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FILED

AUG 31 2011

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-36606 LA
MICHAEL TON,)
Respondent.)

ORDER SUSPENDING REAL ESTATE LICENSE

TO: MICHAEL TON
4025 E. La Palma Ave., Suite 205
Anaheim, CA 92807

On October 15, 2010, your real estate broker license was suspended on the terms, conditions, and restrictions set forth in the Real Estate Commissioner's Decision ("Decision") effective October 15, 2010, in Case No. H-36606 LA. Among those terms, conditions and restrictions was that you were required to submit evidence satisfactory to the Commissioner within six (6) months from the aforementioned effective date, of having completed the Professional Responsibility Examination

1 administered by the Department. The Commissioner has determined
2 that as of April 15, 2011, you have failed to provide evidence
3 of the completion of the Professional Responsibility Examination
4 condition.

5 NOW, THEREFORE, IT IS ORDERED under authority of the
6 Order issued in this matter that the real estate broker license
7 heretofore issued to you, Respondent, and the exercise of any
8 privileges thereunder is hereby suspended until such time as you
9 provide proof satisfactory to the Department of compliance with
10 the "conditions" referred to above, or pending final
11 determination made after hearing (see "Hearing Rights" set forth
12 below).

13 IT IS FURTHER ORDERED that all license certificates
14 and identification cards issued by Department which are in the
15 possession of Respondent be immediately surrendered by personal
16 delivery or by mailing in the enclosed, self-addressed envelope
17 to:

18 Department of Real Estate
19 Attn: Flag Section
20 P. O. Box 187000
21 Sacramento, CA 95818-7000

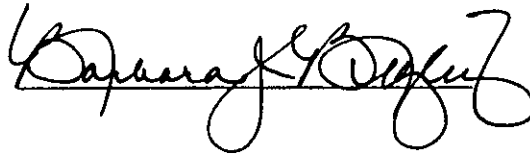
22 HEARING RIGHTS: You have the right to a hearing to
23 contest the Commissioner's determination that you are in
24 violation of the Decision issued in this matter. If you desire
25 a hearing, you must submit a written request. The request may
26 be in any form, as long as it is in writing and indicates that
27 you want a hearing. Unless a written request for a hearing,
signed by or on behalf of you, is delivered or mailed to the

1 Department at 320 W. 4th Street, Room 350, Los Angeles,
2 California 90013, within 20 days after the date that this Order
3 was mailed to or served on you, the Department will not be
4 obligated or required to provide you with a hearing.

5 This Order shall be effective immediately.

6 DATED: 8/25, 2011.

7 BARBARA J. BIGBY
8 Acting Real Estate Commissioner

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1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4
5 Telephone: (213) 576-6982 (office)
6
7

FILED

SEP 10 2010

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-36606 LA
12 JAMBERTON INC. doing business)	<u>STIPULATION</u>
13 as Right Start Lending; and)	<u>AND</u>
14 MICHAEL TON, individually and as)	<u>AGREEMENT</u>
15 designated officer of Jamberton Inc.,)	
16 Respondents,)	

17 It is hereby stipulated by and between Respondents
18 JAMBERTON INC., a corporate real estate broker, and MICHAEL TON,
19 individually and as designated officer of JAMBERTON INC.
20 (sometimes collectively referred to as "Respondents"), and the
21 Complainant, acting by and through Elliott Mac Lennan, Counsel
22 for the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation ("Accusation") filed on
24 April 26, 2010, in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondents
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. Respondents have received, read and understand 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. Respondents 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 Respondents hereby freely and voluntarily withdraw said Notice of
14 Defense. Respondents acknowledge that they understand that by
15 withdrawing said Notice of Defense they thereby waive their right
16 to 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 they will waive other rights
19 afforded to them in connection with the hearing such as the right
20 to present evidence in their defense the right to cross-examine
21 witnesses.
22

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation. In the interest of
25 expedience and economy, Respondents choose not to contest these
26 allegations, but to remain silent and understand that, as a
27

1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

6 5. This Stipulation and Respondents' decision not to
7 contest the Accusation is made for the purpose of reaching an
8 agreed disposition of this proceeding and is expressly limited to
9 this proceeding and any other proceeding or case in which the
10 Department of Real Estate ("Department"), the state or federal
11 government, or any agency of this state, another state or federal
12 government is involved, and otherwise shall not be admissible in
13 any other criminal or civil proceedings.

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

25 7. The Order or any subsequent Order of the Real
26 Estate Commissioner made pursuant to this Stipulation shall not
27

1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for Accusation in this proceeding but do
5 constitute a bar, estoppel and merger as to any allegations
6 actually contained in the Accusations against Respondents herein.

