
5 LOANGUY.com, a California Corporation and MITCHEL FRANK  
6 LICHTERMAN, individually and as designated officer of  
7 Loanguy.com, a California Corporation under the Real Estate Law  
8 (Part 1 of Division 4 of the Business and Professions Code) and  
9 for such other and further relief as may be proper under other  
10 applicable provisions of law.

11  
12 Dated at Los Angeles, California  
13 this *18th day of April 2005.*

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17 Deputy Real Estate Commissioner  
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23 cc: Loanguy.com a California Corporation  
24 c/o Mitchel Frank Lichterman  
25 Maria Suarez  
26 Sacto  
27 MA  
Audits - Milad Farag