FILED

DEC 16 2010

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

***

In the Matter of the Accusation of JOSE LUIS RUIZ, Respondent.	)	H-4060 SD

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 June 21, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On January 13, 2010, Joseph Aiu made the Accusation in his 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, return receipt requested, to Respondent's last known mailing address on file with the Department on January 13, 2010.

On June 21, 2010, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent 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 salesperson. From approximately March 14, 2008 through May 13, 2008, Respondent was registered with the Department as in the employ of licensed real estate broker Michael Gary

Sabella ("Sabella"), but was not being compensated by Sabella for licensed activity, or working under the direction of Sabella. From May 2008 and continuing, Respondent was not employed by any licensed real estate broker. At no time herein was Respondent licensed as a real estate broker.

3

At all times mentioned, Respondent, doing business as JRI Financial, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage and/or loan modification business with the public wherein each of them solicited lenders and borrowers for or negotiated loans or collected payments and/or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property for or in expectation of compensation.

4

At no times mentioned herein was JRI Financial licensed by the Department as a real estate broker corporation or as a fictitious business name.

5

In connection with the operation and conduct of the real estate activities described in Paragraph 3, Respondent, without being licensed as a real estate broker, engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (hereinafter "advance fee") of the Code including but not limited to:

BORROWER	DATE	AMOUNT
Maura Contreras	April 24, 2008	$1,195
Myrna Mendoza	May 14, 2008	$1,970
Jose Chavez	June 10, 2008	$1,450

6

In connection with the operation and conduct of the real estate activities described in Paragraph 5 above, Respondent represented to Maura Contreras and Myrna Mendoza that he could and would obtain a successful and sustainable modification of the terms of their loans. In addition, Respondent represented to Jose Chavez that he would obtain a purchase money loan for him.

7

From approximately April 24, 2008 through June 10, 2008, Respondent, by making the representations set forth in paragraph 6 above, induced the borrowers listed in Paragraph 5, above, to sign an advance fee agreement and collected an advance fee.

8

Respondent failed to perform the services that he promised to the borrowers listed in Paragraph 5, above, after receiving advance fee payments from each of the borrowers listed above. Respondent has not repaid the advance fees received from these borrowers.

FINDINGS OF LAW

9

Respondent's failure to provide the services promised or to refund the Borrower's funds constitutes grounds for the revocation or suspension of Respondent's real estate license or license rights under Section 10176(a) (making any substantial misrepresentation) of the Code.

10

In connection with the collection and handling of said advance fees, Respondent failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations (hereinafter "the Regulations").

11

In acting as described above, Respondent violated and/or willfully failed to comply with Sections 10130 (unlawful for any person to assume to act as a broker without first obtaining a real estate broker's license from the Department) and 10137 (unlawful for a salesperson to accept compensation from any person other than the broker) of the Code.

DETERMINATION OF ISSUES

1

Cause of disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10085, 10130, 10137, 10176(a) and 10177(d) of the Code, and Section 2970 of the Regulations.

2

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

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ORDER

All licenses and licensing rights of Respondent JOSE LUIS RUIZ 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

JAN - 6 2011

DATED: 12/8/2010

JEFF DAVI
Real Estate Commissioner

Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED

JUN 21 2010

DEPARTMENT OF REAL ESTATE

By _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

***

In the Matter of the Accusation of JOSE LUIS RUIZ, Respondent.	H-4060 SD DEFAULT ORDER

Respondent, JOSE LUIS RUIZ, 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 June 21, 2010

JEFF DAVI
Real Estate Commissioner

By: _____
CHARLES W. KOENIG
Northern Regional Manager

ANGELA L. CASH, Counsel
State Bar No. 230882
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0805 (Direct)

FILED

JAN 13 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of JOSE LUIS RUIZ, Respondent.	No. H-4060 SD ACCUSATION

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California (hereinafter "Complainant"), for cause of Accusation against JOSE LUIS RUIZ (hereinafter "Respondent"), is informed and alleges as follows:

1

Complainant makes this Accusation in his official capacity.

2

Respondent 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 salesperson. From approximately March 14, 2008 through May 13, 2008, Respondent was registered with the Department as in the employ of licensed real estate broker Michael Gary

Sabella ("Sabella"), but was not being compensated by Sabella for licensed activity, or working under the direction of Sabella. From May 2008 and continuing, Respondent was not employed by any licensed real estate broker. At no time herein was Respondent licensed as a real estate broker.

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At all times mentioned, Respondent, doing business as JRI Financial, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage and/or loan modification business with the public wherein each of them solicited lenders and borrowers for or negotiated loans or collected payments and/or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property for or in expectation of compensation.

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In acting as described above, Respondent violated and/or willfully failed to comply with Sections 10130 (unlawful for any person to assume to act as a broker without first

obtaining a real estate broker's license from the Department) and 10137 (unlawful for a salesperson to accept compensation from any person other than the broker) of the Code.

12

The acts and/or omissions of Respondent described above constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, 10130, 10137 and 10176(a) of the Code, and Section 2970 of the Regulations, and are cause for the suspension or revocation of Respondent's license and license rights.

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 licenses and license rights of Respondent 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 provisions of law.

JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 21 day of December, 2009.