

BEFORE THE DEPARTMENT OF REAL ESTATE

FILED

STATE OF CALIFORNIA

MAY 25 2011

* * * *

DEPARTMENT OF REAL ESTATE

BY: 

In the Matter of the Accusation of)
JTL MORTGAGE & REALTY INC.,)
and JORGE TALAVERA, indivi-)
dually, and as designated)
officer of JTL Mortgage &)
Realty Inc.,)
Respondents.)

No. H-36868 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on February 22, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

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FINDINGS OF FACT

I

On October 13, 2010, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondents' last known mailing addresses on file with the Department on October 18, 2010. On November 12, 2010, a second attempt at service was made by regular mail to Respondents at the same address.

Respondents failed to file a Notice of Defense within the time required by Section 11506 of the Government Code. Respondent's default was entered herein on February 22, 2011.

II

Respondent JTL MORTGAGE & REALTY INC. is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate corporation.

III

Respondent JORGE TALAVERA, is presently licensed and/or has license rights under the Real Estate Law as a real estate broker, and was at all times relevant herein the designated officer for Respondent JTL Mortgage & Realty Inc.

IV

The evidence established that on or about March 31, 2010, the Department completed an audit examination of the books and records of Respondent JTL MORTGAGE & REALTY INC. covering a period from December 1, 2006, through November 30, 2009. The audit examination revealed violations of the Code and the Regulations as set forth below:

(a) Respondent failed to establish and maintain a trust account at a bank or other recognized financial institution in the name of the broker in violation of Code Section 10146.

(b) Respondent contracted to collect and collected advance fees pursuant to the provisions of a document which constitutes an advance fee agreement within the meaning of Code Section 10085 without submitting the written agreement to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970 of Title 10, Chapter 6, Code of Regulations ("Regulations").

(c) Respondent failed to deposit the advance fees described in Paragraph IV(b), above, into a real estate broker trust account in violation of Code Section 10146 and Section 2972 of the Regulations.

(d) Respondent commingled trust funds with general funds in violation of Code Sections 10176(e) and 10145, and Sections 2832 of the Regulations.

(e) Respondent failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees received, deposited and disbursed, in violation of Code Section 10145 and Section 2831 of the Regulations.

(f) Respondent failed to maintain a separate record for each beneficiary of trust funds or transaction, thereby failing to account for all advance fees collected, in violation of Code Section 10145 and Section 2831.1 of the Regulations.

(g) Respondent failed to perform a monthly reconciliation of the total balance of separate beneficiary or transaction records in violation of Code Section 10145 and Section 2831.2 of the Regulations.

(h) Respondent converted trust funds deposited into its general business account to be used for its general operating expenses thereby causing the amount of trust funds contained in the account to fall below the amount deposited into the account in violation of Sections 10145 and 10176(i).

V

The evidence established that the violations set forth in Paragraph IV, above, constitute cause for the suspension or revocation of the real estate and license rights of JTL MORTGAGE & REALTY INC. under the provisions of Code Sections 10177(d) for violation of the Real Estate Law, 10177(g) for negligence or incompetence, 10176(e) for commingling, and 10176(i) for fraud or dishonest dealing.

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VI

The evidence established that Respondent JORGE TALAVERA, as the officer designated by Respondent JTL MORTGAGE & REALTY INC. pursuant to Code Section 10211, was responsible for the supervision and control of the activities conducted on behalf of Respondent JTL MORTGAGE & REALTY INC. by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

VII

The evidence established that the conduct, act and omissions of Respondent JORGE TALAVERA in allowing Respondent JTL MORTGAGE & REALTY INC. to violate the Real Estate Law, as set forth in Paragraph IV, above, constitutes a failure by Respondent JORGE TALAVERA to exercise supervision and control over the activities of the corporate licensee as required by Code Section 10159.2, and is cause to suspend or revoke the licenses and license rights of Respondent JORGE TALAVERA under Code Sections 10177(d), 10177(g) and 10177(h).

DETERMINATION OF ISSUES

I

Respondent JTL MORTGAGE AND REALTY INC. is in violation of Code Sections 10145 and 10146, and Sections 2970, 2972, 2831, 2831.1 and 2831.2 of the Regulations, as set forth in Paragraph VI, above, which justifies the suspension or revocation of its licenses and/or license rights under the provisions of Code Sections 10177(d) for violation of the Real Estate Law, 10177(g) for negligence or incompetence, 10176(e) for commingling and 10176(i) for fraud or dishonest dealing.

