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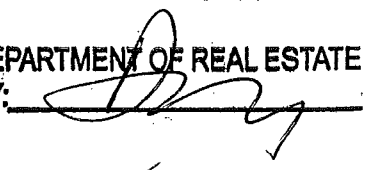
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FILED

APR 19 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
JC RUIZ CAPITAL GROUP INC. doing)
business as Maxima Home Loans;)
and JAMES ALFRED SANTANA,)
individually and as)
designated officer of)
JC Ruiz Capital Group Inc.)
Respondents.)

No. H-36003 LA
L-2009080268

FIRST AMENDED

ACCUSATION

The Accusation filed on May 28, 2009, 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 JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and JAMES ALFRED SANTANA, individually and as designated officer of JC Ruiz Capital Group Inc., is informed and alleges in her official capacity as follows:

1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against JC RUIZ CAPITAL GROUP INC. and JAMES ALFRED SANTANA.

2.

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

(License History)

3.

A. At all times mentioned, JC RUIZ CAPITAL GROUP INC. ("JCRCGI") was licensed or had license rights issued by the Department) as a real estate broker. On December 13, 2007, JCRCGI was originally licensed as a real estate broker by and through JAMES ALFRED SANTANA as designated officer.

B. At all times mentioned, JAMES ALFRED SANTANA ("SANTANA") was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. On March 28, 1985, SANTANA was originally licensed as a real estate broker. At all times material, SANTANA was licensed as the designated officer of JCRCGI.

C. At all times material herein, JCRCGI were licensed by the Department as a corporate real estate broker by and through SANTANA, as the designated officer and broker responsible, pursuant to Code Sections 10159.2 and 10211 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf of JCRCGI's officers, agents and employees, including SANTANA.

D. JCRCGI is a California corporation owner by Juan C. Ruiz (60%), president, and Joaquin Santamaria (40%), treasurer, unlicensed persons.

(Brokerage)

4.

At all times mentioned, in the City of Anaheim, County of Orange, JCRCGI and SANTANA, acted as real estate brokers and conducted licensed activities within the meaning of:

1 A. Code Section 10131(a). JCRCGI operated a residential resale brokerage and
2 engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate
3 broker, including the solicitation for listings of and the negotiation of the sale of real property as
4 the agent of others;

5 B. Code Section 10131(d). JCRCGI operated a mortgage and loan brokerage and
6 engaged in activities with the public wherein lenders and borrowers were solicited for loans
7 secured directly or collaterally by liens on real property, wherein such loans were arranged,
8 negotiated, processed and consummated on behalf of others for compensation or in expectation
9 of compensation and for fees often collected in advance; and

11 C. Code Section 10131(d) and 10131.2. Additionally, JCRCGI engaged in the
12 business of a loan modification and advance fee brokerage using the licensed fictitious business
13 name Maxima Home Loans and the unlicensed name of First America Financial Consulting Inc.
14 and EZ Financing. Respondents performed loan modification services with respect to loans
15 which were secured by liens on real property for compensation or in expectation of compensation
16 and for fees often collected in advance. Respondents contacted lenders on behalf of distressed
17 homeowners seeking modification and restructuring of the terms of their home loans, forbearance
18 plans, extenuation, foreclosure abatement, principal and interest reduction, loan refinance, and/or
19 short sale services and advice.
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FIRST CAUSE OF ACTION

(JC Ruiz Capital Group Inc.)

(Residential Resale Audit)

(March 10, 2009)

5.

On March 10, 2009 the Department completed an audit examination of the books and records of JCRCGI dba Maxima Home Loans, First America Financial Consulting Inc. and EZ Financing, pertaining to the residential resale activities described in Paragraph 4.A., which require a real estate license. The audit examination covered a period of time beginning on December 13, 2007 to January 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully set forth in Audit Report LA 080185 and the exhibits and workpapers attached thereto. JCRCGI and Maxima Home Loans closed about forty (40) successful loan modification transactions after SB94.

(Trust Account)

6.

During the audit period, JCRCGI did not maintain a trust account.

(Residential Resale Audit)

(Violations of the Real Estate Law)

7.

In the course of activities described in Paragraph 4.A, above, and during the examination period described in Paragraph 5, Respondents JCRCGI and SANTANA, acted in violation of the Code and the Regulations in that Respondents:

(a) Failed to place trust funds, including earnest money deposits, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the trustee at a bank or other financial institution not later than

1 three business days following receipt of the funds by the broker or by the broker's salesperson, as
2 required by Code Section 10145 and Regulation 2832(d). Earnest money deposits for buyers
3 Jose M. C., Leticia P. and Roberta C., and Juan Carlos G., were not timely deposited.

