

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

4 Telephone: (213) 576-6982

FILED

JAN 17 2012

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-35556 LA
12) L-2009040066
13 1ST AMERICAN WAREHOUSE MORTGAGE INC.)
14 doing business as Real Estate)
15 Specialists and Mortgage World;)
16 RAJ L. CHAMPANERI, individually and)
17 as designated officer of 1ST)
18 American Warehouse Mortgage Inc.;)
19 ROBERT STERLING CASTANEDA; and)
20 MICHAEL LAMAR THOMAS,)
21 Respondents,)

STIPULATION
AND
AGREEMENT

22 It is hereby stipulated by and between Respondents
23 1ST AMERICAN WAREHOUSE MORTGAGE INC., doing business as Real
24 Estate Specialists and Mortgage World; RAJ L. CHAMPANERI,
25 individually and as designated officer of 1st American Warehouse
26 Mortgage Inc.; and ROBERT STERLING CASTANEDA (sometimes
27 collectively referred to as "Respondents"), represented by
Gregory M. Burke, Esq. and the Complainant, acting by and through
Elliott Mac Lennan, Counsel for the Department of Real Estate, as

1 follows for the purpose of settling and disposing of the First
2 Amended Accusation ("Accusation") excluding MICHAEL LAMAR THOMAS,
3 a Respondent in this matter, but not an employee of any of the
4 other Respondents, filed on April 27, 2011, in this matter:

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

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

16 3. Respondents timely filed a Notice of Defense
17 pursuant to Section 11506 of the Government Code for the purpose
18 of requesting a hearing on the allegations in the Accusation.
19 Respondents hereby freely and voluntarily withdraw said Notice of
20 Defense. Respondents acknowledge that they understand that by
21 withdrawing said Notice of Defense they thereby waive their right
22 to require the Commissioner to prove the allegations in the
23 Accusation at a contested hearing held in accordance with the
24 provisions of the APA and that they will waive other rights
25 afforded to them in connection with the hearing such as the right
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27

1 to present evidence in their defense the right to cross-examine
2 witnesses.

3 4. This Stipulation is based on the factual
4 allegations contained in the Accusation. In the interest of
5 expedience and economy, Respondents choose not to contest these
6 allegations, but to remain silent and understand that, as a
7 result thereof, these factual allegations, without being admitted
8 or denied, will serve as a prima facie basis for the disciplinary
9 action stipulated to herein. The Real Estate Commissioner shall
10 not be required to provide further evidence to prove said factual
11 allegations.

12 5. This Stipulation is made for the purpose of
13 reaching an agreed disposition of this proceeding and is
14 expressly limited to this proceeding and any other proceeding or
15 case in which the Department of Real Estate ("Department"), the
16 state or federal government, or any agency of this state, another
17 state or federal government is involved, and otherwise shall not
18 be admissible in any other criminal or civil proceedings.

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
26
27

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 Respondents herein.

12 8. Respondents 1ST AMERICAN WAREHOUSE MORTGAGE INC.
13 and RAJ L. CHAMPANERI understand that by agreeing to this
14 Stipulation, Respondents agree to pay, pursuant to Business and
15 Professions Code Section 10148, the cost of audit which led to
16 this disciplinary action. The amount of said cost for the audit
17 is \$11,712.14.

18 9. Respondents 1ST AMERICAN WAREHOUSE MORTGAGE INC.
19 and RAJ L. CHAMPANERI have received, read, and understand the
20 "Notice Concerning Costs of Subsequent Audit". Respondents
21 further understand that by agreeing to this Stipulation, the
22 findings set forth below in the Determination of Issues become
23 final, and the Commissioner may charge Respondents for the cost
24 of any subsequent audit conducted pursuant to Business and
25 Professions Code Section 10148 to determine if the violations
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1 have been corrected. The maximum cost of the subsequent audit
2 will not exceed \$11,712.14.

3 DETERMINATION OF ISSUES

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

6 I.

7 The conduct of 1ST AMERICAN WAREHOUSE MORTGAGE INC., as
8 described in Paragraph 4, above, is in violation of Sections
9 10145, 10160 and 10176(a) of the Business and Professions Code
10 ("Code") and Sections 2753 and 2832(d) of Title 10, Chapter 6 of
11 the California Code of Regulations ("Regulations") and is a basis
12 for discipline of Respondents' licenses and license rights as a
13 violation of the Real Estate Law pursuant to Code Section
14 10177(d).

15
16 II.

17 The conduct of RAJ L. CHAMPANERI, as described in
18 Paragraph 4, above, is in violation of Code Section 10159.2 and
19 is a basis for discipline of Respondent's license and license
20 rights as violation of the Real Estate Law pursuant to Code
21 Section 10177(h).

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23 III.

24 The conduct of ROBERT STERLING CASTANEDA, as described
25 in Paragraph 4, as to negligence only, is a basis for discipline
26 of Respondent ROBERT STERLING CASTANEDA's license and license
27 rights as a violation of the Real Estate Law pursuant to Code

1 Section 10177(g).

2 IV.

3 MICHAEL LAMAR THOMAS has never been employed by, or a
4 real estate licensee of, 1ST AMERICAN WAREHOUSE MORTGAGE INC.
5 doing business as Real Estate Specialists, Mortgage World, or
6 Real Estate Specialists Escrow Division.

7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 I.

10 The license and licensing rights of Respondent 1ST
11 AMERICAN WAREHOUSE MORTGAGE INC. are revoked

12 II.

13 The license and licensing rights of Respondents RAJ
14 L. CHAMPANERI and ROBERT STERLING CASTANEDA, under the Real
15 Estate Law are suspended for a period of thirty days from the
16 effective date of this Decision; provided, however, that if
17 Respondents request, all thirty days of said suspension (or a
18 portion thereof) shall be stayed upon condition that:

19
20 1. Respondents each pay a monetary penalty pursuant to
21 Section 10175.2 of the Business and Professions Code at the rate
22 of \$83.33 per day for each day of the suspension for a monetary
23 penalty of \$2,500 each or a total monetary penalty of \$5,000.

24 2. Said payment shall be in the form of a cashier's
25 check or certified check made payable to the Recovery Account of
26 the Real Estate Fund. Said check must be received by the
27

1 Department prior to the effective date of the Decision in this
2 matter.

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

6 4. If Respondents fail to pay the monetary penalty in
7 accordance with the terms of the Decision, the Commissioner may,
8 without a hearing, order the immediate execution of all or any
9 part of the stayed suspension, in which event the Respondents
10 shall not be entitled to any repayment or credit, prorated or
11 otherwise, for money paid to the Department under the terms of
12 this Decision.

