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FILED

OCT 10 2007

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
 E-MORTGAGE LOANS.COM INC. doing)
 business as American Charter)
 Realty and Golden Eagle Escrow;)
 and PIETER MAARTEN VAN DER MARK,)
 individually and as)
 designated officer of)
 E-Mortgage Loans.com Inc., and)
GUILLERMO VALENZUELA,)
 Respondents.)

No. H-32065 LA

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 September 10, 2007, and the findings of fact set forth herein are based on one or more of the following:
 (1) Respondent GUILLERMO VALENZUELA's express admissions;
 (2) affidavits; and (3) Department Audit Report LA 030105, LA 030134 and LA 030135 dated February 23, 2004, and (4) other evidence.

FACTUAL FINDINGS

1.

On September 29, 2006, Janice Waddell made the First Amended Accusation ("Accusation") in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent GUILLERMO VALENZUELA, and a Notice of Defense was mailed by certified mail on October 5, 2006.

2.

On September 10, 2007, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent GUILLERMO VALENZUELA default was entered herein.

3.

At all times mentioned, GUILLERMO VALENZUELA was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate salesperson. On June 3, 1998, GUILLERMO VALENZUELA was originally licensed as a real estate salesperson.

4.

At all times mentioned, in the City of Downey, County of Los Angeles, GUILLERMO VALENZUELA acted as a real estate salesperson employed by E Mortgage Loans.com Inc. and conducted activities requiring a real estate license.

5.

On February 23, 2004, the Department completed an audit examination of the books and records of E Mortgage Loans.com Inc. pertaining to the residential resale, mortgage loan, and broker-escrow activities described in Finding 4, that require a real estate license. The audit examination covered a period of time beginning on September 1, 2001 to September 30, 2003. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Reports LA 030105, 030134, 030135 and the exhibits and work papers attached to said audit reports.

6.

With respect to the activities referred to in Finding 4 and during the examination period described in Finding 5, it is alleged that GUILLERMO VALENZUELA misrepresented that an earnest money deposit of Five Thousand Dollars (\$5,000) was received by himself from the buyer Pedro Espinoza in the Hutton-Espinoza real estate sale-purchase transaction purchase agreement dated December 17, 2001. In fact no such deposit was received.

DETERMINATION OF ISSUES

1.

The conduct of Respondent GUILLERMO VALENZUELA as described in Finding 6, herein above, is in violation of Business and Professions Code ("Code") Section 10176(a).

2.

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

3.

Cause for disciplinary action against Respondent GUILLERMO VALENZUELA exists pursuant to Code Section 10176(a).

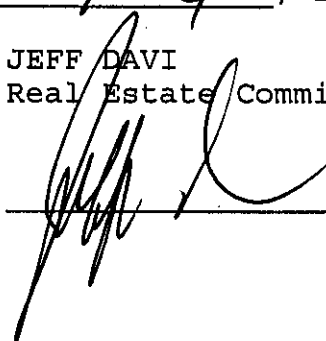
ORDER

The real estate salesperson license and license rights of Respondent GUILLERMO VALENZUELA 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 October 30, 2007.

DATED: 10-4, 2007

JEFF DAVI
Real Estate Commissioner



FILED

SEP 10 2007

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6911 (direct)
5 -or- (213) 576-6982 (office)

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-32065 LA

12 E-MORTGAGE LOANS.COM INC. doing)
13 business as American Charter)
14 Realty and Golden Eagle Escrow;)
15 and PIETER MAARTEN VAN DER MARK,)
16 individually and as)
17 designated officer of)
18 E-Mortgage Loans.com Inc., and)
19 GUILLERMO VALENZUELA,)

20 Respondents.)

21 DEFAULT ORDER

22 Respondent GUILLERMO VALENZUELA having failed to file a
23 Notice of Defense within the time required by Section 11506 of
24 the Government Code, is now in default. It is, therefore,
25 ordered that a default be entered on the record in this matter.

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IT IS SO ORDERED September 10, 2007
JEFF DAVI
Real Estate Commissioner

M. Dolores Weeks
By: M. DOLORES WEEKS
Regional Manager

FILED
JUN 21 2006

DEPARTMENT OF REAL ESTATE

By K. M. ...

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5
6
7
8 Telephone: (213) 576-6911 (direct)
9 -or- (213) 576-6982 (office)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-32065 LA
12)	
13	<u>E-MORTGAGE LOANS.COM INC.; and</u>)	<u>STIPULATION</u>
14	<u>PIETER MAARTEN VAN DER MARK,</u>)	<u>AND</u>
15	individually and as designated)	<u>AGREEMENT</u>
16	officer of E-Mortgage Loans.Com)	
17	Inc. and GUILLERMO VALENZUELA,)	
18)	
19)	
20)	
21	Respondents,)	
22)	
23)	
24)	
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26)	
27)	

