Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982

FILED

NOV 16 2010

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CITYWIDE MORTGAGE CORPORATION doing business as Paper Pro Services, Quality Credit, USMAC and USMAC Realty; SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, individually and as designated and former designated officers of Citywide Mortgage Corporation, Respondents,	No. H-36455 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondents CITYWIDE MORTGAGE CORPORATION, a corporate real estate broker, doing business as Paper Pro Services, Quality Credit, USMAC and USMAC Realty, SCOTT EDWARD GIMBEL, individually and as designated officer of Citywide Mortgage Corporation, and MARK DYLAN BARLEY, individually and as former designated officer of Citywide Mortgage Corporation (sometimes collectively referred to as "Respondents"), represented by Julie Greenfield, 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 ("Accusation") filed on February 4, 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 timely 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 and Respondents' decision not to contest the Accusation 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"), the state or federal government, or any agency of this state, another state or federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.

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 "Order" herein below. In the event that the Commissioner in his discretion does not adopt the Stipulation, it 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 but do constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations against Respondents herein.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of audit which led to this disciplinary action. The amount of said cost for the audit is $5,785.00.

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 $5,785.00.

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 CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, as described in Paragraph 4, above, is in violation of Sections 10085, 10145, 10146, 10148, 10160, 10176(a), 10176(e), 10235 and 10240 of the Business and Professions Code ("Code") and Sections 2831, 2831.1, 2970 and 2972 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondents' licenses and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(d).

II.

The conduct of SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, as described in Paragraph 4, constitutes a failure to keep Citywide Mortgage Corporation in compliance with the Real Estate Law during the time that they was the officers designated by a corporate broker licensee. This conduct is a violation of Code Section 10159.2 and Regulation 2725, and is a basis for the suspension or revocation of Respondents' license therein, pursuant to Code Section 10177(h), 10177(d) and 10177(g).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, under the Real Estate Law are suspended for a period of ninety days from the effective date of this Decision; provided, however, that if Respondents request, thirty days of said suspension (or a portion thereof) shall be stayed upon condition that:

1. Respondents each pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of $166.66 per day for each day of the suspension for a monetary penalty of $5,000 each or a total monetary penalty of $15,000.

2. 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 received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate licenses of Respondents occurs within two years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any

part of the stayed suspension, in which event the Respondents shall not be entitled to any repayment or credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

5. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate licenses of Respondents occurs within two years from the effective date of the Decision, the stay hereby granted shall become permanent.

B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed for two (2) years upon the following terms and conditions:

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

2. That no final subsequent determination be made after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Decision. Should such a determination be made, the Commissioner may, in his 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 imposed herein shall become permanent.

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II.

Pursuant to Section 10148 of the Business and Professions Code, Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY shall pay the Commissioner's reasonable cost for (a) the audit which led to this disciplinary action (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 $5,785.00. 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 $11,570.

Respondents 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 licenses of Respondents 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 and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondents 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.

III.

All licenses and licensing rights of Respondents SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY are indefinitely suspended unless or until Respondents provide 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 Respondents have 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.

IV.

Respondents SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY shall within six (6) months from the effective date of the Decision herein take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondents fail to satisfy this condition, the Commissioner may order suspension of Respondents' license until Respondents pass the examination.

DATED: 9-21-10

ELLIOTT MAC LENNAN, Counsel for the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation. 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. 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, 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. Respondents shall forward the original signed signature page to Elliott Mac Lennan.

DATED: 8/18/10

CITYWIDE MORTGAGE CORPORATION, a corporate real estate broker,
BY: SCOTT EDWARD GIMBEL, D.O., Respondent

DATED: 8/18/10

SCOTT EDWARD GIMBEL individually and as designated officer of Citywide Mortgage Corporation, Respondent

DATED: _____

MARK DYLAN BARLEY, individually and as former designated officer of Citywide Mortgage Corporation, Respondent

DATED: 9/14/10

JULIE GREENFIELD, ESQ.
Attorney for Respondents
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, individually and as designated officer of Citywide Mortgage Corporation and shall become effective at 12 o'clock noon on _____, 2010.

IT IS SO ORDERED _____, 2010.

