FILED

AUG 18 2016

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of JERRY GANG CHEN, Respondent.	No. H-36596 LA

ORDER DENYING REINSTATEMENT OF RESTRICTED LICENSE

On April 26, 2011, a Decision was rendered in Case No. H-36596 LA revoking Respondent's real estate broker license, but granting Respondent the right to the issuance of a restricted real estate salesperson license effective June 9, 2011, however, Respondent did not apply for a restricted salesperson license.

On March 8, 2016, Respondent petitioned for reinstatement of Respondent's real estate broker license.

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

I have considered the petition of Respondent and the evidence submitted in support thereof.

The Bureau has developed criteria in Section 2911 of Title 10, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

Regulation 2911(j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

Petitioner offered no evidence of discharging the following monetary obligations: State tax liens of $24,879 and $4,326; small claims court judgments of $5,000 to Man Ho Chan and $2,000 to Ricardo Cuan; and an $84,953 judgment to Siu Young Ko. Petitioner also failed to pay the Real Estate Commissioner $9,423.50 in reasonable audit costs, as ordered in the Stipulation and Agreement for Case H-36596 LA.

Regulation 2911(k) Correction of business practices resulting in injury to others or with the potential to cause such injury.

Petitioner offered no evidence of curing the $24,457.39 trust fund shortage in his escrow account, as ordered in the Stipulation and Agreement for Case H-36596 LA.

Regulation 2911(l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

Petitioner's reinstatement application states that he is not involved in any such programs.

Regulation 2911(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant.

The Petitioner continues to deny responsibility for the actions that led to his license discipline in Case No. H-36596 LA. He also denied any court judgments against him in his reinstatement application.

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(2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

No such evidence was submitted.

Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license at this time.

Given the violations found and the fact that Respondent has not established that Respondent has satisfied Regulations 2911(j), (k), (l), and (n)

I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of Respondent's real estate broker license is denied.

This Order shall become effective at 12 o'clock noon on SEP 05 2016.

IT IS SO ORDERED 8/13/2016

REAL ESTATE COMMISSIONER

Wayne S. Bell

FILED

AUG 16 2016

BUREAU OF REAL ESTATE

By H. de Still

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of JERRY GANG CHEN, Respondent.	No. H-36596 LA

ORDER DENYING REINSTATEMENT OF RESTRICTED LICENSE

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The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

I have considered the petition of Respondent and the evidence submitted in support thereof.

The Bureau has developed criteria in Section 2911 of Title 10, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

Regulation 2911(j) Discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

Petitioner offered no evidence of discharging the following monetary obligations: State tax liens of $24,879 and $4,326; small claims court judgments of $5,000 to Man Ho Chan and $2,000 to Ricardo Cuan; and an $84,953 judgment to Siu Young Ko. Petitioner also failed to pay the Real Estate Commissioner $9,423.50 in reasonable audit costs, as ordered in the Stipulation and Agreement for Case H-36596 LA.

Regulation 2911(k) Correction of business practices resulting in injury to others or with the potential to cause such injury.

Petitioner offered no evidence of curing the $24,457.39 trust fund shortage in his escrow account, as ordered in the Stipulation and Agreement for Case H-36596 LA.

Regulation 2911(l) Significant or conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.

Petitioner's reinstatement application states that he is not involved in any such programs.

Regulation 2911(n) Change in attitude from that which existed at the time of the conduct in question as evidenced by any or all of the following:

(1) Testimony of applicant.

The Petitioner continues to deny responsibility for the actions that led to his license discipline in Case No. H-36596 LA. He also denied any court judgments against him in his reinstatement application.

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(2) Evidence from family members, friends or other persons familiar with applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

No such evidence was submitted.

Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license at this time.

Given the violations found and the fact that Respondent has not established that Respondent has satisfied Regulations 2911(j), (k), (l), and (n)

I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of Respondent's real estate broker license is denied.

This Order shall become effective at 12 o'clock noon on SEP 05 2016.

IT IS SO ORDERED 8/13/2016

REAL ESTATE COMMISSIONER

Wayne S. Bell

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

Telephone: (213) 576-6982

FILED

MAY 10 2011

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PRESIDENTIAL CAPITAL INVESTMENT INC.; and JERRY GANG CHEN, individually and as designated officer of Presidential Capital Investment Inc., Respondents,	No. H-36596 LA L-2010050637 STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN, (sometimes referred to as "Respondents"), 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 April 19, 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 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 the audits. The amount of said cost for the audit is $ 9,423.50 for Audit Reports LA 080257 and LA 080279 (Presidential Capital Investment Inc.). Respondents shall not be charged for the audit of LA 080249.

