Department of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982

FILED

JUN 23 2011

DEPARTMENT OF REAL ESTATE
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of<br><br>EQUITY DIRECT MORTGAGE CORPORATION, doing business as Equity One Mortgage and Equity One of California; PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation; and THEODORE MICHAEL BRODERICK,<br><br>Respondents. | No. H-36404 LA<br><br>STIPULATION AND AGREEMENT |

It is hereby stipulated by and between Respondents EQUITY DIRECT MORTGAGE CORPORATION and PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation (sometimes collectively referred to as "Respondents"), represented by Allan Calomino, Esq., and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of

settling and disposing of the Accusation filed on January 5, 2010, in this matter:

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 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement ("Stipulation").

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. Respondents filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their 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 they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove said factual allegations.

5. This Stipulation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), or another licensing agency of this state, another state or if the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

6. It is understood by the parties that the Real Estate Commissioner may adopt this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be void and of no effect and Respondents shall retain the right to a hearing and proceeding on the Accusation under the provisions of the APA and shall not be bound by any stipulation

or waiver made herein.

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation 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.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit which led to this disciplinary action. The amount of said cost is 4,232.70.

9. Respondents have received, read, and understand the "Notice Concerning Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and Professions Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit will not exceed $4,232.70.

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## DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of EQUITY DIRECT MORTGAGE CORPORATION as described in Paragraph 4, above, is in violation of Sections 10085, 10145, 10146, 10160 and 10240 of the Business and Professions Code ("Code") and Sections 2752, 2753, 2831, 2831.1, 2840, 2970 and 2972 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(d) and 10177(g).

II.

The conduct of PAUL CRAIG WARNER, as described in Paragraph 4, above, constitutes a failure to keep EQUITY DIRECT MORTGAGE CORPORATION in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee in violation of Code Section 10159.2 of the Business and Professions Code, and is a basis for discipline of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent EQUITY DIRECT MORTGAGE CORPORATION under the Real Estate Law are revoked.

II.

The real estate broker license of Respondent PAUL CRAIG WARNER, under the Real Estate Law is revoked; provided, however, a restricted real estate broker license shall be issued to said Respondent, pursuant to Section 10156.5 of the Business and Professions Code if Respondent:

(A) Make application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the from the effective date of this Decision.

(B) Respondent 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 paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the

date of issuance of the restricted license.

C. Respondent shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner that restitution to the California homeowners-borrowers set forth below in Paragraph 6. has been paid or other satisfied.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the followings limitations, conditions and restrictions imposed under authority of Code Section 10156.6.

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to a Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of

a restricted license until two (2) years have elapsed from the date of issuance of the restricted license.

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

5. Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent 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 fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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6. California Homeowners Restitution

| Homeowner/Borrower | Address | Advanced Fees Paid |
|---|---|---|
| Glenda Orr | 4025 Darwin Av., Bakersfield | $2,921.60 |
| D. & J. Kennemer | 8294 Kane Dr., La Mesa | $2,995.00 |
| Ann Hughes | 761 Atchison St., Colton | $2,995.00 |
| Michael/Timothy Whitman | 1051 W. Legion Rd., Brawley | $3,495.00 |
| Esmeralda Cruz | 670 Kenington Cir. Los Banos | $3,500.00 |
| Kevin Bates | 4228 Ave., Cypress | $1,500.00 |
| Luis Molina | 14514 Jaguar, Mission Hills | $2,995.00 |
| Peter Wright | 4163 Longridge, Sherman Oaks | $5,000.00 |
| Donnell Washington | 761 Atchison St., Colton | $2,995.00 |
| Total Advance Fees Collected | | $28,396.60 |

(1) Respondent PAUL CRAIG WARNER shall deliver or mail the restitution payments, if any, by certified mail, return receipt requested, to the borrowers' last address on file with or known to Respondent.

(2) If any of the payments are returned by the Post Office marked "unable to deliver," Respondent shall employ a locator service (that may include or be limited to the Internet or other database retrieval search) to try and locate the

aforesaid borrowers. Repayments shall then be made to the addresses recommended by the locator service.