JEFF DAVI
Real Estate Commissioner

DATED: _____

CITYWIDE MORTGAGE CORPORATION, a corporate real estate broker,
BY: SCOTT EDWARD GIMBEL, D.O.,
Respondent

DATED: _____

SCOTT EDWARD GIMBEL individually and as designated officer of Citywide Mortgage Corporation,
Respondent

DATED: 8/30/2010

MARK DYLAN BARLEY, individually and as former designated officer of Citywide Mortgage Corporation,
Respondent

DATED: 9/14/10

JULIE GREENFIELD, ESQ.
Attorney for Respondents
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, individually and as designated officer of Citywide Mortgage Corporation and shall become effective at 12 o'clock noon on _____, 2010.

IT IS SO ORDERED _____, 2010.

JEFF DAVI
Real Estate Commissioner

_____

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, individually and as designated officer of Citywide Mortgage Corporation and shall become effective at 12 o'clock noon on December 16, 2010.

IT IS SO ORDERED 10/19, 2010.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

Sacto

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

FEB 4 2010

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CITYWIDE MORTGAGE CORPORATION doing business as Paper Pro Services, Quality Credit, USMAC and USMAC Realty; SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, individually and as designated and former designated officers of Citywide Mortgage Corporation, Respondents.	No. H-36455 LA A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against CITYWIDE MORTGAGE CORPORATION dba Paper Pro Services, Quality Credit, USMAC and USMAC Realty; SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, individually and as designated and former designated officers of Citywide Mortgage Corporation, alleges as follows:

1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY.

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. CITYWIDE MORTGAGE CORPORATION ("CMC"). At all times mentioned, Respondent CMC was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On September 27, 2001, CMC was originally licensed as a corporate real estate broker. At all times mentioned herein, Respondent CMC was authorized to act by and through Respondent SCOTT EDWARD GIMBEL and formerly through MARK DYLAN BARLEY as CMC's brokers designated pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring CMC's compliance with the Real Estate Law.

b. SCOTT EDWARD GIMBEL. At all times mentioned, Respondent SCOTT EDWARD GIMBEL ("GIMBEL") was licensed or had license rights issued by the Department as a real estate broker.

On August 19, 2004, GIMBEL was originally licensed as a real estate broker and on August 20, 2008, became the designated officer of CMC. GIMBEL is the Chief Executive Officer, Chief Financial Officer and corporate Secretary of CMC and CMC's sole shareholder.

c. MARK DYLAN BARLEY. At all times mentioned, Respondent MARK DYLAN BARLEY ("BARLEY") was licensed or had license rights issued by the Department as a real estate broker. On April 29, 2002, BARLEY was originally licensed as a real estate broker and on April 1, 2006, became the designated officer of CMC until his cancellation of August 20, 2008.

d. CMC, GIMBEL and BARLEY conducted activities by and through Paper Pro Services, Quality Credit, USMAC and USMAC Realty requiring a real estate license and an approved advance fee agreement from the Department.

Brokerage

4.

At all times mentioned, in the City of Aliso Viejo and County of Los Angeles, Respondents CMC, GIMBEL and BARLEY, acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(d) and 10131.2, dba Paper Pro Services, Quality Credit, USMAC and USMAC Realty. Respondents, pursuant to Code Section 10131(d), engaged in the business of:

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a. Mortgage Loan Brokerage: Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

b. Loan Modification Brokerage. Respondents solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments of the terms of their home loans including, but not limited to, repayment plans, forbearance, partial claims, and principal/interest, foreclosure prevention and short sales; and

c. Advance Fee Brokerage. In addition, Respondents demanded, charged and collected advance fees including "up front fees" for processing loan modifications and for negotiating with lenders. CMC and GIMBEL processed the following loan modifications during the audit period:

California Loan Modifications	Advance Fees Charged Per Homeowner	Advance Fees Collected
19	$874 - $3,495	$33,760

Audit Examination

5.

On June 26, 2009, the Department completed an audit examination of the books and records of CMC pertaining to the mortgage loan, loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on April 1, 2006 and March 1, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080188 and the exhibits and work papers attached to said audit report.

