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FILED

APR 27 2009

DEPARTMENT OF REAL ESTATE

BY: *Deby*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35730 LA
GIGANTE MORTGAGE INC.; GIGANTE)	
REALTY; and MOHAMMAD ABOABDO,)	
individually and as former)	
designated officer of Gigante)	
Realty. and Gigante Mortgage Inc.;)	
RASHA REYN and <u>MARIA E. ARROYO,</u>)	
Respondents.)	

DISMISSAL

The Accusation filed against MARIA E. ARROYO on February 25, 2009, is dismissed.

IT IS SO ORDERED this 21st day of April, 2009.

JEFF DAVI
Real Estate Commissioner

Jeff Davi

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

FEB 25 2009

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- 35730 LA

12 GIGANTE MORTGAGE INC.; GIGANTE)
13 REALTY; and MOHAMMAD ABOABDO,)
14 individually and as former)
15 designated officer of Gigante)
16 Realty, and Gigante Mortgage Inc.;)
17 RASHA REYN and MARIA E. ARROYO,)

A C C U S A T I O N

18 Respondents.)

19 The Complainant, Robin Trujillo, a Deputy Real Estate
20 Commissioner of the State of California, for cause of Accusation
21 against GIGANTE REALTY, GIGANTE MORTGAGE INC., and MOHAMMAD
22 ABOABDO, individually and as former designated officer of Gigante
23 Mortgage Inc., RASHA REYN aka Rasha Alfares, and MARIA E. ARROYO
24 alleges as follows:

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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 GIGANTE MORTGAGE INC.
4 GIGANTE REALTY ("GIGANTE REALTY") ("GIGANTE MORTGAGE"), MOHAMMAD
5 ABOABDO ("ABOABDO"), RASHA REYN aka Rasha Alfares ("REYN"), and
6 MARIA E. ARROYO ("ARROYO").
7

2.

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

LICENSE HISTORY

3.

13
14 A. At all times mentioned, GIGANTE REALTY was licensed
15 or had license rights issued by the Department of Real Estate
16 ("Department") as a real estate broker. On January 8, 2009,
17 GIGANTE MORTGAGE became Non Broker Affiliated upon the
18 cancellation of ABOABDO as designated officer of GIGANTE REALTY.

19 B. At all times mentioned, GIGANTE MORTGAGE was
20 licensed or had license rights issued by the Department as a real
21 estate broker. On October 24, 2006, GIGANTE MORTGAGE was
22 originally licensed as a corporate real estate broker. On
23 January 8, 2009, GIGANTE MORTGAGE became Non Broker Affiliated
24 upon the cancellation of ABOABDO as designated officer of GIGANTE
25 MORTGAGE.

26 ///

1 C. At all times mentioned, ABOABDO was licensed or had
2 license rights issued by the Department as a real estate broker.
3 On October 13, 2005, ABOABDO was originally licensed as a real
4 estate broker. On February 28, 2007, ABOABDO was licensed as the
5 designated officer of GIGANTE REALTY and GIGANTE MORTGAGE. On
6 January 8, 2009, ABOABDO was cancelled as designated officer of
7 both corporations.

8 D. At all times material herein, GIGANTE REALTY and
9 GIGANTE MORTGAGE was licensed by the Department as a corporate
10 real estate broker by and through ABOABDO, as the designated
11 officer and broker responsible, pursuant to Code Sections 10211
12 and 10159.2 of the Business and Professions Code for supervising
13 the activities requiring a real estate license conducted on
14 behalf said corporation's officers, agents and employees,
15 including ABOABDO.

16 E. At all times mentioned, REYN was licensed or had
17 license rights issued by the Department as a real estate
18 salesperson employed and licensed under GIGANTE MORTGAGE. REYN
19 is a partner and agent for service of process of Wall Street
20 Financial LLC ("Wall Street Financial") and co-owner, with his
21 brother Louis Reyn, of GIGANTE REALTY and GIGANTE MORTGAGE.

