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FEB 19 2015

BUREAU OF REAL ESTATE

By [signature]

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of FREDERICK GILBERT WENCK, Respondent.	No. H-36953 LA

ORDER SUSPENDING REAL ESTATE LICENSE

To: FREDERICK GILBERT WENCK
23 Corporate Plaza Drive Suite 150
Newport Beach, CA 92660

Effective October 31, 2011, Respondent entered into a Stipulation and Agreement ("Stipulation") with the Bureau. Pursuant to the terms of the Stipulation, Respondent agreed to pay for the audit as set forth in the Real Estate Commissioner's Decision in Case No. H-36953 LA stated above. The Commissioner has determined that Respondent has failed to satisfy this

condition by not paying for the total audit costs and still has an unpaid balance of $1,459.09.

NOW, THEREFORE, IT IS ORDERED ~~under~~ that the real estate broker licenses heretofore issued to Respondent and the exercise of any privileges thereunder are hereby suspended until such time as Respondent provides proof satisfactory to the Bureau of having paid for the audit referred to above, or pending final determination made after hearing (see "Hearing Rights" set forth below), or pending an agreement with the Bureau.

IT IS FURTHER ORDERED that all license certificates and identification cards issued by the Bureau of Real Estate which are in the possession of Respondent be immediately surrendered by personal delivery or by mailing in the enclosed self-addressed envelope to:

BUREAU OF REAL ESTATE
Attention: Flag Section
Post Office Box 137013
Sacramento, CA 95813-7013

HEARING RIGHTS: you have the right to a hearing to contest the Commissioner's determination that you are in violation of the condition that you pay for the audit. If you desire a hearing, you must submit a written request. The request may be in any form as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the Bureau at 320 West Fourth Street, Suite 350, Los Angeles, California 90013, within 20 days after the date that this Order

was mailed to or served on you, the Bureau will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: FEBRUARY 5, 2015

Real Estate Commissioner

By: JEFFREY MASON
Chief Deputy Commissioner

SPCTO Flag

FILED

OCT 10 2011

DEPARTMENT OF REAL ESTATE
BY: Gwendolyn Valencia

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 LOTUS PROPERTIES & MORTGAGE INC and FREDERICK GILBERT WENCK, individually and as former designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI, Respondents.	No. H-36953 LA L-2011010117 STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent LAURA G. STOPANI, represented by Frank M. Buda, 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 filed on December 6, 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 she understands that by withdrawing said Notice of Defense she 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 she will waive other rights afforded to her 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 her 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 her 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.

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 LAURA G. STOPANI as described in Paragraph 4, hereinabove, is a basis for discipline of Respondent's license and license rights pursuant to Business and Professions Code ("Code") Sections 10085, 10177(d) and 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent LAURA G. STOPANI, under the Real Estate Law are 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 makes application therefore and pays to the Department the appropriate fee within 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 Business and Professions Code and to 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 this 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 years have elapsed from the effective date of this Decision.

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:

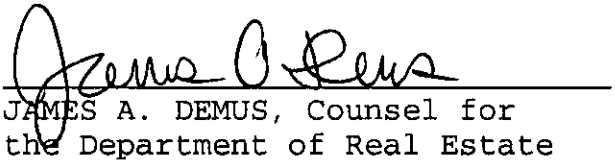
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(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 nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real

Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: 9/9/11



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: 9-8-2011

LAURA G. STOPANI Respondent

DATED: 9-9-11

FRANK M. BUDA
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent LAURA G. STOPANI and shall become effective at 12 o'clock noon on _____, 2011.

IT IS SO ORDERED _____, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

_____

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: _____

LAURA G. STOPANI Respondent

DATED: _____

FRANK M. BUDA
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent LAURA G. STOPANI and shall become effective at 12 o'clock noon on OCT 31 2011, 2011.

IT IS SO ORDERED 10/4/11, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

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FILED

OCT 10 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 LOTUS PROPERTIES & MORTGAGE INC and FREDERICK GILBERT WENCK, individually and as former designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI, Respondents.	No. H-36953 LA L-2011010117 STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent FREDERICK GILBERT WENCK, represented by Frank M. Buda, 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 filed on December 6, 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 her 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 her 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 $5,796.15.