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 PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN, as described in Paragraph 4, above, are in violation of Sections 10145, 10146, 10176(a), 10176(e), 10176(g), of the Business and Professions Code ("Code") and Sections 2731, 2831, 2831.1, 2832.1, 2832(d), 2832(e), 2840, 2848, 2950(d), 2950(f), 2950(g), 2950(i) and 2951 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline of Respondent's licenses and license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d), 10176(a), 10176(e), 10176(g) and 10177(g).

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II.

The conduct, acts or omissions of JERRY GANG CHEN, as described in Paragraph 4, above, are in violation of Code Section 10159.2 and is a basis for discipline of Respondent's license and license rights as violation of the Real Estate Law pursuant to Code Sections 10177(h), 10177(d) and 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All real estate license and license rights of Respondent PRESIDENTIAL CAPITAL INVESTMENT INC. under the Real Estate Law are revoked.

II.

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

A. As a condition prior to the issuance of any restricted licensee herein, Respondent shall first provide evidence satisfactory to the Commissioner that the trust fund deficit set forth in the Accusation with respect to the broker escrow audit, Audit Report LA 080279, in the amount of $25,457.39, has been cured, including the identification of the source of funds used to cure the deficit.

Makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code.

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 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 has elapsed from the effective date of the issuance of the restricted license.

4. Respondent shall submit with any application for license under an employing broker, or any application for

transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. 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 Respondent's license until Respondent passes the examination.

6. Respondent shall, within nine (9) months from the date of issuance of the restricted license, 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.

III.

Pursuant to Section 10148 of the Business and Professions Code, Respondent JERRY GANG CHEN shall pay the Commissioner's reasonable cost for (a) the audit(s), Audit Reports LA 080257 and LA 080279 (Presidential Capital Investment Inc.). Respondent shall not be charged for the audit of LA 080249. The cost of the audit which led to this disciplinary action is $9,423.50. 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.

Respondent 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 any license of Respondent 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 Respondent

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: 10-26-10

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.

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MAILING AND FACSIMILE

Respondent(s) (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. Additionally, Respondent 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. Respondent agrees, acknowledges and understands that by electronically sending to the Department a facsimile copy of Respondent's actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondent as if the Department had received the original signed stipulation.

DATED: 10/25/10

PRESIDENTIAL CAPITAL INVESTMENT INC.
BY: JERRY GANG CHEN, President and CEO of Presidential Capital Investment Inc., Respondent

DATED: 10/25/10

JERRY GANG CHEN, Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN, and shall become effective at 12 o'clock noon on June 9, 2011

IT IS SO ORDERED 4-26-2011

JEFF DAVI
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

APR 19 2010

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of PRESIDENTIAL CAPITAL INVESTMENT INC.; and JERRY GANG CHEN, individually and as designated officer of Presidential Capital Investment Inc., Respondents.	No. H-36596 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 PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN, individually and as designated officer of Presidential Capital Investment Inc., 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 PRESIDENTIAL CAPITAL INVESTMENT INC. (PCII) and JERRY GANG CHEN (CHEN).

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.

A. At all times mentioned, PCII and CHEN were licensed or had license rights issued by the Department of Real Estate (Department) as real estate brokers.

B. At all times material herein, PCII was licensed by the Department as a corporate real estate broker by and through CHEN, pursuant to Code Sections 10211 and 10159.2 for supervising the activities requiring a real estate license conducted on behalf PCII.

C. CHEN is the sole shareholder of PCII.

BROKERAGE

PRESIDENTIAL CAPITAL INVESTMENT INC.

4.

At all times mentioned, in the City of Rowland Heights, County of Los Angeles, PCII and CHEN acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents PCII and CHEN engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

B. Code Section 10131(d). Respondents PCII and CHEN operated a mortgage and loan brokerage engaging 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 as well as at the conclusion of transactions; and

C. Respondents PCII and CHEN engaged in loan negotiation and modification service activities. For compensation or in expectation of compensation and for fees often collected in advance, Respondents advertised to solicit economically distressed homeowners seeking favorable modification of the terms of their home loans, offered loan negotiation and modification services including forbearance agreements, principal and interest reduction, foreclosure abatement, loan restructuring, and/or short sale services.

D. In addition, PCII conducted broker-controlled escrows through its escrow division under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required.

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FIRST CAUSE OF ACTION

MORTGAGE LOAN AUDIT

5.

On May 21, 2009, the Department completed an audit examination of the books and records of PCII pertaining to the mortgage loan activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on February 01, 2008 to March 31, 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 080257 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

6.