13 5. If Respondents pay the monetary penalty and if no
14 further cause for disciplinary action against the real estate
15 licenses of Respondents occurs within two years from the
16 effective date of the Decision, the stay hereby granted shall
17 become permanent.
18

19 III.

20 Pursuant to Section 10148 of the Business and
21 Professions Code, Respondents 1ST AMERICAN WAREHOUSE MORTGAGE
22 INC. and RAJ L. CHAMPANERI shall pay the Commissioner's
23 reasonable cost for (a) the audit which led to this disciplinary
24 action (b) a subsequent audit to determine if said Respondents
25 are now in compliance with the Real Estate Law. The cost of the
26 audit which led to this disciplinary action is \$11,712.14. In
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1 calculating the amount of the Commissioner's reasonable cost, the
2 Commissioner may use the estimated average hourly salary for all
3 persons performing audits of real estate brokers, and shall
4 include an allocation for travel time to and from the auditor's
5 place of work. Said amount for the prior and subsequent audits
6 shall not exceed \$23,424.28.

7 Respondents 1ST AMERICAN WAREHOUSE MORTGAGE INC. and
8 RAJ L. CHAMPANERI shall pay such cost within 60 days of receiving
9 an invoice from the Commissioner detailing the activities
10 performed during the audit and the amount of time spent
11 performing those activities.

12 The Commissioner may suspend the license of Respondent
13 and RAJ L. CHAMPANERI pending a hearing held in accordance with
14 Section 11500, et seq., of the Government Code, if payment is not
15 timely made as provided for herein, or as provided for in a
16 subsequent agreement between the said Respondents and the
17 Commissioner. The suspension shall remain in effect until
18 payment is made in full or until said Respondents enter into an
19 agreement satisfactory to the Commissioner to provide for
20 payment, or until a decision providing otherwise is adopted
21 following a hearing held pursuant to this condition.

22
23 IV.

24 All licenses and licensing rights of Respondent RAJ L.
25 CHAMPANERI are indefinitely suspended unless or until Respondent
26 provides proof satisfactory to the Commissioner, of having taken
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1 and successfully completed the continuing education course on
2 trust fund accounting and handling specified in paragraph (3) of
3 subdivision (a) of Section 10170.5 of the Business and
4 Professions Code. Proof of satisfaction of this requirement
5 includes evidence that Respondent has successfully completed the
6 trust fund account and handling continuing education course
7 within 120 days prior to the effective date of the Decision.

8 V.

9 Respondents RAJ L. CHAMPANERI shall within six (6)
10 months from the effective date of the Decision herein, take and
11 pass the Professional Responsibility Examination administered by
12 the Department including the payment of the appropriate
13 examination fee. If Respondent fails to satisfy this condition,
14 the Commissioner may order suspension of Respondent's license
15 until Respondent passes the examination. The Commissioner shall
16 afford Respondent the opportunity for a hearing pursuant to the
17 Administrative Procedure Act to present such evidence.
18

19 DATED: _____

12-14-11

20 _____
ELLIOTT MAC LENNAN, Counsel for
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. Respondents shall also
24 mail the original signed Stipulation to Elliott Mac Lennan.
25
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1 DATED: 12/14/11



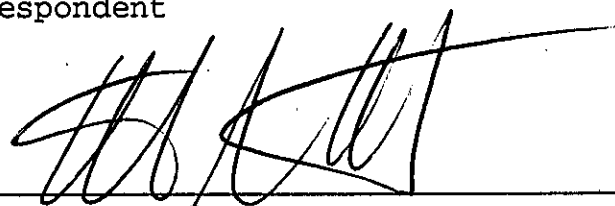
2 1ST AMERICAN WAREHOUSE MORTGAGE
3 INC., a real estate broker,
4 BY: RAJ L. CHAMPANERI, D.O.,
5 Respondent

6 DATED: 12/14/11



7 RAJ L. CHAMPANERI individually and
8 as designated officer of 1st
9 American Warehouse Mortgage Inc.,
10 Respondent

11 DATED: 12/14/11



12 ROBERT STERLING CASTANEDA,
13 Respondent

14 DATED: 12/14/11



15 GREGORY M. BURKE, ESQ.
16 Attorney for Respondents
17 Approved as to form

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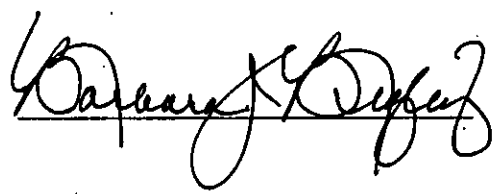
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents 1ST AMERICAN WAREHOUSE
MORTGAGE INC., RAJ L. CHAMPANERI, individually and as designated
officer of 1st American Warehouse Mortgage Inc., and ROBERT
STERLING CASTANEDA and shall become effective at 12 o'clock noon
on February 16, 2012.

IT IS SO ORDERED 1/9, 2012

BARBARA J. BIGBY
Real Estate Commissioner



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FILED

AUG -2 2011

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	H-35556 LA
)	
1ST AMERICAN WAREHOUSE MORTGAGE INC.)	
doing business as Real Estate)	
Specialists and Mortgage World;)	
RAJ L. CHAMPANERI, individually and)	
as designated officer of 1 ST)	
American Warehouse Mortgage Inc.;)	
ROBERT STERLING CASTANEDA; and)	
<u>MICHAEL LAMAR THOMAS,</u>)	
)	
Respondent)	

ORDER NUNC PRO TUNC

STIPULATION AND AGREEMENT

It having been called to the attention of the Real Estate Commissioner that there are errors in the Decision by Stipulation and Agreement dated June 28, 2011, effective July 21, 2011, and good cause appearing therefor, the Stipulation and Agreement is amended as follows:

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Page 5, ORDER, lines 11 and 12 are amended as follows:

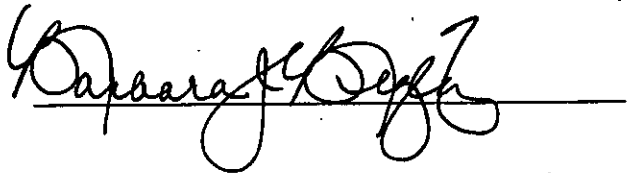
"Ninety (90) days from the effective date of this Decision."

This Order, nunc pro tunc to June 28, 2011, shall become effective immediately.

