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FILED

MAY 28 2009

DEPARTMENT OF REAL ESTATE

BY: *Grady*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

NO. H-36003 LA

12 JC RUIZ CAPITAL GROUP INC. doing)
business as Maxima Home Loans; and)
13 JAMES ALFRED SANTANA, individually)
and as designated officer)
14 of JC Ruiz Capital Group Inc.,)

A C C U S A T I O N

15 Respondents.)
16

17 The Complainant, Robin Trujillo, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and
20 JAMES ALFRED SANTANA, individually and as former designated
21 officer of JC Ruiz Capital Group Inc. alleges as follows:

22 1.

23 The Complainant, Robin Trujillo, acting in her official
24 capacity as a Deputy Real Estate Commissioner of the State of
25 California, makes this Accusation against JC RUIZ CAPITAL GROUP
26 INC. (JCRCGI) and JAMES ALFRED SANTANA (SANTANA).
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2.

1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
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6 A. At all times mentioned, JCRCGI and SANTANA were
7 licensed or had license rights issued by the Department of Real
8 Estate (Department) as real estate brokers.

9 B. At all times material herein, JCRCGI was licensed
10 by the Department as a corporate real estate broker by and
11 through SANTANA, pursuant to Code Sections 10211 and 10159.2 for
12 supervising the activities requiring a real estate license
13 conducted on behalf JCRCGI.

14 C. On December 13, 2007, JCRCGI was originally
15 licensed as a corporate real estate broker by and through JAMES
16 ALFRED SANTANA.
17

18 D. On March 28, 1995, SANTANA was originally licensed
19 as a real estate broker.

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21 At all times mentioned, in the City of Anaheim, County
22 of Orange, JCRCGI and SANTANA engaged in the business of real
23 estate brokers conducting licensed activities within the meaning
24 of:

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1 A. Code Section 10131(a). JCRCGI and SANTANA dba
2 Maxima Home Loans engaged in the business of, acted in the
3 capacity of, advertised or assumed to act as a real estate
4 broker, including the solicitation for listings of and the
5 negotiation of the sale of real property as the agent of others.

6 B. Code Sections 10131(d) and 10131.2. JCRCGI and
7 SANTANA engaged in the business of an advanced fee and loan
8 modification brokerage by and through and dba First America
9 Financial Consulting Inc.. For compensation or in expectation of
10 compensation and for fees often collected in advance, Respondents
11 contacted lenders on behalf of distressed homeowners seeking
12 modification or forbearance of the terms of their home loans.

13 5.

14 On March 10, 2009, the Department completed an audit
15 examination of the books and records of JCRCGI pertaining to the
16 real estate activities described in Paragraph 4, which require a
17 real estate license. The audit examination covered a period of
18 time beginning on December 13, 2007 to January 31, 2009. The
19 audit examination revealed violations of the Code and the
20 Regulations as set forth in the following paragraphs, and more
21 fully discussed in Audit Report LA 080185 and the exhibits and
22 work papers attached to said audit report.

23 6.

24 No trust account was kept during the audit period.

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VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, 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 credit earnest money deposits for Jose M. Campos, Leticia Perez & Roberts Chaires, and Juan Carlos Garcia, 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 three business days following receipt of the funds by the broker or by the broker's salesperson, in violation of Code Section 10145 and Regulation 2832(d).

(b) Misrepresented to sellers that JCRCGI held earnest money deposit for Jose M. Campos, Leticia Perez & Roberts Chaires, and Juan Carlos Garcia, in violation of Code Section 10176(a) and/or 10177(g).

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

(d) Under the name First America Financial Consulting Inc., an unlicensed corporation, performed and continue to perform acts for which a real estate license is required

1 including operating an advance fee and loan modification
2 brokerage, in violation of Code Section 10130.

3 DISCIPLINE STATUTES AND REGULATIONS

4 8.

5 The conduct of Respondents JCRCGI and SANTANA described
6 in Paragraph 7, above, violated the Real Estate Law as set forth:

7 <u>PARAGRAPH</u>	8 <u>PROVISIONS VIOLATED</u>
9 7(a)	10 Code Section 10145 and Regulation 11 2832(d)
12 7(b)	13 Code Sections 10176(a) and/or 14 10177(g)
15 7(c)	16 Code Section 10160 and Regulation 17 2753
18 7(d)	19 Code Section 10130

20
21 The foregoing violations constitutes cause for the suspension or
22 revocation of the real estate license and license rights of
23 JCRCGI and SANTANA, as aforesaid, under the provisions of Code
24 Sections 10177(d) for willful disregard or for violation of the
25 Real Estate Law and/or 10177(g) for negligence.

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1 ADDITIONAL VIOLATIONS OF THE REAL ESTATE LAW

2 The conduct of Respondents JCRCGI and SANTANA described
3
4 in Paragraph 7, above, violated the Real Estate Law as set forth:

5 A. Code Section 10176(i) for fraud and dishonest
6 dealing by systematically employing unlicensed persons as loan
7 agents of JCRGI and the same persons as crossover loan
8 modification agents for unlicensed corporation First America
9 Financial Consulting Inc. (FAFCI) to solicit advance fees from
10 distressed homeowners, including but not limited to Fermin
11 Flores, seeking modification to the terms of their home loans
12 through JCRGI then referring said homeowners to FAFCI for loan
13 modification services without first obtaining a real estate
14 license for FAFCI and obtaining an advance fee agreement in the
15 form of a no objection letter from the Department, in connection
16 with loan modification services offered.

17 B. Code Sections 10176(i) for breach of fiduciary duty
18 by soliciting distressed homeowners on JCRCGI's website then
19 referring them to unlicensed loan modification company FAFCI
20 through unlicensed persons acting as crossover referral agents
21 from Maxima Home Loans to FAFCI.

22 C. Code Section 10176(i) for breach of fiduciary duty
23 by soliciting distressed homeowners on JCRCGI's website then
24 referring them to unlicensed loan modification FAFCI.
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1 D. Code Section 10146 for failing to establish and
2 maintain a trust account at a bank or other recognized financial
3 institution in the name of the broker for deposit of advance fees
4 collected by JCRCGI and/or FAFCI.

5 E. Code Sections 10177(d) and 10085 and Regulation
6 2970 for collecting advance fees within the meaning of Code
7 Section 10026 from distressed homeowners seeking loan
8 modification services wherein JCRCGI and/or FAFCI failed to
9 provide homeowner Fermin Flores an advance fee agreement from the
10 Department.

11 F. Code Sections 10177(d), 10146 and Regulation 2972
12 with reference to the lack of an advance fee agreement, JCRCGI
13 and/or FAFCI failed to provide a complete description of services
14 to be rendered provided to each prospective tenant in 10 point
15 type font and, an allocation and disbursement of the amount
16 collected as the advance fee.

17 G. Code Section 10177(d), for violation of the Real
18 Estate Law.

19
20 10.

21 The overall conduct of Respondents JCRCGI and SANTANA
22 constitutes negligence or incompetence. This conduct and
23 violation are cause for the suspension or revocation of the real
24 estate license and license rights of said Respondents pursuant to
25 the provisions of Code Section 10177(g).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents JC
5 RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and JAMES ALFRED
6 SANTANA, under the Real Estate Law (Part 1 of vision 4 of the
7 Business and Professions Code) and for such other and further
8 relief as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 26 day of May 2009.


11 Deputy Real Estate Commissioner

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23 cc: JC Ruiz Capital Group Inc.
24 c/o James Alfred Santana D.O.
25 Robin Trujillo
26 Sacto
27 Audits - Isabel Beltran