19 It is hereby stipulated by and between Respondents
20 E-MORTGAGE LOANS.COM INC. a corporate real estate broker, and
21 PIETER MAARTEN VAN DER MARK dba Golden Eagle Escrow, American
22 Charter Realty & E-Mortgage Loans.com, individually and as
23 designated officer of E-Mortgage Loans.Com Inc. (sometimes
24 collectively referred to as "Respondents"), represented by Nick
25 Alden, Esq. and the Complainant, acting by and through Elliott
26 Mac Lennan, Counsel for the Department of Real Estate, as follows
27

1 for the purpose of settling and disposing of the Accusation
2 ("Accusation") filed on June 30, 2005, in this matter:

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

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

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

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

17 6. It is understood by the parties that the Real
18 Estate Commissioner may adopt this Stipulation as his Decision in
19 this matter thereby imposing the penalty and sanctions on
20 Respondents' real estate licenses and license rights as set forth
21 in the "Order" herein below. In the event that the Commissioner
22 in his discretion does not adopt the Stipulation, it shall be
23 void and of no effect and Respondents shall retain the right to a
24 hearing and proceeding on the Accusation under the provisions of
25 the APA and shall not be bound by any stipulation or waiver made
26
27

herein.

1
2 7. The Order or any subsequent Order of the Real
3 Estate Commissioner made pursuant to this Stipulation shall not
4 constitute an estoppel, merger or bar to any further
5 administrative or civil proceedings by the Department of Real
6 Estate with respect to any matters which were not specifically
7 alleged to be causes for Accusation in this proceeding but do
8 constitute a bar, estoppel and merger as to any allegations
9 actually contained in the Accusations against Respondents herein.

10 8. Respondents understand that by agreeing to this
11 Stipulation, Respondents agree to pay, pursuant to Business and
12 Professions Code Section 10148, the cost of audit which led to
13 this disciplinary action. The amount of said cost for the audit
14 is \$6,044.22 (Audits LA030105, LA030134 & LA030135).

15 9. Respondents have received, read, and understand the
16 "Notice Concerning Costs of Subsequent Audit". Respondents
17 further understand that by agreeing to this Stipulation, the
18 findings set forth below in the Determination of Issues become
19 final, and the Commissioner may charge Respondents for the cost
20 of any subsequent audit conducted pursuant to Business and
21 Professions Code Section 10148 to determine if the violations
22 have been corrected. The maximum cost of the subsequent audit
23 will not exceed \$6,044.22.

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DETERMINATION OF ISSUES

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

4 I.

5 The conduct, acts or omissions of E-MORTGAGE LOANS.COM
6 INC., as described in Paragraph 4, above, is in violation of
7 Sections 10145, 10148 and 10240 of the Business and Professions
8 Code ("Code") and Sections 2831, 2831.2, 2840, 2950(d), 2950(e)
9 and 2950(h) of Title 10, Chapter 6 of the California Code of
10 Regulations ("Regulations") and is a basis for the suspension or
11 revocation of Respondent's license and license rights as a
12 violation of the Real Estate Law pursuant to Code Sections
13 10177(d) and 10177(g).

14 II.

15 The conduct, acts or omissions of PIETER MAARTEN VAN
16 DER MARK, as described in Paragraph 4, constitutes a failure to
17 keep E-MORTGAGE LOANS.COM INC. in compliance with the Real Estate
18 Law during the time that he was the officer designated by a
19 corporate broker licensee in violation of Section 10159.2 of the
20 Code. This conduct is a basis for the suspension or revocation
21 of Respondent's license pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

E-MORTGAGE LOANS.COM INC. and PIETER MAARTEN VAN DER MARK under
the Real Estate Law are suspended for a period of ninety (90)
days from the effective date of this Decision; provided, however,
that if Respondents request, the initial thirty (30) days of said
suspension (or a portion thereof) shall be stayed upon condition
that:

A 1. Respondents each pay a monetary penalty pursuant
to Section 10175.2 of the Business and Professions Code of \$1,500
(at the rate of \$50 per day for each day of the suspension) for a
monetary penalty of \$3,000.

2. Said payment shall be in the form of a cashier's
check or certified check made payable to the Recovery Account of
the Real Estate Fund. Said check must be received by the
Department prior to the effective date of the Decision in this
matter.

3. No further cause for disciplinary action against
the real estate licenses of Respondents occurs within two (2)
years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in
accordance with the terms of the Decision, the Commissioner may,
without a hearing, order the immediate execution of all or any

1 part of the stayed suspension, in which event the Respondents
2 shall not be entitled to any repayment nor credit, prorated or
3 otherwise, for money paid to the Department under the terms of
4 this Decision.