4 (b) Misrepresented to sellers that JCRCGI held earnest money deposits for
5 borrowers Jose M. C., Leticia P. and Roberta C., and Juan Carlos G. for the intended purchase of
6 sellers residences, when in fact JCRCGI did not hold the earnest money deposits, in violation of
7 Sections 10176(a) and/or 10177(g).

8
9 (c) Failed to retain the salesperson license certificate for Fernando Reveles Torres,
10 in violation of Code Section 10160 and Regulation 2753.

11 (d) Under the name First America Financial Consulting Inc., an unlicensed
12 corporation, JCRCGI performed acts for which a real estate license is required, including and
13 conducting an advance fee and loan modification brokerage, in violation of Code Section 10130.
14

15 (Residential Resale Audit)
16 (Disciplinary Statutes and Regulations)

17 8.

18 The conduct of Respondents JCRCGI and SANTANA, described in Paragraph 7, above,
19 violated the Code and the Regulations as set forth below:

20 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
21 7(a)	Code Section 10145 and Regulation 2832
22 7(b)	Code Sections 10176(a) and 10177(g)
23 7(c)	Code Section 10160 and Regulation 2753
24 7(b)	Code Section 10130 (JCRCGI)

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1 The foregoing violations constitute cause for the suspension or revocation of the real estate
2 license and license rights of JCRCGI and SANTANA under the provisions of Code Sections
3 10165, 10177(d) and/or 10177(g).
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5 SECOND CAUSE OF ACTION
6 (JC Ruiz Capital Group Inc.)
7 (Residential Resale Audit)
8 (March 30, 2012)

9 9.

10 On March 30, 2012 the Department completed another audit examination of the
11 books and records of JCRCGI dba Maxima Home Loans, First America Financial Consulting
12 Inc., and EZ Financing, pertaining to the residential resale and loan modification activities
13 described in Paragraph 4, which require a real estate license. The audit examination covered a
14 period of time beginning on February 1, 2009 to October 31, 2011. The audit examination
15 revealed violations of the Code and the Regulations as set forth in the following paragraphs, and
16 more fully set forth in Audit Report LA 110049 and the exhibits and workpapers attached
17 thereto.

18 (Trust Account)

19 10.

20 During the audit period, JCRCGI did not maintain a trust account.

21 (Residential Resale Audit))
22 (Violations of the Real Estate Law)

23 11.

24 In the course of activities described in Paragraph 4A., above, and during the
25 examination period described in Paragraph 9, Respondents JCRCGI and SANTANA, acted in
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1 violation of the Code and the Regulations in that Respondents:

2 (a) JCRCGI failed to maintain an accurate and complete columnar record for the
3 trust funds received not placed in broker's trust account. Moreover, earnest money deposits
4 (EMD) received was not posted correctly in the columnar trust record and the date for EMD
5 received in the record was incomplete.

6

7	<u>Date Offer</u>	<u>Deposit</u>	<u>Date Offer</u>	<u>Date in</u>	<u>Date Received</u>
8	<u>Made</u>	<u>Amount</u>	<u>Accepted</u>	<u>the EMD</u>	<u>In Trust</u>
9					<u>Record</u>
10	Sindy G.	08/06/10	\$1,000	08/07/10	09/16/10 09/16
11					
12	Moises M.	12/21/10	\$1,500	01/24/11	02/28/11 02/28
13					
14	Jacinto Medel N.	05/11/10	\$1,000	05/11/10	03/19/11 03/19

15 In addition, the columnar trust record included commissions paid to JCRCGI's
16 salespersons and pay proceeds paid to borrowers as trust funds received.

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18 (b) Failed to place trust funds, including EMD, into a trust fund account in the
19 name of the trustee at a bank or other financial institution not later than three business days
20 following receipt of the funds by the broker or by the broker's salesperson, in violation of Code
21 Section 10145 and Regulation 2832. Based on the sales files reviewed for the audit, in three (3)
22 of the five (5) sampled sales transactions, JCRCGI held EMD's beyond three (3) business days
23 following the acceptance of the offer without written authorization from the principals, including
24 the tabled examples set forth below:

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<u>Buyer Name</u>	<u>Date Offer Made</u>	<u>Date Offer Accepted</u>	<u>Date of Disposition</u>	<u>Escrow Receipt</u>
Sindy G.	08/06/10	08/07/10	09/21/10	2124
Moises M.	12/21/10	01/24/11	03/03/11	2154
Maria J. P. and Juan T.	05/11/10	05/11/10	03/23/10	2781

JCRCGI's practice is to hold the EMDs until the offer is accepted, and then forwarded the EMD's to the escrow company.

