DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED

JAN 26 2012

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of IQ SMARTER INVESTMENTS, INC., ALI MIRZAEI, and ANTOINETTE MARIE HENDRYX Respondents.	NO. H-10983 SF STIPULATION AND AGREEMENT

It is hereby stipulated by and between IQ SMARTER INVESTMENTS, INC., (hereinafter "IQ") and IQ's attorney, ROBERT L. ELAM, ESQ., and ALI MIRZAEI, in pro per, (hereinafter "MIRZAEI") and ANTOINETTE MARIE HENDRYX, in pro per, (hereinafter "HENDRYX") (collectively, at times, "Respondents") and the Complainant, acting by and through KENNETH C. ESPELL, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 13, 2010, in this matter (hereinafter "the Accusation"):

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (hereinafter "APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of this *Stipulation and Agreement*.

2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. On or about September 16, 2010, Respondent IQ filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. On or about September 23, 2010, Respondents MIRZAEI and HENDRYX filed separate Notices of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents, and each of them, hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that each Respondent understands that by withdrawing their Notice of Defense, Respondents will thereby waive Respondents' right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondents will waive other rights afforded to Respondents in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondents, pursuant to the limitations set forth below, hereby admit that the factual allegations in the Accusation are true and correct and stipulate and agree that the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

5. It is understood by the parties that the Real Estate Commissioner may adopt this *Stipulation and Agreement* as the Commissioner's decision in this matter, thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the "Order" below. In the event that the Commissioner, in the Commissioner's sole discretion, does not adopt this *Stipulation and Agreement*, it shall be void and of no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.

6. This *Stipulation and Agreement* shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with

respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

7. Further, Respondents MIRZAEI and IQ understand that by agreeing to this *Stipulation and Agreement*, Respondent MIRZAEI jointly and severally agrees to pay with Co-respondent IQ pursuant to Section 10148 of the California Business and Professions Code (hereinafter the "Code"), the cost of the audit which resulted in the determination that Respondent Mirzaei and Co-respondent IQ committed the trust fund violation(s) found in Paragraph I, below, of the Determination of Issues. The amount of said costs is $6,707.50.

8. In lieu of proceeding in this matter in accordance with the provisions of the APA, Respondent IQ and MGM Global Inc., the successor in interest to IQ (hereinafter "MGM"), wish to voluntarily surrender their corporate real estate broker licenses issued by the Department, pursuant to Business and Professions Code (hereinafter "the Code") Section 10100.2. MIRZAEI is the designated officer of Respondent IQ and Shevin Sarbaz is the Chief Executive Officer of MGM, and are authorized to sign this declaration on behalf of Respondent IQ and MGM.

9. Respondent IQ and MGM understands that by so voluntarily surrendering Respondent IQ and MGM licenses, Respondent IQ and MGM may be relicensed as a corporate real estate broker only by petitioning for reinstatement pursuant to Section 11522 of the Government Code.

10. With the consent and ratification of the officers and directors of Respondent IQ, the filing of this *Stipulation and Agreement* shall be deemed as Respondent IQ's declaration and petition for voluntary surrender of all real estate licenses and license rights of Respondent IQ. Further, with the consent and ratification of the officers and directors of MGM Global, Inc., the successor in interest to Respondent IQ (hereinafter "MGM"), this *Stipulation and Agreement*, shall be deemed as MGM's, declaration and petition for voluntary surrender of all real estate licenses and license rights of MGM.

11. It shall also be deemed to be an understanding and agreement by

Respondent IQ and MGM that each waives all rights they have to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the APA (Government Code Sections 11400 et seq.), and that Respondent IQ and MGM also waive other rights afforded to each in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the investigation and the right to cross-examine witnesses.

12. Respondent IQ and MGM further agree that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

13. Respondent IQ and MGM freely and voluntarily surrender all licenses and license rights under the Real Estate Law.

DETERMINATION OF ISSUES

1. By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that the acts and omissions of Respondent IQ described in the Accusation are grounds for the discipline of the licenses and license rights of Respondent IQ's for violation of Sections 10085, 10146 and 10148 of the Code and Sections 2970, 2835, 2831, 2831.1, 2831.2 2832, 2972, and 2725, of Chapter 6, Title 10, California Code of Regulations (hereinafter "the Commissioner's Regulations"); which are grounds for discipline under Sections 10176 and 10177(d) of the Code.

2. By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that the acts and omissions of Respondents MIRZAEI and HENDRYX, as the designated officer-broker of Respondent IQ, as described in the Accusation, are grounds for the suspension or revocation of the licenses and license rights of Respondents MIRZAEI and

HENDRYX for violation of Section 10159.2 of the Code, which constitutes cause for suspension or revocation of all licenses and license rights of Respondents MIRZAEI and HENDRYX, each of them, pursuant to Sections 10177(d) and 10177(h) of the Code.