IT IS SO ORDERED

7/29/11

BARBARA J. BIGBY
Acting Real Estate Commissioner



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

FILED

JUL 11 2011

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-35556 LA
12)
13 1ST AMERICAN WAREHOUSE MORTGAGE INC.)
14 doing business as Real Estate)
15 Specialists and Mortgage World;)
16 RAJ L. CHAMPANERI, individually and)
17 as designated officer of 1ST)
18 American Warehouse Mortgage Inc.;)
19 ROBERT STERLING CASTANEDA; and)
20 MICHAEL LAMAR THOMAS,)
21 Respondents,)

STIPULATION
AND
AGREEMENT

19 It is hereby stipulated by and between Respondent
20 MICHAEL LAMAR THOMAS (sometimes referred to as "Respondent"),
21 represented by Russell P. Nowell, Esq. and the Complainant,
22 acting by and through Elliott Mac Lennan, Counsel for the
23 Department of Real Estate, as follows for the purpose of settling
24 and disposing of the Accusation filed in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondent
27

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement ("Stipulation").

6 2. Respondent has received, read and understands the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

10 3. Respondent timely filed a Notice of Defense
11 pursuant to Section 11506 of the Government Code for the purpose
12 of requesting a hearing on the allegations in the Accusation.
13 Respondent hereby freely and voluntarily withdraws said Notice of
14 Defense. Respondent acknowledges that he understands that by
15 withdrawing said Notice of Defense he thereby waives his right to
16 require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that he will waive other rights
19 afforded to him in connection with the hearing such as the right
20 to present evidence in his defense the right to cross-examine
21 witnesses.
22

23 4. This Stipulation is based on the factual
24 allegations contained in Paragraph 7(a)(3) of the Accusation as
25 modified herein.

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1 (a) (3). During a period of time between November 2005
2 through February 2006, when MICHAEL LAMAR THOMAS, was
3 not yet licensed by the Department, he performed acts
4 for which a real estate license is required, in
5 violation of Code Section 10130.

6 In the interest of expedience and economy, Respondent
7 chooses not to contest this modified allegation, as , to wit:
8 but to remain silent and understands that, as a result thereof,
9 the modified allegation, without being admitted or denied, will
10 serve as a prima facie basis for the disciplinary action
11 stipulated to herein. The Real Estate Commissioner shall not be
12 required to provide further evidence to prove said factual
13 allegation.
14

15 5. This Stipulation is made for the purpose of
16 reaching an agreed disposition of this proceeding and is
17 expressly limited to this proceeding and any other proceeding or
18 case in which the Department of Real Estate ("Department"), the
19 state or federal government, or any agency of this state, another
20 state or federal government is involved, and otherwise shall not
21 be admissible in any other criminal or civil proceedings.

22 6. It is understood by the parties that the Real
23 Estate Commissioner may adopt this Stipulation as his Decision in
24 this matter thereby imposing the penalty and sanctions on
25 Respondent's real estate licenses and license rights as set forth
26 in the "Order" herein below. In the event that the Commissioner
27

1 in his discretion does not adopt the Stipulation, it shall be.
2 void and of no effect and Respondent shall retain the right to a
3 hearing and proceeding on the Accusation under the provisions of
4 the APA and shall not be bound by any stipulation or waiver made
5 herein.

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

14 DETERMINATION OF ISSUES

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

17 The conduct, acts and omissions of MICHAEL LAMAR
18 THOMAS, as described in Paragraph 4, hereinabove, is in violation
19 of Business and Professions Code ("Code") Section 10130 and is a
20 basis for discipline of Respondent's license and license rights
21 as a violation of the Real Estate Law pursuant to Code Section
22 10177(d).

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27

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The restricted real estate salesperson license of Respondent MICHAEL LAMAR THOMAS, under the Real Estate Law is revoked; provided, however, a new restricted real estate salesperson license shall be issued to said Respondent, pursuant to Section 10156.5 of the Business and Professions Code if Respondent:

Make application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the ~~date of issuance of the restricted~~ *effective date of this Decision* License.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code.

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to a Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that

1 Respondent has violated provisions of the California Real Estate
2 Law, the Subdivided Lands Law, Regulations of the Real Estate
3 Commissioner or conditions attaching to the restricted license.

4 3. Respondent shall not be eligible to apply for the
5 issuance of an unrestricted real estate license nor for the
6 removal of any of the conditions, limitations or restrictions of
7 a restricted license until two (2) years have elapsed from the
8 date of issuance of the restricted license.

9 4. Respondent shall submit with any application for
10 license under an employing broker, or any application for
11 transfer to a new employing broker, a statement signed by the
12 prospective employing real estate broker on a form approved by
13 the Department of Real Estate which shall certify:

14 (a) That the employing broker has read the

15 Decision of the Commissioner which granted
16 the right to a restricted license; and

17 (b) That the employing broker will exercise

18 close supervision over the performance by the
19 restricted licensee relating to activities
20 for which a real estate license is required.
21

22 5. Respondent shall within six (6) months from the
23 date of issuance of the restricted license, take and pass the
24 Professional Responsibility Examination administered by the
25 Department including the payment of the appropriate examination
26 fee. If Respondent fails to satisfy this condition, the
27

1 Commissioner may order suspension of the restricted license until
2 respondent passes the examination.

3
4 DATED: 2-22-10

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

6 * * *

7 EXECUTION OF THE STIPULATION

8 I have read the Stipulation and discussed it with my
9 counsel. Its terms are understood by me and are agreeable and
10 acceptable to me. I understand that I am waiving rights given to
11 me by the California Administrative Procedure Act (including but
12 not limited to Sections 11506, 11508, 11509 and 11513 of the
13 Government Code), and I 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 I would have the right to cross-examine
17 witnesses against me and to present evidence in defense and
18 mitigation of the charges.
19

20
21 DATED: 2/22/2010

M. Lamar Thomas
MICHAEL LAMAR THOMAS, Respondent

22
23
24 DATED: 2/22/2010

Russell P. Nowell
RUSSELL NOWELL, ESQ.
Attorney for Respondent
Approved as to form

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent MICHAEL LAMAR THOMAS and
shall become effective at 12 o'clock noon on
July 21, 2011.

IT IS SO ORDERED 6/28, 2011.