II

Respondent JORGE TALAVERA violated Code Section 10159.2, which justifies the suspension or revocation of his licenses and/or license rights under the provisions of Code Section 10177(d), 10177(g) and 10177(h).

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III

The standard of proof applied was clear and convincing proof to a reasonable certainty.

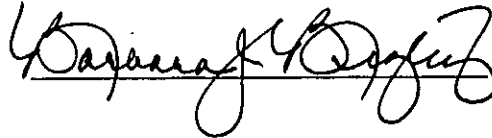
ORDER

The licenses and license rights of Respondent JTL MORTGAGE & REALTY INC., and of Respondent JORGE TALAVERA, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock
noon JUN 14 2011

DATED: 5/19/11

Barbara J. Bigby
Acting Real Estate Commissioner



1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6982

FILED

FEB 22 2011

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)

NO. H-36868 LA

JTL MORTGAGE & REALTY INC., and)

JORGE TALAVERA, individually,)

DEFAULT ORDER

and as designated officer of)

JTL Mortgage & Realty Inc.,)


Respondents.)

Respondents, JTL MORTGAGE & REALTY INC. and JORGE
TALAVERA, having failed to file a Notice of Defense within the
time required by Section 11506 of the Government Code, is now
in default. It is, therefore, ordered that a default be
entered on the record in this matter.

IT IS SO ORDERED February 22, 2011.

JEFF DAVI

Real Estate Commissioner


By: DOLORES WEEKS
Regional Manager

1 CHERYL D. KEILY SBN# 94008
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6905

FILED

OCT 18 2010

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) No. H-36868 LA
12)
13 JTL MORTGAGE & REALTY INC.,)
14 and JORGE TALAVERA, indivi-) A C C U S A T I O N
15 dually, and as designated)
16 officer of JTL Mortgage &)
17 Realty Inc.,)
18)
19 Respondents.)
20)
21)
22)
23)
24)
25)
26)
27)

18 The Complainant, Joseph Aiu, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against JTL MORTGAGE & REALTY INC. ("JTL") and JORGE TALAVERA
21 ("TALAVERA"), individually, and as designated broker-officer of
22 JTL, is informed and alleges as follows:
23

24 1.

25 The Complainant, Joseph Aiu, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 in his official capacity.

2.

Respondent JTL is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate corporation acting by and through Respondent TALAVERA as its designated broker-officer.

3.

Respondent TALAVERA is presently licensed and/or has license rights under the Real Estate Law as a real estate broker and designated broker-officer of Respondent JTL.

4.

All further references to respondents herein include Respondents JTL and TALAVERA, and also include officers, directors, employees, agents and real estate licensees employed by or associated with JTL and TALAVERA, and who at all times herein mentioned were engaged in the furtherance of the business or operations of Respondents JTL and TALAVERA, and who were acting within the course and scope of their authority and employment.

5.

At all times relevant herein Respondent TALAVERA, as the officer designated by Respondent JTL pursuant to Section 10211 of the Code, was responsible for the supervision and control of the activities conducted on behalf of Respondent JTL by its officers and employees as necessary to secure full

1 compliance with the Real Estate Law as set forth in Section
2 10159.2 of the Code.

3 FIRST CAUSE OF ACCUSATION
4 (Audit Violations)

5 6.

6 At all times herein mentioned, Respondents JTL and
7 TALAVERA engaged in the business of soliciting borrowers or
8 lenders, or negotiating loans, secured directly or collaterally
9 by liens on real property on behalf of another or others within
10 the meaning of Code Section 10131(d), and in the business of an
11 advance fee brokerage, within the definition of Code Section
12 10131.2, in that, for fees received in advance, as well as at
13 the conclusion of transactions, Respondents performed loan
14 modification services with respect to loans which were secured
15 by liens on real property.

16 7.

17 On or about March 31, 2010, the Department completed
18 an audit examination of the books and records of JTL pertaining
19 to the real estate activities described in Paragraph 6, above,
20 covering a period from December 1, 2006, through November 30,
21 2009. The audit examination revealed violations of the Code and
22 the Regulations, as set forth in the following paragraphs, and
23 more fully discussed in Audit Report No. SD 090011 along with
24 the exhibits and work papers attached to the audit report:

25 (a) Respondent failed to establish and maintain a
26 trust account at a bank or other recognized financial
27

1 institution in the name of the broker in violation of Code
2 Section 10146.

