

1 Department of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105
3 Telephone: (213) 576-6982 (office)

FILED

FEB 25 2010

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12)
13 EVR LENDING INC.; doing business as)
14 Evergreen Realty & Loans; EVERGREEN)
15 REALTY & ASSOCIATES INC.; and)
16 VALENTINA RECTOR, doing)
business as Evergreen Realty, EVR)
Lending and Ladera Realty,)
Respondents,)

No. H-35400 LA

STIPULATION
AND
AGREEMENT

17 It is hereby stipulated by and between Respondents
18 EVR LENDING INC., EVERGREEN REALTY & ASSOCIATES INC. and
19 VALENTINA RECTOR, individually and as designated officer of EVR
20 Lending Inc. and Evergreen Realty & Associates Inc. (sometimes
21 collectively referred to as "Respondents"), represented by
22 Thomas N. Jacobson, Esq. and the Complainant, acting by and
23 through Elliott Mac Lennan, Counsel for the Department of Real
24 Estate, as follows for the purpose of settling and disposing of
25 the Accusation ("Accusation") filed on October 20, 2008, in this
26 matter:
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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 and the right to cross-
23 examine 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. This stipulation constitutes a settlement of
10 disputed issues and nothing contained herein shall constitute an
11 admission of any wrongdoing or violation of any law or regulation
12 by Respondents.

13 5. This Stipulation is made for the purpose of
14 reaching an agreed disposition of this proceeding and is
15 expressly limited to this proceeding and any other proceeding or
16 case in which the Department of Real Estate ("Department"), the
17 state or federal government, or any agency of this state, another
18 state or federal government is involved.

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

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

12 8. Respondents understand that by agreeing to this
13 Stipulation, Respondents agree to pay, pursuant to Business and
14 Professions Code Section 10148, the cost of the audit (LA 070312,
15 LA 070398, LA 070311 and LA 080013. The amount of said cost for
16 the audit is \$4,636.70.

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 become
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 \$4,636.70.
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
5 The conduct, acts or omissions of EVR LENDING INC.,
6 EVERGREEN REALTY & ASSOCIATES INC., and VALENTINA RECTOR, as
7 described in Paragraph 4, above, are in violation of Sections
8 10130, 10145 and 10177.4 of the Business and Professions Code
9 ("Code") and Section 2831 of Title 10, Chapter 6 of the
10 California Code of Regulations ("Regulations") and is a basis for
11 discipline of Respondents' license and license rights as
12 violation of the Real Estate Law pursuant to Code Section
13 10177(d).

II.

14
15 The conduct, acts or omissions of VALENTINA RECTOR, as
16 described in Paragraph 4, above, constitutes a failure to keep
17 EVR LENDING INC. and EVERGREEN REALTY & ASSOCIATES INC. in
18 compliance with the Real Estate Law during the time that
19 Respondent was the officer designated by a corporate broker
20 licensee in violation of Section 10159.2 of the Code. This
21 conduct is a basis for the suspension or revocation of
22 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
EVR LENDING INC., EVERGREEN REALTY & ASSOCIATES INC., and
VALENTINA RECTOR, under the Real Estate Law are suspended for a
period of sixty (60) 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 EVR LENDING INC., EVERGREEN REALTY &
ASSOCIATES INC., and VALENTINA RECTOR pay a monetary penalty
pursuant to Section 10175.2 of the Business and Professions Code
at the rate of \$66.67 per day for each day of the suspension for
a monetary penalty of \$2,000 each, totaling \$6,000.

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,

1 without a hearing, order the immediate execution of all or any
2 part of the stayed suspension, in which event the Respondents
3 shall not be entitled to any repayment nor credit, prorated or
4 otherwise, for money paid to the Department under the terms of
5 this Decision.

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

11 B 1. The remaining thirty (30) days of the sixty (60)
12 day suspension shall be stayed for two (2) years upon the
13 following terms and conditions:

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

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

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II.

