FILED

FEB 11 2012

DEPARTMENT OF REAL ESTATE

By L. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MAXX REALTY AND LENDING INC., CALVIN CHAVAN PAN, and ROSENDO AUGUSTIN FLORES. Respondents.	No. H-11104 SF OAH No. 2011060507

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE(S)

On April 7, 2011, an Accusation was filed in this matter against Respondents MAXX REALTY AND LENDING INC., CALVIN CHAVAN PAN, and ROSENDO AUGUSTIN FLORES.

On December 28, 2011, Respondent ROSENDO AUGUSTIN FLORES petitioned the Commissioner to voluntarily surrender his real estate salesperson license and/or license rights, as well as, the corporate real estate license and/or license rights of MAXX REALTY AND LENDING INC., pursuant to Section 10100.2 of the Business and Professions Code.

///

IT IS HEREBY ORDERED that Respondents MAXX REALTY AND LENDING INC. and ROSENDO AUGUSTIN FLORES' petition for voluntary surrender of said real estate licenses is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated December 28, 2011 (attached as Exhibit "A" hereto). Respondent's license certificates and pocket cards 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

This Order shall become effective at 12 o'clock noon on MAR 0 2 2012.

DATED: 1/19/12

BARBARA J. BIGBY
Acting Real Estate Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

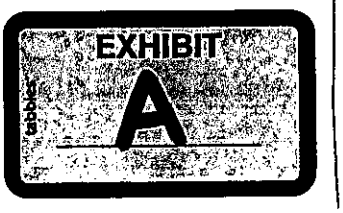
* * *

In the Matter of the Accusation of MAXX REALTY AND LENDING INC., CALVIN CHAVAN PAN, and ROSENDO AGUSTIN FLORES, Respondents.	)	No. H-11104 SF

DECLARATION

My name is ROSENDO AGUSTIN FLORES. I am currently licensed as a real estate salesperson and/or have license rights with respect to said license. MAXX REALTY AND LENDING INC. is licensed as a corporate real estate broker and/or has license rights with respect to said license. I am an officer of MAXX REALTY AND LENDING INC., and I am authorized to sign this declaration on behalf of MAXX REALTY AND LENDING INC. I am represented by Jennille Smith in this matter, and am acting on behalf of MAXX REALTY AND LENDING INC. and myself.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) I wish to voluntarily surrender the real estate license(s) issued by the Department of Real Estate



("Department") to MAXX REALTY AND LENDING INC. and to me, pursuant to Business and Professions Code ("Code") Section 10100.2.

It is understand that by so voluntarily surrendering these license(s), I may be relicensed as a broker or as a salesperson and MAXX REALTY AND LENDING INC. may be relicensed as a broker corporation only by petitioning for reinstatement pursuant to Section 11522 of the Government Code. I also understand that by so voluntarily surrendering said license(s), both MAXX REALTY AND LENDING INC. and I agree to the following:

The filing of this Declaration shall be deemed as the petition of MAXX REALTY AND LENDING INC. and also as my petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by both MAXX REALTY AND LENDING INC. and me that we hereby waive all rights either of us may have to require the Commissioner to prove the allegations contained in the Accusations filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that MAXX REALTY AND LENDING INC. and I also waive other rights afforded to us in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses. We 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 these matters prior to the Commissioner's acceptance, and all allegations contained in the Accusations heretofore filed in the Department Case No. H-11104 SF, 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.

I further understand and agree that prior to and as a condition of any petition for reinstatement made pursuant to Government Code Section 11522 being granted to make reimbursement to Ronald Peterson in the amount of $1500.

I, on behalf of MAXX REALTY AND LENDING INC., further understand and agree that prior to and as a condition of any petition for reinstatement made pursuant to

Government Code Section 11522 being granted as to MAXX REALTY AND LENDING INC., MAXX REALTY AND LENDING INC. agrees to pay, the cost of audit No. OK100007/OK100073, which found violations of Section 10145 of the Code and/or a regulation of the Commissioner interpreting Section 10145 of the Code. The amount of said costs is $4,502.50.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that MAXX REALTY AND LENDING INC. and I freely and voluntarily surrender all our license(s) and license rights under the Real Estate Law.

