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**FILED**

OCT 19 2011

DEPARTMENT OF REAL ESTATE  
BY: James H. Demus

JAMES DEMUS, Counsel (SBN 225005)  
Department of Real Estate  
320 West Fourth St., #350  
Los Angeles, CA 90013

(213) 576-6982  
(213) 576-6910 (direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

No. H-37510 LA

APEX FINANCIAL & INVESTMENTS INC,  
dba Home Assistance & Relief and  
FRANCIS Y. CHOE, individually, and  
as designated officer of Apex  
Financial & Investments Inc,

FIRST AMENDED  
ACCUSATION

Respondents.

This Accusation amends the Accusation filed on  
September 8, 2011. The Complainant, Robin Trujillo, a Deputy  
Real Estate Commissioner of the State of California, for cause  
of Accusation against APEX FINANCIAL & INVESTMENTS INC, dba  
Home Assistance & Relief and FRANCIS Y. CHOE, individually, and  
as designated officer of Apex Financial & Investments Inc, is  
informed and alleges as follows:

///

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1. 1

2 The Complainant, Robin Trujillo, a Deputy Real Estate  
3 Commissioner of the State of California, makes this Accusation  
4 in her official capacity.

2. 5

6 APEX FINANCIAL & INVESTMENTS INC, ("APEX") is  
7 presently licensed and/or has license rights under the Real  
8 Estate Law (Part 1 of Division 4 of the Business and  
9 Professions Code, hereinafter "Code"), as a corporate real  
10 estate broker. APEX was initially licensed with the Department  
11 of Real Estate for the State of California ("Department") as a  
12 corporate real estate broker on March 3, 2003.

3. 13

14 FRANCIS Y. CHOE ("CHOE") is presently licensed and/or  
15 has license rights under the Real Estate Law, as a real estate  
16 broker. Since March 2, 2003, APEX has been licensed by the  
17 Department as a corporate real estate broker by and through  
18 CHOE, as the designated officer and broker responsible,  
19 pursuant to Code Section 10159.2 for supervising the activities  
20 requiring a real estate license conducted on behalf of APEX or  
21 by APEX's officers, agents and employees, including CHOE.

4. 22

23 On August 28, 2009, APEX filed Fictitious Business  
24 Name Statement with the Los Angeles Registrar-Recorder/  
25 County Clerk for "Home Assistance & Relief" ("HAR"). CHOE  
26 signed this statement on behalf of APEX.

27 ///

1 FIRST CAUSE FOR ACCUSATION

2 (Advance Fee Agreement)

3 5.

4 At all times material herein, Respondents APEX and  
5 CHOE were engaged in the business of, acted in the capacity of,  
6 advertised or assumed to act as real estate brokers in the  
7 State of California, within the meaning of Code Sections  
8 10131(d) and 10131.2, including soliciting borrowers,  
9 negotiating loans or performing services for borrowers and  
10 collecting or contracting for the collection of an advance fee,  
11 within the meaning of Code Section 10026.

12 6.

13 On or about September 24, 2008, in response to a  
14 television advertisement, Juan Parra and Erika Padilla  
15 ("Complainants") entered into an agreement with HAR, in which  
16 HAR agreed to negotiate a modification of the loan on  
17 Complainants property located at 443 W.93<sup>rd</sup> Street, Los Angeles,  
18 CA, in exchange for the payment of \$2,500 in advance fees.

19 7.

20 The agreement described in Paragraph 6 above,  
21 constitutes an advance fee agreement within the meaning of Code  
22 Section 10026. APEX and CHOE failed to submit the advance fee  
23 agreement described above to the Commissioner ten days before  
24 using it, in violation of Code Section 10085 and Section 2970  
25 of Title 10, California Code of Regulations ("Regulations").  
26 Said conduct, acts and/or omissions of Respondents APEX and  
27 CHOE constitutes cause to suspend or revoke the licenses and

1 license rights of APEX and CHOE pursuant to Code Sections  
2 10177(d) and/or 10177(g).

3 8.

4 The loan modification agreement described in  
5 paragraph 6 above used the fictitious business name of "Home  
6 Assistance & Relief" when APEX did have that fictitious  
7 business name licensed with the Department, in violation of  
8 Code Section 10159.5 and Regulation 2731. This provides cause  
9 for the suspension or revocation of the licenses and license  
10 rights of APEX and CHOE pursuant to Code Sections 10177(d)  
11 and/or 10177(g).

12 SECOND CAUSE FOR ACCUATION

13 (Audit Investigation)

14 9.

15 On September 20, 2011, the Department completed an  
16 audit examination of the books and records of APEX pertaining  
17 to the activities described in Paragraph 5 which require a real  
18 estate license. The audit examination covered a period of time  
19 from July 1, 2008 to June 30, 2011. The audit examination  
20 revealed violations of the Code and the Regulations as set  
21 forth in the following paragraphs, and as more fully discussed  
22 in Audit Report LA100186 and the exhibits and workpapers  
23 attached to said audit report.

24 TRUST ACCOUNT

25 10.

26 During the audit period APEX did not maintain a trust  
27 account.

1 VIOLATIONS OF THE REAL ESTATE LAW

2 11.