Pursuant to Section 10148 of the Business and

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2
3 Professions Code, Respondents EVR LENDING INC., EVERGREEN REALTY
4 & ASSOCIATES INC. and VALENTINA RECTOR, shall be jointly and
5 severally liable to pay the Commissioner's reasonable cost for
6 (a) the audit which led to this disciplinary action (b) a
7 subsequent audit to determine if Respondents are now in
8 compliance with the Real Estate Law. The cost of the audit which
9 led to this disciplinary action is \$4,636.70. In calculating the
10 amount of the Commissioner's reasonable cost, the Commissioner
11 may use the estimated average hourly salary for all persons
12 performing audits of real estate brokers, and shall include an
13 allocation for travel time to and from the auditor's place of
14 work. Said amount for the prior and subsequent audits shall not
15 exceed \$9,273.40.

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

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

1 enter into an agreement satisfactory to the Commissioner to
2 provide for payment, or until a decision providing otherwise is
3 adopted following a hearing held pursuant to this condition.

4 III.

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

16
17
18 DATED: 1-25-10

18 ETL
19 ELLIOTT MAC LENNAN, Counsel for
20 the Department of Real Estate
21 * * *

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EXECUTION OF THE STIPULATION

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

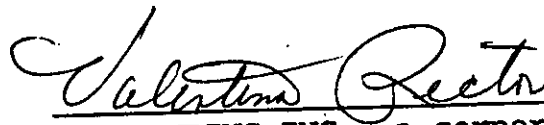
MAILING AND FACSIMILE

13 Respondents (1) shall mail the original signed
14 signature page of the stipulation herein to Elliott Mac Lennan:
15 Attention: Legal Section, Department of Real Estate, 320 W.
16 Fourth St., Suite 350, Los Angeles, California 90013-1105.
17 Additionally, Respondents shall also (2) facsimile a copy of
18 signed signature page, to the Department at the following
19 facsimile number: 213.576.6917, Attention: Elliott Mac Lennan.
20

21 A facsimile constitutes acceptance and approval of the
22 terms and conditions of this stipulation. Respondents agree,
23 acknowledge and understand that by electronically sending to the
24 Department a facsimile copy of Respondents' actual signature as
25 they appear on the stipulation that receipt of the facsimile copy
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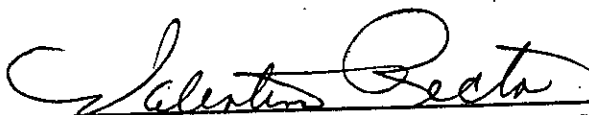
1 by the Department shall be as binding on Respondents as if the
2 Department had received the original signed stipulation.

3
4 DATED: January 7, 2010



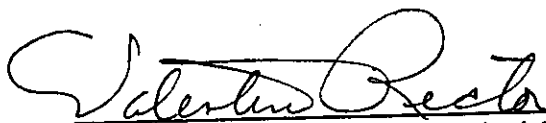
5 EVR LENDING INC., a corporate real
6 estate broker,
7 BY: VALENTINA RECTOR D.O.,
8 Respondent

9 DATED: January 7, 2010



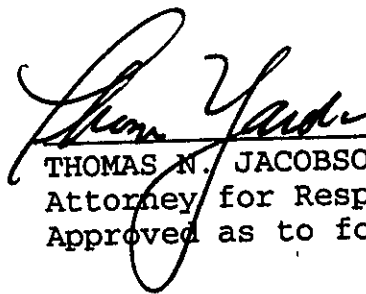
10 EVERGREEN REALTY AND LENDING
11 ASSOCIATES INC., a corporate real
12 estate broker,
13 BY: VALENTINA RECTOR D.O.,
14 Respondent

15 DATED: January 7, 2010



16 VALENTINA RECTOR, individually and
17 as designated officer of EVR
18 Lending Inc. and Evergreen Realty &
19 Associates Inc., Respondent

20 DATED: January 7, 2010



21 THOMAS N. JACOBSON, ESQ.
22 Attorney for Respondents
23 Approved as to form

24 ///

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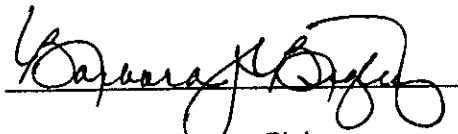
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents EVR LENDING INC.,
EVERGREEN REALTY & ASSOCIATES INC. and VALENTINA RECTOR,
individually and as designated officer of EVR Lending Inc. and
Evergreen Realty & Associates Inc., and shall become effective at
12 o'clock noon on March 26, 2010.