(3) If unable to effect repayment after using a locator service, Respondent shall provide reasonable proof satisfactory to the Commissioner of his efforts to comply with the provisions of this Paragraph.

(4) If the Commissioner determines that proof to be unsatisfactory, he shall so advise Respondent, and indicate what additional reasonable efforts should be made to make repayment to the borrowers.

(5) If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's restricted license until Respondent effects compliance herein.

III.

Pursuant to Section 10148 of the Business and Professions Code, Respondents EQUITY DIRECT MORTGAGE CORPORATION and PAUL CRAIG WARNER shall pay the Commissioner's reasonable cost for (a) the audits which led to this disciplinary action and (b) a subsequent audit to determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is $4,232.70. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of

work. Said amount for the prior and subsequent audits shall not exceed $8,465.40.

Respondents EQUITY DIRECT MORTGAGE CORPORATION and PAUL CRAIG WARNER, or either of them, shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

The Commissioner may suspend the license of Respondent PAUL CRAIG WARNER 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 the Respondent PAUL CRAIG WARNER and the Commissioner. The suspension shall remain in effect until payment is made in full or until a Respondent PAUL CRAIG WARNER enters 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.

DATED: 2-14-11

ELLIOTT MAC LENNAN, Counsel for
Department of Real Estate

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EXECUTION OF THE STIPULATION

We have read the Stipulation, and have discussed it with our counsel. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondents (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan.

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the Department a facsimile copy of Respondents' actual signature as

it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the Department had received the original signed stipulation.

DATED: 4/22/11

EQUITY DIRECT MORTGAGE CORPORATION,
BY: PAUL CRAIG WARNER,
Respondent

DATED: 4/22/11

PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation,
Respondent

DATED: 4/24/2011

ALLAN CALOMINO, ESQ.,
Attorney for Respondents
Approved as to form

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents EQUITY DIRECT MORTGAGE CORPORATION and PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation and shall become effective at 12 o'clock noon on July 22, 2011.

IT IS SO ORDERED 6/6, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

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FILED

JUN 23 2011

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of<br><br>EQUITY DIRECT MORTGAGE CORPORATION, doing business as Equity One Mortgage and Equity One of California; PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation; and THEODORE MICHAEL BRODERICK,<br><br>Respondents. | No. H-36404 LA |

DISMISSAL

The Accusation filed against THEODORE MICHAEL BRODERICK on January 5, 2010, is dismissed.

IT IS SO ORDERED this 6th day of June, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED

JAN 5 2010

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| In the Matter of the Accusation of<br><br>EQUITY DIRECT MORTGAGE CORPORATION, doing business as Equity One Mortgage and Equity One of California; PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation; and THEODORE MICHAEL BRODERICK,<br><br>Respondents. | No. H- 36404 LA<br><br>A C C U S A T I O N |

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against EQUITY DIRECT MORTGAGE CORPORATION dba Equity One Mortgage and Equity One of California, PAUL CRAIG WARNER, individually and as designated officer of Equity Direct Mortgage Corporation, and THEODORE MICHAEL BRODERICK, alleges as follows:

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1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against EQUITY DIRECT MORTGAGE CORPORATION, PAUL CRAIG WARNER and THEODORE MICHAEL BRODERICK.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

License History

a. EQUITY DIRECT MORTGAGE CORPORATION ("EDMC"). At all times mentioned, Respondent EDMC was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On December 6, 1995, EDMC was originally licensed as a corporate real estate broker. Respondent EDMC was authorized to act by and through Respondent PAUL CRAIG WARNER as EDMC's broker designated pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring EDMC's compliance with the Real Estate Law.

b. PAUL CRAIG WARNER ("WARNER"). At all times mentioned, Respondent WARNER was licensed or had license rights issued by the Department as a real estate broker. On May 14, 1995, WARNER was originally licensed as a real estate broker.

c. THEODORE MICHAEL BRODERICK ("BRODERICK"). At all times mentioned, Respondent BRODERICK was licensed or had license rights issued by the Department as a real estate salesperson. On March 7, 1988, BRODERICK was originally licensed as a real estate salesperson. At all times mentioned, BRODERICK was employed by EDMC.

d. EDMC, WARNER and BRODERICK conduct activities including loan modification activities requiring a real estate license and an approved advance fee agreement from the Department.

e. At all times herein mentioned, EDMC is and was a California corporation. Respondent WARNER is the President and Secretary of EDMC; BRODERICK is EDMC's Treasurer. At all times relevant herein, Respondents WARNER and BRODERICK owned or controlled EDMC's stock equally. Equity One Mortgage and Equity One are fictitious business names of EDMC.

