Contd

FILED

MAY -3 2012

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of COMMERCIAL LENDING CAPITAL INC. and SCOTT HUGH OAKLEY, individually and as designated officer of Commercial Lending Capital Inc.; Respondents.	No. H-37188 LA L-2011080012

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On March 30, 2011, an Accusation was filed in this matter against Respondent COMMERCIAL LENDING CAPITAL INC.

On April 2, 2012, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license rights pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent COMMERCIAL LENDING CAPITAL INC.'s petition for voluntary surrender of its real estate broker license rights 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 April 2, 2012, (attached as Exhibit "A" hereto). Respondent's license certificate, pocket card and any branch office license certificate 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
Atten: Licensing Flag Section
P.O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on May 23, 2012.

DATED: 4/22, 2012

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of COMMERCIAL LENDING CAPITAL INC. and SCOTT HUGH OAKLEY, individually and as designated officer of Mortgage Restructuring Solutions Inc.; Respondents.	)	No. H-37188 LA L-2011080012

DECLARATION

My name is SCOTT HUGH OAKLEY and I am the owner and former designated officer of COMMERCIAL LENDING CAPITAL INC. which is licensed as a real estate broker and/or has license rights with respect to said licenses. I am acting on behalf of and am authorized and empowered to sign this declaration on behalf of COMMERCIAL LENDING CAPITAL INC. COMMERCIAL LENDING CAPITAL INC. is represented in this matter by Frank M. Buda, Esq.

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In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Government Code) COMMERCIAL LENDING CAPITAL 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 COMMERCIAL LENDING CAPITAL 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 rights, COMMERCIAL LENDING CAPITAL INC. agrees to the following:

The filing of this Declaration shall be deemed as COMMERCIAL LENDING CAPITAL INC.'s petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by COMMERCIAL LENDING CAPITAL INC. that, it waives all rights it has to require the Commissioner to prove the allegations contained in the Accusation ("Accusation") filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedures 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 COMMERCIAL LENDING CAPITAL 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-37188 LA, may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant reinstatement of COMMERCIAL LENDING CAPITAL INC.'s license pursuant to Government Code Section 11522.

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This Declaration is not an admission by COMMERCIAL LENDING CAPITAL INC. as to the allegations in the Accusation. This Declaration is made for the purpose of reaching a resolution of allegations contained in the DRE Case number H-37188 LA, and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate is a party and shall not otherwise be admissible or relied upon by any third parties for any purpose.

I further agree on behalf of COMMERCIAL LENDING CAPITAL INC. to pay the Commissioner's reasonable cost ($7,993.80) for the audit which led to this action. 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. COMMERCIAL LENDING CAPITAL INC. will 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.

I am aware that if COMMERCIAL LENDING CAPITAL INC. petitions for reinstatement in the future, that payment of the audit costs will be a condition of reinstatement.

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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 COMMERCIAL LENDING CAPITAL INC. to surrender its licenses and all license rights attached thereto.

7/2, 2012 At Los Angeles, CA
Date and Place

BY: SCOTT HUGH OAKLEY
Owner and former Designated Officer of
COMMERCIAL LENDING CAPITAL INC.

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

MAR 30 2011

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of COMMERICAL LENDING CAPITAL INC.; and SCOTT HUGH OAKLEY, individually and as designated officer of Commercial Lending Capital Inc., Respondents.	No. H-37188 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 COMMERICAL LENDING CAPITAL INC. and SCOTT HUGH OAKLEY, individually and as designated officer of Commercial Lending Capital Inc., 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 COMMERICAL LENDING CAPITAL INC. (CLCI) and SCOTT HUGH OAKLEY (OAKLEY).

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 Status

3.

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

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

C. OAKLEY is the sole shareholder and officer of CLCI.

License Status

4.

At all times mentioned, in the City and County of Riverside, CLCI and OAKLEY acted as real estate brokers and conducted licensed activities within the meaning of Code Sections 10131(d) and 10131.2. Respondents CLCI and OAKLEY operated a commercial 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.

FIRST CAUSE OF ACCUSATION
(Commercial Mortgage Loan Broker Audit)

5.

On March 5, 2009, the Department completed an audit examination of the books and records of CLCI pertaining to the mortgage loan activities described in Paragraph 4, including residential and commercial loans that require a real estate license. The audit examination covered a period of time beginning on January 01, 2007 to December 31, 2008. 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 SD 080026 and the exhibits and work papers attached to said audit report.

Trust Account

6.

Trust account records were not provided for the 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 CLCI and OAKLEY, acted in violation of the Code and the Regulations in that Respondents:

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(A) Failed to retain all records of CLCI's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148; and

(B) Listed an address for CLCI that was not listed with the Department as either a branch office or a mailing address of CLCI in violation of Code Section 10162 and Regulation 2715. CLCI listed 11870 Pierce Street, Suite 200, Riverside, CA 92505, as its main office. On January 26, 2009, CLCI, the next business day after notice, corrected this violation.

Disciplinary Statues and Regulations

8.

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

PARAGRAPH	PROVISIONS VIOLATED
7(A)	Code Section 10148
7(B)	Code Section 10162 and Regulation 2715

The foregoing violations constitute cause for discipline of the real estate license and license rights of CLCI and OAKLEY, under the provisions of Code Sections 10177(d), for violation of the Real Estate Law, and/or 10177(g), for negligence.

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SECOND CAUSE OF ACTION
(Commercial Mortgage Loan Broker Audit)

9.