BARBARA J. BIBGY
Acting Real Estate Commissioner

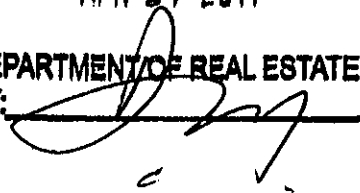


Saeto

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

FILED

APR 27 2011

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of)
1ST AMERICAN WAREHOUSE MORTGAGE INC.)
doing business as Real Estate)
Specialists and Mortgage World;)
RAJ L. CHAMPANERI, individually and)
as designated officer of 1ST)
American Warehouse Mortgage Inc.;)
ROBERT STERLING CASTANEDA; and)
MICHAEL LAMAR THOMAS,)
Respondents,)

No. H-35556 LA
FIRST AMENDED
ACCUSATION

The Accusation filed on December 19, 2008, is amended in its entirety as follows:

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against 1ST AMERICAN WAREHOUSE MORTGAGE INC. dba Real Estate Specialists and Mortgage World; RAJ L. CHAMPANERI, individually and as designated officer of 1st American Warehouse Mortgage Inc., ROBERT STERLING CASTANEDA, and MICHAEL LAMAR THOMAS alleges as follows:

1 1.

2 The Complainant, Robin Trujillo, acting in her official
3 capacity as a Deputy Real Estate Commissioner of the State of
4 California, makes this Accusation.

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 LICENSE STATUS

10 3.

11 A. At all times mentioned, 1ST AMERICAN WAREHOUSE
12 MORTGAGE INC. ("1ST AMERICAN") was licensed or had license rights
13 issued by the Department of Real Estate ("Department") as a
14 restricted real estate broker. On March 19, 2005, 1ST AMERICAN
15 was originally licensed as a corporate real estate broker.

16 B. At all times mentioned, RAJ L. CHAMPANERI
17 ("CHAMPANERI") was licensed or had license rights issued by the
18 Department as a real estate broker. On June 25, 1984, CHAMPANERI
19 was originally licensed as a real estate salesperson. On June
20 17, 1988, CHAMPANERI was originally licensed as a real estate
21 broker. On March 19, 2005, CHAMPANERI was originally licensed as
22 the designated officer or 1ST AMERICAN. On March 10, 2009,
23 CHAMPANERI cancelled his tenure as designated officer. Timothy
24 John Hartig has been the designated officer of 1ST AMERICAN from
25 March 10, 2009 continuing to date.

26 C. At all times material herein, 1ST AMERICAN was
27 licensed by the Department as a corporate restricted real estate

1 broker by and through CHAMPANERI, as the designated officer and
2 broker responsible, pursuant to Code Section 10159.2 of the
3 Business and Professions Code for supervising the activities
4 requiring a real estate license conducted on behalf 1ST AMERICAN
5 of by 1ST AMERICAN's officers, agents and employees, including
6 CHAMPANERI.

7 D. At all times mentioned, ROBERT STERLING CASTANEDA
8 ("CASTANEDA") was licensed or had license rights issued by the
9 Department as a real estate salesperson. On September 11, 1989,
10 CASTANEDA was originally licensed as a real estate salesperson.

11 E. At certain times mentioned, MICHAEL LAMAR THOMAS
12 ("THOMAS") was licensed or had license rights issued by the
13 Department as a restricted real estate salesperson. On September
14 23, 2006, THOMAS was originally licensed as a restricted real
15 estate salesperson, pursuant to H-32292 LA, as more fully set
16 forth in Paragraph 21, below. On September 22, 2010, THOMAS'
17 restricted salesperson license expired with renewal rights until
18 September 21, 2012, pursuant to Code Section 10201.

19 F. As of December 19, 2008, 1ST AMERICAN was owned
20 equally by CHAMPANERI and CASTANEDA.

21 BROKERAGE

22 4.

23 At all times mentioned, in the City of Tustin, County
24 of Orange, 1ST AMERICAN acted as a real estate broker and
25 conducted licensed activities within the meaning of:

26 A. Code Section 10131(a). 1ST AMERICAN operated a
27 residential resale brokerage dba Real Estate Specialists.

1 B. Code Section 10131(d). 1ST AMERICAN operated a
2 mortgage and loan brokerage.

3 C. In addition, 1ST AMERICAN conducted broker-
4 controlled escrows through its escrow division, Real Estate
5 Specialists Escrow Division, under the exemption set forth in
6 California Financial Code Section 17006(a)(4) for real estate
7 brokers performing escrows incidental to a real estate
8 transaction where the broker is a party and where the broker is
9 performing acts for which a real estate license is required.

10 FIRST CAUSE OF ACCUSATION
11 (Residential Resale Audit)
12 LA 080031

13 5.

14 On September 30, 2008, the Department completed an
15 audit examination of the books and records of 1ST AMERICAN
16 pertaining to the residential resale activities described in
17 Paragraph 4 that require a real estate license. The audit
18 examination covered a period of time beginning on September 1,
19 2005 to July 31, 2008. The audit examination revealed violations
20 of the Code and the Regulations as set forth in the following
21 paragraphs, and more fully discussed in Audit Report LA 080031
22 and the exhibits and work papers attached to said audit report.

23 TRUST ACCOUNT

24 6.

25 1ST AMERICAN did not maintain a trust account during
26 the audit period for its residential resale activities.

27 ///

1 VIOLATIONS OF THE REAL ESTATE LAW
2 (Residential Resale Audit)
3 LA 080031

4 7.

5 In the course of activities described in Paragraphs 4
6 and 6, above, and during the examination period described in
7 Paragraph 5, Respondents 1ST AMERICAN, CHAMPANERI, CASTANEDA and
8 THOMAS, as alleged, acted in violation of the Code and the
9 Regulations in that Respondents:

10 (a) (1) 1ST AMERICAN and CHAMPANERI employed and
11 compensated THOMAS, as selling agent for the John Cantu purchase
12 of 1695 Adrienne Drive, Corona. CASTANEDA signed THOMAS'
13 commission check #5353, dated January 17, 2006. Respondents knew
14 THOMAS was not licensed by the Department as a real estate broker
15 or as a real estate salesperson employed by 1ST AMERICAN. In
16 truth and in fact, THOMAS was employed by Touchdown Real Estate
17 Inc., during the period of September 23, 2006 and January 30,
18 2007. THOMAS' act in performing acts for which a real estate
19 license is required, included negotiating the Cantu sale and
20 purchase, in violation of Code Sections 10137 and 10177(g) for
21 1ST AMERICAN and CHAMPANERI and Code Section 10130 and 10137 for
22 THOMAS.

23 (b) CHAMPANERI and CASTANEDA misrepresented to sellers
24 that 1ST American held earnest money deposits totaling \$80,000,
25 for buyers Cantu, Nabavi, Hoffman and Drew, in violation of Code
26 Sections 10176(a) and/or 10177(g).
27

1 (c) 1ST AMERICAN and CHAMPANERI failed to maintain an
2 adequate control record in the form of a columnar record in
3 chronological order of all "Trust Funds Received and Not Placed
4 in Trust Account", in the form of earnest money deposits, as
5 required by Code Section 10145 and Regulation 2831.

