FILED 1 ELLIOTT MACLENNAN, SBN 66674 Department of Real Estate 320 West 4th Street, Ste. 350 AUG 26 2011 Los Angeles, California 90013-1105 3 DEPARTMENT DE REAL ESTATE Telephone: (213) 576-6911 (direct) (213) 576-6982 (office) -or-5 BEFORE THE DEPARTMENT OF REAL ESTATE 8 STATE OF CALIFORNIA 9 10 In the Matter of the Accusation of 11 12 No. H- 37480 LA LEADERSHIP GROUP INC., doing business as LR Financial Consulting; DONALD GRANT CHERRY, 13 individually and as designated officer of Leadership Group ACCUSATION | Inc.; and LUIS RAUL SANCHEZ, 14 15 Respondents. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State 16 of California, for cause of Accusation against LEADERSHIP GROUP INC., doing business as 17 LR Financial Consulting, DONALD GRANT CHERRY, individually and as designated officer 18 of Leadership Group Inc., and LUIS RAUL SANCHEZ alleges as follows: 19 20 1. The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real 21 Estate Commissioner of the State of California, makes this Accusation. 22 23 2. All references to the "Code" are to the California Business and Professions Code 24 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations. 25 26 /// 27

#### License Status

A. LEADERSHIP GROUP INC. (LGI). At all times mentioned, Respondent LGI was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. On December 10, 2007, LGI was originally licensed as a corporate real estate broker. On February 13, 2008, at LGI's request, LGI's corporate license was withdrawn and cancelled. On July 30, 2009, LGI was re-licensed as a corporate real estate broker. Respondent LGI was authorized to act by and through Respondent DONALD GRANT CHERRY as LGI's designated broker pursuant to Business and Professions Code (hereinafter Code) Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. DONALD GRANT CHERRY (CHERRY). At all times mentioned, Respondent CHERRY was licensed or had license rights issued by the Department as a real estate broker. On June 23, 2001, CHERRY was originally licensed as a real estate broker. On November 20, 2007, CHERRY became the designated officer of LGI.

C. LUIS RAUL SANCHEZ (SANCHEZ). At all times mentioned, Respondent SANCHEZ was licensed or had license rights issued by the Department as a real estate salesperson. On June 25, 2010, SANCHEZ was originally licensed as a real estate salesperson.

D. LGI is owned by SANCHEZ, and is LGI's president.

### **Brokerage**

4.

At all times mentioned, in the City of Rancho Cucamonga, County of San Bernardino, LGI and CHERRY acted as real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(d). Respondents LGI and CHERRY 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.

B. Code Section 10131(d) and 10131.2. Respondents LGI and CHERRY advertised, solicited and offered to provide loss mitigation and loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or interest, extenuations, foreclosure prevention and short sales.

C. Code Section 10132. Respondent SANCHEZ is a real estate salesperson employed by LGI.

## FIRST CAUSE OF ACCUSATION (Audit Examination)

5.

On April 29, 2011, the Department completed an audit examination of the books and records of LGI limited to the financial consulting and loan modification activities only, as described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on December 10, 2007 and ending on July 31, 2010. 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 090190 and the exhibits and work papers attached to said audit report.

#### **Trust Accounts**

6.

At all times mentioned, in connection with the activities described in Paragraph 4, and the audit period of December 10, 2007 to July 31, 2010, LGI and CHERRY did not maintain a trust account.

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In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents LGI, CHERRY or SANCHEZ, acted in violation of the Code and the Regulations in which Respondents:

- (a) (1) LGI performed acts for which a real estate license is required, including mortgage loan and loan modification activities including financial consultation for borrowers Leomides Martinez and Carlos Romero. LGI conducted licensed activities in the interregnum between LGI's original licensure on December 10, 2007 and re-licensure on July 30, 2009, to wit, between February 13, 2008 until July 29, 2009, in violation of Code Section 10130.
- (a) (2) LGI and CHERRY, between November 2009 until June 25, 2010, permitted SANCHEZ, at that time an unlicensed person, not licensed until June 25, 2010, to conduct licensed activities, in violation of Code Section 10137.
- (a) (3) SANCHEZ conducted licensed activities between November 2009 until June 25, 2010, in violation of Code Section 10130.
- (b) LGI and CHERRY failed to notify the Department of the employment of salesperson SANCHEZ, in violation of Code Section 10161.8 and Regulation 2752.
- (c) LGI and CHERRY failed to maintain a signed broker salesperson agreement with salesperson SANCHEZ, in violation of Regulation 2726.
- (d) CHERRY failed to exercise reasonable control and supervision over the activity of LGI to secure full compliance with the Real Estate Law. Additionally, CHERRY had no system in place for regularly monitoring his compliance with the Real Estate Law especially in regard to establishing systems, policies and procedures to loan modification handling especially including advance fee deposits received from homeowner-applicants seeking loan modification services, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725.