IT IS SO ORDERED 2/11, 2010.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

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1 ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
2 320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

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

FILED

OCT 20 2008

DEPARTMENT OF REAL ESTATE
BY: [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

<p>11 In the Matter of the Accusation of)</p> <p>12 EVR LENDING INC. doing business as)</p> <p>13 Evergreen Realty & Loans; EVERGREEN)</p> <p>14 REALTY & ASSOCIATES INC.; and)</p> <p>15 VALENTINA RECTOR, doing)</p> <p>16 business Evergreen Realty, EVR)</p> <p>17 Lending and Ladera Realty,)</p> <p>18 Respondents.)</p>	<p>No. H- 35400 LA</p> <p><u>A C C U S A T I O N</u></p>
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18 The Complainant, Robin Trujillo, a Deputy Real Estate
 19 Commissioner of the State of California, acting in her official
 20 capacity, for cause of Accusation against EVR LENDING INC. doing
 21 business as Evergreen Realty & Loans; EVERGREEN REALTY &
 22 ASSOCIATES INC.; and VALENTINA RECTOR, doing business Evergreen
 23 Realty, EVR Lending and Ladera Realty, is informed and alleges as
 24 follows:

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1. 1

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

5 LICENSE HISTORY

2.

7 A. At all times mentioned, EVR LENDING INC. ("EVRLI")
8 was licensed or had license rights issued by the Department of
9 Real Estate ("Department") as a real estate broker. On September
10 17, 2007, EVRLI was originally licensed as a corporate real
11 estate broker.

12 B. At all times mentioned, EVERGREEN REALTY &
13 ASSOCIATES INC. ("ERAI") was licensed or had license rights
14 issued by the Department as a real estate broker. On August 24,
15 2007, ERAI was originally licensed as a corporate real estate
16 broker.

17 C. At all times mentioned, VALENTINA RECTOR
18 ("RECTOR"), was licensed or had license rights issued by the
19 Department as a real estate broker. On March 22, 1993, RECTOR
20 was originally licensed as a real estate broker; and

21 D. At all times material herein, EVRLI and ERAI were
22 licensed by the Department as corporate real estate brokers by
23 and through RECTOR, as the designated officer and broker
24 responsible, pursuant to Code Section 10159.2 of the Business and
25 Professions Code for supervising the activities requiring a real
26 estate license conducted on behalf EVRLI and ERAI by their
27 officers, agents and employees, including RECTOR.

1 LICENSED ACTIVITIES AND BROKERAGE

2 3.

3 At all times mentioned, in the City of Irvine, County
4 of Orange, EVR LENDING INC., EVERGREEN REALTY & ASSOCIATES INC.
5 and RECTOR acted as real estate broker and conducted licensed
6 activities within the meaning of:

7 A. Code Section 10131(a). RECTOR dba Evergreen Realty
8 and Ladera Realty (LA 080013), engaged in the business of, acted
9 in the capacity of, advertised or assumed to act as a real estate
10 broker, including the solicitation for listings of and the
11 negotiation of the sale of residential real property as the agent
12 of others.

13 B. Code Section 10131(a). EVERGREEN REALTY &
14 ASSOCIATES INC. (LA 070312), engaged in the business of, acted in
15 the capacity of, advertised or assumed to act as a real estate
16 broker, including the solicitation for listings of and the
17 negotiation of the sale of residential real property as the agent
18 of others.

19 C. Code Section 10131(d). RECTOR dba EVR Lending (LA
20 0700311), engaged in activities with the public wherein lenders
21 and borrowers were solicited for loans secured directly or
22 collaterally by liens on real property, wherein such loans were
23 arranged, negotiated, processed and consummated on behalf of
24 others for compensation or in expectation of compensation and for
25 fees often collected in advance; and

26 D. Code Section 10131(d). EVR LENDING INC. dba
27 Evergreen Realty & Loans (LA 080398), engaged in activities with

1 the public wherein lenders and borrowers were solicited for loans
2 secured directly or collaterally by liens on real property,
3 wherein such loans were arranged, negotiated, processed and
4 consummated on behalf of others for compensation or in
5 expectation of compensation and for fees often collected in
6 advance.