5 5. If Respondents pay the monetary penalty and if no
6 further cause for disciplinary action against the real estate
7 license of Respondent occurs within two (2) years from the
8 effective date of the Decision, the stay hereby granted shall
9 become permanent

10 B. The remaining sixty (60) days of the ninety (90)
11 day suspension shall be stayed for two (2) years upon the
12 following terms and conditions:

13 (a) Respondents shall obey all laws, rules and
14 regulations governing the rights, duties and responsibilities of
15 a real estate licensee in the State of California; and

16 (b) That no final subsequent determination be made
17 after hearing or upon stipulation, that cause for disciplinary
18 action occurred within two (2) years from the effective date of
19 this Decision. Should such a determination be made, the
20 Commissioner may, in his discretion, vacate and set aside the
21 stay order and reimpose all or a portion of the stayed
22 suspension. Should no such determination be made, the stay
23 imposed herein shall become permanent.
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III.

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2 Pursuant to Section 10148 of the Business and
3 Professions Code, Respondents E-MORTGAGE LOANS.COM INC. and
4 PIETER MAARTEN VAN DER MARK shall pay the Commissioner's
5 reasonable cost for (a) the audit which led to this disciplinary
6 action (b) a subsequent audit to determine if Respondents are now
7 in compliance with the Real Estate Law. The cost of the audit
8 which led to this disciplinary action is \$6,044.22. In
9 calculating the amount of the Commissioner's reasonable cost, the
10 Commissioner may use the estimated average hourly salary for all
11 persons performing audits of real estate brokers, and shall
12 include an allocation for travel time to and from the auditor's
13 place of work. Said amount for the prior and subsequent audits
14 shall not exceed \$12,088.44.

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

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

1 provide for payment, or until a decision providing otherwise is
2 adopted following a hearing held pursuant to this condition.

3 IV.

4 Respondent PIETER MAARTEN VAN DER MARK shall, within
5 nine (9) months from the effective date of this Decision, present
6 evidence satisfactory to the Real Estate Commissioner that
7 Respondent has, since the most recent issuance of an original or
8 renewal real estate license, taken and successfully completed the
9 continuing education requirements of Article 2.5 of Chapter 3 of
10 the Real Estate Law for renewal of a real estate license. If
11 Respondent fails to satisfy this condition, the Commissioner may
12 order the suspension of his license until the Respondent presents
13 such evidence. The Commissioner shall afford Respondent the
14 opportunity for a hearing pursuant to the Administrative
15 Procedure Act to present such evidence.

16 V.

17
18 Respondent PIETER MAARTEN VAN DER MARK shall within six
19 (6) months from the effective date of the Decision herein, take
20 and pass the Professional Responsibility Examination administered
21 by the Department including the payment of the appropriate
22 examination fee. If Respondent fails to satisfy this condition,
23 the Commissioner may order suspension of Respondent's license
24 until Respondent passes the examination.

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VI.

All licenses and licensing rights of Respondent PIETER

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2
3 MAARTEN VAN DER MARK are indefinitely suspended unless or until
4 Respondent provides proof satisfactory to the Commissioner, of
5 having taken and successfully completed the continuing education
6 course on trust fund accounting and handling specified in
7 paragraph (3) of subdivision (a) of Section 10170.5 of the
8 Business and Professions Code. Proof of satisfaction of this
9 requirement includes evidence that respondent has successfully
10 completed the trust fund account and handling continuing
11 education course within 120 days prior to the effective date of
12 the Decision in this matter.

VII.

During the two year period, Respondent PIETER MAARTEN

13
14
15 VAN DER MARK shall not serve as the designated broker at any
16 corporate real estate broker other than E-MORTGAGE LOANS.COM INC
17 unless and until Respondent is the owner of record of the
18 controlling shares of the corporation.
19

20
21 DATED: 4-18-06

EL
22 ELLIOTT MAC LENNAN, Counsel for
23 the Department of Real Estate

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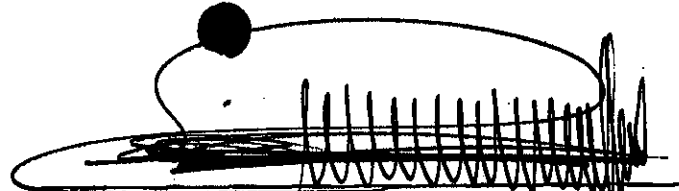
EXECUTION OF THE STIPULATION

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2
3 We have read the Stipulation and discussed it with our
4 counsel. Its terms are understood by us and are agreeable and
5 acceptable to us. We understand that we are waiving rights given
6 to us by the California Administrative Procedure Act (including
7 but not limited to Sections 11506, 11508, 11509 and 11513 of the
8 Government Code), and we willingly, intelligently and voluntarily
9 waive those rights, including the right of requiring the
10 Commissioner to prove the allegations in the Accusation at a
11 hearing at which we would have the right to cross-examine
12 witnesses against us and to present evidence in defense and
13 mitigation of the charges.