No trust account was kept during the audit period.

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MORTGAGE LOAN AUDIT

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraph 4 above, and during the examination period described in Paragraph 5, Respondents PCII and CHEN, acted in violation of the Code and the Regulations in that Respondents:

(a)(1) Advertised to solicit economically distressed home owners offering stop foreclosure assistance and loan modification services. Respondents sought to collect advance fees for these services.

(a)(2) Respondents advertisements in the Chinese language newspaper "Word Journal" are misleading through the omission of necessary information to make CHEN's representations to the home owners not misleading in the context in which they are used.

(a)(3) Solicited homeowners for the Hope for Homeowners governmental mortgage loan program sponsored by the United States Department of Federal Housing Administration (FHA) which was still waiting FHA approval.

(a)(4) Respondents' Word Journal advertisements for loan modification services which presupposed the payment of advance fees were not submitted to the Department in advance. Nor did CHEN first obtain approval from the Department for CHEN's usage of a Loan Modification and Advance Fee agreement.

(a)(5) Respondents course of conduct described herein above, to wit, Respondents advertised, solicited and conducted licensed acts including stop foreclosure and loan modification services claiming advance fees are in violation of statutory Code and the Regulations now set forth:

(i) Code Section 10176(a). Substantial misrepresentations made by advertising representations made to economically distressed homeowners via Word Journal.

(ii) Code Section 10235 and Regulation 2848. Respondents Word Journal advertisements were false, misleading or deceptive.

(iii) Code Section 10146. Respondents by claiming and/or collecting advance fees yet failed to establish a real estate broke trust account for the collection and deposit of advance fees.

(iv) Code Section 10085 and Regulation 2970. Respondents failed to submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use.

(v) Code Section 10146 and Regulation 2972. Respondents failed to provide a complete description of the loan modification services to be rendered to the aforesaid homeowners in 10 point type font including an allocation and disbursement of

the amount collected as advance fees.

(vi) Code Section 10145 and Regulation 2831. Respondents failed to maintain a control record in the form of a columnar record in chronological order of all trust funds received, not placed in a broker's trust account, including advance fees.

(vii) Code Section 10145 and Regulation 2831.1. Respondents failed to maintain a separate record for each homeowner-beneficiary of loan modification services, thereby failing to account for all trust funds in the form of advance fees collected.

(viii) Code Section 10145 and Regulation 2831.2. Respondents failed to perform a monthly reconciliation of the balance of all separate beneficiaries of loan modification services loan modification transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds collected.

(b) 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 Tian Li, Rui Xu, Ray Wu/Zeng, Roberto Machorro, Ren Zhang, Yeh Mei Chen, Christine Zhang, Xia Zhang and An Ning Song, in violation of Code Section 10240.

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(c) Permitted and/or caused the disbursement of trust funds to credit report companies on the representation that these amounts were needed to pay for credit report fees, which payments exceeded the actual costs of these services. Respondents PCII and CHEN received undisclosed compensation by not disclosing these "mark-ups" to borrower-beneficiaries Tian Li, Rui Xu, Ray Wu/Zeng, Roberto Machorro, Ren Zhang, Yeh Mei Chen and Christine Zhang of said trust funds, did not obtain their consent to these "mark-ups". Respondents retained the difference between the amounts paid and the actual costs of the services, in violation of Code Sections 10145 and 10176(g).

(d) Mixed and commingled trust funds and personal funds by depositing appraisal and credit report fees received from escrow into PCII's general operating account and issuing checks from said account to the appraisers or credit companies after the escrow checks were deposited, in violation of Code Section 10145 and 10176(e) and Regulations 2832(a) and 2832(d).

(e) Failed to maintain an accurate and complete control record for each beneficiary or transaction, thereby failing to account for all trust funds collected along with real estate commissions and fees earned at the close of escrow from the lender, in violation of Code Section 10145 and Regulation 2831. PCII and CHEN did not maintain a columnar for appraisal and/or credit report fees.

(f) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds collected along with real estate commissions and fees earned at the close of escrow from the lender, in violation of Code Section 10145 and Regulation 2831.1. PCII and CHEN did not maintain a columnar for appraisal and/or credit report fees.

(g) Used the fictitious name "Presidential Capital Investment" to conduct licensed activities, without holding a license bearing the fictitious business name in violation of Code Section 10159.5 and Regulation 2731.

MORTGAGE LOAN AUDIT

DISCIPLINARY STATUES AND REGULATIONS

8.