3 (b) Respondent contracted to collect and collected
4 advance fees pursuant to the provisions of a document which
5 constitutes an advance fee agreement within the meaning of Code
6 Section 10085 without submitting the written agreement to the
7 Commissioner ten days before using it in violation of Code
8 Section 10085 and Section 2970 of the Regulations.

9 (c) Respondent failed to deposit the advance fees
10 described in Paragraph 7(b), above, into a real estate broker
11 trust account in violation of Code Section 10146 and Section
12 2972 of the Regulations.

13 (d) Respondent commingled trust funds with general
14 funds in violation of Code Sections 10176(e) and 10145, and
15 Sections 2832 of the Regulations.

16 (e) Respondent failed to maintain a control record in
17 the form of a columnar record in chronological order of all
18 trust funds including advance fees received, deposited and
19 disbursed, in violation of Code Section 10145 and Section 2831
20 of the Regulations.

21 (f) Respondent failed to maintain a separate record
22 for each beneficiary of trust funds or transaction, thereby
23 failing to account for all advance fees collected, in violation
24 of Code Section 10145 and Section 2831.1 of the Regulations.

25 (g) Respondent failed to perform a monthly
26 reconciliation of the total balance of separate beneficiary or
27

1 transaction records in violation of Code Section 10145 and
2 Section 2831.2 of the Regulations.

3 (h) Respondent converted trust funds deposited into
4 its general business account to be used for its general
5 operating expenses thereby causing the amount of trust funds
6 contained in the account to fall below the amount deposited
7 into the account in violation of Sections 10145 and 10176(i).

8 DISCIPLINE STATUTES AND REGULATIONS

9 8.

10 The conduct of Respondents JTL and TALAVERA described
11 in Paragraph 7, above, violated the Code and the Regulations as
12 set forth below:

13 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14 7(a)	Code Section 10146
15	
16 7(b)	Code Section 10085 and Section
17	2970 of the Regulations
18 7(c)	Code Sections 10146 and Section
19	2972 of the Regulations
20	
21 7(d)	Code Section 10176(e) and 10145
22	and Section 2832 of the
23	Regulations
24 7(e)	Code Sections 10145 and Section
25	2831 of the Regulations
26	
27	

1 7(f) Code Section 10145 and Section
2 2831.1 of the Regulations

3 7(g) Code Section 10145 and Section
4 2831.2 of the Regulations

5 7(h) Code Section 10145 and 10176(i)

6
7 The foregoing violations constitutes cause for the
8 suspension or revocation of the real estate license and license
9 rights of JTL and TALAVERA under the provisions of Code Sections
10 10177(d) for violation of the Real Estate Law and/or 10177(g)
11 for negligence or incompetence.

12 SECOND CAUSE OF ACCUSATION
13 (Failure to Supervise)

14 9.

15 Complainant hereby incorporates the allegations set
16 forth in Paragraphs 1 through 8, above.

17 10.

18 Respondent TALAVERA ordered, caused, authorized or
19 participated in the conduct of Respondent JTL, as is alleged in
20 this Accusation.

21 11.

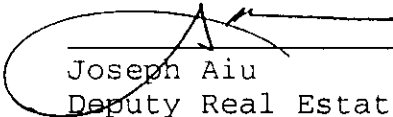
22 The conduct, acts and/or omissions, of Respondent
23 TALAVERA, in allowing Respondent JTL to violate the Real Estate
24 Law, as set forth above, constitutes a failure by TALAVERA, as
25 the officer designated by a corporate broker licensee, to
26 exercise the supervision and control over the activities of JTL,
27

1 as required by Code Section 10159.2, and is cause to suspend or
2 revoke the real estate licenses and license rights of TALAVERA
3 under Code Sections 10177(d), 10177(g) and/or 10177(h).

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all the licenses and license rights of Respondent
8 JTL MORTGAGE & REALTY INC. and Respondent JORGE TALAVERA,
9 individually, and as designated broker-officer of Respondent JTL
10 Mortgage & Realty Inc., under the Real Estate Law, and for such
11 other and further relief as may be proper under other applicable
12 provisions of law.

13 Dated at San Diego, California

14 this 13 day of October, 2010.
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18

19 
20 Joseph Aiu
21 Deputy Real Estate Commissioner
22
23
24
25

26 cc: JTL Mortgage & Realty Inc.
27 JORGE TALAVERA
Joseph Aiu
Sacto.