3 In the course of activities described in Paragraph 5  
4 above and during the examination period described in Paragraph  
5 9, Respondents APEX and CHOE acted in violation of the Code and  
6 the Regulations in that:

7 (a) APEX did not maintain a columnar record for  
8 advance fees collected for loan modification services, which  
9 were deposited into APEX's general account, in violation of  
10 Code Section 10145 and Regulation 2831.

11 (b) APEX collected advance fees from borrowers and  
12 deposited them in a general account, commingling them with  
13 APEX's funds, in violation of Code Sections 10145, 10146 and  
14 10176(e) and Regulation 2832.

15 (c) A Mortgage Loan Disclosure Statement ("MLDS")  
16 was not always contained in loan files provided for the audit,  
17 in violation of Code Section 10240 and Regulation 2840.

18 (d) The MLDS in some of the loan files examined did  
19 not include APEX's license number and/or the license number of  
20 the APEX representative who negotiated the loan, in violation  
21 of Code Section 10236.4(b).

22 (e) CHOE did not disclose his real estate license  
23 number and his National Mortgage Licensing System number on his  
24 business card, in violation of Code Section 10140.6(b) and  
25 Regulation 2773.

26 (f) CHOE was not aware that non-licensee Maria  
27 Hernandez was soliciting loan modifications and collecting

1 advance fees for loan modification transactions. This  
2 demonstrated a lack of responsibility by the corporate officer  
3 in charge, in violation of Code Section 10159.2 and Regulation  
4 2725.

5 12.

6 The conduct of Respondents APEX and CHOE, described  
7 in Paragraph 11, above, violated the Code and the Regulations  
8 as set forth below:

9 PARAGRAPH

PROVISIONS VIOLATED

10 11(a)

Code Section 10145 and Regulation  
11 2831

12 11(b)

Code Sections 10145, 10146 and  
13 10176(e) and Regulation 2832

14 11(c)

Code Section 10240 and Regulation  
15 2840

16 11(d)

Code Section 10236.4(b)

17 11(e)

Code Section 10140.6(b) and  
18 Regulation 2773

19 11(f)

Code Section 10159.2 and  
20 Regulation 2725 (CHOE)

21  
22 The foregoing violations constitute cause for the  
23 suspension or revocation of the real estate license and license  
24 rights of APEX and CHOE, under the provisions of Code Sections  
25 10176(e), 10177(d) and/or 10177(g), and CHOE under the  
26 provisions of Code Section 10177(h).  
27

The overall conduct of Respondent CHOE constituted a failure on his part, as an officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of APEX as required by Code Section 10159.2, and to keep APEX in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of CHOE pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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 all the licenses and license rights of Respondents APEX FINANCIAL & INVESTMENTS INC and FRANCIS Y. CHOE under the Real Estate Law, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California  
this 19 day of October, 2011.

  
Robin Trujillo  
Deputy Real Estate Commissioner

cc: APEX FINANCIAL & INVESTMENTS INC  
FRANCIS Y. CHOE  
Robin Trujillo  
Sacto.

**FILED**

SEP 08 2011

DEPARTMENT OF REAL ESTATE  
BY: Shirley A. H. Lewis

JAMES DEMUS, Counsel (SBN 225005)  
Department of Real Estate  
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21 by APEX's officers, agents and employees, including CHOE.

4. 4.

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25 County Clerk for "Home Assistance & Relief" ("HAR"). CHOE  
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22 using it, in violation of Code Section 10085 and Section 2970  
23 of Title 10, California Code of Regulations ("Regulations").  
24 Said conduct, acts and/or omissions of Respondents APEX and  
25 CHOE constitutes cause to suspend or revoke the licenses and  
26 license rights of APEX and CHOE pursuant to Code Sections  
27 10177(d) and/or 10177(g).

8.

The loan modification agreement described in paragraph 6 above used the fictitious business name of "Home Assistance & Relief" when APEX did have that fictitious business name licensed with the Department, in violation of Code Section 10159.5 and Regulation 2731. This provides cause for the suspension or revocation of the licenses and license rights of APEX and CHOE pursuant to Code Sections 10177(d) and/or 10177(g).

9.

The overall conduct of Respondent CHOE constituted a failure on her part, as an officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of APEX as required by Code Section 10159.2, and to keep APEX in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of CHOE pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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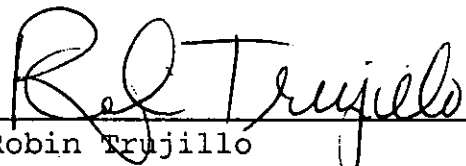
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1           WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all the licenses and license rights of  
5 Respondents APEX FINANCIAL & INVESTMENTS INC and FRANCIS Y.  
6 CHOE under the Real Estate Law, and for such other and further  
7 relief as may be proper under other applicable provisions of  
8 law.

9 Dated at Los Angeles, California

10 this 6 day of September, 2011

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13 \_\_\_\_\_  
14 Robin Trujillo  
15 Deputy Real Estate Commissioner  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 CC: APEX FINANCIAL & INVESTMENTS INC  
26 FRANCIS Y. CHOE  
27 Robin Trujillo  
Sacto.