2222 1 2 3 4 5 6 7 8 9 10 11 11 12 13	Department of Real Estate 320 West 4th Street, Ste. 350 Los Angeles, California 90013-1105 BEFORE THE DEPARTMENT OF REAL ESTATE BY: BEFORE THE DEPARTMENT OF REAL ESTATE STATE OF CALIFORNIA *** To:) JC RUIZ CAPITAL GROUP INC. doing business as Maxima Home Loans;)
13 14 15 16 17 18	business as Maxima frome Loans,) ORDER TO and JAMES ALFRED SANTANA,) DESIST AND REFRAIN individually and as) DESIST AND REFRAIN designated officer of) (B&P 10086) JC Ruiz Capital Group Inc.,) Respondents)
19 20 21 22 23 24 25 26 27	The Commissioner ("Commissioner") of the California Department of Real Estate ("Department") caused an investigation to be made of the activities of JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and JAMES ALFRED SANTANA. Based on that investigation, the Commissioner has determined that JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and JAMES ALFRED SANTANA have engaged in or are engaging in acts or are attempting to engage in practices constituting violations of the Business and Professions Code and/or Title 10, California Code of Regulations. ("Regulations"). – 1 –

FINDINGS OF FACT

1.

A. At all times mentioned, JC RUIZ CAPITAL GROUP INC. ("JCRCGI") was licensed or had license rights issued by the Department as a real estate broker. On December 13, 2007, JCRCGI was originally licensed as a real estate broker by and through JAMES ALFRED SANTANA as designated officer.

B. At all times mentioned, JAMES ALFRED SANTANA ("SANTANA") was licensed or had license rights issued by the Department as a real estate broker. On March 28, 1995, SANTANA was originally licensed as a real estate broker. At all times material, SANTANA was licensed as the designated officer of JCRCGI.

C. At all times mentioned herein, JCRCGI were licensed by the Department as a corporate real estate broker by and through SANTANA, as the designated officer and broker responsible, pursuant to Code Sections 10159.2 and 10211 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf of JCRCGI's officers, agents and employees, including SANTANA.

D. JCRCGI is a California corporation owned by Juan C. Ruiz (60%), president, and Joaquin Santamaria (40%), treasurer, unlicensed persons. 18

2.

At all times mentioned, in the Cities of Anaheim and Fountain Valley, County of 20 Orange, Respondents JCRCGI and SANTANA, acted as real estate brokers and conducted 21 licensed activities within the meaning of: 22

A. Code Section 10131(a). Respondents operated a residential resale brokerage 23 and engaged in the business of, acted in the capacity of, advertised or assumed to act as real 24 estate brokers, including the solicitation for listings of and the negotiation of the sale of real 25 property as the agent of others; 26

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B. Code Section 10131(d). Respondents operated a mortgage and loan brokerage and 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

C. Code Section 10131(d) and 10131.2. Additionally, Respondents engaged in the business of a loan modification and advance fee brokerage using the licensed fictitious business name Maxima Home Loans and the unlicensed name of First America Financial Consulting Inc. and EZ Financing. Respondents performed loan modification services with respect to loans which were secured by liens on real property for compensation or in expectation of compensation and for fees often collected in advance. Respondents contacted lenders on behalf of distressed homeowners seeking modification and restructuring of the terms of their home loans, forbearance plans, extenuation, foreclosure abatement, principal and interest reduction, loan refinance, and/or short sale services and advice.

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(JC Ruiz Capital Group Inc.) (Residential Resale Audit) <u>March 30, 2012</u>