14 Respondents can signify acceptance and approval of the
15 terms and conditions of this Stipulation by faxing a copy of its
16 signature page, as actually signed by Respondents, to the
17 Department at the following telephone/fax number: Elliott Mac
18 Lennan at (213) 576-6917. Respondents agree, acknowledge and
19 understand that by electronically sending to the Department a fax
20 copy of Respondents' actual signature as they appear on the
21 Stipulation, that receipt of the faxed copy by the Department
22 shall be as binding on Respondents as if the Department had
23 received the original signed Stipulation.
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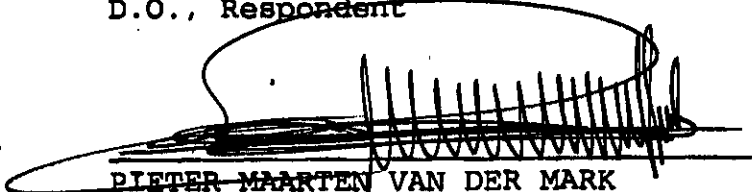
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DATED: FEB 21 2006



E-MORTGAGE LOANS.COM INC., a
corporate real estate broker,
BY: PIETER MAARTEN VAN DER MARK,
D.O., Respondent

DATED: FEB 21 2006



~~PIETER MAARTEN VAN DER MARK~~
individually and as designated
officer of E-Mortgage Loans.Com
Inc., Respondent

DATED: 3/18/06



NICK ALDEN, Esq.,
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents E-MORTGAGE LOANS.COM
INC. and PIETER MAARTEN VAN DER MARK, individually and as
designated officer of E-MORTGAGE LOANS.COM INC. and shall become
effective at 12 o'clock noon on _____, 2006.

IT IS SO ORDERED _____, 2006.

JEFF DAVI
Real Estate Commissioner

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DATED: _____

E-MORTGAGE LOANS.COM INC., a
corporate real estate broker,
BY: PIETER MAARTEN VAN DER MARK,
D.O., Respondent

DATED: _____

PIETER MAARTEN VAN DER MARK
individually and as designated
officer of E-Mortgage Loans.Com
Inc., Respondent

DATED: _____

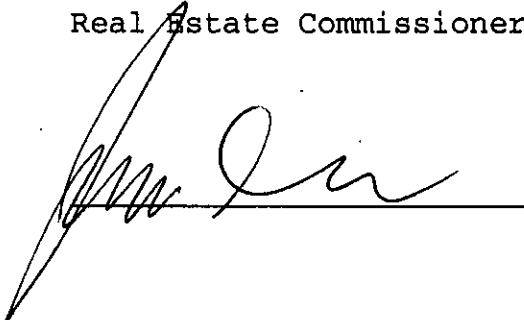
NICK ALDEN, Esq.,
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents E-MORTGAGE LOANS.COM
INC. and PIETER MAARTEN VAN DER MARK, individually and as
designated officer of E-MORTGAGE LOANS.COM INC. and shall become
effective at 12 o'clock noon on JUL 21, 2006.

IT IS SO ORDERED 6-13, 2006.

JEFF DAVI
Real Estate Commissioner



Handwritten initials/signature

FILED
OCT - 5 2008
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5
6
7
8 Telephone: (213) 576-6911 (direct)
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By *Handwritten signature*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-32065 LA
12	E-MORTGAGE LOANS.COM INC. doing)	<u>FIRST AMENDED</u>
13	business as American Charter)	<u>ACCUSATION</u>
14	Realty and Golden Eagle Escrow;)	
15	and PIETER MAARTEN VAN DER MARK,)	
16	individually and as)	
17	designated officer of)	
18	E-Mortgage Loans.com Inc., and)	
19	GUILLERMO VALENZUELA,)	
20)	
21	Respondents.)	

18 The Accusation filed on June 30, 2005, is amended in
19 its entirety as follows:

20 The Complainant, Janice Waddell, Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against E-MORTGAGE LOANS.COM INC. doing business as American
23 Charter Realty and Golden Eagle Escrow and PIETER MAARTEN VAN DER
24 MARK, individually and as designated officer of E-Mortgage
25 Loans.com Inc., and GUILLERMO VALENZUELA, alleges as follows:
26
27

1.

1 The Complainant, Janice Waddell, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against E-MORTGAGE LOANS.COM,
4 INC. ("EMLCI") and PIETER MAARTEN VAN DER MARK ("VAN DER MARK")
5 individually and as designated officer of E-Mortgage Loans.com
6 Inc., and GUILLERMO VALENZUELA ("VALENZUELA")
7

2.

8 All references to the "Code" are to the California
9 Business and Professions Code and all references to "Regulations"
10 are to Title 10, Chapter 6, California Code of Regulations.
11
12

13 LICENSE HISTORY

3.

14 A. At all times mentioned, EMLCI was licensed or had
15 license rights issued by the Department of Real Estate
16 ("Department") as a real estate broker. On March 30, 2001, EMLCI
17 was originally licensed as a corporate real estate broker.
18

19 B. At all times mentioned, VAN DER MARK was licensed
20 or had license rights issued by the Department of Real Estate
21 (Department) as a real estate broker. On January 13, 1987, VAN
22 DER MARK was originally licensed as a real estate salesperson.
23 On December 19, 1998, VAN DER MARK was licensed as a real estate
24 broker.