22 F. At no time was Wall Street Financial, Antonio
23 Angulo or ARROYO licensed as a real estate broker; and

24 G. At all times mentioned, ARROYO was licensed or had
25 license rights issued by the Department as a real estate
26 salesperson employed and licensed under James Dean Diversified
27

1 Entprs Inc. since June 9, 2008. ARROYO was originally licensed
2 as a salesperson on March 12, 2008. AT no time was ARROYO
3 licensed under GIGANTE REALTY or GIGANTE MORTGAGE.

4 BROKERAGE

5 GIGANTE MORTGAGE INC.

6 4.

7 At all times mentioned, in City of Lakewood, County of
8 Los Angeles, GIGANTE MORTGAGE and ABOABDO acted as real estate
9 brokers and conducted licensed activities within the meaning of:

10 A. Code Section 10131(d). GIGANTE MORTGAGE operated a
11 mortgage and loan brokerage. Respondent's engaged in activities
12 with the public wherein lenders and borrowers were solicited for
13 loans secured directly or collaterally by liens on real property,
14 wherein such loans were arranged, negotiated, processed and
15 consummated on behalf of others for compensation or in
16 expectation of compensation and for fees often collected in
17 advance as well as at the conclusion of transactions; and

18 B. In addition, GIGANTE MORTGAGE and ABOABDO
19 conducted broker-controlled escrows through GIGANTE MORTGAGE's
20 escrow division, under the exemption set forth in California
21 Financial Code Section 17006(a)(4) for real estate brokers
22 performing escrows incidental to a real estate transaction where
23 the broker is a party and where the broker is performing acts for
24 which a real estate license is required.

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FIRST CAUSE OF ACTION

AUDIT EXAMINATION

GIGANTE MORTGAGE INC.

5.

On January 22, 2009, the Department completed an audit examination of the books and records of GIGANTE MORTGAGE pertaining to the mortgage loan and broker-escrow activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on January 1, 2007 to October 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 080086 and LA 080166 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, GIGANTE MORTGAGE accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including lenders, borrowers and homeowners, to mortgage loan transactions handled by GIGANTE MORTGAGE and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were

1 deposited and/or maintained by GIGANTE MORTGAGE in the bank
2 account as follows:

3 "Gigante Mortgage Inc. - Escrow Division Trust Account
4 Account No. 0001806556"
5 Mellon First Business Bank (escrow trust account)
6 Los Angeles, CA 90071

7 AUDIT EXAMINATION

8 VIOLATIONS OF THE REAL ESTATE LAW

9 7.

10 In the course of activities described in Paragraphs 4
11 and 6, above, and during the examination period described in
12 Paragraph 5, Respondents GIGANTE MORTGAGE and ABOABDO, acted in
13 violation of the Code and the Regulations in that they:

14 (a) Permitted, allowed or caused the disbursement of
15 trust funds from the GIGANTE MORTGAGE's escrow trust account,
16 where the disbursement of funds reduced the total of aggregate
17 funds in the escrow trust account, to an amount which, on October
18 31, 2008, was \$1,839.35, less than the existing aggregate trust
19 fund liability of GIGANTE MORTGAGE to every principal who was an
20 owner of said funds, without first obtaining the prior written
21 consent of the owners of said funds, as required by Code Section
22 10145 and Regulations 2832.1, 2950(g) and 2951.

24 (b) Mixed and commingled trust funds and personal funds
25 by depositing appraisal and credit report fees received from
26 escrow into GIGANTE MORTGAGE's general operating account and
27

1 issuing checks from said account to the appraisers or credit
2 companies after the escrow checks were deposited, in violation of
3 Code Sections 10145 and 10176(e) and Regulations 2832(a), 2950(d)
4 and 2951.

5 (c) Failed to maintain a control record in the form of
6 a columnar record in chronological order of all "Trust Funds
7 Received, Not Placed Broker's Trust Account", including credit
8 report and appraisal fees, in violation of Code Section 10145 and
9 Regulations 2831, 2950(d) and 2951.

10 (d) Failed to maintain a separate record for each
11 beneficiary or transaction, thereby failing to account for all
12 trust funds received, deposited and disbursed for the escrow
13 trust account, in violation of Code Section 10145 and Regulation
14 2831.1, 2950(d) and 2951.