(c) Misrepresented to sellers that Respondents JCRCGI and Santana had received the earnest money deposits for the intended purchase of sellers residences that in fact JCRCGI had not received, in violation of Sections 10176(a), including the examples set forth below:

<u>Buyer Name</u>	<u>Date Offer Made</u>	<u>Date Offer Accepted</u>	<u>Date on the EMD</u>
Sindy G.	08/06/10	09/16/10	09/16/10
Moises M.	12/21/10	01/24/11	02/28/11
Joy O.	02/11/11	06/02/11	06/02/11
Jacinto & Edgar M.	05/11/10	05/11/11	03/19/11
Maria P.& Juan T.	09/09/10	09/09/10	09/20/10

(d) Failed to maintain a signed broker salesperson agreement with salespersons Diane Parra and Fernando Reveles Torres, in violation of Regulation 2726.

(e) Failed to disclose JCRCGI, dba "Maxima Home Loans" license number on solicitation materials intended to first point of contact with customers. As such, JCRCGI's, absence of disclosures is in violation of Code Section 10140.6(b) and Regulation 2773, in violation of said sections.

1 (f) On November 14, 2011, failed to retain all records of JCRCGI's activity during
2 the audit period requiring a real estate broker license, in violation of Code Section 10148.

3 The Departmental auditor requested documents for the audit examination: Records and
4 documents related to JCRCGI's loan modification activities including but not limited to the loan
5 modification log, loan modification transactions, loan modification agreements, hardship letters,
6 modification payment form, and accounting records for the loan modification services provided.
7

8 (g) SANTANA failed to exercise reasonable control and supervision over the
9 activity of JCRCGI's brokerage including the activities conducted by JCRCGI's employees and/or
10 licensees as necessary to secure full compliance with the Real Estate Law. Additionally,
11 SANTANA had no system in place for regularly monitoring JCRCGI's compliance with the Real
12 Estate Law especially in regard to establishing, systems, policies and procedures to review trust
13 fund handling especially as related to escrow trust fund handling for buyers and sellers, in
14 violation of Code Section 10177(h) and Regulation 2725.
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16 (Residential Resale Audit)
17 (Disciplinary Statutes and Regulations)

18 12.

19 The conduct of Respondents JCRCGI and SANTANA, described in Paragraph 7, above,
20 violated the Code and the Regulations as set forth below:

21 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
22 11(a)	Code Section 10145 and Regulation 2831
23 11(b)	Code Section 10145 and Regulation 2832
24 11(c)	Code Section 10176(a) and 10177(g)
25 11(d)	Regulation 2726
26	
27	

- 1 11(e) Code Section 10140.6(b) and Regulation 2773
2 11(f) Code Section 10148
3 11(g) Code Sections 10159.2 and 1017(h) and Regulation
4 2725

5 The foregoing violations constitute cause for the suspension or revocation of the real estate
6 license and license rights of JCRCGI and SANTANA under the provisions of Code Sections
7 10176(a), 10177(d) and/or 10177(g).
8

9 THIRD CAUSE OF ACCUSATION
10 (Loan Modification Fraud and Dishonest Dealing)

11 13.

12 At all times mentioned herein, Respondents JC RUIZ CAPITAL GROUP INC.
13 (JCRCGI), dba Maxima Home Loans and also unlicensed dba First America Financial
14 Consulting Inc., and JAMES ALFRED SANTANA engaged in the business of a loss
15 mitigation/loan modification service including operating an advance fee brokerage requiring a
16 real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2, as
17 described in Paragraph 4 above.

18 General Allegations

19 14.

20 During the audit period of December 13, 2007, and continuing hereafter to date,
21 JCRCGI and SANTANA, dba Maxima Home Loans and unlicensed names of First America
22 Financial Consulting Inc., and EZ Financing, all of which share the same ownership, address,
23 staff and supervision and brokerage, solicited economically distressed homeowners facing
24 foreclosure and eviction from their homes, offered loss mitigation services to said homeowner-
25 applicants seeking downward adjustments or payment extenuations to their home mortgages,
26 charged, claimed and collected advance fees for services not rendered. Respondent JCRCGI and
27 its owners, Juan C. Ruiz and Joaquin Santamaria, is the de facto terminus for payment of

1 advance fees in the form of payments for loan modification services from all homeowner-
 2 borrowers irrespective of the dbas of Maxima Home Loans and unlicensed fictitious names of
 3 First America Financial Consulting Inc., and EZ Financing. All trust funds flow to JCRCGI
 4 and/or Juan C. Ruiz.