ORDER

I

Respondent IQ's stipulation to the voluntary surrender its real estate broker license is accepted as of the effective date of this Order and is based upon the understanding and agreement expressed in Respondent IQ's declaration which is incorporated herein as part of this *Stipulation and Agreement*. Respondent IQ's license certificates, pocket cards and all branch office license certificates shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

II

MGM's stipulation to the voluntary surrender its real estate broker license is accepted as of the effective date of this Order and is based upon the understanding and agreement expressed in MGM's declaration which is incorporated herein as part of this *Stipulation and Agreement*. Respondent MGM's license certificates, pocket cards and all branch office license certificates shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

III

1. All licenses and licensing rights of Respondent HENDRYX under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of the Decision

herein; provided, however, that:

2. Forty-five (45) days of said suspension shall be stayed upon the condition that Respondent HENDRYX petition pursuant to Section 10175.2 of the Code at a rate of $100.00 for each day of the suspension for a total monetary penalty of $4,500.00:

a. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Order in this matter.

b. No further cause for disciplinary action against the real estate licenses of Respondent HENDRYX occurs within four (4) years from the effective date of the Decision in this matter.

c. If Respondent HENDRYX fails to pay the monetary penalty as provided above prior to the effective date of this Order, the stay of the suspension shall be vacated as to Respondent HENDRYX and the order of suspension shall be immediately executed under this Order, in which event Respondent HENDRYX shall not be entitled to any repayment nor credit, prorated or otherwise, for any money paid to the Department under the terms of this Order.

d. If Respondent HENDRYX pays the monetary penalty and any other moneys due under this Stipulation and Agreement in Settlement and if no further cause for disciplinary action against the real estate license of Respondent occurs within four (4) years from the effective date of this Order, the entire stay hereby granted under this Order shall become permanent.

3. Forty-five (45) days of said suspension shall be stayed for four (4) years upon the following terms and conditions:

a. Respondent HENDRYX shall obey all laws, rules, regulations governing the rights, duties, and responsibilities of a real estate licensee in the State of California; and,

b. That no final subsequent determination is made by the

Commissioner, after hearing or upon stipulation that cause for cause for disciplinary action occurred within four (4) years from the effective date of this Order. Should such a determination be made, the Commissioner may, in the Commissioner's sole discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay made shall become permanent.

4. All licenses and licensing rights of Respondent HENDRYX are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this requirement includes evidence that Respondent HENDRYX has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

5. Respondent HENDRYX shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent HENDRYX's arrest, the crime for which Respondent HENDRYX was arrested and the name and address of the arresting law enforcement agency. Respondent HENDRYX's failure to timely file written notice shall constitute an independent violation of the terms of this stipulation and agreement and shall be grounds for the suspension or revocation of Respondent HENDRYX's license.

IV

1. All licenses and licensing rights of Respondent MIRZAEI, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent MIRZAEI pursuant to Section 10156.5 of the Code, if Respondent MIRZAEI makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent MIRZAEI shall be subject to all of the provisions of Section

10156.7 of the Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

2. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

a. The conviction of Respondent MIRZAEI (including a plea of nolo contendere) of a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee; or,

b. The receipt of evidence that Respondent MIRZAEI has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted license.

3. Respondent MIRZAEI shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until four (4) years have elapsed from the date of issuance of the restricted license to Respondent MIRZAEI.

4. Respondent MIRZAEI shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this requirement includes evidence that Respondent MIRZAEI has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

5. Respondent MIRZAEI shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent MIRZAEI has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent MIRZAEI fails to satisfy

this condition, the Commissioner may order the suspension of the restricted license until Respondent MIRZAEI presents such evidence. The Commissioner shall afford Respondent MIRZAEI the opportunity for hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent MIRZAEI shall, within six (6) months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent MIRZAEI fails to satisfy this condition, the Commissioner may order suspension of Respondent MIRZAEI's license until Respondent MIRZAEI passes the examination.

7. Pursuant to Section 10148 of the Code, Respondent MIRZAEI shall, jointly and severally, with Respondent IQ, pay the sum of $6,707.50 for the Commissioner's cost of the audit which led to this disciplinary action. Respondent(s) shall pay such cost within 60 days of receiving an invoice therefor from the Commissioner. The Commissioner may suspend all licenses and licensing rights of Respondent MIRZAEI pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between Respondents IQ and MIRZAEI and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondents IQ and MIRZAEI enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

12/1/11
DATED

KENNETH C. ESPELL
Real Estate Counsel II
Department of Real Estate

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FACSIMILE TRANSMISSION

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Attention: Kenneth C. Espell at (916) 227-9458. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

* * *

I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

9/16/11
DATED

ROBERT L. ELAM, ESQ.
Attorney for MGM Global, Inc., and
Attorney for Respondent IQ SMARTER INVESTMENTS, INC.

