SPECIO Flag

FILED

SEP 28 2011

DEPARTMENT OF REAL ESTATE
BY: [illegible]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of EZ LENDING CORPORATION; and DAVID MICHAEL KRAUSE, individually and as former designated officer of EZ Lending Corporation, Respondents	)	No. H-36945 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on March 17, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents EZ LENDING CORPORATION's ("EZ")and DAVID MICHAEL KRAUSE's ("KRAUSSE") express admissions; (2) affidavits; and (3) Department Audit Report SD090020 and (4) other evidence.

FACTUAL FINDINGS

1.

On October 1, 2010, Joseph Aiu made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified and regular mail, to Respondents' last known mailing addresses on file with the Department of Real Estate ("Department") on December 2, 2010.

2.

On December 15, 2010, Respondent KRAUSSE submitted a signed Notice of Defense to the Department. KRAUSSE's case was resolved by Stipulation and Agreement.

3.

The certified mail packet sent to EZ was returned to sender with a stamp indicating "Not deliverable as addressed. Unable to forward."

4.

On March 17,2011, no Notice of Defense having been filed by EZ within the time prescribed by Section 11506 of the Government Code, Respondent EZ's default was entered herein.

LICENSE HISTORY

5.

At all times mentioned, EZ and was licensed or had license rights issued by the Department as a corporate real estate broker. EZ was originally licensed as a corporate real estate broker on May 26, 2005.

BROKERAGE

6.

At all times mentioned, in the City of Riverside, County of Riverside, EZ acted as a real estate broker and conducted licensed activities within the meaning of Code Section 10131(d) by negotiating loans or performing services for borrowers in connection with loans secured by liens on real property.

AUDIT

7.

On January 14, 2010, the Department completed an audit examination of the books and records of EZ pertaining to the rental activities described in Finding 6, which require a real estate license. The audit examination covered a period of time beginning on August 1, 2008 to September 30, 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 SD090020 and the exhibits and workpapers attached to said audit report.

VIOLATIONS

8.

In the course of activities described in Finding 6 above, and during the examination period described in Finding 7, Respondents EZ acted in violation of the Business and Professions Code ("Code") and Title 10, Chapter 6, California Code of Regulations ("Regulations") in that:

(a) EZ collected credit report fees, appraisal fees and commission checks without depositing these funds into a trust account, in violation of Code Section 10145 and Regulation 2832.

(b) EZ did not maintain a columnar record of trust funds received and disbursed for credit report fees and appraisal fees collected at the close of escrow, in violation of Code Section 10145 and Regulation 2831.

(c) EZ failed to maintain a separate record for each beneficiary or trust funds received and disbursed for credit report fees and appraisal fees collected at the close of escrow, in violation of Code Section 10145 and Regulation 2831.1.

(d) EZ did not maintain a written monthly reconciliation of the columnar record for trust funds received and disbursed to the total balance of separate beneficiary records. This was in violation of Code Section 10145 and Regulation 2831.2.

(e) EZ did not have the license for salesperson Marie Gina Neal in its possession at its main office and failed to make the license available during the audit, in violation of Code Section 10160, and Regulation 2753.

(f) Mortgage Loan Disclosure Statements in some loan files were not complete and/or signed by the agents negotiating the loans. Also, rebates from lenders were not disclosed in some

of the examined files, in violation of Code Section 10240 and Regulation 2840.

NEGLIGENCE

9.

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

DETERMINATION OF ISSUES

1.

The conduct of Respondent EZ as described in Findings 8 and 9 herein above, is in violation of Code Sections 10145, 10160 and 10240 and Regulations 2832, 2831, 2831.1, 2831.2, 2753 and 2840, and is cause for disciplinary action pursuant to Code Sections 10177(d) and 10177(g).

2.