25 C. At all times mentioned, GUILLERMO VALENZUELA was
26 licensed or had license rights issued by the Department of Real
27 Estate ("Department") as a real estate salesperson. On June 3,

1 1998, GUILLERMO VALENZUELA was originally licensed as a real
2 estate salesperson.

3
4 4.

5 At all times mentioned, in the City of Downey, County
6 of Los Angeles, EMLCI acted as a real estate broker and conducted
7 licensed activities within the meaning of:

8 A. Code Section 10131(a). EMLCI operated a residential
9 resale broker.

10 B. Code Section 10131(d). EMLCI operated a mortgage
11 and loan brokerage; and

12 C. In addition, EMLCI conducted broker-controlled
13 escrows through its escrow division under the exemption set forth
14 in Section 17006(a)(4) of the California Financial Code for real
15 estate brokers performing escrows incidental to a real estate
16 transaction where the broker is a party and where the broker is
17 performing acts for which a real estate license is required.

18
19 FIRST CAUSE OF ACCUSATION

20 (Audit Report LA 030105, 030134, 030135)

21 5.

22 On February 23, 2004, the Department completed an
23 audit examination of the books and records of EMLCI pertaining to
24 the residential resale, mortgage loan, and broker-escrow
25 activities described in Paragraph 4, that require a real estate
26 license. The audit examination covered a period of time
27

1 beginning on September 1, 2001 to September 30, 2003. The audit
2 examination revealed violations of the Code and the Regulations
3 as set forth in the following paragraphs, and more fully
4 discussed in Audit Reports LA 030105, 030134, 030135 and the
5 exhibits and workpapers attached to said audit reports.

6 6.

7 At all times mentioned, in connection with the
8 activities described in Paragraphs 4 and 5, above, EMLCI accepted
9 or received funds in trust (trust funds) from or on behalf of
10 buyers and sellers, borrowers and lenders and escrow holders, and
11 thereafter made disposition of such funds. Respondent EMLCI
12 maintained the following trust accounts during the audit period
13 into which were deposited certain of these funds at:

14
15 "E-Mortgage Loans.com dba Golden Eagle Escrow Trust Account
16 (T/A #1)
17 Account No. 92121984"
18 Pacific Western Bank
Downey, California

19 "E-Mortgage Loans.com dba Emortgage-Loan Com Inc. Escrow Trust
20 Account
21 (T/A #2)
22 Account No. 1891989673"
Commercia Bank-California
Inglewood, California

23
24 "E-Mortgage Loans.com Inc. Trust Account
25 (T/A #3)
26 Account No. 685-008831"
Bank of the West
California

1
2 With respect to the activities referred to in
3 Paragraphs 4 and during the examination period described in
4 Paragraph 6, it is alleged that EMLCI:

5 (a) After notice and subpoena on December 9, 2003,
6 failed to produce or retain all records of its activity during
7 the audit period requiring a real estate broker license, as
8 required by Code Section 10148 and Regulation 2950(e). EMLCI
9 failed to maintain the sales file of Pedro Espinoza for three
10 years.

11 (b) Failed to maintain a control record in the form of
12 a columnar record in chronological order of all trust funds
13 received, deposited and/or disbursed for T/A #1 and T/A #2, as
14 required by Code Section 10145 and Regulations 2831, 2950(d) and
15 2951.

16 (c) Failed to maintain a separate record for each
17 beneficiary or transaction thereby failing to account for all
18 trust funds received, deposited and/or disbursed for T/A #1 and
19 T/A #2, as required by Code Section 10145 and Regulations 2831.1,
20 2950(d) and 2951.

21 (d) Failed to perform a monthly reconciliation of the
22 balance of all separate beneficiary or transaction records
23 maintained pursuant to Regulation 2831.1 with the control record
24 of all trust funds received and disbursed by the T/A #2, as
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1 required by Regulation 2831, in violation of Code Section 10145
2 and Regulations 2831.2, 2950(d) and 2951.

3 (e) While acting in the capacity of an escrow holder
4 dba Golden Eagle Escrow, EMLCI failed to place trust funds,
5 accepted on behalf of another into the hands of the owner of the
6 funds, a neutral escrow depository or into a trust fund account
7 in the name of the broker at a bank or other financial
8 institution not later than the next business day following
9 receipt of the funds by the broker or by the broker's
10 salesperson, as required by Code Section 10145, and Regulation
11 2832(e) and 2950(e).

12 (f) Failed to disclose in writing to all parties of its
13 financial interest and ownership of EMLCI's escrow company,
14 Golden Eagle Escrow, as required by Code Section 10145 and
15 Regulation 2950(h). In five residential purchase transactions,
16 to wit, Aguilar, Cisneros, Castaneda, Naranjo and Rios, EMLCI
17 omitted its financial interest in Golden Eagle Escrow.
18

19 (g) VALENZUELA misrepresented that an earnest money
20 deposit of Five Thousand Dollars (\$5,000) was received by himself
21 from the buyer Pedro Espinoza in the Hutton-Espinoza real estate
22 sale-purchase transaction purchase agreement dated December 17,
23 2001, when in fact no such deposit was received, in violation of
24 Code Section 10176(a).