6 (d) 1ST AMERICAN and CHAMPANERI failed to place trust
7 funds, including earnest money deposits accepted on behalf of the
8 property sellers into the hands of the owner of the funds, a
9 neutral escrow depository or into a trust fund account in the
10 name of the trustee at a bank or other financial institution not
11 later than three business days following receipt of the funds by
12 the broker or by the broker's salesperson from buyers Cantu,
13 Nabavi, Hoffman, Nazari and Creason, as required by Code Section
14 10145 and Regulation 2832(d).

15 (e) 1ST AMERICAN and CHAMPANERI failed to retain the
16 salesperson license certificate for Carey North, Joel Smulson,
17 Amy Weisman and Jennifer Simmons, in violation of Code Section
18 10160 and Regulation 2753.

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1 DISCIPLINARY STATUES AND REGULATIONS
2 (Residential Resale Audit)
3 LA 080031

4 8.

5 The conduct of Respondents 1ST AMERICAN, CHAMPANERI,
6 CASTANEDA and THOMAS described in Paragraph 7, above, violated
7 the Code and the Regulations as set forth below:

8 <u>PARAGRAPH</u>	9 <u>PROVISIONS VIOLATED</u>
10 7(a)(1)	11 Code Sections 10137 and 10177(g) 12 (1ST AMERICAN, CHAMPANERI) and 13 Code Sections 10130 and 10137 14 (THOMAS)
15 7(b)	16 Code Sections 10176(a) and 10177(g)
17 7(c)	18 Code Section 10145 and Regulation 19 2831
20 7(d)	21 Code Section 10145 and Regulation 22 2832(d)
23 7(e)	24 Code Section 10160 and Regulation 25 2753

26 The foregoing violations constitute cause for discipline of the
27 real estate license and license rights of 1ST AMERICAN,
CHAMPANERI, CASTANEDA and THOMAS, under the provisions of Code
Sections 10137, 10176(a), 10177(d) and/or 10177(g).

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SECOND CAUSE OF ACCUSATION
(Broker Escrow Audit)
LA 080073

9.

On October 28 2008, the Department completed an audit examination of the books and records of 1ST AMERICAN pertaining to the broker-escrow activities only described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on February 21, 2007 to July 31, 2008. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080073 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

10.

At all times mentioned, in connection with the activities described in Paragraph 4, and in reference to the broker controlled escrow activities of Paragraph 9, above, 1ST AMERICAN accepted or received funds in trust ("trust funds") from or on behalf of buyers, sellers, borrowers, lenders and escrow holders. Thereafter 1ST AMERICAN made disposition of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by 1ST AMERICAN in the bank account as follows:

"1st American Warehouse Mortgage Inc. dba Real Estate Specialists
Escrow Division
Account No. XXXXXX5540"
Mellon 1st Business Bank
Los Angeles, California (escrow trust account)

1 VIOLATIONS OF THE REAL ESTATE LAW
2 (Broker Escrow Audit)
3 LA 080073

4 11.

5 In the course of activities described in Paragraphs 4
6 and 10, above, and during the examination period described in
7 Paragraph 9, Respondents 1ST AMERICAN and CHAMPANERI, acted in
8 violation of the Code and the Regulations in that Respondents:

9 (a) Permitted an unlicensed and unbonded person,
10 Michelle Fair, to be an authorized signatory on the escrow trust
11 account, in violation of Code Section 10145 and Regulations 2834,
12 2950(d) and 2951.

13 DISCIPLINARY STATUES AND REGULATIONS
14 (Broker Escrow Audit)
15 LA 080073

16 12.

17 The conduct of Respondents 1ST AMERICAN and CHAMPANERI,
18 described in Paragraph 11, above, violated the Code and the
19 Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
20 11(a)	21 Code Section 10145 and Regulations 22 2834, 2950(d) and 2951

23 The foregoing violation constitutes cause for discipline of the
24 real estate license and license rights of 1ST AMERICAN and
25 CHAMPANERI, under the provisions of Code Sections 10177(d) and/or
26 10177(g).

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1 THIRD CAUSE OF ACCUSATION
2 (Mortgage and Loan Audit)
3 LA 080061

4 13.

5 On October 31, 2008, the Department completed an audit
6 examination of the books and records of 1ST AMERICAN pertaining
7 to the mortgage and loan activities described in Paragraph 4 that
8 require a real estate license. The audit examination covered a
9 period of time beginning on September 1, 2005 to July 31, 2008.
10 The audit examination revealed violations of the Code and the
11 Regulations as set forth in the following paragraphs, and more
12 fully discussed in Audit Report LA 080061 and the exhibits and
13 work papers attached to said audit report.

14 TRUST ACCOUNT

15 14.

16 1ST AMERICAN did not maintain a trust account during
17 the audit period for its mortgage and loan activities.

18 VIOLATIONS OF THE REAL ESTATE LAW
19 (Mortgage and Loan Audit)
20 LA 080061

21 15.

22 In the course of activities described in Paragraphs 4
23 and 13, above, and during the examination period described in
24 Paragraph 5, Respondents 1ST AMERICAN and CHAMPANERI, as alleged,
25 acted in violation of the Code and the Regulations in that
26 Respondents:

27 (a) (1) Failed to retain a true and correct copy of a
 Department of Real Estate approved Mortgage Loan Disclosure

1 Statement signed by the broker for borrowers M. Islam, V. Tahbaz,
2 N. Nazari, M. Haynes, J. Cantu, P. Morris and M. Depasquale, in
3 violation of Code Section 10240; and

4 (a)(2) Failed to disclose yield spread premiums from
5 lenders on the Mortgage Loan Disclosure Statements for the
6 borrowers B. Murdock, K. Parikh, N. Nazari, M. Haynes and J.
7 Mykkanen, in violation of Code Section 10240 and Regulation 2840.

8 (b) Failed to display 1ST AMERICAN's license number on
9 the on the Mortgage Loan Disclosure Statements for borrowers B.
10 Murdock, M. Islam, K. Parikh and V. Tahbaz, in violation of Code
11 Section 10236.4.

12 (c) Mixed and commingled trust funds and personal funds
13 by depositing appraisal fees and credit report fees received from
14 escrow into 1ST AMERICAN's general operating account and issuing
15 checks from said account to the appraisers or credit companies
16 after the escrow checks were deposited, in violation of Code
17 Sections 10145 and 10176(e) and Regulation 2832.