Trust Account

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, CMC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including homeowner-borrowers and lenders for mortgage loans handled by CMC. Thereafter CMC made deposits and or disbursements of such trust funds including but not limited to credit reports and appraisal fees collected at funding. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by CMC in the trust account as follows:

"Citywide Mortgage Corporation Trust Account
Account No. 6054641
Farmers and Merchants Bank
Lakewood, CA 90712 (trust account)

Audit Violations

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the audit examination period described in Paragraph 5, Respondents CMC, GIMBEL and BARLEY acted in violation of the Code and the Regulations in which Respondents:

(a) SCOTT EDWARD GIMBEL. Collected advance fees in nineteen (19) loan modification transactions within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein CMC failed to provide said homeowners including but not limited to Lloyd Hickman and "Julia", and per the table:

Borrower	Fees Collected	Date Collected	Date of Initial Processing	Fees Paid to Dillon	Date Paid to Dillon	Refund Fees	Date Refunded
Hickman	$ 2,995	09/12/08	(2)	$ 1,032	09/12/08	$ 2,995	05/13/09
Batham	$ 1,750	10/06/08	11/21/08	$ 1,100	10/13&10/23/08	$ 0	N/A
Carr	$ 1,750	09/05/08	(2)	N/A	N/A	$ 1,750	09/17/08
Chang	$ 1,500	08/29/08	(2)	$ 1,200	08/29/08	$ 1,500	09/17/08
Copelin	$ 4,495	8/29&9/15/08	(2)	$ 1,200	08/29/08	$ 4,495	03/06/09
Ferrin	(1)	(1)	(2)	$ 750	09/25/08	$ 2,500	01/02/09
Fabionar	$ 1,165	09/23/08	12/29/08	$ 166	10/06/08	$ 0	
Glasco	$ 3,495	09/23/08	(2)	N/A	N/A	$ 3,495	03/10/09
Green	$ 874	10/20/2008	10/19/2008	N/A	N/A	$ 0	N/A
Ibssa	$ 1,750	09/22/08	09/18/08	$ 1,200	9/18,9/22/08	$ 0	N/A
Kinght	$ 1,600	(1)	09/08/08	$ 500	09/08/08	$ 1,600	12/02/08
Le	(1)	(1)	(2)	$ 1,200	08/29/08	$ 0	N/A
Mendeola	$ 1,500	10/6&11/1/08	10/6& 11/1/08	N/A	N/A	$ 0	N/A
Nguyen	$ 1,747	10/16/08	11/25/08	N/A	N/A	$ 0	N/A
Pfister	$ 1,750	(1)	09/12/08	$ 1,100	9/11&10/10/08	$ 3,495	05/06/09
Quebral	$ 1,748	(1)	12/23/08	$ 873.5	9/8/2008	$ 0	N/A
Rodriguez	$ 1,750	09/18/08	(2)	$ 1,750	9/19&10/1/08	$ 0	N/A
Thomas	$ 1,747	10/13/08	12/15/08	N/A	N/A	$ 1,747.5	10/20/08
Tilbury	$ 1,750	10/01/08	10/02/08	$ 875	10/1/2008	$ 1,750	05/13/09
	$33,760			$12,946.5		$25,327.5	

a pre-approved advance fee agreement from the Department, in violation of Code Section 10085 and Regulation 2970.

(b) SCOTT EDWARD GIMBEL. With reference to the lack of an advance fee agreement, CMC failed to provide a complete description of services to be rendered provided to each homeowner-borrower 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.

(c) SCOTT EDWARD GIMBEL. Commingled and converted trust funds and personal funds by depositing trust funds in the form of advance fees collected from homeowners for loan modifications into CMC's general operating accounts instead of depositing trust funds into a properly designated trust account, in violation of Code Sections 10145, 10176(e) and 10176(i) and Regulation 2832.

(d) SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY. Failed to maintain a control record for each beneficiary or transaction, thereby failing to account for all trust funds in the form of credit report fees and appraisal fees collected at funding, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.

(e) SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY. Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds in

the form of credit report fees and appraisal fees collected at funding, deposited and disbursed collected, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.1.

(f) SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY. Failed to retain a true and correct copy of a the Department of Real Estate's Mortgage Loan Disclosure Statement, which signed by the broker for borrowers, sets forth all applicable disclosures including but not limited to yield spread premiums rebates by the lender CMC and which correctly discloses all compensation paid to CMC, in violation of Code Section 10240 and Regulation 2840.