15 (e) Failed to disclose that GIGANTE MORTGAGE charged
16 credit report fees in excess of the amount billed to the borrower
17 by the credit reporting company for borrower Joaquin Lafarga.
18 This failure to disclose constitutes the taking of a secret
19 profit by means of compensation undisclosed to the aforesaid
20 borrower, in violation of Code Section 10176(g).

22 (f) (1) Failed to retain an approved, true and correct
23 copy of a Department of Real Estate approved Mortgage Loan
24 Disclosure Statement signed by the broker for borrowers Fernando
25 Contreras, Joaquin Lafarga, Maria Mercedes Rojas, and
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1 Norberto/Gloria Anguiano, in violation of Code Sections 10240 and
2 10241 and Regulations 2840 and 2840.1; and

3 (f)(2) Failed to provide or retain a true and correct
4 copy of a Good Faith Estimate that satisfies the requirements of
5 the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A
6 2601 et seq.), that (1) sets forth the broker's real estate
7 license number; and (2) a clear and conspicuous statement on the
8 face of the document stating that the Good Faith Estimate does
9 not constitute a loan commitment; and, further sets forth all
10 applicable disclosures including but not limited to (3) yield
11 spread premiums rebates by the lenders outside of closing for
12 borrowers Fernando Contreras, Joaquin Lafarga, Evangelina Torres,
13 Maria Mercedes Rojas, Norberto/Gloria Anguiano, in violation of
14 Code Section 10240(c).

15 (g) Failed to display the Department's license number
16 on the Evangelina Torres Mortgage Loan Disclosure Statement, as
17 required by Code Section 10236.4.

18 (h) Failed to advise all parties to its escrow
19 operation that GIGANTE MORTGAGE's sole shareholders Louis/Rasha
20 Reyn, had a financial and/or ownership of and financial interest
21 in said escrow operation, as required by Code Section 10145 and
22 Regulation 2950(h).

23 (i) Failed to have the escrow instructions signed and
24 initialed by borrowers Joaquin Lafarga and Evangelina Torres, as
25 required by Code Section 10145 and Regulation 2950(b).
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1 (j) After notice and subpoena on November 19, 2008,
2 failed to produce or retain all records of GIGANTE MORTGAGE's
3 activity during the audit period requiring a real estate broker
4 license, as required by Code Section 10148; and

5 (k) ABOABDO failed to exercise adequate supervision
6 over the mortgage loan and broker-controlled escrow activities to
7 ensure compliance the Real Estate Laws and Regulations and had no
8 system in place for regularly monitoring his compliance with the
9 Real Estate Law especially in regard to establishing policies to
10 review trust fund handling, escrow procedures and unlicensed
11 activity, including but not limited to permitting unlicensed
12 persons Juan Navarro, Mary J. Martin and Peter Martin have their
13 names appear on Mortgage Loan Disclosure Statements for borrowers
14 Fernando Contreras, Joaquin Lafarga, and Norberto/Gloria
15 Anguiano, in violation of Code Sections 10159.2, 10177(g)
16 10177(h) and Regulation 2725.

17
18 AUDIT EXAMINATION

19 DISCIPLINARY STATUES AND REGULATIONS

20 8.

21 The conduct of Respondents GIGANTE MORTGAGE and ABOABDO
22 described in Paragraph 7, above, violated the Code and the
23 Regulations as set forth below:

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PARAGRAPH

PROVISIONS VIOLATED

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7(a)

Code Section 10145 and Regulations
2832.1, 2950(g) and 2951.

7(b)

Code Sections 10145 and 10176(e)
and Regulations 2832(a), 2950(d)
and 2951

7(c)

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

7(d)

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

7(e)

Code Section 10176(g)

7(f)

Code Sections 10240, 10240 (c) and
10241 and Regulations 2840 and
2840.1

7(g)

Code Section 10236.4

1 SECOND CAUSE OF ACTION
2 LOAN MODIFICATION SERVICES

3 BROKERAGE

4 9.