Brokerage

4.

At all times mentioned, in the City of Mission Viejo and County of Orange, Respondents EDMC, WARNER and BRODERICK acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(d) and 10131.2. EDMC, WARNER and BRODERICK engaged in the business of a mortgage loan brokerage and a loan modification brokerage collecting advance fees.

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Respondents EDMC, WARNER and BRODERICK advertised, solicited and offered to provide loss mitigation and loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, reduction in principal or interest, foreclosure prevention and short sales.

EDMC processed the following loan modifications during the audit period set forth below

| Total Loan Modifications | Advanced Fees per Loan Modification | Completed Loan Modifications | Advance Fees Collected |
|---|---|---|---|
| 160 | $1,500 to $5,000 | unknown | unknown |

FIRST CAUSE OF ACCUSATION
(Audit Examination)

5.

On August 27, 2009, the Department completed an audit examination of the books and records of EDMC pertaining to the mortgage loan but principally loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The examination covered a period of time beginning on July 1, 2006 to May 21, 2009. The examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA

080295 and the exhibits and work papers attached thereto.

Trust Account

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, EDMC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers who paid advance fees to EDMC and WARNER for loan modifications handled by EDMC. Thereafter EDMC made deposits and or disbursements of such trust funds. From time to time during the audit period, said trust funds were deposited and/or maintained by EDMC in the trust account:

"Equity Direct Mortgage Corporation Trust Account
Account No. 09922-66453
Bank of America
Mission Viejo, CA 92691-3537

(T/A #1 - used for deposit of advance fees collected from homeowners for loan modifications)

Audit Violations

7.

In the course of activities described in Paragraphs 4 and 6, and during the examination period described in Paragraph 5, Respondents EDMC, WARNER and BRODERICK acted in violation of the Code and the Regulations in which Respondents:

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(a) Loan Modifications Conducted by EDMC

EDMC conducted loan modification activities without an advance fee agreement approved by the Department. On or about April 22, 2009, EMDC commenced loan modification services; ceasing such activities during May 2009.

Initially EDMC forwarded EDMC's loan modification to licensed real estate brokers Loan Processing Center Inc. and Community First Finance, Inc. EDMC also forwarded its loan modifications through PTD, LLC, an unlicensed entity for processing. In time, EDMC elected to cease outside processing, commencing to process loan modifications in house.

EDMC paid fees to the aforesaid processing companies within a range of $500 to $1,100 per loan modification transaction, including, but not limited to, these examples hereof:

| Borrower | Fees Collected | Date Collected | Processing Company | Fees Paid to Processor | Date Paid |
|---|---|---|---|---|---|
| B. Lee | 3,000.00 | 9/3/08 | PTD, LLC | 900.00 | 09/02/08 |
| K. Savell | 3,495.00 | 07/28/08 | CFF | 500.00 | 07/28/08 |

| | | | | | |
|---|---|---|---|---|---|
| R. Hayward | 3,195.00 | 9/9/08 | PTD, LLC | 1,100.00 | 09/08/08 |
| A. Burgoon | 2,900.00 | 5/8/08 | LPC | 995.00 | 05/07/08 |
| M. Wuori | 2,995.00 | 06/06/08 | CFF | 995.00 | 6/6/2008 |
| G. Orr | 2,921.60 | 6/25/08 | CFF | 995.00 | 9/9/2008 |

Loan Modification - Borrower: Barbara Lee

Barbara Lee (Lee) contracted with EDMC in early August 28, 2008 to modify the mortgage loan for her home located at 11407 Braidstone Ln., Chesterfield, VA 23838. As of November 2008, EDMC had not contacted Lee's mortgage lender, Lee herself or provided a refund to her for services contracted for but not performed

Lee entered into a loan modification agreement with EDMC on August 28, 2008. Lee paid fees in advance by two direct bank debits in the amount of $1,500.00 on September 3, 2008 and $1,500.00 on September 15, 2008 for the services to be rendered by EDMC. An "Equity Direct Mortgage Corporation Loan Workout Information Sheet" dated August 28, 2008 with complete borrower's financial information was found in the transaction file. The loan modification transaction file along with a $900.00 check

made payable to PTD, LLC from EDMC was forwarded to PTD, LLC on September 2, 2008 for processing of Lee's loan modification.

