FILED

MAR 27 2013

DEPARTMENT OF REAL ESTATE

By S. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ANTONIO GARNICA TORRES, Respondent.	No. H-5880 SAC

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 February 6, 2013, and the findings of fact set forth herein, which are based on one or more of the following: (l) Respondent ANTONIO GARNICA TORRES' (Respondent) express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On September 14, 2012, Tricia Sommers 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 Respondent's last known mailing address on file with the Department of Real Estate (Department) on September 21, 2012.

On December 28, 2012, Tricia Sommers made the First Amended Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The First Amended Accusation was mailed, by certified and regular mail, to Respondent's last known mailing address on file with the Department of Real Estate (Department) on December 31, 2012.

On February 6, 2013, no Notice of Defense having been 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 (Code).

3

At all times mentioned, Respondent was and is licensed by the Department as a real estate salesperson. From on or about July 29, 2009, through present, Respondent's salesperson license was affiliated under the brokerage of Michael Thompson (Thompson). At no time mentioned has Respondent been issued a mortgage loan originator license endorsement by the Department.

4

At all times mentioned, Respondent, 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 business with the public wherein you, for or in expectation of compensation, for another or others, solicited borrowers or lenders or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

5

Beginning on or about 2011, Respondent, in the course of the real estate activities described in Paragraph 4, using the business name Allied Financial Mortgage and without the knowledge and supervision of Thompson, 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, including but not limited to the following:

PROPERTY OWNER	PROPERTY LOCATION
Christopher and Katie M.	Brentwood, CA
Darren M.	7560 Saint Lukes Way, Sacramento

6

In connection with the operation and conduct of the activities and transactions described in Paragraph 5, Respondent:

(a) engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Section 10131(d) of the Code.

(b) engaged in business as a mortgage loan originator as that term is defined by Section 10166.01(b)(1) of the Code, which includes but is not limited to the conduct of mortgage loan origination activities, and failed to obtain and maintain a real estate license endorsement identifying that Respondent is a licensed mortgage loan originator, in violation of Section 10166.02(b) (failure to obtain license endorsement) of the Code.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent exists pursuant to Section 10177(d) (willful disregard or violation of Real Estate Law) of the Code in conjunction with Sections 10166.02(b)(2) (failure to obtain licensee endorsement) and 10130 (license required) of the Code.

2

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

ORDER

All licenses and licensing rights of Respondent 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 APR 16 2013.

DATED: 3/4/2013

REAL ESTATE COMMISSIONER

WAYNE S. BELL

FILED

TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
(916) 227-0781 (Direct)

December 31, 2012

DEPARTMENT OF REAL ESTATE

By _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ANTONIO GARNICA TORRES, Respondent.	No. H-5880 SAC FIRST AMENDED ACCUSATION

The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ANTONIO GARNICA TORRES, (Respondent), are informed and alleges as follows:

1

The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her 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 (Code).

3

At all times mentioned, Respondent was and is licensed by the Department as a real estate salesperson. From on or about July 29, 2009, through present, Respondent's salesperson license was affiliated under the brokerage of Michael Thompson (Thompson). At no

time mentioned has Respondent been issued a mortgage loan originator endorsement by the Department.

4

At all times mentioned, Respondent 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 business with the public wherein, for or in expectation of compensation, for another or others, solicited borrowers or lenders or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

5

Beginning on or about 2011, Respondent, in the course of the real estate activities described in Paragraph 4, using the business name Allied Financial Mortgage and without the knowledge and supervision of Thompson, 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, including but not limited to the following:

PROPERTY OWNER	PROPERTY LOCATION
Christopher and Katie Martinez	Brentwood, CA
Darren M.	7560 Saint Lukes Way, Sacramento

6

In connection with the operation and conduct of the activities and transactions described in Paragraph 5, Respondent:

(a) engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Section 10131(b) of the Code.

///

(b) engaged in business as a mortgage loan originator as that term is defined by Section 10166.01(b)(1) of the Code, which includes but is not limited to the conduct of mortgage loan origination activities, and failed to obtain and maintain a real estate license endorsement identifying that Respondent is a licensed mortgage loan originator, in violation of Section 10166.02(b) (failure to obtain license endorsement) of the Code.

7

The facts alleged above are grounds for the suspension or revocation of the licenses of Respondent under Section 10177(d) (willful disregard or violation of Real Estate Law) of the Code in conjunction with Sections 10166.02(b)(2) (failure to obtain licensee endorsement) and 10130 (license required) of the Code.

PRIOR PROCEEDING

8

On or about July 8, 2009, in Case No. H-5239 SAC before the Department of Real Estate, the Real Estate Commissioner issued an Order to Desist and Refrain against Respondent for violation of Section 10131(d) of the Code.

COST RECOVERY

10

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

///

///

///

///

///

///

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 Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.

TRICIA SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 28th day of December, 2012

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.

TRULY SUGHRUE, Counsel
State Bar No. 223266
Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
(916) 227-0781 (Direct)

FILED

September 21, 2012

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ANTONIO GARNICA TORRES, Respondent.	No. H-5880 SAC ACCUSATION

The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ANTONIO GARNICA TORRES, (Respondent), are informed and alleges as follows:

1

The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her 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 (Code).

3

At all times mentioned, Respondent was and is licensed by the Department as a real estate salesperson. From, on, or about July 29, 2009, through present, Respondent's salesperson license was affiliated under the brokerage of Michael Thompson (Thompson).

4

At all times mentioned, Respondent 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 business with the public wherein, for or in expectation of compensation, for another or others, solicited borrowers or lenders or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

5

Beginning on or about 2011, Respondent, in the course of the real estate activities described in Paragraph 5, using the business name Allied Financial Mortgage and without the knowledge and supervision of Thompson, 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, including but not limited to the following:

PROPERTY OWNER	PROPERTY LOCATION
Christopher and Katie Martinez	Brentwood, CA
Darren M.	7560 Saint Lukes Way, Sacramento

6

In connection with the operation and conduct of the activities and transactions described in Paragraph 5, Respondent:

(a) engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Section 10131(b) of the Code.

(b) engaged in business as a mortgage loan originator as that term is defined by Section 10166.01(b)(1) of the Code, which includes but is not limited to the conduct of mortgage loan origination activities, and failed to obtain and maintain a real estate license

endorsement identifying that Respondent is a licensed mortgage loan originator, in violation of Section 10166.02(b) (failure to obtain license endorsement) of the Code.

7

The facts alleged above are grounds for the suspension or revocation of the licenses of Respondent under Sections 10166.051 (grounds for discipline-violation of license endorsement and notice requirements) and 10177(d) (willful disregard or violation of Real Estate Law) of the Code in conjunction with Sections 10166.02(a) (failure to notify Department of loan activity) and 10130 (license required) of the Code.

PRIOR PROCEEDING

8

On or about July 8, 2009, in Case No. H-5239 SAC before the Department of Real Estate, the Real Estate Commissioner issued an Order to Desist and Refrain against Respondent for violation of Section 10131(d) of the Code.

COST RECOVERY

10

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

///

///

///

///

///

///

///

///

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 Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.

Tricia Sommers

TRICIA SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 14th day of September, 2012

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.