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 $5,796.15.

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 FREDERICK GILBERT WENCK as described in Paragraph 4, hereinabove, is a basis for discipline of Respondent's license and license rights pursuant to Business and Professions Code ("Code") Sections 10085, 10176(e), 10177(d), 10177(g) and 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent FREDERICK GILBERT WENCK, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the

Business and Professions Code, if Respondent makes application therefore and pays to the Department the appropriate fee within 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 Business and Professions Code and to 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 this 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 years have elapsed from the effective date of this Decision.

4. Respondent shall, within nine months from the

effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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

DATED: 9/9/11

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: 9/9/11

FREDERICK GILBERT WENCK Respondent

DATED: 9-9-11

FRANK M. BUDA
Attorney for Respondents

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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: _____

_____
FREDERICK GILBERT WENCK Respondent

DATED: _____

_____
FRANK M. BUDA
Attorney for Respondents

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* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent FREDERICK GILBERT WENCK and shall become effective at 12 o'clock noon on OCT 31 2011, 2011.

IT IS SO ORDERED 10/4, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

SACTO Flag

FILED

OCT 10 2011

DEPARTMENT OF REAL ESTATE
BY: [illegible]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LOTUS PROPERTIES & MORTGAGE INC, and FREDERICK GILBERT WENCK, individually and as former designated officer of Lotus Properties & Mortgage Inc. and LAURA G. STOPANI, Respondents.	No. H-36953 LA L-2011010117

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On December 6, 2010, an Accusation was filed in this matter against Respondent LOTUS PROPERTIES & MORTGAGE INC. On September 8, 2011, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent LOTUS PROPERTIES & MORTGAGE INC's petition for voluntary surrender of its real estate broker license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and

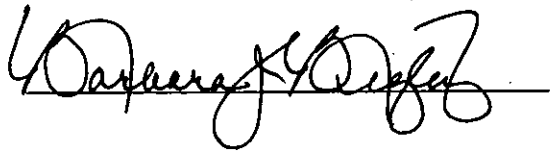
agreement expressed in Respondent's Declaration dated September 8, 2011 (attached as Exhibit "A" hereto). Respondent's license certificate(s), pocket card(s) and any branch office license certificate(s) shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on OCT 31 2011.

DATED: 10/4/11.

BARBARA J. BIGBY
Acting Real Estate Commissioner



"EXHIBIT A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LOTUS PROPERTIES & MORTGAGE INC and FREDERICK GILBERT WENCK, individually and as former designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI, Respondents.	No. H-36953 LA L-2011010117

DECLARATION

My name is Frederick Gilbert Wenck and I am authorized and empowered to sign this declaration on behalf of LOTUS PROPERTIES & MORTGAGE INC, which is licensed as a real estate broker and/or has license rights with respect to said license. LOTUS PROPERTIES & MORTGAGE INC is represented in this matter by Frank M. Buda, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) LOTUS PROPERTIES & MORTGAGE INC wishes to voluntarily surrender its real estate

license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that LOTUS PROPERTIES & MORTGAGE INC, by so voluntarily surrendering its license, can only have it reinstated in accordance with the provisions of Section 11522 of the Government Code. I also understand that by so voluntarily surrendering its license, LOTUS PROPERTIES & MORTGAGE INC agrees to the following:

The filing of this Declaration shall be deemed as its petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by LOTUS PROPERTIES & MORTGAGE INC that it waives all rights it has to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that it also waives other rights afforded to it in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses. I further agree on behalf of LOTUS PROPERTIES & MORTGAGE INC that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-36953 LA, may be considered by the Department to be true and correct for the purpose of deciding

whether or not to grant reinstatement of LOTUS PROPERTIES & MORTGAGE INC's license pursuant to Government Code Section 11522.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of LOTUS PROPERTIES & MORTGAGE INC to surrender its license and all license rights attached thereto.

a/8/11

Date and Place

LOTUS PROPERTIES & MORTGAGE INC by
FREDERICK GILBERT WENCK

whether or not to grant reinstatement of LOTUS PROPERTIES & MORTGAGE INC's license pursuant to Government Code Section 11522.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of LOTUS PROPERTIES & MORTGAGE INC to surrender its license and all license rights attached thereto.