Loan Modification - Borrower: Kenneth Savell

Kenneth Savell (Savell) sought to modify his loan to lower the interest rate and monthly payments, obtain a fixed interest rate for the duration of the home loan and keep the due date in the third week of the month. Savell entered into a loan modification agreement with EDMC on July 17, 2008, for his home located at 5679 Gainswood Court, Pensacola, FL 32526. Savell paid $3,495.00 fees in advance on July 28, 2008 to EDMC for the loan modification services to be rendered by EDMC. The loan modification transaction file along with a $500.00 check made payable to Community First Finance (CFF), on July 28, 2008 was forwarded to CFF on July 25, 2008 for processing.

Savell's loan was completed. The modified terms for the First Trust Deed were: 7.8% for 61 months starting October 1, 2008 and the second Trust Deed was discharged.

Loan Modification - Borrower: Steven Fether

On September 19, 2008, Steven Fether (Fether) contracted with EDMC to modify his home loan. Subsequently, Fether received a foreclosure notice on November 11, 2008. Fether was informed by his mortgage lender that no record existed of any work being performed on his home loan account regarding a

loan modification. After November 26, 2008, EDMC no longer communicated with Fether. On September 19, 2008, Fether entered into a loan modification agreement with EDMC for his home located at 12224 E. 33rd St., Yuma, AZ 85367. On October 15, 2008, Fether paid fees in advance by three electronic debit payments in the amount of $1,348 on September 23, 2008, $673.50 on September 30, 2008 and $673.50, totaling $2,695.00, for the loan modification services to be rendered by EDMC.

On December 16, 2008, EDMC contacted American Home Mortgage Servicing Inc., Fether's lender. EDMC was authorized by Fether to receive information regarding Fether's loan.

An EDMC internal email dated January 28, 2009 to the Better Business Bureau was found in the transaction file regarding Fether transaction. According to the email, EDMC was informed by the lender that the loan modification was approved on the first and second mortgage.

Loan Modification - Borrower: Robert Hayward

Robert Hayward (Hayward) was informed by EDMC that he should receive an offer from his lender within two to ten weeks regarding his loan modification. Hayward did not get any response back from EDMC. Hayward was able to modify his loan by working directly with his lender.

Hayward entered into a loan modification agreement with EDMC on September 03, 2008, for his home located at 13809 Fuchsia Ln., Victorville, CA 92392.

Hayward paid fees in advance by two electronic debits in the amount of $1,600.00 on September 9, 2008 and $1,595.00 on October 3, 2008, totaling $3,195.00, for the loan modification services to be rendered by EDMC. The loan modification transaction file along with a $1,100.00 check which was made payable to PTD, LLC (PTD) was sent to PTD on September 08, 2008 for processing.

On or about December 2008, Hayward cancelled EDMC's in-process loan modification and received a refund in the amount of $995. None of the advanced fees collected from homeowners Barbara Lee, Kenneth Savell, Steve Fether and Robert Hayward were placed into a trust account, in violation of Code Section 10146.

The conduct of Respondents EDMC, WARNER and BRODERICK, contracting with homeowners Barbara Lee, Kenneth Savell, Steve Fether and Robert Hayward without an approved advance fee agreement from the Department in violation of Code Section 10085 and Regulation 2970, constitutes cause for discipline of their real estate license and license rights, pursuant to Code Sections 10176(a), 10176(b), 10176(c), 10176(i) and/or 10177(g).