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

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10085, 10176(a), 10146, 10235 and Regulations 2831, 2831.1, 2831.2, 2848, 2970, 2972
7(b)	Code Section 10240 and Regulation 2840
7(c)	Code Section 10145 and 10176(g)

7(d)	Code Sections 10145 and 10176(e) and Regulations 2832(e) and 2832(d)
7(e)	Code Section 10145 and Regulation 2831
7(f)	Code Section 10145 and Regulation 2831.1
7(g)	Code Section 10159.5 and Regulation 2731

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of PCII and CHEN, under the provisions of Code Sections 10176(a), 10176(e), 10176(g), 10177(d) and/or 10177(g).

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SECOND CAUSE OF ACTION

BROKER ESCROW AUDIT

9.

On August 28, 2009, the Department completed an audit examination of the books and records of PCII pertaining to the activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on February 01, 2008 to March 31, 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 080279 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

10.

At all times mentioned, in connection with the activities described in Paragraph 4, above, PCII accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties including borrowers and lenders, for sales and loan refinance transactions brokered and escrowed in-house by PCII and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by PCII in the bank listed below as follows:

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"Presidential Capital Investment Inc.
Account No. 00-81723686"
East West Bank
18458 Colima Road
Rowland Heights, CA 91748 (escrow trust account)

BROKER ESCROW AUDIT

VIOLATIONS OF THE REAL ESTATE LAW

11.

In the course of activities described in Paragraphs 4 and 10, above, and during the examination period described in Paragraph 9, Respondents PCII and CHEN, acted in violation of the Code and the Regulations in that Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from the escrow trust account, where the disbursement of funds reduced the total of aggregate funds in escrow trust account, to an amount which, on March 31, 2009, was $25,457.39, less than the existing aggregate trust fund liability of PCII to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145 and/or 10177(g) and Regulations 2832.1, 2950(g) and 2951.

(b) Withdrew or paid out $19,475.16 in escrow monies and trust funds from the escrow trust account without the prior written consent of every principal or party paying the monies into the escrow account between the period from February 25, 2008 and November 12, 2008. The unauthorized withdrawals from the escrow trust account were payable to PCII's general operating

account, in violation of Code Sections 10145 and 10176(e) and Regulations 2950(d), 2950(g) and 2951.

(c) Failed to maintain an accurate and complete control record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed by the escrow trust account, in violation of Code Section 10145 and Regulations 2831, 2950(d) and 2951.

(d) Failed to maintain an accurate and complete separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed by the escrow trust account, in violation of Code Section 10145 and Regulations 2831.1, 2950(d) and 2951.

(e) While acting in the capacity of an escrow holder in mortgage loan refinance transactions for borrowers R. Zhang, Y. Zhang, Z. Chen, R. Xu and V. Sohrab, failed to place trust funds, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the broker at a bank or other financial institution not later than the next business day following receipt of the funds by the broker or by the broker or broker's salesperson, in violation of Code Section 10145 and Regulations 2832(e), 2950(f) and 2951.

(f) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all

trust funds received and disbursed by the escrow trust account, in violation of Code Section 10145 and Regulations 2831.2, 2950(d) and 2951.

(g) At the close of escrow, failed to render to each principal of an escrow transaction a written statement setting forth all receipts and disbursements together with the name of the person to whom any such disbursement was made, in violation of Code Sections 10145 and 10176(a) and Regulation 2950(i).

BROKER ESCROW AUDIT

DISCIPLINARY STATUES AND REGULATIONS

12.

The conduct of Respondents PCII and CHEN described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
11(a)	Code Sections 10145 and/or 10177(g) Regulations 2832.1, 2950(g) and 2951
11(b)	Code Sections 10145 and 10176(e) and Regulations 2950(d), 2950(g) and 2951

11(c)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
11(d)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
11(e)	Code Section 10145 and Regulations 2832(e), 2950(f) and 2951
11(f)	Code Section 10145 and Regulation 2831.2, 2950(d) and 2951
11(g)	Code Sections 10145 and 10176(a) and Regulation 2950(i)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of PCII and CHEN, under the provisions of Code Sections 10176(a), 10176(e), 10177(d) and/or 10177(g).

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THIRD CAUSE OF ACTION

MORTGAGE LOAN AUDIT - JERRY GANG CHEN

13.

On May 12, 2009, the Department completed an audit examination of the books and records of JERRY GANG CHEN pertaining to the mortgage loan activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on May 1, 2006 to March 31, 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 080249 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

14.

No trust account was kept during the audit period.

MORTGAGE LOAN AUDIT - JERRY GANG CHEN

VIOLATIONS OF THE REAL ESTATE LAW

15.