(g) SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY. USMAC's website advertisement, where USMAC is a fictitious business name of CMC, is misleading because it fails to disclose (1) the terms, conditions and limitations that pertain to it advertising for (1) zero home loans, (2) no cost home loans, and (3) fails to disclose in its advertised same day approval home loan, requires income, asset, credit history and title search to be previously verified, in violation of Code Sections 10176(a) and 10235.

(h) SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY. USMAC's posted website advertisement fails to disclose the required licensing statement "Real Estate Broker, Department of Real Estate, in violation of Regulation 2847.3.

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(i) SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY. Based on a review of terms set forth in the advertising posted on USMAC's website, CMC:

(1) Used superlatives and comparatives without further explanation to make the representation unambiguous in the context in which they were used.

(2) Implied that CMC will act in the capacity of a lender rather than as an agent in the mortgage loan transaction, to wit, "a direct lender offering special mortgage financing…" and "Equal Housing Lender."

(3) Contained a representation that loans are available at or to a maximum percentage market value without disclosure as to how the market value will be determined for the purpose of a loan transaction.

(4) Stated that CMC can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without stating that these products may have a higher interest rate, more points or more fees than other products requiring documentation.

This conduct constitutes a violation of Code Sections 10235 and 10176(i) and Regulations 2848(2), 2848(4), 2848(9) and 2848(16).

(j) SCOTT EDWARD GIMBEL. Failed to retain the salesperson license certificates for Antonio Johnson and Maribel Martinez, in violation of Code Section 10160 and Regulation 2753.

(k) MARK DYLAN BARLEY. Used the fictitious name of EZM Mortgage to conduct licensed activities, without holding a license bearing the fictitious business names, in violation of Code Section 10159.5 and Regulation 2731.

(l) SCOTT EDWARD GIMBEL. After notice and subpoena on April 16, 2009, failed retain all records of CMC's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148.

Discipline Statutes

8.

The conduct of CMC, GIMBEL and BARLEY, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10085 and Regulation 2970 (SCOTT EDWARD GIMBEL)

7(b)	Code Section 10146 and Regulation 2972 (SCOTT EDWARD GIMBEL)
7(c)	Code Sections 10145, 10176(e), 10176(i) and Regulation 2832 (SCOTT EDWARD GIMBEL)
7(d)	Code Section 10145 and Regulation 2831 (SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY)
7(e)	Code Section 10145 and Regulation 2831.1 (SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY)
7(f)	Code Section 10240 and Regulation 2840 (SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY)
7(g)	Code Sections 10176(a) and 10235 (SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY)
7(h)	Regulation 2847.3 (SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY)
7(i)	Code Sections 10235 and 10176(i) and Regulations 2848(2), 2848(4), 2848 (9) and 2848 (16) (SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY)
7(j)	Code Section 10160 and Regulation 2753 (SCOTT EDWARD GIMBEL)
7(k)	Code Section 10159.5 and Regulation 2731 (MARK DYLAN BARLEY)
7(l)	Code Section 10148 (SCOTT EDWARD GIMBEL)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY under the provisions of Code Sections 10176(a), 10176(e), 10176(i), 10177(d) and/or 10177(g).

9.

Breach of Fiduciary Duty

The conduct of Respondents CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY constitutes a failure to act in a fiduciary capacity with respect to CMC's homeowners-borrowers clients, in violation of Code Sections 10176(i) and/or 10177(g).

10.

Negligence

The overall conduct of Respondents SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY constitutes negligence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

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Supervision And Compliance

11.

The overall conduct of Respondents GIMBEL and BARLEY constitutes a failure on Respondents' part, as officers designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of CMC as required by Code Sections 10159.2 and 10211 and Regulation 2725, and to keep CMC in compliance with the Real Estate Law, with specific regard to trust fund handling, advance fee handling with respect to conducting loan modification services for homeowners, and mortgage loan transactions and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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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 CITYWIDE MORTGAGE CORPORATION, SCOTT EDWARD GIMBEL and MARK DYLAN BARLEY, under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including but not limited to Government Code Sections 11519 and 11519.1 of the Administrative Procedure Act.

Dated at Los Angeles, California

this 2 day of February 2010

Deputy Real Estate Commissioner

cc: Citywide Mortgage Corporation
c/o Scott Edward Gimbel D.O.
Mark Dylan Barley, former D.O.
Robin Trujillo
Sacto
Audits - Gina King
Tiffany Williams