7 8. Respondents understand that by agreeing to this
8 Stipulation, Respondents agree to pay, pursuant to Business and
9 Professions Code Section 10148, the cost of audit which led to
10 this disciplinary action. The amount of said cost for the audit
11 is \$3,451.50.

12 9. Respondents have received, read, and understand the
13 "Notice Concerning Costs of Subsequent Audit". Respondents
14 further understand that by agreeing to this Stipulation, the
15 findings set forth below in the Determination of Issues become
16 final, and the Commissioner may charge Respondents for the cost
17 of any subsequent audit conducted pursuant to Business and
18 Professions Code Section 10148 to determine if the violations
19 have been corrected. The maximum cost of the subsequent audit
20 will not exceed \$3,451.50.

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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
3

I.

4 The conduct of JAMBERTON INC., and MICHAEL TON, as
5 described in Paragraph 4, above, is in violation of Sections
6 10085, 10145, 10146, 10148 and 10240 of the Business and
7 Professions Code ("Code") and Sections 2725, 2831, 2831.1, 2970
8 and 2972 of Title 10, Chapter 6 of the California Code of
9 Regulations ("Regulations") and is a basis for the suspension or
10 revocation of Respondents' licenses and license rights as a
11 violation of the Real Estate Law pursuant to Code Section
12 10177(d).
13

II.

14 The conduct of MICHAEL TON, as described in Paragraph
15 4, constitutes a failure to keep JAMBERTON INC. in compliance
16 with the Real Estate Law during the time that he was the officer
17 designated by a corporate broker licensee. This conduct is a
18 violation of Code Section 10159.2 and is a basis for the
19 suspension or revocation of Respondent's license therein,
20 pursuant to Code Section 10177(h).
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

JAMBERTON INC., and MICHAEL TON under the Real Estate Law are
suspended for a period of sixty days from the effective date of
this Decision; provided, however, that if Respondents request,
all sixty days of said suspension (or a portion thereof) shall be
stayed upon condition that:

1. Respondents each pay a monetary penalty pursuant to
Section 10175.2 of the Business and Professions Code at the rate
of \$83.33 per day for each day of the suspension for a monetary
penalty of \$5,000 each or a total monetary penalty of \$10,000.

2. Said payment shall be in the form of a cashier's
check or certified check made payable to the Recovery Account of
the Real Estate Fund. Said check must be received by the
Department prior to the effective date of the Decision in this
matter.

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

4. If Respondents fail to pay the monetary penalty in
accordance with the terms of the Decision, the Commissioner may,
without a hearing, order the immediate execution of all or any

///

1 part of the stayed suspension, in which event the Respondents
2 shall not be entitled to any repayment or credit, prorated or
3 otherwise, for money paid to the Department under the terms of
4 this Decision.

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

10 II.

11 Pursuant to Section 10148 of the Business and
12 Professions Code, Respondents JAMBERTON INC. and MICHAEL TON
13 shall pay the Commissioner's reasonable cost for (a) the audit
14 which led to this disciplinary action (b) a subsequent audit to
15 determine if Respondents are now in compliance with the Real
16 Estate Law. The cost of the audit which led to this disciplinary
17 action is \$3,451.50. In calculating the amount of the
18 Commissioner's reasonable cost, the Commissioner may use the
19 estimated average hourly salary for all persons performing audits
20 of real estate brokers, and shall include an allocation for
21 travel time to and from the auditor's place of work. Said amount
22 for the prior and subsequent audits shall not exceed \$6,903.00.

23 Respondents shall pay such cost within 60 days of
24 receiving an invoice from the Commissioner detailing the
25 activities performed during the audit and the amount of time
26 spent performing those activities.
27

1 The Commissioner may suspend the licenses of
2 Respondents pending a hearing held in accordance with Section
3 11500, et seq., of the Government Code, if payment is not timely
4 made as provided for herein, or as provided for in a subsequent
5 agreement between the Respondent and the Commissioner. The
6 suspension shall remain in effect until payment is made in full
7 or until Respondents enter into an agreement satisfactory to the
8 Commissioner to provide for payment, or until a decision
9 providing otherwise is adopted following a hearing held pursuant
10 to this condition.

11 III.

12 All licenses and licensing rights of Respondent MICHAEL
13 TON are indefinitely suspended unless or until Respondent
14 provides proof satisfactory to the Commissioner, of having taken
15 and successfully completed the continuing education course on
16 trust fund accounting and handling specified in paragraph (3) of
17 subdivision (a) of Section 10170.5 of the Business and
18 Professions Code. Proof of satisfaction of this requirement
19 includes evidence that respondent has successfully completed the
20 trust fund account and handling continuing education course
21 within 120 days prior to the effective date of the Decision in
22 this matter.

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IV.

1 Respondent MICHAEL TON shall within six (6) months from
2
3 the effective date of the Decision herein, take and pass the
4 Professional Responsibility Examination administered by the
5 Department including the payment of the appropriate examination
6 fee. If Respondent fails to satisfy this condition, the
7 Commissioner may order suspension of Respondent's license until
8 Respondent passes the examination.