18 (d) Failed to maintain a control record in the form of
19 a columnar record in chronological order of all "Trust Funds
20 Received, Not Placed Broker's Trust Account", in violation of
21 Code Section 10145 and Regulation 2831. 1ST AMERICAN did not
22 maintain a columnar record for transactions where 1ST AMERICAN
23 collected credit report fees and/or appraisal fees along with
24 real estate commission fees earned at the close of escrow.

25
26 ///

1 (e) Failed to maintain an accurate and complete
2 separate record for each beneficiary or transaction, thereby
3 failing to account for all trust funds received, deposited and
4 disbursed, in violation of Code Section 10145 and Regulation
5 2831.1. 1ST AMERICAN did not maintain a separate record for
6 transactions where 1ST AMERICAN collected credit report fees
7 and/or appraisal fees along with real estate commission fees
8 earned at the close of escrow.

9 DISCIPLINARY STATUES AND REGULATIONS
10 (Mortgage and Loan Audit)
11 LA 080061

12 16.

13 The conduct of Respondents 1ST AMERICAN and CHAMPANERI,
14 described in Paragraph 15, above, violated the Code and the
15 Regulations as set forth below:

15 <u>PARAGRAPH</u>	16 <u>PROVISIONS VIOLATED</u>
17 15(a)	18 Code Section 10240 and 19 Regulation 2840
20 15(b)	21 Code Section 10236.4(b)
22 15(c)	23 Code Sections 10145 and 10176(e) 24 and Regulation 2832
25 15(d)	26 Code Section 10145 and Regulation 27 2831

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15(e)

Code Section 10145 and Regulation
2831.1

The foregoing violations constitute cause for discipline of the real estate license and license rights of 1ST AMERICAN and CHAMPANERI, under the provisions of Code Sections 10177(d) and/or 10177(g).

FOURTH CAUSE OF ACCUSATION
(FRAUD IN A CIVIL ACTION)
Code Section 10177.5
MICHAEL LAMAR THOMAS

17.

On May 9, 2008, a civil judgment based on fraud, misrepresentation or deceit, was entered for buyer John Cantu against Michael Thomas, referencing the sale by Safe Harbor Exchange Inc. and the purchase by John Anthony Cantu, buyer, for the real property located at 1695 Adrienne Drive, Corona, California. Judgment After Default was entered in the Superior Court of the State of California, County of Riverside-Civil Division, Case No. RIC 462592, on May 9, 2008 against Michael Thomas, in violation of Code Section 10177.5.

NEGLIGENCE

18.

The overall conduct of Respondents 1ST AMERICAN, CHAMPANERI, CASTANEDA and THOMAS constitutes negligence or incompetence. This conduct and violation is cause for discipline of the real estate license and license rights of Respondents 1ST AMERICAN, CHAMPANERI, CASTANEDA and THOMAS pursuant to Code Section 10177(g).

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19.

The overall conduct of Respondents 1ST AMERICAN, CHAMPANERI, CASTANEDA and THOMAS constitutes a breach of fiduciary duty. This conduct and violation is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Sections 10177(g).

LACK OF SUPERVISION AND COMPLIANCE

20.

The overall conduct of Respondent CHAMPANERI constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of 1ST AMERICAN in violation of Code Section 10159.2, and to keep 1ST AMERICAN in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of CHAMPANERI pursuant to the provisions of Code Section 10177(d), 10177(g) and/or 10177(h).

PRIOR DEPARTMENT ACTION
(Michael Lamar Thomas)

21.

On November 3, 2005, in Case No. H-32292 LA, a Statement of Issues was filed against respondent MICHAEL LAMAR THOMAS that resulted in discipline for said Respondent by way of denial of a real estate salesperson license but with issuance of a restricted real estate license, for violations of Code Sections 475(a)(1), 480(a)(1) and 10177(b).

///

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 1ST
5 AMERICAN WAREHOUSE MORTGAGE INC., RAJ L. CHAMPANERI, ROBERT
6 STERLING CASTANEDA and MICHAEL LAMAR THOMAS, under the Real
7 Estate Law (Part 1 of Division 4 of the Business and Professions
8 Code) and for such other and further relief including restitution
9 as may be proper under other applicable provisions of law
10 including initial and follow-up costs of audits chargeable to
11 AMERICAN WAREHOUSE MORTGAGE INC. and RAJ L. CHAMPANERI as tabled:

12 Table: Initial Audit Costs of WAREHOUSE MORTGAGE INC.
13 (Code Section 10148)

Audit Report No.	Audit Type	Initial Cost
LA080031	(Sales activity)	\$3,603.14
LA080061	(MLB activity)	\$4,081.00
LA080073	(BE activity)	\$4,028.00
Total Initial Audit Cost		\$11,712.14
Maximum Follow-Up Cost		\$11,712.14
Maximum Total Initial and Follow-Up Cost		\$23,424.80

23 Dated at Los Angeles, California

24 this 27 day of April 2011.

25 Rafael Trujillo
26 Deputy Real Estate Commissioner
27

1 cc: 1st American Warehouse Mortgage Inc.
2 c/o Raj L. Champaneri D.O.
3 Robert Sterling Castaneda
4 Michael Lamar Thomas
5 Robin Trujillo
6 Sacto
7 Audits - Chona T. Soriano
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ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

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

FILED

DEC 19 2008

DEPARTMENT OF REAL ESTATE

BY: *Hardy*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
)
1ST AMERICAN WAREHOUSE MORTGAGE INC.)
doing business as Real Estate)
Specialists and Mortgage World;)
RAJ L. CHAMPANERI, individually and)
as designated officer of 1ST)
American Warehouse Mortgage Inc.;)
ROBERT STERLING CASTANEDA; and)
MICHAEL LAMAR THOMAS,)
)
Respondents,)

No. H-35556 LA
A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against 1ST AMERICAN WAREHOUSE MORTGAGE INC. dba Real Estate
Specialists and Mortgage World; RAJ L. CHAMPANERI, individually
and as designated officer of 1st American Warehouse Mortgage
Inc., ROBERT STERLING CASTANEDA; and MICHAEL LAMAR THOMAS alleges
as follows:

///

1.

1 The Complainant, Robin Trujillo, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against 1ST AMERICAN WAREHOUSE
4 MORTGAGE INC. and RAJ L. CHAMPANERI.
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, 1ST AMERICAN WAREHOUSE
13 MORTGAGE INC. ("1ST AMERICAN") was licensed or had license rights
14 issued by the Department of Real Estate ("Department") as a
15 restricted real estate broker. On March 19, 2005, 1ST AMERICAN
16 was originally licensed as a corporate real estate broker.