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3	3.	
4	On March 30, 2012 the Department completed an audit examination of the books	
5	and records of JCRCGI dba Maxima Home Loans, First America Financial Consulting Inc., and	
6	EZ Financing, pertaining to the residential resale and loan modification activities described in	
7	Paragraph 4, which require a real estate license. The audit examination covered a period of time	
8	beginning on February 1, 2009 to October 31, 2011. The audit examination revealed violations	
9	of the Code and the Regulations as set forth in the following paragraphs, and more fully set forth	
10	in Audit Report LA 110049 and the exhibits and workpapers attached thereto.	
11	(Trust Account)	
12	4.	
13	During the audit period, JCRCGI did not maintain a trust account.	
14		
15	(Residential Resale Audit))	
16	(Violations of the Real Estate Law)	
17	5.	
18	In the course of activities described in Paragraph 2A., above, and during the	
19	examination period described in Paragraph 3, Respondents JCRCGI and SANTANA, acted in	
20	violation of the Code and the Regulations in that Respondents:	
21	(a) JCRCGI failed to maintain an accurate and complete columnar record for the	;
22	trust funds received not placed in broker's trust account. Moreover, earnest money deposits	
23	(EMD) received was not posted correctly in the columnar trust record and the date for EMD	
24	received in the record was incomplete, in violation of Code Section 10145 and Regulation 2831.	
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1		Date Offer	Deposit	Date Offer	Date in	Date Received			
2	Buyer Name	Made	Amount	Accepted	the EMD	<u>In Trust</u>			
3						Record			
4	Sindy G.	08/06/10	\$1,000	08/07/10	09/16/10	09/16			
5									
6	Moises M.	12/21/10	\$1,500	01/24/11	02/28/11	02/28			
7				,					
8	Jacinto Medel N.	05/11/10	\$1,000	05/11/10	03/19/11	03/19			
9	In additi	on, the colum	mar trust rec	ord included con	nmissions pa	id to JCRCGI's			
10	salespersons and pay pr	oceeds paid t	o borrowers	as trust funds re	ceived.				
11	(b) Faile	ed to place tru	st funds, inc	luding EMD, int	to a trust fund	l account in the			
12									
13									
14	⁴ Section 10145 and Regulation 2832. Based on the sales files reviewed for the audit, in three (3)								
15	of the five (5) sampled sales transactions, JCRCGI held EMD's beyond three (3) business days								
	following the acceptance of the offer without written authorization from the principals, including the tabled examples set forth below:								
18									
19		D	ate Offer	Date Offer	Date of	Escrow			
20				Accepted	Disposition				
21	Buyer Name	<u></u>	<u>1ade</u>	Accepted	<u>Disposition</u>	<u></u>			
22		00	2/06/10	08/07/10	09/21/10	2124			
23	Sindy G.	08	3/06/10	00/07/10	07/21/10				
24		1 6	0/01/10	01/24/11	03/03/11	2154			
25	Moises M.	12	2/21/10	01/24/11	05/05/11	2101			
26		· ·	5/11/10	05/11/10	03/23/10	2781			
27	Maria J. P. and J	uan T. 03	5/11/10	03/11/10	05/25/10	2701			

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JCRCGI's practice is to hold the EMDs until the offer is accepted, and then forwarded the EMD's to the escrow company.

(c) Misrepresented to sellers that Respondents JCRCGI and Santana had received the earnest money deposits for the intended purchase of sellers residences that in fact JCRCGI had not received, in violation of Sections 10176(a) and 10177(g). including the tabled examples set forth below:

8	Buyer	Date Offer	Date Offer	Date on the
9	Name	Made	Accepted	EMD
10				
11	Sindy C	08/06/10	09/16/10	09/16/10
12	Sindy G.	08/00/10	09/10/10	
13				
14	Moises M.	12/21/10	01/24/11	02/28/11
15				
16	Joy O.	02/11/11	06/02/11	06/02/11
17				
18	Jacinto & Edgar M.	05/11/10	05/11/10	03/19/11
19				
20	Maria P.& Juan T.	09/09/10	09/09/10	09/20/10
21				

(d) Failed to maintain a signed broker salesperson agreement with salespersons 22 23 Diane Parra and Fernando Reveles Torres, in violation of Regulation 2726.

(e) Failed to disclose JCRCGI, dba "Maxima Home Loans" license number on 24 25 solicitation materials intended to first point of contact with customers. As such, JCRCGI's, 26 absence of disclosures is in violation of Code Section 10140.6(b) and Regulation 2773.