25 (h) Received undisclosed compensation pertaining to
26 yield spread premiums, rebates and the broker fees earned in
27

1 connection with EMLCI's mortgage loan activities requiring a real
2 estate license. These undisclosed sums for borrowers Gunther,
3 broker fee - \$5,341.50; Rios, yield spread premium - \$1,980.00;
4 Cisneros, yield spread premium - \$622.63; Castaneda, yield spread
5 premium - \$4,675.56; Naranjo, rebate \$1,803.75, totaling \$14,
6 423.44, were not disclosed in the Mortgage Loan Disclosure
7 Statements/Good Faith Estimates provided to said borrowers, in
8 violation of Regulation 2840 and Code Section 10240 and/or
9 10176(g).

10 8.

11 The conduct of Respondent EMLCI, described in Paragraph
12 7, above, violated the Code and the Regulations as set forth
13 below:

14 PARAGRAPH

PROVISIONS VIOLATED

15 7(a)

Code Section 10148 and Regulation
16 2950(e)

17
18 7(b)

Code Section 10145 and Regulations
19 2831, 2950(d) and 2951

20
21 7(c)

Code Section 10145 and Regulations
22 2831.1, 2950(d) and 2951

23
24 7(d)

Code Section 10145 and Regulations
25 2831.2, 2950(d) and 2951
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- 7(e) Code Section 10145 and Regulations
2832(e) and 2950(e)

- 7(f) Code Section 10145 and Regulation
2950(h)

- 7(g) Code Section 10176(a) (VALENZUELA)

- 7(h) Regulation 2840 and Code Sections
10240 and/or 10176(g)

The foregoing violations constitutes cause for the suspension or revocation of the real estate license and license rights of EMLCI and VALENZUELA under the provisions of Code Sections 10176(a) (VALENZUELA), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACTION

(Failure to supervise)

9.

The overall conduct of Respondents EMLCI and VAN DER MARK constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents EMLCI and VAN DER MARK pursuant to Code Section 10177(g).

///

THIRD CAUSE OF ACTION

(Negligence)

10.

1 The overall conduct of VAN DER MARK constitutes a
2 failure on his part, as officer designated by a corporate broker
3 licensee, responsible for the supervision and control over the
4 activities conducted on behalf of EMLCI by its officers, managers
5 and employees as necessary to secure full compliance with the
6 provisions of the Real Estate Law including the supervision of
7 the salespersons licensed to the corporation in the performance
8 of acts for which a real estate license is required, in violation
9 of Code Section 10159.2 and Regulation 2725. This conduct is
10 cause for the suspension or revocation of the real estate license
11 and license rights of VAN DER MARK pursuant to the provisions of
12 Code Sections 10177(h), 10177(d) and/or 10177(g).
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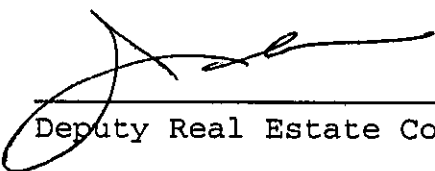
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 E-MORTGAGE LOANS.COM INC., and PIETER MAARTEN VAN DER MARK,
6 individually and as designated officer of E-Mortgage Loans.com,
7 and GUILLERMO VALENZUELA Inc., under the Real Estate Law (Part 1
8 of Division 4 of the Business and Professions Code) and for such
9 other and further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California

12 this *29 September 2006*

13
14
15
16 
17 Deputy Real Estate Commissioner
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21
22

23 cc: E-Mortgage Loans.Com Inc.
24 c/o Pieter Maarten Van Der Mark D.O.
25 Guillermo Valenzuela
26 Janice Waddell
27 Sacto
PI
Audits - Rolly Acuna

Janice Waddell

FILED
JUN 30 2005
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5
6
7
8 Telephone: (213) 576-6911 (direct)
9 -or- (213) 576-6982 (office)

By *K. K. K.*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-32065 LA
12	E-MORTGAGE LOANS.COM INC. doing)	<u>A C C U S A T I O N</u>
13	business as American Charter)	
14	Realty and Golden Eagle Escrow;)	
15	and PIETER MAARTEN VAN DER MARK,)	
16	individually and as)	
17	designated officer of)	
18	E-Mortgage Loans.com Inc., and)	
19	GUILLERMO VALENZUELA,)	
20)	
21	Respondents.)	

18 The Complainant, Janice Waddell, Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against E-MORTGAGE LOANS.COM INC. doing business as American
21 Charter Realty and Golden Eagle Escrow and PIETER MAARTEN VAN DER
22 MARK, individually and as designated officer of E-Mortgage
23 Loans.com Inc., and GUILLERMO VALENZUELA, alleges as follows:
24

25 1.