7 FIRST CAUSE OF ACTION

8 EVR LENDING INC.

9 AUDIT EXAMINATION

10 LA 070398

11 4.

12 On September 2, 2008, the Department completed an audit
13 examination of the books and records of EVRLI, pertaining to the
14 mortgage and loan activities described in Paragraph 3, which
15 require a real estate license. The audit examination covered a
16 period of time beginning on September 17, 2007 through May 31,
17 2008. The audit examination revealed violations of the Code and
18 the Regulations as set forth below, and more fully discussed in
19 Audit Report LA 070398 and the exhibits and work papers attached
20 to said audit report.

21 5.

22 EVRLI did not maintain a trust account during the audit
23 period.
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EVR LENDING INC.

VIOLATIONS OF THE REAL ESTATE LAW

6.

With respect to the licensed activities referred to in Paragraph 3, and the audit examination including the exhibits and work papers referred to in Paragraph 4, it is alleged that EVRLI:

(a) EVRLI's sales agents received a discount on transaction fees paid to EVRLI, and by means of a discount on the desk rental fee paid to broker EVRLI for referring and/or using EVRLI's affiliated public escrow company, Escrow Options Group Inc., in violation of Code Section 10177.4, which constitute grounds to discipline EVRLI's real estate broker license for claiming, demanding or receiving commissions, fees or other consideration from her salespersons for referral of customers to Escrow Options Group Inc., and Code Section 10177(g), for negligence.

(b) (1) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Medina, Araiza and Damato, in violation of Code Section 10240 and Regulation 2840; and

(b) (2) Failed to disclose yield spread premiums from lenders on the approved Mortgage Loan Disclosure Statement for the aforesaid borrowers in collective amount of \$9,877.71, in violation of Code Section 10240 and Regulation 2840.

1 (c) Failed to display the Department's license number
2 on the Araiza, Medina and Kuster Mortgage Loan Disclosure
3 Statements, as required by Code Section 10236.4.

4 (d) Used the fictitious name of "EVR Lending" to
5 conduct licensed activities including mortgage loans without
6 holding a license bearing said fictitious business name, in
7 violation of Code Section 10159.5 and Regulation 2731; and

8 (e) Failed to retain all records of EVRLI's activity
9 during the audit period requiring a real estate broker license,
10 as required by Code Section 10148. EVRLI failed to retain a
11 record of credit report invoices and cancelled checks collected
12 through loan escrows.

13 EVR LENDING INC.

14 DISCIPLINARY STATUTES AND REGULATIONS

15 7.

16 The conduct of Respondent EVRLI, described in Paragraph
17 6, violated the Code and the Regulations as set forth:

18 <u>PARAGRAPH</u>	19 <u>PROVISIONS VIOLATED</u>
20 6 (a)	Code Sections 10177.4 and/or 10177(g)
21	
22	
23 6 (b)	Code Section 10240 and Regulation 2840
24	
25	
26 6 (c)	Code Section 10236.4
27	

1 6(d)

Code Sections 10159.5 and Regulation
2731

3
4 6(e)

Code Section 10148

5 Each of the foregoing violations constitute cause for the
6 suspension or revocation of the real estate license and license
7 rights of EVRLI under the provisions of Code Sections 10177(d),
8 10177.4 and/or 10177(g).

9
10 SECOND CAUSE OF ACTION

11 EVERGREEN REALTY & LENDING ASSOCIATES INC.

12 AUDIT EXAMINATION

13 LA 070312

14 8.

15 On August 29, 2008, the Department completed an audit
16 examination of the books and records of ERAI, pertaining to the
17 residential activities described in Paragraph 3, which require a
18 real estate license. The audit examination covered a period of
19 time beginning on August 24, 2007 through May 31, 2008. The
20 audit examination revealed violations of the Code and the
21 Regulations as set forth below, and more fully discussed in Audit
22 Report LA 070398 and the exhibits and work papers attached to
23 said audit report.

24
25 9.

26 ERAI did not maintain a trust account during the audit
27 period.

EVERGREEN REALTY & LENDING ASSOCIATES INC.