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1	(f) Failed to retain all records of JCRCGI's activity during the audit period	
2	requiring a real estate broker license, in violation of Code Section 10148.	
3	The Departmental auditor requested documents for the audit examination: Records and	
4	documents related to JCRCGI's loan modification activities including but not limited to the loan	
5	modification log, loan modification transactions, loan modification agreements, hardship letters,	
6	modification payment form, and accounting records for the loan modification services provided.	
7	(g) SANTANA failed to exercise reasonable control and supervision over the	
8	activity of JCRCGI's brokerage including the activities conducted by JCRCGI's employees and/o)r
9	licensees as necessary to secure full compliance with the Real Estate Law, in violation of Code	
10	Section 10159.2. Additionally, SANTANA had no system in place for regularly monitoring	
11	JCRCGI's compliance with the Real Estate Law especially in regard to establishing, systems,	
12	policies and procedures to review trust fund handling especially as related to escrow trust fund	
13	handling for buyers and sellers, in violation of Code Section 10177(h) and Regulation 2725.	
14	(Loan Modification Fraud and Dishonest Dealing)	I
15	6.	
16	At all times mentioned herein, Respondents JC RUIZ CAPITAL GROUP INC.	
17	(JCRCGI), dba Maxima Home Loans and also unlicensed dba First America Financial	
18	Consulting Inc., and EZ Financing, and JAMES ALFRED SANTANA engaged in the business	
19	of a loss mitigation/loan modification service including operating an advance fee brokerage	
20 21	requiring a real estate license to operate, within the definition of Code Sections 10131(d) and	
21	10121.2 as described in Paragraph 2 above.	
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General Allegations

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During the audit period of December 13, 2007, and continuing hereafter to date, JCRCGI and SANTANA, doing business as Maxima Home Loans, a licensed fictitious business n ame, and doing business as unlicensed entities First America Financial Consulting Inc., and EZ Financing, all of which share the same ownership, address, staff and supervision and brokerage. Respondents and said unlicensed entities solicited economically distressed homeowners facing foreclosure and eviction from their homes, offered loss mitigation services to said homeownerapplicants seeking downward adjustments or payment extenuations to their home mortgages, charged, claimed and collected advance fees for services not rendered. Respondent JCRCGI and its owners, Juan C. Ruiz and Joaquin Santamaria, are the pay station for receipt of advance fees in the form of payments for loan modification services from all homeowner-borrowers irrespective of the fictitious business name of Maxima Home Loans and unlicensed fictitious business names of First America Financial Consulting Inc., and EZ Financing. All trust funds flow to JCRCGI and/or Juan C. Ruiz.

7.

Specific Allegations

Respondents collected advanced fees from said homeowner- applicants without
possessing a pre-approved advance fee agreement from the Department. Thereafter, Respondents
failed to obtain the loan modification including short sale services to the homeowner-borrowers,
as set forth below:

8.

9.

Through the instrumentality of unlicensed and licensed loss mitigation agents, JCRCGI and SANTANA, via their fictitious names of Maxima Home Loans, First America

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Financial Consulting Inc., and EZ Financing, solicited distressed borrowers promising favorable rates and terms including downward adjustments or payment extenuations, in return for an average payment of \$2,395, paid in advance. Thereafter, Respondents failed to obtain loan modifications or make refunds to the homeowner-borrowers, tabled below:

<u>Complainant</u>	Respondent	Advance	Date Paid	<u>Post</u>	<u>Unlicensed Agent</u>
		Fee		<u>SB 94</u>	
Maria H	MHL/FAFCI	\$2,395	\$1,000 on 4/11/09	No	Joaquin Santamaria
1538 E.	EZ Financing		\$1,395 on 4/25/09		
Robidoux St.					
Arturo C.	MHL/FAFCI	\$2,395	\$2,395 on 4/17/09	No	Byron Osuna
317 S. Dale St.					
Hermes R.	MHL/FAFCI	\$2,395	\$500 on 4/19/09	No	Carlos M. Garcia
7001 Lanto St.			\$1,895 on 5/19/09		Byron Osuna
					Joaquin Santamaria
, Susan E.	MHL/FAFCI	\$1,800	2/2/09	No	Luis Barrera
1704 E. Saunders					
St.		-			
Victor P	MHL/FAFCI	\$1,995	\$1,995 on 12/31/08	None	Joaquin Santamaria
23.10 Lomita					Vicky Vasquez
Verde Dr.					
Maria L	MHL/FAFCI	\$2,395	\$500 on 4/3/09	No	Joaquin Santamaria
6620 7 th Ave.			\$500 on 4/6/09		Warner Rojas
			\$500 on 4/18/09		Tessie Frutos