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11 DATED: 5-13-10

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

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14 * * *

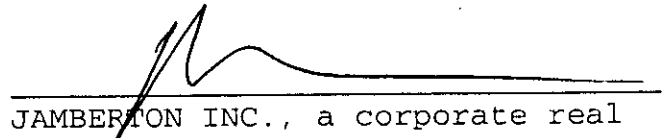
15 EXECUTION OF THE STIPULATION

16 We have read the Stipulation. Its terms are understood
17 by us and are agreeable and acceptable to us. We understand that
18 we are waiving rights given to us by the California
19 Administrative Procedure Act (including but not limited to
20 Sections 11506, 11508, 11509 and 11513 of the Government Code),
21 and we willingly, intelligently and voluntarily waive those
22 rights, including the right of requiring the Commissioner to
23 prove the allegations in the Accusation at a hearing at which we
24 would have the right to cross-examine witnesses against us and to
25 present evidence in defense and mitigation of the charges.
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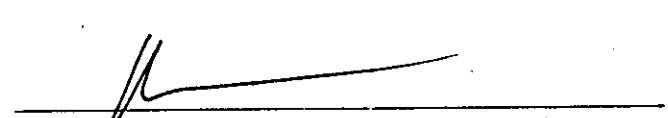
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Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation. Respondents shall forward the original signed signature page to Elliott Mac Lennan.

DATED: 6/29/10


JAMBERTON INC., a corporate real estate broker,
BY: MICHAEL TON, D.O., Respondent

DATED: 6/29/10

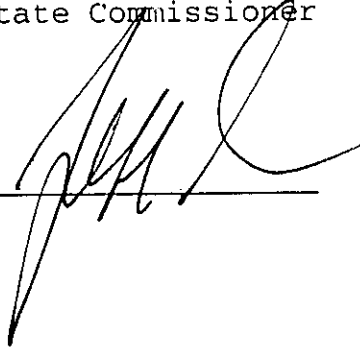

MICHAEL TON individually and as designated officer of JAMBERTON INC., Respondent

* * *

1 The foregoing Stipulation and Agreement is hereby
2
3 adopted as my Decision as to Respondents JAMBERTON INC. and
4 MICHAEL TON, individually and as designated officer of JAMBERTON
5 INC. and shall become effective at 12 o'clock noon on
6 October 15, 2010.

7 IT IS SO ORDERED 8-12, 2010.

8
9 JEFF DAVI
10 Real Estate Commissioner

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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 26 2010

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

11 In the Matter of the Accusation of)	No. H-36606 LA
12)	
13 JAMBERTON INC. doing business)	<u>A C C U S A T I O N</u>
14 as Right Start Lending; and)	
15 MICHAEL TON, individually and as)	
16 designated officer of Jamberton Inc.,)	
17 Respondents.)	
)	
)	

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against JAMBERTON INC. dba Right Start Lending, and MICHAEL TON,
21 individually and as designated officer of Jamberton Inc., alleges
22 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 JAMBERTON INC. (JI) and
4 MICHAEL TON (TON).
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 Licensing

3.

11 A. At all times mentioned, JI and TON were licensed or
12 had license rights issued by the Department of Real Estate
13 (Department) as real estate brokers. JI was originally licensed
14 as a corporate real estate broker on July 29, 2007. TON was
15 originally licensed as a real estate broker on May 29, 2007 and
16 as a real estate salesperson on November 28, 2005.
17

18 B. At all times material herein, JI was licensed by
19 the Department as a corporate real estate broker by and through
20 TON, pursuant to Code Sections 10211 and 10159.2 for supervising
21 the activities requiring a real estate license conducted on
22 behalf of JI.

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Brokerage

4.

At all times mentioned, in the City of Anaheim and County of Orange, Respondents JI and TON, acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(d) and 10131.2, dba Right Start Lending.

Respondents, pursuant to Code Section 10131(d), engaged in the business of:

a. Mortgage Loan Brokerage: Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance; and

b. Loan Modification Brokerage. Respondents solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments of the terms of their home loans including, but not limited to, repayment plans, forbearance, partial claims, and principal/interest, foreclosure prevention and short sales.

c. Advance Fee Brokerage. In addition, Respondents demanded, charged and collected advance fees including "up front fees" for processing loan modifications and for negotiating with lenders.

1 (b) With reference to the lack of an advance fee
2 agreement, JI failed to provide a complete description of
3 services to be rendered to each homeowner, including but not
4 limited to Kevin Lobb, in 10 point type font and failed to
5 provide an allocation and disbursement of the amount collected as
6 the advance fee, in violation of Code Section 10146 and
7 Regulation 2972.