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

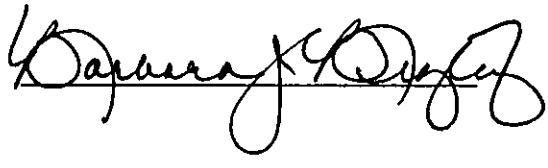
ORDER

The real estate license and license rights of Respondent EZ LENDING CORPORATION under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on OCT 18 2011, 2011

DATED: 9/26, 2011

BARBRA J. BIGBY
Acting Real Estate Commissioner



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

(213) 576-6982

FILED

MAR 17 2011

DEPARTMENT OF REAL ESTATE
BY: Laura B. Alon

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of EZ LENDING CORPORATION; and DAVID MICHAEL KRAUSSE, individually and as former designated officer of EZ Lending Corporation, Respondents	No. H-36945 LA

DEFAULT ORDER

Respondent EZ LENDING CORPORATION, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED March 17, 2011

JEFF DAVI
Real Estate Commissioner

Dolores Weeks

By: DOLORES WEEKS
Regional Manager

SACTO Flag.

FILED

MAY 20 2011

DEPARTMENT OF REAL ESTATE
BY: [signature]

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

Telephone: (213) 576-6982

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of EZ LENDING CORPORATION and DAVID MICHAEL KRAUSSE, individually and as former designated officer of EZ Lending Corporation , Respondents,	No. H-36945 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent DAVID MICHAEL KRAUSSE, represented by Mary E. Work, Esq. and the Complainant, acting by and through James A. Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on December 2, 2010, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. Respondent 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. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense he thereby waives the 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 he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in his defense of the allegations in the Accusation and 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, Respondent chooses 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 a party.

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 Respondent's real estate license 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 Respondent 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 Accusation against Respondent herein.

8. Respondent understands that by agreeing to this Stipulation, Respondent agrees 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 $3,964.50.

9. Respondent has received, read, and understands the "Notice Concerning Costs of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondent 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 $3,964.50.

DETERMINATION OF ISSUES

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

The conduct of DAVID MICHAEL KRAUSSE as described in Paragraph 4, hereinabove, is a basis for discipline of Respondent's license and license rights as violations of the Real Estate law pursuant to Business and Professions Code ("Code") Sections 10145, 10177(d), 10177(g) and 10177(h) and Title 10,

Chapter 6, California Code of Regulations, Sections 2831, 2831.1, 2831.2 and 2832.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent DAVID MICHAEL KRAUSSE under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that thirty (30) days of said suspension, shall be stayed for one (1) year upon the following terms and conditions:

A.

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 one (1) year of 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.

B.

If Respondent petitions, an additional 30 days shall be stayed upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of $50 for each day of the suspension for a total monetary penalty of $1,500.

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 license of Respondent occurs within one year from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions 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 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

5. If Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two years from the effective

date of the Decision, the stay hereby granted shall become permanent.

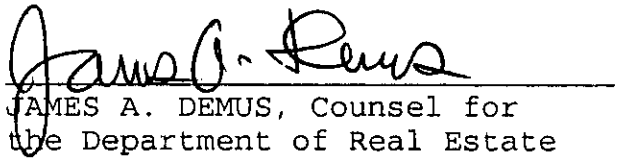
6. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and b) a subsequent audit to determine if Respondent has corrected the trust fund violations found in the Determination of Issues. 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 costs, including mileage, time to and from the auditor's place of work and per diem. Respondent shall pay such costs 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, in his discretion, vacate and set aside the stay order, 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 vacation and the set aside of the stay 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.

II

Respondent DAVID MICHAEL KRAUSSE 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 Respondent DAVID MICHAEL KRAUSSE fails to satisfy this condition, the Commissioner may order suspension of Respondent DAVID MICHAEL KRAUSSE's license until Respondent passes the examination.

DATED: 3/30/11



JAMES A. DEMUS, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

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

Respondent 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 Respondent, to the Department at the following telephone/fax number: James A. Demus at (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation.

DATED: 3/28/2011

DAVID MICHAEL KRAUSSE Respondent

DATED: 3/30/11

MARY E. WORK
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent DAVID MICHAEL KRAUSSE and shall become effective at 12 o'clock noon on JUN 20 2011, 2011.

IT IS SO ORDERED 4-25, 2011.

JEFF DAVI
Real Estate Commissioner

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6910

FILED

DEC - 2 2010

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of EZ LENDING CORPORATION; and DAVID MICHAEL KRAUSSE, individually, and as former designated officer of EZ Lending Corporation, Respondents.	No. H-36945-LA A C C U S A T I O N

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against EZ LENDING CORPORATION and DAVID MICHAEL KRAUSSE, individually, and as former designated officer of EZ Lending Corporation, alleges as follows:

1.