(b) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein EDMC failed to provide homeowners with a pre-approved advance fee agreement from the Department, in violation of Code Sections 10085, 10176(a) and 10176(i) and Regulation 2970. EMDC used an unauthorized copy of a Loan Modification Agreement for

another corporate real estate broker, to wit, Refisoup.com. EMDC copied Refisoup.com's Loan Modification Agreement, changed the name to EMDC and used it for EMDC's loan modification services.

(c) With reference to the lack of an advance fee agreement, EDMC failed to provide a complete description of services to be rendered provided to each homeowner in 10 point type font and failed to provide an allocation and disbursement of the amount collected as the advance fee, in violation of Code Section 10146 and Regulation 2972.

(d) Commingled trust funds with EDMC's personal funds by depositing trust funds in the form of advance fees collected for loan modifications from homeowners into EDMC's general operating account, instead of depositing trust funds into a properly designated trust account for that purpose, to wit, T/A #1, in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

(e) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected, deposited and disbursed by T/A #1, in connection with loan modifications, in violation of Code Section 10145 and Regulation 2831.

(f) Failed to maintain a separate record for each homeowner-beneficiary or transaction, thereby failing to account for all trust funds in the form of advance fees collected,

deposited and disbursed from T/A #1, in violation of Code Section 10145 and Regulation 2831.1.

(g) Failed to perform a monthly reconciliation of the balance of all separate homeowner-beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by T/A #1, in violation of Code Section 10145 and Regulation 2831.2.

(h) Converted trust funds in the amount of $14,990, in advance fees collected from homeowners for loan modification services which EDMC failed to render. EDMC collected $14,990 from homeowners pursuant to its unapproved loan modification agreement. EDMC made unauthorized disbursements to itself for EDMC's own expenses unrelated to any homeowner. EDMC then reduced the balance in EDMC's general account, to an amount that was less than the amount of advance fees deposited, $14,9990, in violation of Code Sections 10145, 10176(i) or 10177(j) and/or 10177(g).

(i)(1) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Wheilhan, Palacios, Rosillo, Moya and Haaase, in violation of Code Section 10240; and

(i)(2) Failed to disclose yield spread premiums from lenders on the approved Mortgage Loan Disclosure Statement for the aforesaid borrowers in violation of Code Section 10240, 10241 and Regulation 2840.

(j) Failed to retain salesperson license certificates for Ryan Hugh Leach and Mark Steven Churchill, in violation of Code Section 10160 and Regulation 2753; and

(k) Failed to notify the Department of the termination of salespersons Frank Lee Domino and Christopher Stone and failed to notify the Department of the employment of Michael Broderick, Ryan Leach and Mark Churchill and Nancy Marchiola in a timely manner, in violation of Code Section 10161.8 and Regulation 2752.

Discipline Statutes

8.

The conduct of Respondents EDMC, WARNER and BRODERICK described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

| PARAGRAPH | |
|---|---|
| 7(a) | Code Sections 10085, 10146, 10176(a), 10176(b), 10176(c), 10176(i) and/or 10177(g) and Regulation 2970 |
| 7(b) | Code Sections 10085, 10176(a) and 10176(i) and Regulation 2970 |
| 7(c) | Code Section 10146 and Regulation 2972 |
| 7(d) | Code Sections 10145 and 10176(e) and Regulation 2832 |
| 7(e) | Code Section 10145 and Regulation 2831 |
| 7(f) | Code Section 10145 and Regulation 2831.1 |

| | |
|---|---|
| 7(g) | Code Section 10145 and Regulation 2831.2 |
| 7(h) | Code Sections 10145, 10176(i) and/or 10177(g) |
| 7(i) | Code Section 10240, 10241 and 2840 |
| 7(j) | Code Section 10160 and Regulation 2753 |
| 7(k) | Code Section 10161.8 and Regulation 2752 |

These violations are cause for discipline of the real estate license and license rights of Respondents EDMC and WARNER under the provisions of Code Sections 10176(a), 10176(b), 10176(c), 10176(e), 10176(i), 10177(j), 10177(d), and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(False, Misleading or Deceptive Advertising)

9.