17 B. At all times mentioned, RAJ L. CHAMPANERI
18 ("CHAMPANERI") was licensed or had license rights issued by the
19 Department as a real estate broker. On June 25, 1984, CHAMPANERI
20 was originally licensed as a real estate salesperson. On June
21 17, 1988, CHAMPANERI was originally licensed as a real estate
22 broker. On March 19, 2005, CHAMPANERI was originally licensed as
23 the designated officer or 1ST AMERICAN.

24 C. At all times material herein, 1ST AMERICAN was
25 licensed by the Department as a corporate restricted real estate
26 broker by and through CHAMPANERI, as the designated officer and
27

1 broker responsible, pursuant to Code Section 10159.2 of the
2 Business and Professions Code for supervising the activities
3 requiring a real estate license conducted on behalf 1ST AMERICAN
4 of by 1ST AMERICAN's officers, agents and employees, including
5 CHAMPANERI.

6 D. At all times mentioned, ROBERT STERLING CASTANEDA
7 ("CASTANEDA") was licensed or had license rights issued by the
8 Department as a real estate salesperson. On September 11, 1989,
9 CASTANEDA was originally licensed as a real estate salesperson;
10 and

11 E. At certain times mentioned, MICHAEL LAMAR THOMAS
12 ("THOMAS") was licensed or had license rights issued by the
13 Department as a restricted real estate salesperson. On September
14 23, 2006, THOMAS was originally licensed as a restricted real
15 estate salesperson, pursuant to H-32292 LA, as more fully set
16 forth in Paragraph 16, below.

17 BROKERAGE

18 4.

19 At all times mentioned, in the City of Tustin, County
20 of Orange, 1ST AMERICAN acted as a real estate broker and
21 conducted licensed activities within the meaning of:

22 A. Code Section 10131(a). 1ST AMERICAN operated a
23 residential resale brokerage dba Real Estate Specialists; and
24

25 B. Code Section 10131(d). 1ST AMERICAN operated a
26 mortgage and loan brokerage; and
27

1 C. In addition, 1ST AMERICAN conducted broker-
2 controlled escrows through its escrow division, Real Estate
3 Specialists Escrow Division, under the exemption set forth in
4 California Financial Code Section 17006(a)(4) for real estate
5 brokers performing escrows incidental to a real estate
6 transaction where the broker is a party and where the broker is
7 performing acts for which a real estate license is required.

8 FIRST CAUSE OF ACTION

9 AUDIT EXAMINATION

10 LA 080031

11 5.

12 On September 30, 2008, the Department completed an
13 audit examination of the books and records of 1ST AMERICAN
14 pertaining to the residential resale and mortgage and loan
15 activities described in Paragraph 4 that require a real estate
16 license. The audit examination covered a period of time
17 beginning on September 1, 2005 to July 31, 2008. The audit
18 examination revealed violations of the Code and the Regulations
19 as set forth in the following paragraphs, and more fully
20 discussed in Audit Report LA 080031 and the exhibits and work
21 papers attached to said audit report.

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26 ///

TRUST ACCOUNT

6.

1
2
3 1st AMERICAN did not maintain a trust account during
4 the audit period.

5 VIOLATIONS OF THE REAL ESTATE LAW

6
7 7.

8 In the course of activities described in Paragraphs 4
9 and 6, above, and during the examination period described in
10 Paragraph 5, Respondents 1ST AMERICAN, CHAMPANERI, CASTANEDA and
11 THOMAS, as alleged, acted in violation of the Code and the
12 Regulations in that they:

13 (a) (1) 1st AMERICAN and CHAMPANERI employed and
14 compensated THOMAS, as a sales and loan agent for the John Cantu
15 purchase of 1695 Adrienne Drive, Corona, whom CHAMPANERI and
16 CASTANEDA, who signed THOMAS' commission check #5353, dated
17 January 17, 2006, knew was not licensed by the Department as a
18 real estate broker or as a real estate salesperson employed by a
19 real estate broker, for performing acts for which a real estate
20 license is required, including negotiating the Cantu sales and
21 mortgage loan, in violation of Code Sections 10137, 10176(a),
22 10176(i) and/or 10177(g).

23 (a) (2) CASTANEDA and THOMAS committed fraud and
24 dishonest dealing in the John Cantu transaction by CASTANEDA
25 signing the Real Estate Sale Agreement on November 16, 2005, as
26 agent for Real Estate Specialists, a fictitious business name of
27

1 1ST AMERICAN, wherein, THOMAS not CASTANEDA, was the sales agent
2 who negotiated the sale, in violation of Code Sections 10176(i)
3 and/or 10177(g).

4 (a) (3) During a period of time between November 2005
5 through February 2006, when THOMAS, was not yet licensed by the
6 Department, THOMAS acted as sales and loan agent for the John
7 Cantu purchase of 1695 Adrienne Drive, Corona, performing acts
8 for which a real estate license is required, including
9 negotiating the Cantu sale and purchase and mortgage loan, in
10 violation of Code Section 10130.

11 (b) CHAMPANERI and CASTENEDA misrepresented to sellers
12 that 1st American held earnest money deposits totaling \$80,000,
13 for buyers Cantu, Nabavi, Hoffman and Drew, in violation of Code
14 Sections 10176(a) and/or 10177(g).

15 (c) 1ST AMERICAN and CHAMPANERI failed to maintain an
16 adequate control record in the form of a columnar record in
17 chronological order of all "Trust Funds Received and Not Placed
18 in Trust Account", in the form of earnest money deposits, as
19 required by Code Section 10145 and Regulation 2831.

20 (d) 1ST AMERICAN and CHAMPANERI failed to place trust
21 funds, including earnest money deposits accepted on behalf of he
22 property sellers into the hands of the owner of the funds, a
23 neutral escrow depository, or into a trust fund account in the
24 name of the trustee at a bank or other financial institution not
25 later than three business days following receipt of the funds by
26

27

1 the broker or by the broker's salesperson from buyers Cantu,
2 Nabavi, Hoffman, Nazari and Creason, as required by Code Section
3 10145 and Regulation 2832(d).

4 (e) 1ST AMERICAN and CHAMPANERI failed to retain the
5 salesperson license certificate for Carey North, Joel Smulson,
6 Amy Weisman and Jennifer Simmons, in violation of Code Section
7 10160 and Regulation 2753.

8 DISCIPLINARY STATUES AND REGULATIONS

9 8.