12/28/11 Fairfield, Ca.
Date and Place

ROSENDO AGUSTIN FLORES

12/28/11 Fairfield, Ca.
Date and Place

ROSENDO AGUSTIN FLORES on behalf of MAXX REALTY AND LENDING INC.

FILED

October 10, 2011

DEPARTMENT OF REAL ESTATE

By R. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	
MAXX REALTY AND LENDING INC., CALVIN CHAVAN PAN, and ROSENDO AGUSTIN FLORES,	)	No. H-11104 SF
	)	
Respondents.	)	

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 September 14, 2011, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent CALVIN CHAVAN PAN's (Respondent) express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license on grounds of violations of relevant real estate law and regulations as set forth below.

FINDINGS OF FACT

1

On April 4, 2011, E.J. Haberer II 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 and regular mail, to Respondent's last known mailing address on file with the Department on April 7, 2011.

On September 14, 2011, 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 have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

3

At all times mentioned, Maxx Realty And Lending Inc., (Maxx) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation. From on or about October 22, 2009, to March 2, 2010, Maxx failed to have a designated-officer affiliated with its license.

4

From on or about March 3, 2010 through January 25, 2011, Respondent was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of Maxx. As said designated officer-broker, Respondent was 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 Maxx for which a license is required.

5

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

6

At all times mentioned, Rosendo Agustin Flores (Flores) was and is licensed by the Department as a real estate salesperson. Flores is the Chief Financial Officer, a Director, and 100 percent shareholder of Maxx.

7

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:

(a) Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property; and

(b) 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.

8

In connection with the operation and conduct of the activities described in Paragraph 7, Flores, on behalf of Maxx, 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 (advance fee) of the Code including but not limited to the following:

HOMEOWNER	Property Address	AMOUNT
Eric and Heather D.	260 East Ridge Drive, San Ramon	$3,000
Ronald P.	2380 Baker Way, San Ramon	$1,500

9

In connection with the collection and handling of said advance fees:

(a) Flores and Maxx failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate 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");

(b) Maxx failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Section 10146 of the Code;

(c) Maxx failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations; and

(d) Maxx commingled with its own money or property, the money or property of others which was received or held by Maxx in trust in violation of Section 10176(e) of the Code.

10

In acting as a real estate broker, as described in Paragraph 7, Maxx accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, note purchasers, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by Respondent.

11

The aforesaid trust funds accepted or received by Maxx were deposited or caused to be deposited by Maxx into one or more bank accounts (trust funds accounts) maintained by Maxx for the handling of trust funds, including but not limited to the following:

TITLE AND ACCOUNT NUMBERS	BANK
MAXX Realty and Lending Inc. Account No. xxxxxxxx3035 (hereinafter "Bank 1")	US Bank 155 Crescent Plaza Pleasant Hill, CA 94523

12

In connection with the receipt and disbursement of trust funds, Maxx:

(a) Failed to deposit trust funds into one or more trust funds accounts in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(b) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations;

(c) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations; and

(d) Failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each account as required by Section 2831.2 of the Regulations.

13

In the course of the activities described in Paragraph 7, Maxx:

(a) Failed to retain the real estate salesperson license certificates of Flores, German R. Lopez, and Ann Shin at its main office as required by Section 10160 of the Code and Section 2753 of the Regulations.

(b) Employed real estate salespersons, including but not limited to Flores, German R. Lopez, and Ann Shin to engage in activities requiring a real estate salesperson license without first entering into the broker-salesperson relationship agreement with such salespersons as required by Section 2726 of the Regulations.

14

Respondent failed to exercise reasonable supervision over the acts of Maxx in such a manner as to allow the acts and events described above to occur.

15

The acts and/or omissions of Respondent described above constitute failure on the part of Respondent, as designated broker-officer for Maxx, to exercise reasonable supervision and control over the licensed activities of Maxx required by Section 10159.2 of the Code.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent exists pursuant to Sections 10177(g) and 10177(h) of the Code, and Section 10177(d) of the code in conjunction with Section 10159.2 of the Code.

