

SACTO
Flag

FILED

AUG 01 2012

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-37568 LA
)	
<u>JMM FINANCIAL INC</u> , dba Home)	
<u>Solutions Financial</u> , <u>JOSE F.</u>)	
<u>CASARES</u> , individually, and as)	
former designated officer of)	
JMM Financial Inc, and MARTIN)	
MANUEL MARQUEZ,)	
)	
<u>Respondents.</u>		

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 , 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents JMM Financial Inc's ("JMM") and JOSE F. CASARES's ("CASARES") express admissions; (2) affidavits; and (3) other evidence.

FACTUAL FINDINGS

1.

On September 26, 2011, Maria Suarez 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 and regular mail, to Respondents' last known mailing addresses on file with the Department of Real Estate ("Department") on October 5, 2011.

2.

On , 2012, no Notice of Defense having been filed by JMM or CASARES within the time prescribed by Section 11506 of the Government Code, Respondents' defaults were entered herein.

3.

JMM presently has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a corporate real estate broker. JMM was initially licensed by the California Department of Real Estate ("Department") on December 28, 2006. On December 27, 2010, JMM's license expired. Pursuant to Code Section 10201, JMM retains renewal rights for two years. The Department holds jurisdiction over the lapsed license, pursuant to Code Section 10103.

4.

On December 28, 2006, HOME SOLUTIONS FINANCIAL (hereinafter "HSF") was registered with the Department as a fictitious business name for JMM.

5.

JOSE F. CASARES (hereinafter "CASARES") is presently licensed and/or has license rights under the Real Estate Law, as a real estate broker. He was designated officer of JMM from December 28, 2006 to December 27, 2010.

6.

Der Nersesian Transaction

On June 12, 2009, Aram Der Nersesian ("Der Nersesian") paid \$2,500 as an advance fee for HSF to perform services for Der Nersesian in connection with a loan secured by real property located at 23302 Beaumont Street, Valencia, CA. On October 2, 2009, Der Nersesian paid an additional advance fee of \$1,000 to HSF. HSF did not provide Der Nersesian with written copies of the loan modification agreement that Der Nersesian signed.

7.

Oxford Transaction

On or about April 1, 2009, Valerie Oxford ("Oxford") entered into an agreement with HSF in which HSF agreed to perform services for Oxford in connection with a loan secured by real property located at 1875 Cabrillo Avenue, Santa Clara, CA, in exchange for payment of advance fees. Among the terms of this agreement was a "money back guarantee" if HSF failed to obtain a loan modification.

8.

Le Transaction

On or about March 10, 2009, Kenneth Le ("Le") entered into an agreement with HSF in which HSF agreed to perform services for Le in connection with a loan secured by real property in exchange for payment of advance fees. Lee submitted a \$2,000 advance fee to HSF on April 14, 2009.

9.

Cardenas Transaction

On or about April 15, 2009, Bertha Cardenas ("Cardenas") paid an advance fee of \$2,500 to HSF for the performance of services in connection with a loan secured by real property. On September 3, 2009, Cardenas cancelled the loan modification transaction and requested a refund. Cardenas has not received a refund to date.

10.

Pena Transaction

After being solicited by CASARES regarding loan modification services provided by HSF, Eloy Pena ("Pena") submitted seven (7) cashier's checks for \$2,500 each to HSF on April 13, 2009 as advance fees for the performance of services in connection with several loans secured by real property. Pena also signed a loan modification agreement with HSF on April 18, 2009. Despite repeated representations by CASARES that the loans would be modified, HSF did not obtain modifications on Pena's home loans and did not refund Pena's advance fees.

11.

Rodriguez Transaction

On May 29, 2009, Francisco and Teresa Rodriguez entered into an agreement with HSF in which HSF agreed to perform services for Francisco and Teresa Rodriguez in connection with several loans secured by real property in exchange for payment of advance fees. Between May 29, 2009 and July 12, 2009, HSF collected \$21,500 in advance fees from Francisco and Teresa Rodriguez.

12.

Pham Transaction

On or about August 6, 2009, Hieu Pham ("Pham") entered into an Advance Fee Agreement with HSF, in which Pham agreed to pay HSF an advance fee of \$5,000 for the performance of services in connection with a loan secured by real property located at

8541 Alissa Way, Elk Grove, CA. Among the terms of the agreement was a guarantee that "there will be a full refund on your payment if there is no case established." Between August 6, 2009 and August 27, 2009, Pham paid \$5,000 in advance fees to HSF. Pham received neither a modification of his loan, nor a refund of his advance fees from HSF.

13.

Doan Transaction

On or about September 14, 2009, Hanna Hanh Kieu Chau Doan ("Doan") entered into an Advance Fee Agreement with HSF, in which Doan agreed to pay HSF an advance fee of \$5,000 for the performance of services in connection with a loan secured by real property located at 2408 Oliver Drive, Hayward, CA. Among the terms of the agreement was a guarantee that "there will be a full refund on your payment if there is no case established." Between September 14, 2009 and October 15, 2009, Doan paid \$5,000 in advance fees to HSF. Doan received neither a modification of his loan, nor a refund of his advance fees from HSF.

DETERMINATION OF ISSUES

1.

The agreements described in Paragraphs 7 through 11 above constitute advance fee agreements within the meaning of Code Section 10026. None of the advance fee agreements described in paragraphs 7 through 11 were submitted to the Real Estate Commissioner 10 days before their use, in violation of Code Sections 10085 and 10085.5, as well as Section 2970 of Title 10, California Code of Regulations ("Regulations"). The advance fee agreement described in paragraphs 7 through 11 provide cause for suspension or revocation of the licenses and license rights of JMM and CASARES pursuant to Code Sections 10177(d) and 10177(g).

2.

The conduct, acts and/or omissions described in paragraphs 6, 7, 10, 12 & 13 above constitute substantial misrepresentations and false promises of a character likely to influence, persuade, or induce, providing cause for the for suspension or revocation of the license and license rights of JMM pursuant to Code Sections 10176(a) and 10176(b).

3.

The conduct, acts and/or omissions described in paragraph 10 above constitutes a substantial misrepresentation, providing cause for the suspension or

revocation of the license and license rights of CASARES pursuant to Code Sections 10176(a) and 10177(g).

4.

The overall conduct of Respondent CASARES 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 JMM as required by Code Section 10159.2, and to keep JMM in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of CASARES pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

5.

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


ORDER

The real estate licenses and license rights of Respondents JMM FINANCIAL INC and JOSE F. CASARES 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 on _____, 2012

DATED: AUG 21 2012
7/17, 2012

Real Estate Commissioner


By WAYNE S. BELL
Chief Counsel

1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, CA 90013

FILED

3 (213) 576-6982

JUL 02 2012

4 DEPARTMENT OF REAL ESTATE
5 BY: Gustaf Valentin

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-37568 LA

12 JMM FINANCIAL INC, dba Home)
Solutions Financial, JOSE F.)
13 CASARES, individually, and)
as former designated officer)
14 of JMM Financial Inc, and)
15 MARTIN MANUEL MARQUEZ,)

DEFAULT ORDER

16 Respondents.)

17 Respondents JMM FINANCIAL INC and JOSE F. CASARES,
18 having failed to file Notices of Defense within the time
19 required by Section 11506 of the Government Code, are now in
20 default. It is, therefore, ordered that a default be entered
21 on the record in this matter

22 IT IS SO ORDERED

July 2, 2012
Real Estate Commissioner

24
25 By: Dolores Weeks

Regional Manager
26
27