5 At all times mentioned GIGANTE REALTY, GIGANTE
6 MORTGAGE, REYN and ARROYO acted as a real estate broker and
7 conducted licensed activities within the meaning of Code Sections
8 10131(d) and 10131.2. GIGANTE REALTY, GIGANTE MORTGAGE, REYN and
9 ARROYO engaged in the business of a loan modification service and
10 an advance fee brokerage dba Wall Street Financial. Respondents
11 performed loan modification services with respect to loans which
12 were secured by liens on real property for compensation or in
13 expectation of compensation and for fees often collected in
14 advance and as well at the close of the transactions.
15 Respondents contacted lenders on behalf of distressed homeowners
16 seeking modification of the terms of their home loans, principal
17 reduction, foreclosure abatement, loan refinance, and/or short
18 sale services.

19
20 General Allegations

21 10.

22 During March 2008 and continuing thereafter to date,
23 GIGANTE REALTY and GIGANTE MORTGAGE, acting by and through REYN
24 dba Wall Street Financial and ARROYO, placed infomercials on
25 radio stations including AM 1020, a Spanish language radio
26 station. Intending to solicit an audience of distressed
27

1 homeowners facing foreclosure and eviction from their homes,
2 GIGANTE REALTY, GIGANTE MORTGAGE, REYN and ARROYO offered loan
3 modification services, including but not limited to modification
4 to the existing terms, conditions and interest rates of mortgage
5 loans and including principal amount reductions.

6 Specific Allegations

7 Jose Maria Oliveros

8 7770 Crossway Drive, Pico Rivera, California

9 11.

10 On or about March 8, 2008, in response to a radio
11 infomercial for loan modification services, Jose Maria Oliveros
12 ("Oliveros") contacted GIGANTE REALTY. Oliveros met with ARROYO,
13 GIGANTE REALTY's representative, who demanded an advance fee from
14 Oliveros of \$1,900. Oliveros signed two loan modification
15 agreements, to wit, a Mortgage Loan Modification Service
16 agreement and a Principal Reduction Service agreement, and paid
17 \$1,900 to Wall Street Financial through ARROYO at GIGANTE
18 MORTGAGE's offices. ARROYO finalized the loan modification
19 documentation and provided copies to Oliveros during April 2008.

20 Maria Lucy Nino

21 20908 E. Bliss Ave., Laton, California

22 12.

23 On or about March 14, 2008, in response to a radio
24 infomercial advertisement for loan modification services, Maria
25 Lucy Nino ("Nino") contacted GIGANTE REALTY. Nino, and her
26
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1 husband, met with Antonio Angulo, an unlicensed person, at
2 GIGANTE REALTY, who demanded an advance fee from Nino of \$1,900.
3 Nino signed the Mortgage Loan Modification Service agreement and
4 paid \$1,900 to Wall Street Financial through Angulo, who informed
5 Nino that Wall Street Financial was part of GIGANTE REALTY.

6 13.

7 In the course of activities described in Paragraphs 9
8 and 12, above, Respondents GIGANTE REALTY, GIGANTE MORTGAGE, REYN
9 and ARROYO acted in violation of the Code and the Regulations in
10 that they:

11 (a) Failed to establish and maintain a trust account at
12 a bank or other recognized financial institution in the name of
13 the broker for deposit of advance fees collected by Wall Street
14 Financial as required by Code Section 10146. Wall Street
15 Financial collected in advance fees for its loan modification
16 services from Jose Maria Oliveros and Maria Nino, and thereafter
17 deposited said advance fee trust funds into Wall Street
18 Financial's account or used said advance fees for its own
19 purposes.
20

21 (b) Collected advance fees within the meaning of Code
22 Section 10026 on March 3 and on March 14, 2008, from homeowners
23 Jose Maria Oliveros and Mario Nino, wherein Respondents failed to
24 provide to the said homeowners a pre-approved advance fee
25 agreement by the Department. The failure of Respondents to
26 submit an advance fee agreement to the Department five days prior
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1 to its use as required by Code Section 10085 and Regulation 2970,
2 is in violation of Code Section 10177(d); and

3 (c) With reference to the lack of an advance fee
4 agreement for homeowners Jose Maria Oliveros and Mario Nino,
5 Respondents failed to provide a complete description of services
6 to be rendered provided to each Oliveros and Nino; 10 point type
7 font; and, an allocation and disbursement of the amount collected
8 as the advance fee, as required by Code Section 10085 and
9 Regulation 2972.

10 LOAN MODIFICATION

11 DISCIPLINARY STATUES AND REGULATIONS

12 14.