10 The conduct of Respondents 1ST AMERICAN, CHAMPANERI,
11 CASTANEDA and THOMAS described in Paragraph 7, above, violated
12 the Code and the Regulations as set forth below:

13 PARAGRAPH

PROVISIONS VIOLATED

14 7(a) (1)

Code Sections 10137, 10176(a),
15 10176(i) and/or 10177(g)

16
17
18 7(a) (2)

Code Sections 10176(i) and/or
19 10177(g) (CASTANEDA and THOMAS only)

20
21 7(a) (3)

Code Sections 10130 (THOMAS only)

22
23
24 7(b)

Code Sections 10176(a) and 10177(g)

1 7(c)

Code Section 10145 and Regulation
2831

3
4 7(d)

Code Section 10145 and Regulation
2832(d)

5
6
7 7(e)

Code Section 10160 and Regulation
2753

8
9 The foregoing violations constitute cause for the suspension or
10 revocation of the real estate license and license rights of 1ST
11 AMERICAN, CHAMPANERI, CASTANEDA and THOMAS, under the provisions
12 of Code Sections 10176(a) for misrepresentation; 10176(i) for
13 fraud and dishonest dealing, 10177(d) for willful violation of
14 the Real Estate law, and/or 10177(g) for negligence.

15
16 SECOND CAUSE OF ACTION

17 AUDIT EXAMINATION

18 LA 080073

19 9.

20 On October 28 2008, the Department completed an audit
21 examination of the books and records of 1ST AMERICAN pertaining
22 to the broker-escrow activities only described in Paragraph 4
23 that require a real estate license. The audit examination
24 covered a period of time beginning on February 21, 2007 to July
25 31, 2008. The audit examination revealed violations of the Code
26 and the Regulations as set forth in the following paragraphs, and
27

1 more fully discussed in Audit Report LA 080073 and the exhibits
2 and work papers attached to said audit report.

3 TRUST ACCOUNT

4 10.

5 At all times mentioned, in connection with the
6 activities described in Paragraph 4, 1ST AMEREICAN accepted or
7 received funds in trust ("trust funds") from or on behalf of
8 buyers, sellers, borrowers, lenders and escrow holders.
9 Thereafter 1ST AMEREICAN made disposition of such funds. From
10 time to time herein mentioned during the audit period, said trust
11 funds were deposited and/or maintained by 1ST AMEREICAN in the
12 bank account as follows:

13
14 "1st American Warehouse Mortgage Inc. dba Real Estate Specialists
15 Escrow Division
16 Account No. 0001-785540"
17 Mellon 1st Business Bank
18 Los Angeles, California (escrow trust account)

19 VIOLATIONS OF THE REAL ESTATE LAW

20 11.

21 In the course of activities described in Paragraphs 4
22 and 10, above, and during the examination period described in
23 Paragraph 9, Respondents 1ST AMERICAN and CHAMPANERI, acted in
24 violation of the Code and the Regulations in that they:

25 (a) Permitted unlicensed and unbonded person Michelle
26 Fair, to be an authorized signatories on the escrow trust
27 account, in violation of Code Section 10145 and Regulations 2834,
2950(d) and 2951.

DISCIPLINARY STATUES AND REGULATIONS

12.

The conduct of Respondents 1ST AMERICAN and CHAMPANERI, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10145 and Regulations 2834, 2950(d) and 2951

The foregoing violation constitutes cause for the suspension or revocation of the real estate license and license rights of 1ST AMERICAN and CHAMPANERI, under the provisions of Code Sections 10177(d) for willful violation of the Real Estate law, and/or 10177(g) for negligence.

THIRD CAUSE OF ACTION

FRAUD IN A CIVIL ACTION

MICHAEL LAMAR THOMAS

CODE SECTION 10177.5

13.

On May 9, 2008, a civil Judgment based on fraud, misrepresentation or deceit, was entered for buyer John Cantu against Michael Thomas, inter alia, for the Safe Harbor Exchange Inc., Seller - John Anthony Cantu, buyer, for the real property located at 1695 Adrienne Drive, Corona. Judgment After Default was entered in the Superior Court of The State of California, County of Riverside-Civil Division, Case No. RIC 462592, on May

1 9, 2008 against the same defendants, in violation of Code Section
2 10177.5.

3 NEGLIGENCE

4 14.

5 The overall conduct of Respondents 1ST AMERICAN,
6 CHAMPANERI, CASTANEDA and THOMAS constitutes negligence or
7 incompetence. This conduct and violation are cause for the
8 suspension or revocation of the real estate license and license
9 rights of Respondents 1ST AMERICAN and CHAMPANERI pursuant to
10 Code Section 10177(g).

11 LACK OF SUPERVISION AND COMPLIANCE

12 15.

13 The overall conduct of Respondent CHAMPANERI
14 constitutes a failure on his part, as officer designated by a
15 corporate broker licensee, to exercise the reasonable supervision
16 and control over the licensed activities of 1ST AMERICAN as
17 required by Code Section 10159.2, and to keep 1ST AMERICAN in
18 compliance with the Real Estate Law, and is cause for the
19 suspension or revocation of the real estate license and license
20 rights of CHAMPANERI pursuant to the provisions of Code Section
21 10177(h).

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PRIOR DEPARTMENT ACTION


16.

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3 On November 3, 2005, in Case No. H-32292 LA, a
4 Statement of Issues was filed against respondent MICHAEL LAMAR
5 THOMAS that resulted in discipline for said Respondent by way of
6 denial of a real estate salesperson license but with issuance of
7 a restricted real estate license, for violations of Sections
8 475(a)(1), 480(a)(1) and 10177(b) of the California Business and
9 Professions Code.

10 WHEREFORE, Complainant prays that a hearing be
11 conducted on the allegations of this Accusation and that upon
12 proof thereof, a decision be rendered imposing disciplinary
13 action against the license and license rights of Respondents 1ST
14 AMERICAN WAREHOUSE MORTGAGE INC., RAJ L. CHAMPANERI, ROBERT
15 STERLING CASTANEDA and MICHAEL LAMAR THOMAS, under the Real
16 Estate Law (Part 1 of Division 4 of the Business and Professions
17 Code) and for such other and further relief including restitution
18 as may be proper under other applicable provisions of law.

19 Dated at Los Angeles, California

20
21 this 17 day of December, 2008.


22 Deputy Real Estate Commissioner

23
24 cc: 1st American Warehouse Mortgage Inc.
25 c/o Raj L. Champaneri D.O.
26 Robert Sterling Castaneda
27 Michael Lamar Thomas
Robin Trujillo
Sacto
Audits - Chona T. Soriano