Date and Place	LOTUS PROPERTIES & MORTGAGE INC by FREDERICK GILBERT WENCK

FILED

DEC - 6 2010

DEPARTMENT OF REAL ESTATE
BY: Laura B. Dion

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

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LOTUS PROPERTIES & MORTGAGE INC, and FREDERICK GILBERT WENCK, individually, and as former designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI, Respondents.	No. H-36953 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 LOTUS PROPERTIES & MORTGAGE INC and FREDERICK GILBERT WENCK, individually, and as former designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI 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 LOTUS PROPERTIES & MORTGAGE INC and FREDERICK GILBERT WENCK, individually, and as former designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI.

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. At all times mentioned, LOTUS PROPERTIES & MORTGAGE INC("LOTUS") and FREDERICK GILBERT WENCK ("WENCK") were licensed or had license rights issued by the Department of Real Estate ("Department") as real estate brokers.

B. LOTUS was licensed by the Department as a corporate real estate broker by and through WENCK, 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 of LOTUS, or by LOTUS's officers, agents and employees, including WENCK. LOTUS's license expired on September 29, 2009. Pursuant to Business and Professions Code Section 10201, Respondent retains renewal rights for two years. The Department of Real Estate holds jurisdiction over the lapsed license, pursuant to Business and Professions Code Section 10103.

C. At all times mentioned, FREDERICK GILBERT WENCK ("WENCK") was licensed or had license rights issued by the Department as a real estate broker. On September 30, 2005,

WENCK was licensed as the designated officer of LOTUS. WENCK expired as designated officer of LOTUS on September 29, 2009.

D. At all times mentioned, LAURA G. STOPANI ("STOPANI") was licensed or had license rights issued by the Department as a real estate salesperson. From January 31, 2005 to January 14, 2009, STOPANI was employed by WENCK. From March 18, 2009 to February 15, 2010, STOPANI was employed by LOTUS.

BROKERAGE

LOTUS PROPERTIES & MORTGAGE INC

4.

At all times mentioned, LOTUS and WENCK acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(a) and 10131(d) by selling or offering to sell real property, and by collecting payments or performing services for borrowers in connection with loans secured directly or collaterally by liens on real property.

AUDIT

LOTUS PROPERTIES & MORTGAGE INC

5.

On April 26, 2010, the Department completed an audit examination of the books and records of LOTUS, 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 beginning on January 1, 2007 to December 31, 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 LA090103 and the exhibits and

workpapers attached to said audit report.

TRUST ACCOUNT

6.

During the audit period LOTUS did not maintain a trust account.

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 LOTUS and WENCK acted in violation of the Code and the Regulations in that:

(a) Advance fees received were not deposited into a trust account. Instead, advance fees were deposited and commingled with LOTUS's funds in its general account, in violation of Code Sections 10145 and 10176(e), as well as Regulation 2835(b).

(b) LOTUS and WENCK did not maintain control records for each account into which trust funds collected from loan modifications were deposited, in violation of Code Section 10145(a) and Regulation 2831.

(c) LOTUS and WENCK did not maintain a separate record of trust funds received and disbursed for each borrower in loan modification transactions, in violation of Code Section 10145 and Regulation 2831.1.

(d) LOTUS and WENCK did not maintain a written monthly reconciliation of receipt and disbursement records, with the total balance of separate beneficiary records for the bank

account used to handle advance fees. This violated Code Section 10145 and Regulation 2831.2.

(e) Bank account No. 020280044, which was used for real estate activities, was not designated as a trust account during the audit period. This violated Code Section 10145 and Regulation 2832.

(f) LOTUS received advance fees for the purpose of performing loan modification services prior to obtaining an approved advance fee agreement from the Real Estate Commissioner, in violation of Code Section 10085 and Regulation 2970.

(g) LOTUS deposited advance fees collected from borrowers into a general business account which was not in the broker's name as trustee and was not designated as a trust account, in violation of Code Section 10146.

(h) LOTUS collected advance fees from borrowers in loan modification transactions without maintaining accounting content for borrowers that showed: services to be rendered; the trust account into which funds were deposited; and details of how the funds were disbursed. This violated Regulation 2972.