VIOLATIONS OF THE REAL ESTATE LAW

10.

With respect to the licensed activities referred to in Paragraph 3, and the audit examination including the exhibits and work papers referred to in Paragraph 8, it is alleged that EVRLI:

(a) ERAI's sales agents received a discount on transaction fees paid to ERAI, and by means of a discount on the desk rental fee paid to broker ERAI for referring and/or using ERAI's affiliated public escrow company, Escrow Options Group Inc., in violation of Code Section 10177.4, which constitute grounds to discipline ERAI's real estate broker license for claiming, demanding or receiving commissions, fees or other consideration from her salespersons for referral of customers to Escrow Options Group Inc., pursuant to Code Section 10177(g), for negligence.

(b) ERAI performed acts for which a corporate real estate license is required, including handling the purchase and sale for the following properties before ERAI's broker license issued on August 24, 2007, in violation of Code Section 10130:

<u>Buyer/Seller</u>	<u>Property</u>	<u>Date Escrow Closed</u>
Chen/He	172 Agostino	April 4, 2007
Calvin/Ellis	6602 Via Ganco Circle	June 19, 2007
Lamont/Alsabti	20 Big Pines	March 26, 2007
Niu/Conley	9 Scrub Oak	August 10, 2007

1 (c) Used the fictitious name of "Evergreen Realty" to
2 conduct licensed activities including residential resales without
3 holding a license bearing said fictitious business name, in
4 violation of Code Section 10159.5 and Regulation 2731; and

5 (d) Failed to notify the Department of the employment
6 of 775 salespersons, as required by Code Section 10161.8 and
7 Regulation 2752; and

8 (e) Failed to maintain a signed broker salesperson
9 agreement with 755 real estate licensee in violation of
10 Regulation 2726.

11 EVERGREEN REALTY & ASSOCIATES INC.

12 DISCIPLINARY STATUTES AND REGULATIONS

13 11.

14 The conduct of Respondent ERAI, described in Paragraph
15 10, violated the Code and the Regulations as set forth:

16 <u>PARAGRAPH</u>	17 <u>PROVISIONS VIOLATED</u>
18 10(a)	Code Sections 10177.4 and/or 10177(g)
19 10(b)	Code Section 10130
20 10(c)	Code Section 10159.5 and Regulation 2731
21 10(d)	Code Section 10161.8 and Regulation 2752

1
2 Each of the foregoing violations constitute cause for the
3 suspension or revocation of the real estate license and license
4 rights of ERAI under the provisions of Code Section 10177(d),
5 10177.4 and/or 10177(g).

6
7 THIRD CAUSE OF ACTION

8 VALENTINA RECTOR

9 dba Evergreen Realty, EVR Lending and Ladera Realty

10 AUDIT EXAMINATION

11 LA 070311 and LA 080013

12 12.

13 On August 21, 2008, the Department completed an audit
14 examination of the books and records of RECTOR, pertaining to the
15 residential resale activities described in Paragraph 3, which
16 require a real estate license. The audit examination covered a
17 period of time beginning on January 1, 2007 through August 23,
18 2007. The audit examination revealed violations of the Code and
19 the Regulations as set forth below, and more fully discussed in
20 Audit Report LA 070311 and LA 080013 and the exhibits and work
21 papers attached to said audit report.

22 13.

23
24 RECTOR did not maintain a trust account during the
25 audit period.

26 ///

27 ///

VALENTINA RECTOR

VIOLATIONS OF THE REAL ESTATE LAW

14.

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4 With respect to the licensed activities referred to in
5 Paragraph 3, and the audit examination including the exhibits and
6 work papers referred to in Paragraph 12, it is alleged that

7 RECTOR:

8 (a) RECTOR's sales agents received a discount on
9 transaction fees paid to RECTOR, and by means of a discount on
10 the desk rental fee paid to broker RECTOR for referring and/or
11 using RECTOR's affiliated public escrow company, Escrow Options
12 Group Inc., in violation of Code Section 10177.4, which
13 constitutes grounds to discipline RECTOR's real estate broker
14 license for claiming, demanding or receiving commissions, fees or
15 other consideration from her salespersons for referral of
16 customers to Escrow Options Group Inc., in violation of Code
17 Section 10177(g), for negligence.