2

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

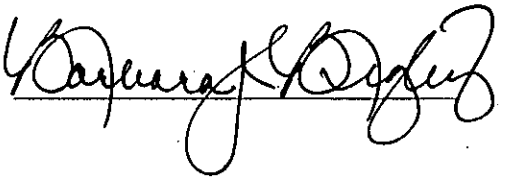
ORDER

All licenses and licensing rights of Respondent CALVIN CHAVAN PAN 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 OCT 31 2011.

DATED: 10/4/11

BARBARA J. BIGBY
Acting Real Estate Commissioner



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
APR 07 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of MAXX REALTY AND LENDING INC., CALVIN CHAVAN PAN, and ROSENDO AGUSTIN FLORES, Respondents.	No. H- 11104 SF ACCUSATION

The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MAXX REALTY AND LENDING INC., CALVIN CHAVAN PAN, and ROSENDO AGUSTIN FLORES (hereinafter "Respondents"), is informed and alleges as follows:

PRELIMINARY ALLEGATIONS

1

The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

2

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

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3

At all times mentioned, Respondent MAXX REALTY AND LENDING INC., (hereinafter "MAXX") was and is licensed by the State of California, Department of Real Estate (hereinafter "Department"), as a real estate broker corporation. From on or about October 22, 2009 to March 2, 2010, MAXX failed to have a designated-officer affiliated with its license.

4

From on or about March 3, 2010 through January 25, 2011, Respondent CALVIN CHAVAN PAN (hereinafter "PAN"), was and is licensed by the Department, individually as a real estate broker, and as the designated broker officer of MAXX. As said designated officer-broker, PAN was 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 MAXX for which a license is required.

5

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

6

At all times mentioned, Respondent ROSENDO AGUSTIN FLORES (hereinafter "FLORES"), was and is licensed by the Department as a real estate salesperson. FLORES is the Chief Financial Officer, Director, and 100 percent shareholder of MAXX.

7

At all times mentioned, Respondents 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:

///

(a) Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property; and

(b) 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.

FIRST CAUSE OF ACTION

8

Each and every allegation in Paragraphs 1 through 7, inclusive, above, is incorporated by this reference as if fully set forth herein.

9

On or about November 11, 2009, FLORES willfully caused, suffered, permitted, and/or disregarded the Real Estate Law by allowing MAXX to perform the acts and conduct the real estate activities described in Paragraph 6, above, including, but not limited to, the activities described in Paragraph 10, below.

10

On or about November 11, 2009, in the course of the employment and activities described in Paragraph 9, above, FLORES and/or other agents or employees of MAXX whose identities are unknown at this time, on behalf of MAXX, solicited and/or performed services for borrowers, in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of compensation. Such activities include, but are not limited to:

///

HOMEOWNER	PROPERTY ADDRESS
Eric and Heather D.	260 East Ridge Drive, San Ramon

10

In acting as described in Paragraphs 9 through 10, above, FLORES willfully caused, suffered, and/or permitted MAXX to willfully disregard Section 10130 of the Code.

11

The facts described above as to the First Cause of Accusation constitute cause to suspend or revoke all licenses and license rights of FLORES pursuant to the provisions of Section 10130 of the Code in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

12

Each and every allegation in Paragraphs 1 through 11, inclusive, above is incorporated by this reference as if fully set forth herein.

13

In connection with the operation and conduct of the activities described in Paragraph 7, FLORES, on behalf of MAXX, 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, the following:

HOMEOWNER	PROPERTY ADDRESS	AMOUNT
Eric and Heather D.	260 East Ridge Drive, San Ramon	$3,000
Ronald P.	2380 Baker Way, San Ramon	$1,500

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14

In connection with the collection and handling of said advance fees:

(a) FLORES and MAXX failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate 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");

(b) MAXX failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Section 10146 of the Code;

(c) MAXX failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations; and

(d) MAXX commingled with its own money or property, the money or property of others which was received or held by MAXX in trust in violation of Section 10176(e) of the Code.