#### Discipline Statutes and Regulations

8.

The conduct of Respondents LGI, CHERRY and SANCHEZ, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

5	<u>PARAGRAPH</u>	PROVISIONS VIOLATED
6	7(a)(1)	Code Section 10130 (LGI)
7	7(a)(2)	Code Section 10137 (LGI and CHERRY)
8.	7(a)(3)	Code Section 10130 SANCHEZ)
9	7(b)	Code Section 10161.8 and Regulation 2752 (LGI and CHERRY)
10	7(c)	Regulation 2726 (LGI and CHERRY)
11	7(d)	Code Section 10159.2 and 10177(h) and Regulation 2725 (CHERRY)

The foregoing violations constitutes cause for discipline of the real estate license and license rights of Respondents LGI, CHERRY and SANCHEZ, as the case may be, under the provisions of Code Sections 10130, 10137, 10177(d) and/or 10177(g) and 10177(h) as to CHERRY.

### SECOND CAUSE OF ACCUSATION

(Loan Modification Services)

9.

At all times mentioned herein, Respondents LGI, CHERRY and SANCHEZ engaged in the business of a loan modification services and an advance fee brokerage and sales activity requiring a real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2.

#### General Allegations

10.

During the audit period and continuing thereafter to date, LGI, CHERRY and SANCHEZ, solicited economically distressed homeowners facing foreclosure and eviction from their homes, offered financial consulting, loss mitigation and loan modification services, charged,

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claimed and collected advance fees for services not rendered, for fees not refunded, and for loan modifications not obtained.

#### Specific Allegations

11.

Respondents LGI, CHERRY and SANCHEZ offered loss mitigation and loan modification services to homeowner-applicants seeking downward adjustments to, or payment extenuations of their home mortgages. Respondents collected advanced fees from said homeowner-applicants without possessing a pre-approved advance fee agreement from the Department until April 3, 2009. Thereafter, Respondents failed to obtain the loan modification services to the borrowers.

Table: Advance Fees Collected for Loan Modification Services - Audit Related

Complainant:	Contract	Advance Fee Paid	Loan Mod	Advance Fee Refund?
Leomides Martinez	11/10/08	\$ 2,000.00	Not obtained	None
·			Not	
Carlos Romero	06/22/09	\$ 1,500.00	obtained	None
Total		\$ 3,500.00		

24 | //. 25 | //. Table: Advance Fees Collected for Loan Modification Services - Not Audit Related

	Contract		Loan Mod	Advance Fee
Complainant:	Date	Advance Fee Paid	Status	Refund?
			Not	
Leopoldo Santoyo	03/19/10	\$ 1,000.00	obtained	None
			Not	
Elva Cano	08-29-08	\$ 2,225.00	obtained	None
			Not	
Alejandro Romero	07/21/09	\$ 2,396.00	obtained	None
			Not	
Jose Equihua	03/12/09	\$ 2,250.00	obtained	None
Total		\$ 7,871.00		

### Loan Modification Violations and Disciplinary Statutes

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The conduct of Respondents LGI, CHERRY and SANCHEZ violated the Code and the Regulations as set forth below.

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- 13(a) Code Section 10176(a) for substantial misrepresentation of loan modification services contracted for but not provided.
- 13(b) Code Section 10176(b) for making false promises of a character likely to influence, persuade or induce the tabled homeowner-applicants to pay advance fees for loan modification services contracted and paid for but not provided.
- 13(c) Code Section 10177(d) for violation of the Real Estate Law, Code Section 10085 and Regulation 2970.

13(d) Code Section 10177(i) and/or 10177(j)) for fraud and/or dishonest dealing.
13(e) Code Section 10177(g) for negligence.

# THIRD CAUSE OF ACCUSATION (Negligence)

14.

The overall conduct of Respondents LGI and CHERRY constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

# FOURTH CAUSE OF ACCUSATION (Fiduciary Duty)

15.

The conduct of Respondents LGI and CHERRY constitute a breach of fiduciary duty, owed the homeowners of good faith, trust, confidence and candor, in violation of Code Sections 10176(i) and/or 10177(g) and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

## FIFTH CAUSE OF ACCUSATION (Supervision and Compliance)

16.

The overall conduct of Respondent CHERRY constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of LGI, including it officers and employees, as required by Code Section 10159.2 and Regulation 2725, and to keep LGI in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents LEADERSHIP GROUP INC., DONALD GRANT CHERRY and LUIS RAUL SANCHEZ, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including restitution of advanced fees paid for unearned loan modifications.

Dated at Los Angeles, California

cc:

this 25 August 2011.

Seputy Real Estate Commissioner

Leadership Group Inc.
c/o Donald Grant D.O.
Maria Suarez
Sacto
Enforcement - Elezar Galano
Audits - Chona Picayo