18 (b) Failed to maintain a control record in the form of
19 a columnar record maintained in chronological order of all "Trust
20 Funds Received, Not Placed Broker's Trust Account", to wit,
21 appraisal fees, in violation of Code Section 10145 and Regulation
22 2831.
23

24 (c) Failed to maintain a separate record for each
25 beneficiary or transaction, thereby failing to account for all
26 trust funds received, including appraisal fees, as required by
27 Code Section 10145 and Regulations 2831.1.

1 (d) Failed to place appraisal fees collected from
2 borrowers into a trust account in the name of the broker as
3 trustee at a bank or other financial institution, in violation of
4 Code Section 10145 of the Code and Regulation 2832(a).

5 (e) (1) Failed to retain a true and correct copy of a
6 Department of Real Estate approved Mortgage Loan Disclosure
7 Statement signed by the broker for borrowers Herrera/Rico,
8 Hernandez, Osborne and Parks, in violation of Code Section 10240
9 and Regulation 2840; and

10 (e) (2) Failed to disclose yield spread premiums from
11 lenders on the approved Mortgage Loan Disclosure Statement for
12 the aforesaid borrowers in collective amount of \$20,980.74, in
13 violation of Code Section 10240 and Regulation 2840.

14 (f) Failed to display the Department's license number
15 on the Osborne, Hernandez and Herrera/Rico Mortgage Loan
16 Disclosure Statements, as required by Code Section 10236.4.

17 (g) Failed to retain all records of ERAI's activity
18 during the audit period requiring a real estate broker license,
19 as required by Code Section 10148. ERAI failed to retain a
20 record of credit report invoices and cancelled checks collected
21 through sales escrows.
22

23 (h) Failed to notify the Department of the termination
24 of 775 salespersons, as required by Code Section 10161.8 and
25 Regulation 2752; and
26
27

1 (i) Failed to maintain a signed broker salesperson
2 agreement with 755 real estate licensee in violation of
3 Regulation 2726.

4 EVERGREEN REALTY & ASSOCIATES INC.

5 DISCIPLINARY STATUTES AND REGULATIONS

6 15.

7 The conduct of Respondent ERAI, described in Paragraph
8 14, violated the Code and the Regulations as set forth:

9 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10 14(a)	Code Sections 10177.4 and/or 10177(g)
11	
12	
13 14(b)	Code Section 10145 and Regulation 2831
14	
15 14(c)	Code Section 10145 and Regulation 2831.1
16	
17	
18 14(d)	Code Section 10145 and Regulation
19	2832(a)
20	
21 14(e)	Code Section 10240 and Regulation 2840
22	
23	
24 14(f)	Code Section 10236.4
25	
26	
27 14(g)	Code Section 10148

14(h)

Code 10161.8 and Regulation 2752

14(i)

Regulation 2726

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of ERAI under the provisions of Code Sections 10177(d), 10177.4 and/or 10177(g) and 10177(h).

NEGLIGENCE

16.

The overall conduct of constitutes negligence or incompetence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

LACK OF SUPERVISION AND COMPLIANCE

17.

The overall conduct of RECTOR constitutes a failure to exercise supervision and control over the licensed activities of her brokerages. Nor did RECTOR maintain a system in place for regularly monitoring her compliance with the Real Estate Law especially in regard to establishing policies to review trust fund handling and record keeping for her client's trust funds or for supervising salesperson and loan agents, in violation of Code Sections 10177(d), 10177(h) and/or 10177(g).

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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 EVR
5 LENDING INC., EVERGREEN REALTY & ASSOCIATES INC., and VALENTINA
6 RECTOR, under the Real Estate Law (Part 1 of Division 4 of the
7 Business and Professions Code) and for such other and further
8 relief as may be proper under other applicable provisions of law.

9
10 Dated at Los Angeles, California

11 this 15 day of October 2008.

12 
13 Deputy Real Estate Commissioner

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23
24 cc: EVR Lending Inc.
25 Evergreen Realty & Associates Inc.
26 Valentina Rector
27 Robin Trujillo
Sacto
Audits - Zaky Wanis