8 (c) Commingled trust funds with JI's personal funds by
9 depositing trust funds in the form of advance fees collected for
10 loan modifications from homeowners into JI's general operating
11 account, instead of depositing trust funds into a properly
12 designated trust account for that purpose, in violation of Code
13 Sections 10145 and 10176(e) and Regulation 2832.

14 (d) Failed to maintain a control record in the form of
15 a columnar record in chronological order of all trust funds
16 including advance fees collected, in connection with loan
17 modifications, in violation of Code Section 10145 and Regulation
18 2831.

19 (e) Failed to maintain a separate record for each
20 homeowner-beneficiary or transaction, thereby failing to account
21 for all trust funds in the form of advance fees collected, in
22 violation of Code Section 10145 and Regulation 2831.1.

23 (f) (1) Failed to provide or retain a true and correct
24 copy of a Department of Real Estate approved Mortgage Loan
25 Disclosure Statement signed by the broker for borrowers P. & R.
26
27

1 Michels, Dorothy Healy, V. Rumbaoa, M. & H. Castro and A & V
2 Zepeda, in violation of Code Section 10240 and Regulation 2840.
3 The aforesaid borrowers were provided with incomplete Good Faith
4 Estimates only and not provided with Mortgage Loan Disclosure
5 Statements; and

6 (f) (2) Failed to provide or retain a true and correct
7 copy of a Good Faith Estimate that satisfies the requirements of
8 the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A
9 2601 et seq.), that (1) Truth-In-Lending Disclosures; and (2) a
10 clear and conspicuous statement on the face of the document
11 stating that the Good Faith Estimate does not constitute a loan
12 commitment; and, further sets forth all applicable disclosures
13 including but not limited to (3) rebates by the lenders outside
14 of closing for the aforesaid borrowers, in violation of Code
15 Section 10240(c).

16 (g) After notice and subpoena on April 29, 2009, failed
17 to retain all records of JI's activity during the audit period
18 requiring a real estate broker license, in violation of Code
19 Section 10148. JI and TON performed approximately eighty (80)
20 loan modifications for economically distressed homeowner-
21 borrowers.

22 (h) TON had no system in place for regularly
23 monitoring his compliance with the Real Estate Law especially in
24 regard to establishing policies to review and handle:

25 ///

26 ///

27 ///

1 (1) trust funding handling procedures for loan
modification services;
2 (2) mortgage loan disclosures; and
3 (3) compliance procedures for loan modification
4 services, in violation of Code Sections 10159.2, 10177(h) and
5 Regulation 2725.
6

7 Disciplinary Statute and Regulations

8 8.

9 The conduct of Respondents JI and TON described in
10 Paragraph 7, above, violated the Code and the Regulations as set
11 forth below:

12 PARAGRAPH

PROVISIONS VIOLATED

13 7(a)

Code Section 10085 and Regulation
14 2970

15
16 7(b)

Code Section 10146 and Regulation
17 2972

18
19 7(c)

Code Sections 10145 and 10176(e)
20 and Regulation 2832

21
22 7(d)

Code Section 10145 and Regulation
23 2831

24
25 7(e)

Code Section 10145 and Regulation
26 2831.1
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7(f)

Code Sections 10240 and 10240(c)
and Regulation 2840

7(g)

Code Section 10148

7(j)

Code Sections 10159.2 and 10177(h)
and Regulation 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of JI and TON, under the provisions of Code Sections 10176(e), 10177(d) and/or 10177(g) and 10177(h).

9.

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

10.

The conduct of Respondents JI and TON constitutes a failure to act in a fiduciary capacity with respect to the forenamed homeowners and is cause for discipline of the real estate license and license rights of Respondents JI and TON pursuant to Code Sections 10176(i) and 10177(g).

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1 The overall conduct of Respondent TON 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 JI as required by
5 Code Section 10159.2, and to keep JI in compliance with the Real
6 Estate Law, and is cause for discipline of the real estate
7 license and license rights of TON pursuant to the provisions of
8 Code Sections 10177(h), 10177(d) and 10177(g).

9 WHEREFORE, Complainant prays that a hearing be
10 conducted on the allegations of this Accusation and that upon
11 proof thereof, a decision be rendered imposing disciplinary
12 action against the license and license rights of Respondents
13 JAMBERTON INC. and MICHAEL TON, under the Real Estate Law (Part 1
14 of Division 4 of the Business and Professions Code) and for such
15 other and further relief as may be proper under other applicable
16 provisions of law.
17

18 Dated at Los Angeles, California

19 this 7 day of April 2010.

20 
21 Deputy Real Estate Commissioner

22
23 cc: Jamberton Inc.
24 c/o Michael Ton D.O.
25 Robin Trujillo
26 Sacto
27 Ginsheng
Audits - Dorcas Cheng