15

The acts and/or omissions of FLORES as described in Paragraphs 13 and 14(a), constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085 and 10085.5 of the Code and Section 2970 of the Regulations, and are cause for the suspension or revocation of the license and license rights of FLORES.

16

The acts and/or omissions of MAXX as described in the Second Cause of Action, constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, 10085.5, and 10146 of the Code and Sections 2970 and 2972 of the Regulations, and are cause for the suspension or revocation of the license and license rights of MAXX.

In addition, the Department is entitled to reimbursement of the costs of its audit pursuant to Section 10148 of the Code.

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THIRD CAUSE OF ACTION

17

Each and every allegation in Paragraphs 1 through 16, inclusive, above, is incorporated by this reference as if fully set forth herein.

18

In acting as a real estate broker, as described in Paragraph 7, MAXX accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lenders, investors, note purchasers, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by Respondents.

19

The aforesaid trust funds accepted or received by MAXX were deposited, or caused to be deposited, by MAXX into one or more bank accounts (hereinafter "trust funds accounts") maintained by MAXX for the handling of trust funds, including, but not limited to, the following:

TITLE AND ACCOUNT NUMBERS	BANK
MAXX Realty and Lending Inc. Account No. xxxxxxxx3035 (hereinafter "Bank 1")	US Bank 155 Crescent Plaza Pleasant Hill, CA 94523

20

In connection with the receipt and disbursement of trust funds, MAXX:

(a) Failed to deposit trust funds into one or more trust funds accounts in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(b) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations;

(c) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations; and

///

(d) Failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each account as required by Section 2831.2 of the Regulations.

21

In the course of the activities described in Paragraph 7, MAXX:

(a) Failed to retain the real estate salesperson license certificates of FLORES, German R. Lopez, and Ann Shin at its main office as required by Section 10160 of the Code and Section 2753 of the Regulations; and

(b) Employed real estate salespersons, including but, not limited to, FLORES, German R. Lopez, and Ann Shin to engage in activities requiring a real estate salesperson license without first entering into the broker-salesperson relationship agreement with such salespersons as required by Section 2726 of the Regulations.

22

The facts alleged in the Third Cause of Action are grounds for the suspension or revocation of the license and license rights of MAXX under the following sections of the Code and Regulations:

(1) As to Paragraphs 20(a), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

(2) As to Paragraph 20(b), under Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations;

(3) As to Paragraph 20(c), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

(4) As to Paragraph 20(d), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations;

(5) As to Paragraph 21(a), under Section 10177(d) of the Code in conjunction with Section 10160 of the Code and Section 2753 of the Regulations; and

(6) As to Paragraph 21(b), under Section 10177(d) of the Code in conjunction with Section 2726 of the Regulations.

In addition, the Department is entitled to reimbursement of the costs of its audit pursuant to Section 10148 of the Code.

FOURTH CAUSE OF ACTION

23

Each and every allegation in Paragraphs 1 through 22, inclusive, above, is incorporated by this reference as if fully set forth herein.

24

PAN failed to exercise reasonable supervision over the acts of MAXX in such a manner as to allow the acts and events described above to occur.

25

The acts and/or omissions of PAN described in Paragraph 24 constitute failure on the part of PAN, as designated broker-officer for MAXX, to exercise reasonable supervision and control over the licensed activities of MAXX required by Section 10159.2 of the Code.

26

The facts alleged in Paragraphs 24 and 25, are grounds from the suspension or revocation of the licenses and license rights of Respondent PAN under Sections 10177(g) and/or 10177(h) of the Code and Section 10177(d) of the Code in conjunction with Section 10159.2 of the Code.

PRIOR PROCEEDINGS

27

On or about March 7, 2011, in Case No. H-11077 SF, before the Department of Real Estate, the Real Estate Commissioner issued an Order to Desist and Refrain against MAXX and FLORES for violation of Sections 10131(d), 10131.2, and 10085 of the Code and Section 2970 of the Regulations.

///

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 provisions of law.

E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 4th day of April, 2011