(i) LOTUS collected an advance fee for a loan modification on October 17, 2009, after receiving the SB94 "Advance Fee Prohibition" letter issued by the Department, in violation of Code Section 10085.6.

(j) The mortgage loan disclosures found in seven out of ten loan files examined revealed that LOTUS did not disclose its license number to borrowers, in violation of Code Section 10236.4.

(k) The mortgage loan disclosures in some loan files did not contain the term and/or type of loan and did not disclose the anticipated and/or current amount of line that was on the secured real property. The mortgage loan disclosures were also inaccurate, in listing broker fees under "paid to others." This violated Code Section 10240 and Regulation 2840

(l) The salesperson license certificates of Vu T. Huynh and Kenneth Marc Moss were not retained at LOTUS's main business office and were not available for inspection during the audit, in violation of Code Section 10160 and Regulation 2753.

(m) LOTUS and WENCK failed to notify the Department of the termination of employment of Michael Norton and Christina Williams within ten (10) days, in violation of Code Section 10161.8 and Regulation 2752.

(n) LOTUS used the fictitious business names "Lotus Ventures Real Estate & Development LLC", "Lotus Properties & Mortgage" and "Lotus Properties & MTG" in connection with mortgage loan activities during the audit period without first obtaining a license from the Department bearing the fictitious names, in violation of Code Section 10159.5 and Regulation 2731.

(o) LOTUS engaged in the business of a real estate broker when it was not in good legal standing with the Secretary of State for the State of California, in violation of Regulation 2742(c).

(p) LOTUS performed a loan modification after its corporate license expired on September 29, 2009, in violation of Code Section 10130.

8.

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

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10145 and 10176(e) and Regulation 2835(b)
7(b)	Code Section 10145(a) and Regulation 2831
7(c)	Code Section 10145 and Regulation 2831.1
7(d)	Code Section 10145 and Regulation 2831.2
7(e)	Code Sections 10145 and Regulation 2832
7(f)	Code Section 10085 and Regulation 2970
7(g)	Code Section 10146
7(h)	Regulation 2972

7(i)	Code Section 10085.6
7(j)	Code Section 10236.4
7(k)	Code Section 10240 and Regulation 2840
7(l)	Code Section 10160 and Regulation 2753
7(m)	Code Section 10161.8 and Regulation 2752
7(n)	Code Section 10159.5 and Regulation 2731
7(o)	Regulation 2742(c)
7(p)	Regulation 10130

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of LOTUS and WENCK, under the provisions of Code Sections 10085, 10176(e), 10177(d) and/or 10177(g).

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NEGLIGENCE

9.

The overall conduct of Respondents LOTUS and WENCK constitutes negligence or incompetence. This conduct is 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 WENCK 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 LOTUS as required by Code Section 10159.2, and to keep LOTUS in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of WENCK pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

ADVANCE FEES COLLECTED BY STOPANI

11.

On October 13, 2008 and October 18, 2008, STOPANI collected two separate $1,000 checks from Flavia Rodriguez De Haro as advance fees for a loan modification to be performed by LOTUS on behalf of Ms. De Haro.

12.

On December 16, 2008, STOPANI collected advance fees of $2,000 from Marta Penate for the right to enter into a Short Sale/ Loan Modification contract with LOTUS.

13.

The fees collected by STOPANI, as described in Paragraphs 11 and 12 above, constitute advance fee agreements within the meaning of Code Section 10026. STOPANI and LOTUS failed to submit the advance fee agreements referred to in Paragraphs 11 and 12 above, to the Commissioner ten days before using them, in violation of Code Section 10085 and Regulation 2970. This provides cause for the suspension or revocation of the licenses and license rights of STOPANI pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

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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 LOTUS PROPERTIES & MORTGAGE INC and FREDERICK GILBERT WENCK, individually, and as designated officer of Lotus Properties & Mortgage Inc and LAURA G. STOPANI 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 7 day of October, 2010.

Robin Trujillo
Deputy Real Estate Commissioner

cc: LOTUS PROPERTIES & MORTGAGE INC
c/o FREDERICK GILBERT WENCK D.O.
LAURA G. STOPANI
Robin Trujillo
Sacto
Audits (Daryl M. Thomas)