5 Specific Allegations

6 15.

7 Respondents collected advanced fees from said homeowner- applicants without
 8 possessing a pre-approved advance fee agreement from the Department. Thereafter, Respondents
 9 failed to obtain the loan modification including short sale services to the homeowner-borrowers,
 10 as set forth below:

11 16.

12 Through the instrumentality of unlicensed and licensed loss mitigation agents,
 13 JCRCGI and SANTANA, via their licensed fictitious name of Maxima Home Loans and
 14 unlicensed names of First America Financial Consulting Inc., and EZ Financing, solicited
 15 distressed borrowers promising favorable rates and terms including downward adjustments or
 16 payment extenuations, in return for an average payment of \$2,395, paid in advance. Thereafter,
 17 Respondents failed to obtain loan modifications, or perform loss mitigation services or make
 18 refunds to the homeowner-borrowers, tabled below:

19 **Table: Advance Fees Collected for Loan Modification Services**

20

<u>Complainant</u>	<u>Respondent</u>	<u>Advance Fee</u>	<u>Date Paid</u>	<u>Post SB 94</u>	<u>Unlicensed Agent</u>
Maria H 1538 E. Robidoux St.	MHL/FAFCI EZ Financing	\$2,395	\$1,000 on 4/11/09 \$1,395 on 4/25/09	No	Joaquin Santamaria
Arturo C. 317 S. Dale St.	MHL/FAFCI	\$2,395	\$2,395 on 4/17/09	No	Byron Osuna
Hermes R. 7001 Lanto St.	MHL/FAFCI	\$2,395	\$500 on 4/19/09 \$1,895 on 5/19/09	No	Carlos M. Garcia Byron Osuna Joaquin Santamaria

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1	Susan E. 1704 E. Saunders St.	MHL/FAFCI	\$1,800	2/2/09	No	Luis Barrera
2	Victor P 2310 Lomita Verde Dr.	MHL/FAFCI	\$1,995	\$1,995 on 12/31/08	None	Joaquin Santamaria Vicky Vasquez
3	Maria L 6620 7 th Ave.	MHL/FAFCI	\$2,395	\$500 on 4/3/09 \$500 on 4/6/09 \$500 on 4/18/09 \$895 on 4/30/09	No	Joaquin Santamaria Warner Rojas Tessie Frutos
4	Aida R 318 N. Glenrose St.	MHL/FAFCI	\$2,395	\$300 on 3/2/10 \$2,095 on 3/11/10	Yes	JCRGI
5	Francisco C 716 3 rd St.	MHL/FAFCI	\$1,995	3/24/09 Two deposits into Mora's account	Yes	Mora
6	Maria O 1809 E. 71 st St.	MHL/FAFCI	\$3,000		None	Juan C. Ruiz
7	Francisco M 755 E. Yucca St.	MHL/FAFCI /JCRCGI	\$2,200			Bertha A. Furse Fernando Reveles Torres
8	Angel V 1595 Laselle St.	MHL/FAFCI	\$7,980	2/19-09 to 7-23- 09 (6 advance fees)		
9	Lydia P 521 Shelton St.	MHL/FAFCI	\$2,395	8/27/10 \$500 on 9/2/10 \$1,895 on 9/25/10	Yes	Vicky Vasquez Juan C. Ruiz
10	("Sanchez") P.O. Box 875914	MHL/FAFCI	\$2,395	11/28/09	Yes	JCRGI et al
11	Jose T 516 E. 35th St.	MHL/FAFCI	\$2,295	12/14/09	Yes	Luis Barrera
12	Anne M (unknown)	MHL/FAFCI	\$2,395	5-11-11	5-11- 11	R. Buendia
13			\$39,430			

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the license and license rights of Respondents JC RUIZ CAPITAL GROUP INC.
4 and JAMES ALFRED SANTANA, under the Real Estate Law (Part 1 of Division 4 of the
5 Business and Professions Code) and for such other and further relief as may be proper under
6 other applicable provisions of law including restitution of advanced fees paid for unearned loan
7 modifications and for costs of audits (Audit Reports LA 080185 and LA 110049), investigation
8 and enforcement as permitted by law.

9
10 Dated at Los Angeles, California

11 this 19 day of April 2012. 
12 Deputy Real Estate Commissioner

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22 cc: JC Ruiz Capital Group Inc.
23 c/o James Alfred Santana D.O.
24 Maria Suarez
25 Sacto
26 Audits - Isabel Beltran/Danio Fajardo
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