13 The conduct of Respondents GIGANTE REALTY, GIGANTE
14 MORTGAGE, REYN and ARROYO, described in Paragraphs 9 through 12,
15 above, violated the Code and the Regulations as set forth below:

16 <u>PARAGRAPH</u>	17 <u>PROVISIONS VIOLATED</u>
18 9 through 12	19 Code Section 10146
20	21
22 9 through 12	23 Code Section 10085 and Regulation 24 2970
25 9 through 12	26 Code Section 10085 and Regulation 27 2972

1 performing acts for which a real estate license broker license is
2 required, including soliciting for prospective distressed
3 homeowners by which to offer loan modification services through
4 Wall Street Financial LLC, an unlicensed entity, co-owned and
5 operated by REYN, in violation of Code Section 10130. REYN has
6 been conducting licensed activities from March 2008 to date.

7 G. (ARROYO) Code Section 10130 for performing acts for
8 which a real estate license broker license is required, including
9 soliciting for prospective distressed homeowners by which to
10 offer loan modification services through Wall Street Financial
11 LLC, an unlicensed entity. ARROYO has been conducting licensed
12 activities from March 8, 2008 to date, four days before her
13 licensure as a real estate salesperson on March 12, 2008,
14 continuing through April 2008, with respect to the Oliveros
15 transaction and continuing there from to date.

16 H. (ARROYO) Code Section 10137 while licensed on March
17 12, and before she was licensed by JAMES DEAN DIVERSIFIED ENTPRS
18 INC. on June 9, 2008, received compensation from GIGANTE REALTY
19 and/or Wall Street Financial. ARROYO accepted compensation from
20 a person other than the broker under whom she was at the time
21 licensed, in violation of Code Section 10137.

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ADDITIONAL VIOLATION OF THE REAL ESTATE LAW BY GIGANTE REALTY

16.

GIGANTE REALTY and GIGANTE MORTGAGE violated Code Section 10176(c) for making a continued and flagrant course of misrepresentations and/or false promises through real estate agents or salespersons including REYN and ARROYO, with respect to the loan modification scheme.

THIRD CAUSE OF ACTION

DECEIT BY MISREPRESENTATION

17.

Respondents GIGANTE REALTY, GIGANTE MORTGAGE, REYN and ARROYO intentionally engaged in the conduct above set forth in Paragraphs 9 through 12. Alternatively, Respondents GIGANTE REALTY, REYN and ARROYO engaged in negligent misrepresentation to homeowners Oliveros and Nino, for Wall Street Financial's loan modification service transactions for which real estate licenses are required, in violation of Code Sections 10176(a), 10176(i) and/or 10177(g).

18.

The overall conduct of Respondents GIGANTE REALTY, GIGANTE MORTGAGE, REYN and ARROYO, constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

///

1 The overall conduct of Respondent ABOABDO constitutes a
2 failure on Respondent's part, as officer designated by a
3 corporate broker licensee, to exercise the reasonable supervision
4 and control over the licensed activities of GIGANTE REALTY and
5 GIGANTE MORTGAGE, as required by Code Sections 10211 and 10159.2,
6 and to keep GIGANTE REALTY and GIGANTE MORTGAGE in compliance
7 with the Real Estate Law and including the supervision of
8 salesperson REYN, and is cause for the suspension or revocation
9 of the real estate license and license rights of ABOABDO pursuant
10 to the provisions of Code Sections 10177(d), 10177(g) and
11 10177(h) and Regulation 2725.
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 GIGANTE REALTY, GIGANTE MORTGAGE INC. MOHAMMAD ABOABDO, RASHA
6 REYN and MARIA E. ARROYO, under the Real Estate Law (Part 1 of
7 Division 4 of the Business and Professions Code) and for such
8 other and further relief as may be proper under other applicable
9 provisions of law.

10 Dated at Los Angeles, California

11 this 9 day of February 2009. 
12 Deputy Real Estate Commissioner

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23 cc: Gigante Mortgage Inc.
24 c/o Mohammad Aboabdo D.O.
25 Rasha Reyn
26 Robin Trujillo
27 Sacto
Audits - Isabel Beltran
Howard Alston