* * *

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED

ALI MIRZAEI, in Pro Per, and as the
Designated Officer and Director of Respondent IQ SMARTER INVESTMENTS, INC.

FACSIMILE TRANSMISSION

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Attention: Kenneth C. Espell at (916) 227-9458. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

* * *

I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

DATED

ROBERT L. ELAM, ESQ.
Attorney for MGM Global, Inc., and
Attorney for Respondent IQ SMARTER INVESTMENTS, INC.

* * *

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11/28/11
DATED

ALI MIRZAEI, in Pro Per, and as the
Designated Officer and Director of Respondent IQ SMARTER INVESTMENTS, INC.

***

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

9-18-11
DATED

SHERVIN SARBAZ
as the CEO of Respondent IQ SMARTER INVESTMENTS, INC. and CEO of MGM Global, Inc., currently without broker affiliation

***

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED

ANTOINETTE MARIE HENDRYX, in Pro Per, Respondent and formerly the Designated Broker of Respondent IQ SMARTER INVESTMENTS, INC.

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I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED

SHERVIN SARBAZ
as the CEO of Respondent IQ SMARTER INVESTMENTS, INC. and CEO of MGM Global, Inc., currently without broker affiliation

***

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED

ANTOINETTE MARIE HENDRYX, in Pro Per, Respondent and formerly the Designated Broker of Respondent IQ SMARTER INVESTMENTS, INC.

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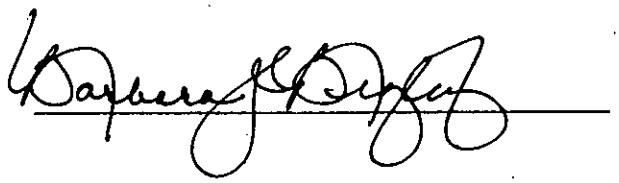
The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on FEB 15 2012.

IT IS SO ORDERED 1/9/12.

BARBARA J. BIGBY
Acting Real Estate Commissioner



KENNETH C. ESPELL, Counsel (SBN 178757)
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FILED
AUG 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 IQ SMARTER INVESTMENTS, INC., ALI MIRZAEI, and, ANTOINETTE MARIE HENDRYX, Respondents.	NO. H-10983 SF ACCUSATION

The Complainant, E. J. HABERER II, in his official capacity as Deputy Real Estate Commissioner of the State of California, for cause of Accusation against IQ SMARTER INVESTMENTS, INC., (herein "IQ") and ALI MIRZAEI (herein "MIRZAEI") and ANTOINETTE MARIE HENDRYX (herein "HENDRYX"), is informed and alleges as follows:

THE RESPONDENTS

1

At all times herein mentioned, Respondents IQ, MIRZAEI and HENDRYX (collectively herein "Respondents") were and now are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

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2

At all times herein mentioned herein IQ was and now is licensed by the. Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker by and through MIRZAEI and/or HENDRYX as its designated officer-broker.

3

For the period September 14, 2007 until October 2, 2008, HENDRYX was licensed by the Department as real estate broker and as the designated officer of IQ. For the period June 3, 2008 to the present, MIRZAEI was and now is licensed by the Department as real estate brokers and as the designated officer of IQ. During each brokers' tenure as the designated officer-broker of IQ, MIRZAEI and/or HENDRYX were responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of IQ for which a license is required.

4

Whenever reference is made in an allegation in this Accusation to an act or omission of IQ, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with IQ committed such act or omission while engaged in the furtherance of the business or operations of such corporate Respondent and while acting within the course and scope of their authority and employment.

5

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Sections 10131(d) and 10131(e) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents serviced and collected payments on loans secured directly or collaterally by liens on real property, and wherein Respondents performed services for the holders of promissory notes secured directly or collaterally by a lien on real property, including collecting payments thereon, and in addition, Respondent conducted residential real estate resale activities.

FIRST CAUSE OF ACTION
Audit Violations

6

Each and every allegation in Paragraphs 1 through 5, inclusive, above, is incorporated by this reference as if fully set forth herein.

7

On January 12, 2009 and March 30, 2009 an audit was conducted at IQ's main office located at 100 Park Place, San Ramon, California and continuing intermittently through August 2009 at the Oakland District Office of the Department of Real Estate, 1515 Clay Street, Suite 702, Oakland, California, wherein the auditor examined records for the period October 1, 2007 through March 30, 2009 (the audit period).