Table: Advance Fees Collected for Loan Modification Services

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			\$895 on 4/30/09		
Aida R	MHL/FAFCI	\$2,395	\$300 on 3/2/10	Yes	JCRGI
18 N. Glenrose			\$2,095 on 3/11/10		•
t.					
rancisco C	MHL/FAFCI	\$1,995	3/24/09	Yes	Mora
16 3 rd St.		-	Two deposits into		
			Mora's account		
Aaria O	MHL/FAFCI	\$3,000		None	Juan C. Ruiz
809 E. 71 st St.					
Francisco M	MHL/FAFCI	\$2,200			Bertha A. Furse
755 E. Yucca St.	/JCRCGI				Fernando Reveles
					Torres
Angel V	MHL/FAFCI	\$7,980	2/19-09 to 7-23-09 (6		
595 Laselle St.			advance fees)	<u>-</u>	
Lydia P	MHL/FAFCI	\$2,395	8/27/10	Yes	Vicky Vasquez
521 Shelton St.			\$500 on 9/2/10		Juan C. Ruiz
			\$1,895 on 9/25/10		
("Sanchez")	MHL/FAFCI	\$2,395	11/28/09	Yes	JCRGI et al
P.O. Box 875914					
Jose T	MHL/FAFCI	\$2,295	12/14/09	Yes	Luis Barrera
516 E. 35th St.					
Anne M	MHL/FAFCI	\$2,395	5-11-11	5-11-	R. Buendia
(unknown)				11	
		\$39,430		•	

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The overall conduct, acts and omissions of Respondents JCRCGI and SANTANA constitute a breach of fiduciary duty of good faith, trust, confidence and candor, owed the homeowners contracting for loan modification services, within the scope of their contractual relationship, in violation of Code Sections 10176(a), 10176(i), 10176(b) 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). 11.

Respondents JCRCGI and SANTANA intentionally engaged in the conduct set forth throughout the Accusation. Alternatively, Respondents engaged in negligent misrepresentation to their clients, the homeowner-borrowers seeking loan modifications herein, for which real estate licenses are required, in violation of Code Sections 10176(a), 10176(i) 12 13 and/or 10177(g).

12.

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

CONCLUSIONS OF LAW

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1	PARAGRAPH	PROVISIONS VIOLATED					
2 .	5(a)	Code Section 10145 and Regulation 2831					
3	5(b)	Code Section 10145 and Regulation 2832					
4 5	5(c)	Code Section 10176(a) and 10177(g)					
6	5(d)	Regulation 2726					
7	5(e)	Code Section 10140.6(b) and Regulation 2773					
8	5(f)	Code Section 10148					
9 -	5(g)	Code Sections 10159.2 and 10177(h) and					
10		Regulation 2725					
11		· .					
12 13		14.					
14	The conduct of Respondents	JCRCGI and SANTANA, as alleged and described in					
15	Findings 6 through 9, violated Code Sections 10085, 10085.6 (SAFE ACT), 10130 (JCRCGI)						
16	10137, 10145, 10146, 10176(a), 101	76(b), 10176(i), 10177(d) and 10177(g) and Regulations					
17	2831, 2831.1, 2831.2 and 2970						
18		15.					
19	The conduct of Respo	ondents JCRCGI and SANTANA, as alleged and described					
20	in Finding 10, violated Code 10177(g).					
21		16.					
22	The conduct of Respo	ndents JCRCGI and SANTANA, as alleged and described					
23 24	in Finding 11, violated Code 10177(
25		17.					
26							
27	The conduct of Respo	ndent SANTANA, as alleged and described in Finding 12,					
		10					
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1	17.
2	The conduct of Respondent SANTANA, as alleged and described in Finding 12,
3	and in reference to Code Section 10159.2, violated of Code Sections 10177(d), 10177(g) and
4	10177(h).
5	
6	DESIST AND REFRAIN ORDER
7	Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated
8	herein, it is hereby ordered that:
9	JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans, First America
10	Financial Consulting Inc., and EZ Financing, and JAMES ALFRED SANTANA shall
11	immediately, desist and refrain from performing any acts within the State of California for which
12	a real estate broker license is required, unless in compliance with the Real Estate Law.
13	Alle 94 ante
14 15	DATED: <u>Man 24</u> , 2012.
16	REAL ESTATE COMMISSIONER
17	
18	Alm
19	By WAYNE S. BELL
20	Chief Counsel
21	
22	
23	
24	cc: JC Ruiz Capital Group Inc. James Alfred Santana
25	1777 W. Lincoln Ave.
26	Anaheim, Ca 92801
27	
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