26 The Complainant, Janice Waddell, acting in her official
27 capacity as a Deputy Real Estate Commissioner of the State of

1 California, makes this Accusation against E-MORTGAGE LOANS.COM,
2 INC. ("EMLCI") and PIETER MAARTEN VAN DER MARK ("VAN DER MARK")
3 individually and as designated officer of E-Mortgage Loans.com
4 Inc., and GUILLERMO VALENZUELA ("VALENZUELA")

5 2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.
9

10 LICENSE HISTORY

11 3.

12 A. At all times mentioned, EMLCI was licensed or had
13 license rights issued by the Department of Real Estate
14 ("Department") as a real estate broker. On March 30, 2001, EMLCI
15 was originally licensed as a corporate real estate broker.

16 B. At all times mentioned, VAN DER MARK was licensed
17 or had license rights issued by the Department of Real Estate
18 (Department) as a real estate broker. On January 13, 1987, VAN
19 DER MARK was originally licensed as a real estate salesperson.
20 On December 19, 1998, VAN DER MARK was licensed as a real estate
21 broker.

22 C. At all times mentioned, GUILLERMO VALENZUELA was
23 licensed or had license rights issued by the Department of Real
24 Estate ("Department") as a real estate salesperson. On June 3,
25 1998, GUILLERMO VALENZUELA was originally licensed as a real
26 estate salesperson.
27

1 4.

2 At all times mentioned, in the City of Downey, County
3 of Los Angeles, EMLCI acted as a real estate broker and conducted
4 licensed activities within the meaning of:

5 A. Code Section 10131(a). EMLCI operated a residential
6 resale broker.

7 B. Code Section 10131(d). EMLCI operated a mortgage
8 and loan brokerage; and

9 C. In addition, EMLCI conducted broker-controlled
10 escrows through its escrow division under the exemption set forth
11 in Section 17006(a)(4) of the California Financial Code for real
12 estate brokers performing escrows incidental to a real estate
13 transaction where the broker is a party and where the broker is
14 performing acts for which a real estate license is required.
15

16 FIRST CAUSE OF ACCUSATION

17 (Audit Report LA 030105, 030134, 030135)

18 5.

19 On February 23, 2004, the Department completed an
20 audit examination of the books and records of EMLCI pertaining to
21 the residential resale, mortgage loan, and broker-escrow
22 activities described in Paragraph 4, that require a real estate
23 license. The audit examination covered a period of time
24 beginning on September 1, 2001 to September 30, 2003. The audit
25 examination revealed violations of the Code and the Regulations
26 as set forth in the following paragraphs, and more fully
27

1 discussed in Audit Reports LA 030105, 030134, 030135 and the
2 exhibits and workpapers attached to said audit reports.

3 6.

4 At all times mentioned, in connection with the
5 activities described in Paragraphs 4 and 5, above, EMLCI accepted
6 or received funds in trust (trust funds) from or on behalf of
7 buyers and sellers, borrowers and lenders and escrow holders, and
8 thereafter made disposition of such funds. Respondent EMLCI
9 maintained the following trust accounts during the audit period
10 into which were deposited certain of these funds at:

11
12 "E-Mortgage Loans.com dba Golden Eagle Escrow Trust Account
13 (T/A #1)
14 Account No. 92121984"
15 Pacific Western Bank
16 Downey, California

17 "E-Mortgage Loans.com dba Emortgage-Loan Com Inc. Escrow Trust
18 Account
19 (T/A #2)
20 Account No. 1891989673"
21 Commercica Bank-California
22 Inglewood, California

23 "E-Mortgage Loans.com Inc. Trust Account
24 (T/A #3)
25 Account No. 685-008831"
26 Bank of the West
27 California

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1
2 With respect to the activities referred to in
3 Paragraphs 4 and during the examination period described in
4 Paragraph 6, it is alleged that EMLCI:

5 (a) After notice and subpoena on December 9, 2003,
6 failed to produce or retain all records of its activity during
7 the audit period requiring a real estate broker license, as
8 required by Code Section 10148 and Regulation 2950(e). EMLCI
9 failed to maintain the sales file of Pedro Espinoza for three
10 years.

11 (b) Failed to maintain a control record in the form of
12 a columnar record in chronological order of all trust funds
13 received, deposited and/or disbursed for T/A #1 and T/A #2, as
14 required by Code Section 10145 and Regulations 2831, 2950(d) and
15 2951.

16
17 (c) Failed to maintain a separate record for each
18 beneficiary or transaction thereby failing to account for all
19 trust funds received, deposited and/or disbursed for T/A #1 and
20 T/A #2, as required by Code Section 10145 and Regulations 2831.1,
21 2950(d) and 2951.

22 (d) Failed to perform a monthly reconciliation of the
23 balance of all separate beneficiary or transaction records
24 maintained pursuant to Regulation 2831.1 with the control record
25 of all trust funds received and disbursed by the T/A #2, as
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1 required by Regulation 2831, in violation of Code Section 10145
2 and Regulations 2831.2, 2950(d) and 2951.