9

In so acting as real estate brokers, Respondents accepted or received funds in trust (herein "trust funds") from or on behalf of lenders, investors, borrowers and others in connection with the mortgage loan brokerage activities described in Paragraph 5, above, and thereafter from time to time made disbursements of the trust funds.

10

The aforementioned trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts maintained by Respondents, including but not necessarily limited to the following accounts maintained by Respondents at the Bank of America, P.O. Box 37176, San Francisco, CA 94137-0001:

(a) Account number 01414-74987 ("Bank Account #1");

(b) IQ Smarter Investments, Inc., General Acct, Account number 11589-67344 (Bank Account #2) and;

(c) Citibank, 1600 Olympic Boulevard, Walnut Creek, CA 94596, Account number 00202848644 ("Bank Account #3").

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In the course of the activities described in Paragraph 5, above, for the audit period:

(a) During the Audit Period, IQ received advanced fees totaling approximately $34,000.00 from at least three (3) homeowners (Norman Medina Loyola, 405 Maral Dr., American Canyon, CA; Charles Voght, 8467 Steelhead Avenue, Kings Beach, CA; and, William Klug, 331San Marino Lane, Brentwood, CA) for assistance with short sales of their homes without first submitting to the Department the contracts and materials used by IQ Smarter in connect with the short sales, all in violation of Section 10085 of the Code and Section 2970 of Chapter 6, Title 10, California Code of Regulations ("Regulations");

(b) For the advanced fees identified above, IQ failed to deposit same in a trust account with a bank or other recognized depository, but deposited the advance fees in either Bank Account #1, Bank Account #2 and/or Bank Account #3, in violation of Section 10146 of the Code, and;

(b) Failed to designate Bank Account #1, Bank Account #2 and Bank Account #3 as trust accounts, in violation of Section 2832;

(c) Comingled trust funds in the form of advanced fees with broker funds in Bank Account #1, Bank Account #2 and/or Bank Account #3, in violation of Section 10176(e) of the Code and Section 2836 of the Regulations;

(d) Failed to maintain separate control records of all trust funds received and deposited in Bank Account #1, Bank Account #2 or Bank Account #3, in violation of Section 2831 of the Regulations;

(e) Failed to reconcile the balance of all separate beneficiary records maintained with the record of all trust funds received and disbursed for Bank Account #1, Bank Account #2 or Bank Account #3, in violation of Section 2831.1 of the Regulations;

(f) Failed to provide principals with advance fee accountings on a quarterly basis and when contracts were completed, in violation of Section 2972 of the Regulations;

(g) Failed to retain for three years copies of all documents it executed in connection with any transaction for which a real estate broker license is required and failed to make available to the Auditor deposit receipts and copies of signature cards for Bank Account #1, Bank Account #2 or Bank Account #3, in violation of section 10148 of the Code.

12

The acts and/or omissions of IQ as alleged above violated Sections 10085, 10146 and 10148 of the Code and Sections 2970, 2835, 2831, 2831.1, 2831.2 2832, 2972, and 2725, of the Regulations and are grounds for discipline under Sections 10176 and 10177(d) of the Code.

SECOND CAUSE OF ACTION
Failure to Supervise

13

Each and every allegation in Paragraphs 1 through 12, inclusive, above, is incorporated by this reference as if fully set forth herein.

14

Respondents MIRZAEI and/or HENDRYX, as the designated officer/broker of Respondent IQ, were required to exercise reasonable supervision and control over the activities of Respondent IQ. Respondents MIRZAEI and/or HENDRYX failed to exercise reasonable supervision over the acts of IQ thereby allowing, permitting and/or ratifying the acts and omissions as described above to occur, all in violation of Section 10159.2 of the Code, which constitutes cause for suspension or revocation of all licenses and license rights of Respondents MIRZAEI and/or HENDRYX under Sections 10177(d) and 10177(h) of the Code.

THIRD CAUSE OF ACTION
Negligence and/or Incompetence

15

Each and every allegation in Paragraphs 1 through 14, inclusive, above are incorporated by this reference as if fully set forth herein.

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The acts and omissions of Respondents IQ, MIRZAEI and/or HENDRYX, and each of them, described in Paragraphs 1 through 14, above, constitute negligence or incompetence in performing acts requiring a real estate license, and therefore is cause under Section 10177(g) of the Code for suspension or revocation of all licenses and license rights of Respondents IQ, MIRZAEI and/or HENDRYX, and each of them.

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 Respondents 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 applicable provisions of law.

E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California
this 30th day of July, 2010.