The Complainant, Joseph Aiu, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against EZ LENDING CORPORATION

and DAVID MICHAEL KRAUSSE individually, and as former designated officer of EZ Lending Corporation.

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.

LICENSE HISTORY

3.

A. EZ LENDING CORPORATION ("EZ") is presently licensed and/or has license rights issued by the Department of Real Estate ("Department") as a corporate real estate broker. EZ was originally licensed as a corporate real estate broker on May 26, 2005.

B. At all times mentioned, DAVID MICHAEL KRAUSSE ("KRAUSSE") was licensed and/or had license rights issued by the Department as a real estate broker. KRAUSSE was originally licensed as a real estate broker on December 2, 2004.

C. From March 9, 2009 through March 8, 2010, EZ was licensed by the Department as a corporate real estate broker by and through KRAUSSE, as the designated officer and broker responsible, pursuant to Code Section 10159.2, for supervising the activities requiring a real estate license conducted on behalf EZ or by EZ's officers, agents and employees, including KRAUSSE.

D. From May 26, 2005 until March 9, 2009 the designated officer/broker for EZ was Jorge Ricardo Cruz. All

licenses and licensing rights of Jorge Ricardo Cruz were revoked by the Department on September 16, 2009.

BROKERAGE

EZ LENDING CORPORATION

4.

At all times mentioned, in the City of Riverside, County of Riverside, EZ acted as real estate broker, conducting licensed activities within the meaning of Code Section 10131(d) by negotiating loans or performing services for borrowers in connection with loans secured by liens on real property.

AUDIT

EZ LENDING CORPORATION

5.

On January 14, 2010, the Department completed an audit examination of the books and records of EZ pertaining to the mortgage and loan activities described in Paragraph 4 which require a real estate license. The audit examination covered a period of time from August 1, 2008 to September 30, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and as more fully discussed in Audit Report SD090020 and the exhibits and workpapers attached to said audit report.

TRUST ACCOUNT

6.

During the audit period, neither EZ nor KRAUSE maintained a trust account.

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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 EZ and KRAUSSE acted in violation of the Code and the Regulations in that:

(a) EZ collected credit report fees, appraisal fees and commission checks without depositing these funds into a trust account, in violation of Code Section 10145 and Regulation 2832.

(b) EZ did not maintain a columnar record of trust funds received and disbursed for credit report fees and appraisal fees collected at the close of escrow, in violation of Code Section 10145 and Regulation 2831.

(c) EZ failed to maintain a separate record for each beneficiary or trust funds received and disbursed for credit report fees and appraisal fees collected at the close of escrow, in violation of Code Section 10145 and Regulation 2831.1.

(d) EZ did not maintain a written monthly reconciliation of the columnar record for trust funds received and disbursed to the total balance of separate beneficiary records. This was in violation of Code Section 10145 and Regulation 2831.2.

(e) EZ did not have the license for salesperson Marie Gina Neal in its possession at its main office and failed to make the license available during the audit, in violation of Code Section 10160, and Regulation 2753.

(f) Mortgage Loan Disclosure Statements in some loan files were not complete and/or signed by the agents negotiating the loans. Also, rebates from lenders were not disclosed in some of the examined files, in violation of Code Section 10240 and Regulation 2840.

8.

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

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10145 and Regulation 2832
7(b)	Code Section 10145 and Regulation 2831
7(c)	Code Section 10145 and Regulation 2831.1
7(d)	Code Section 10145 and Regulation 2831.2
7(e)	Code Section 10160 and Regulation 2753

7(f) Code Section 10240 and Regulation 2840

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

NEGLIGENCE

9.

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

SUPERVISION AND COMPLIANCE

10.

The overall conduct of Respondent KRAUSSE constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of EZ as required by Code Section 10159.2 and Regulation 2725, and to keep EZ in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of KRAUSSE 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 EZ LENDING CORPORATION and DAVID MICHAEL KRAUSSE, individually and as former designated officer of EZ Lending Corporation, 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 San Diego, California

this 1 day of October, 2010.

Joseph Aiu
Deputy Real Estate Commissioner

cc: EZ LENDING CORPORATION
DAVID MICHAEL KRAUSSE
Joseph Aiu
Sacto
Audits