EDMC's advertising flyer dated September 19, 2008, for Equity Direct Mortgage Corp. Loss Mitigation Program!", promulgated by unlicensed "Note Modification Specialist" Denise Duncan, to homeowner Steven Fether is false, misrepresentative and deceitful in itself or through the omission of information necessary to make a representation contained therein unambiguous, and as such is insufficient to satisfy the disclosure requirements of Code Section 10235 and Regulation 2848, in

violation thereof as herein set forth for Respondents EDMC, WARNER and BRODERICK.

EDMC's advertising flyer offer of a (1) "performance guarantee"; (2) EDMC's use of "real estate professionals: who are not licensed by the Department; and, (3) EDMC's assertion that it has "dedicated itself to mortgage lending and loss mitigation for over fourteen years!" when in fact EDMC was originally licensed on December 16, 1995".

THIRD CAUSE OF ACCUSATION
(Employment of Unlicensed Loan Modification Agents)

10.

Respondents EDMC, WARNER and BRODERICK (1) employed and/or compensated persons who were not licensed as salespersons or as brokers to perform loan modification servicing activities requiring a real estate license under Code Sections 10131(d) and (2) employed and/or compensated PTD, LLC to process EDMC's loan modifications as follows, in violation of Code Section 10137:

Table: Unlawful Employment/Compensation of Unlicensed Persons

| Borrower | Processing Company | Loss Mitigation Agents |
|---|---|---|
| B. Lee | PTD, LLC | Mani Dilmaghanian, Clair Akey |
| K. Savell | CFF | Patrick Gerken |

| | | |
|---|---|---|
| R. Hayward | PTD, LLC | Norman Fairchild, Karen Hughes Denise Duncan, Tina Hickoff, |
| S. Fether | CFF | Dan Lucey |

Unlicensed Activity

11.

BRODERICK performed loan modification services and collected or supervised the collection of advance fees from homeowners set forth in the Table, above, when BRODERICK was not licensed by the Department as a real estate broker for performing acts for which a real estate broker license is required, in violation of Code Section 10130.

FOURTH CAUSE OF ACCUSATION
(Department of Corporations Discipline)

12.

On November 5, 2008, In the Matter of the Accusation Before the Department of Corporation vs. Equity Direct Mortgage Corporation, filed on November 5, 200, EDMC's residential mortgage lender/servicer license, was revoked effective December 8, 2004. Said action is cause for discipline under Code Section 10177(f), with respect to EDMC and WARNER.

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Negligence

13.

The overall conduct of Respondents EDMC and WARNER, constitutes negligence. This conduct and violation are cause for discipline of their real estate license and license rights, pursuant to Code Section 10177(g).

Supervision And Compliance

14.

The overall conduct of Respondent WARNER constitutes a failure on WARNER's part, as officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of EDMC, as required by Code Sections 10159.2 and 10211 and Regulation 2725, and to keep EDMC in compliance with the Real Estate Law. Said conduct, acts and omissions are cause for discipline of the real estate license and license rights of WARNER pursuant to the provisions of Code Sections 10177(d) and 10177(h) and/or 10177(g). WARNER failed to exercise reasonable care and supervision over EDMC, particularly with respect to the trust fund handling and advance fees collection procedures for EMDC's loan modification activities which require a real estate license and an approved advance fee agreement. Nor did WARNER have policies and procedures in place to maintain and monitor EMDC's compliance with the Real Estate Law.

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Fiduciary Duty

15.

Respondents EDMC, WARNER and BRODERICK, for failing to act in a fiduciary capacity towards economically distressed homeowners with respect to loan modifications services Respondents performed or purported to perform by their use of an unapproved advanced fee agreement collected and deposited into EDMC's general account, after solicitation of said homeowners, using false, deceptive and misleading advertising and for the employment and compensation of unlicensed persons as loss mitigation and loan modification agents to handle the aforesaid loan modifications, in violation of Code Section 10176(i).

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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 the license and license rights of Respondents 100 EQUITY DIRECT MORTGAGE CORPORATION, PAUL CRAIG WARNER and THEODORE MICHAEL BRODERICK, 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.

Dated at Los Angeles, California
this 10th day of December 2009.

Deputy Real Estate Commissioner

cc: Equity Direct Mortgage Corporation
c/o Paul Craig Warner D.O.
Maria Suarez
Sacto
Audits - Gina King