In the course of activities described in Paragraph 4 above, and during the examination period described in Paragraph 13, Respondent CHEN, acted in violation of the Code and the Regulations in that CHEN:

(a)(1) CHEN, in his individual broker capacity doing business an as Presidential Capital Investment, advertised to solicit economically distressed home owners offering stop

foreclosure assistance and loan modification services. CHEN sought to collect advance fees for these services.

(a)(2) CHEN's advertisements in the Chinese language newspaper "Word Journal" are misleading through the omission of necessary information to make CHEN's representations to the home owners not misleading in the context in which they are used.

(a)(3) CHEN solicited homeowners for the Hope for Homeowners governmental mortgage loan program sponsored by the United States Department of Federal Housing Administration (FHA) which was still waiting FHA approval.

(a)(4) CHEN's Word Journal advertisements for loan modification services which presupposed the payment of advance fees were not submitted to the Department in advance. Nor did CHEN first obtain approval from the Department for CHEN's usage of the advance fee agreement, including by not limited to homeowner Dorcas Tang Chang for her residence located at 21270 Washington Avenue, in Diamond Bar, California.

(a)(5) CHEN advertised, solicited and conducted licensed acts including stop foreclosure and loan modification services claiming advance fees are in violation of statutory Code and the Regulations now set forth:

(i) Code Section 10176(a). Substantial misrepresentation via Word Journal advertising representations to economically distressed homeowners.

(ii) Code Section 10235 and Regulation 2848. CHEN's Word Journal advertisements were false, misleading or deceptive.

(iii) Code Section 10146. CHEN by claiming and collecting advance fees, including but not limited to from homeowner Dorcas Tang Chang, and by failing to establish and deposit advance fees into a real estate broker trust account.

(iv) Code Section 10085 and Regulation 2970. CHEN failed to submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use.

(v) Code Section 10146 and Regulation 2972. CHEN failed to provide a complete description of the loan modification services to be rendered provided to the aforesaid homeowners in 10 point type font including an allocation and disbursement of the amount collected as advance fees.

(vi) Code Section 10145 and Regulation 2831. CHEN failed to maintain a control record in the form of a columnar record in chronological order of all trust funds received, not placed in a broker's trust account, including advance fees.

(vii) Code Section 10145 and Regulation 2831.1. CHEN failed to maintain a separate record for each homeowner-beneficiary of loan modification services, thereby failing to account for all trust funds in the form of advance fees collected; and

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(viii) Code Section 10145 and Regulation 2831.2. CHEN failed to perform a monthly reconciliation of the balance of all separate beneficiaries of loan modification services loan modification transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds collected.

(b) CHEN failed to disclose his Departmental license number on his Chinese language advertisements in Work Journal, in violation of Code Sections 10235.5 and 10236.4(b).

(c) Used the fictitious name "American Gold Bancorp" to conduct licensed activities, without holding a license bearing the fictitious business name in violation of Code Section 10159.5 and Regulation 2731.

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MORTGAGE LOAN AUDIT - JERRY GANG CHEN

DISCIPLINARY STATUES AND REGULATIONS

16.

The conduct of Respondent CHEN described in Paragraph 15, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
15(a)	Code Sections 10085, 10176(a), 10235 and Regulations 2831, 2831.2, 2831.2, 2848, 2970, 2972
15(b)	Code Section 10235.5 and 10236.4(b)
15(c)	Code Section 10159.5 and Regulation 2731

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of CHEN, under the provisions of Code Sections 10176(a), 10176(g), 10177(d) and/or 10177(g).

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FOURTH CAUSE OF ACTION

NEGLIGENCE

17.

The overall conduct of Respondents PCII and CHEN constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents PCII and CHEN pursuant to Code Section 10177(g).

FIFTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

18.

The conduct, acts and omissions of Respondents PCII and CHEN constitute a breach of fiduciary duty with respect to the PCII and CHEN's real estate consumers and clientele and is cause for the suspension or revocation of the real estate license and license rights of Respondents PCII and CHEN pursuant to Code Section 10176(i).

SIXTH CAUSE OF ACTION

FAILURE TO SUPERVISE

19.

The overall conduct of Respondent CHEN constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of PCII in violation of Code Section 10159.2, and to keep PCII in compliance with the

Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of CHEN pursuant to the provisions of Code Sections 10177(h), 10177(d) and/or 10177(g).

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 PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN, 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 14 day of April 2010.

Deputy Real Estate Commissioner

cc: Presidential Capital Investment Inc.
c/o Jerry Gang Chen D.O.
Robin Trujillo
Sacto
Audits - Chona T. Soriano