3 (e) While acting in the capacity of an escrow holder
4 dba Golden Eagle Escrow, EMLCI failed to place trust funds,
5 accepted on behalf of another into the hands of the owner of the
6 funds, a neutral escrow depository or into a trust fund account
7 in the name of the broker at a bank or other financial
8 institution not later than the next business day following
9 receipt of the funds by the broker or by the broker's
10 salesperson, as required by Code Section 10145, and Regulation
11 2832(e) and 2950(e).

12 (f) Failed to disclose in writing to all parties of its
13 financial interest and ownership of EMLCI's escrow company,
14 Golden Eagle Escrow, as required by Code Section 10145 and
15 Regulation 2950(h). In five residential purchase transactions,
16 to wit, Aguilar, Cisneros, Castaneda, Naranjo and Rios, EMLCI
17 omitted its financial interest in Golden Eagle Escrow.
18

19 (g) VALENZUELA misrepresented that an earnest money
20 deposit of Five Thousand Dollars (\$5,000) was received by himself
21 from the buyer Pedro Espinoza in the Hutton-Espinoza real estate
22 sale-purchase transaction purchase agreement dated December 17,
23 2001, when in fact no such deposit was received.

24 (h) Received undisclosed compensation pertaining to
25 yield spread premiums, rebates and the broker fees earned in
26 connection with EMLCI's mortgage loan activities requiring a real
27

1 estate license. These undisclosed sums for borrowers Gunther,
2 broker fee - \$5,341.50; Rios, yield spread premium - \$1,980.00;
3 Cisneros, yield spread premium - \$622.63; Castaneda, yield spread
4 premium - \$4,675.56; Naranjo, rebate \$1,803.75, totaling \$14,
5 423.44, were not disclosed in the Mortgage Loan Disclosure
6 Statements/Good Faith Estimates provided to said borrowers, in
7 violation of Regulation 2840 and Code Section 10240 and/or
8 10176(g).

9 8.

10 The conduct of Respondent EMLCI, described in Paragraph
11 7, above, violated the Code and the Regulations as set forth
12 below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
13 7(a)	14 Code Section 10148 and Regulation 15 2950(e)
16 7(b)	17 Code Section 10145 and Regulations 18 2831, 2950(d) and 2951
19 7(c)	20 Code Section 10145 and Regulations 21 2831.1, 2950(d) and 2951
22 7(d)	23 Code Section 10145 and Regulations 24 2831.2, 2950(d) and 2951 25 26 27

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7(e)

Code Section 10145 and Regulations
2832(e) and 2950(e)

7(f)

Code Section 10145 and Regulation
2950(e)

7(g)

Regulation 2840 and Code Sections
10240 and/or 10176(g)

The foregoing violations constitutes cause for the suspension or
revocation of the real estate license and license rights of EMLCI
under the provisions of Code Sections 10177(d) and/or 10177(g).

SECOND CAUSE OF ACTION

(Failure to supervise)

9.

The overall conduct of Respondents EMLCI and VAN DER
MARK constitutes negligence or incompetence. This conduct and
violation are cause for the suspension or revocation of the real
estate license and license rights of Respondents EMLCI and VAN
DER MARK pursuant to Code Section 10177(g).

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THIRD CAUSE OF ACTION

(Negligence)

10.

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3
4 The overall conduct of VAN DER MARK constitutes a
5 failure on his part, as officer designated by a corporate broker
6 licensee, responsible for the supervision and control over the
7 activities conducted on behalf of EMLCI by its officers, managers
8 and employees as necessary to secure full compliance with the
9 provisions of the Real Estate Law including the supervision of
10 the salespersons licensed to the corporation in the performance
11 of acts for which a real estate license is required, in violation
12 of Code Section 10159.2 and Regulation 2725. This conduct is
13 cause for the suspension or revocation of the real estate license
14 and license rights of VAN DER MARK pursuant to the provisions of
15 Code Sections 10177(h), 10177(d) and/or 10177(g).

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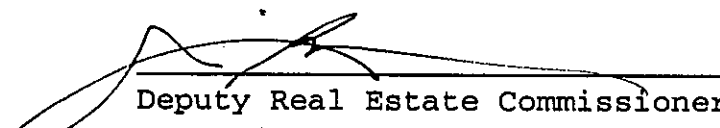
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 E-MORTGAGE LOANS.COM INC., and PIETER MAARTEN VAN DER MARK,
6 individually and as designated officer of E-Mortgage Loans.com,
7 and GUILLERMO VALENZUELA Inc., under the Real Estate Law (Part 1
8 of Division 4 of the Business and Professions Code) and for such
9 other and further relief as may be proper under other applicable
10 provisions of law.

11
12 Dated at Los Angeles, California

13 this *23 June 2005*

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16 
17 Deputy Real Estate Commissioner
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23 cc: E-Mortgage Loans.Com Inc.
24 c/o Pieter Maarten Van Der Mark D.O.
25 Guillermo Valenzuela
26 Janice Waddell
27 Sacto
PI
Audits - Rolly Acuna