On August 6, 2009, the Department completed an audit examination of the books and records of CLCI 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 January 01, 2007 to April 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 SD 080049 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, CLCI 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 commercial loan transactions 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 CLCI in the banks listed below as follows:

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B/A 1

Bank: Union Bank of California

Bank Address: P.O. Box 512380
Los Angeles, CA 90051-0380

Account Name: Commercial Lending Capital Inc

Account No.: XXXXXX0812

Signatories: Scott Oakley (REB)

Signatures required: One (1).

Purpose: This bank account was maintained for the receipts and disbursements of trust funds (advance fees) received in connection with CLCI's commercial loan activity and CLCI's general business activities.

B/A 2

Bank: Union Bank of California

Bank Address: P.O. Box 512380
Los Angeles, CA 90051-0380

Account Name: Commercial Lending Capital Inc

Account No.: XXXXXXX8370

Signatories: Scott Oakley (REB)

Signatures required: One (1).

Purpose: This bank account was maintained for the receipts and disbursements of trust funds (advance fees) received in connection with CLCI's commercial loan activity and CLCI's general business activities.

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B/A 3

Bank: Bank of America

Bank Address: P.O. Box 37176
San Francisco, CA 94137-0001

Account Name: Commercial Lending Capital Inc

Account No.: XXXXXXX6646

Signatories: Scott Oakley (REB)

Signatures required: One (1).

Purpose: This bank account was maintained for the receipts and disbursements of trust funds (advance fees) received in connection with CLCI's commercial loan activity and CLCI's general business activities.

B/A 4

Bank: Premier Service Bank

Bank Address: 3637 Arlington Ave Suite B
Riverside, CA 92506

Account Name: Commercial Lending Capital Inc

Account No.: XXXXXXX2937

Signatories: Scott Oakley (REB)

Signatures required: One (1).

Purpose: This bank account was maintained for the receipts and disbursements of trust funds (advance fees) received in connection with CLCI's commercial loan activity and CLCI's general business activities. According to Oakley, this account was closed in January 2009.

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B/A 5

Bank: Citibank

Bank Address: P.O. Box 26892
San Francisco, CA 94126-6892

Account Name: Commercial Lending Capital Inc

Account No.: XXXXXXX5378

Signatories: Scott Oakley (REB)

Signatures required: One (1).

Purpose: This bank account was maintained for the receipts and disbursements of trust funds (advance fees) received in connection with CLCI's commercial loan activity and CLCI's general business activities.

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 CLCI and OAKLEY, acted in violation of the Code and the Regulations in that Respondents:

(A)(1) Permitted, allowed or caused the disbursement of trust funds from B/A #1 and B/A #2 trust accounts, where the disbursement of funds reduced the total of aggregate funds in said trust accounts, to an amount which, on April 30, 2009, was $88,566.94, less than the existing aggregate trust fund liability of CLCI 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 Sections 10145, 10176(i)

and/or 10177(g) and Regulation 2832.1. The shortage was due to conversion of trust funds; and

(A)(2) Permitted, allowed or caused the disbursement of trust funds from B/A #3 trust account, where the disbursement of funds reduced the total of aggregate funds in B/A #3, to an amount which, on April 30, 2009, was $65,825.72, less than the existing aggregate trust fund liability of CLCI 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 Sections 10145, 10176(i) and/or 10177(g) and Regulation 2832.1. This shortage was also due to conversion of trust funds;

(A)(3) Permitted, allowed or caused the disbursement of trust funds from B/A #4 trust account, where the disbursement of funds reduced the total of aggregate funds in B/A #4, to an amount which, on January 31, 2009, was $103,950.00, less than the existing aggregate trust fund liability of CLCI 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 Sections 10145, 10176(i) and/or 10177(g) and Regulation 2832.1. This shortage was also due to conversion of trust funds;

(B)(1) An audit examination and investigation determined that Respondents CLCI and OAKLEY engaged in the business of a commercial loan and advance fee brokerage requiring

a real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2. During the audit period and thereafter to date, Respondents solicited borrowers seeking commercial loans for which Respondents charged and collected advance fees, in violation of Code Sections 10085, 10145, 10146 and Regulations 2970 and 2972, including but not limited to the below-tabled borrowers, and for violation of Code Sections 10176(i) and 10177(g), for failure to return advance fees to said borrowers;

Table: Advance Fees Collected for Commercial Loan Services

Borrower	Date	Advance Fee
Brent Crowther	Audit Period	$4,500 to $6,400
Rosacruz Falla	Audit Period	$4,500 to $6,400
Maurice Ferris	Audit Period	$4,500 to $6,400
Chan Sue Kim	Audit Period	$4,500 to $6,400
Vincente Solorios	Audit Period	$4,500 to $6,400
Di Bernardino/Goc	October 22, 2008	$20,000
Albert Aldrich	Audit Period	$4,500 to $6,400
Robert Newman	Audit Period	$4,500 to $6,400
Gary Guarino	Audit Period	$4,500 to $6,400
Adeteju Olukun	Audit Period	$4,500 to $6,400

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(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 B/A #1 - B/A #5, during the period from January 2009 to April 2009, in violation of Code Section 10145 and Regulation 2831;

(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 B/A #1 - B/A #5, during the period from January 2009 to April 2009, in violation of Code Section 10145 and Regulation 2831.1.

(E) 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 B/A #1 - B/A #5, during the period from January 2009 to April 2009, in violation of Code Section 10145 and Regulation 2831.2;

(F) B/A #1 - B/A #5 were not in the name of the broker as trustee at a bank or other financial institution, nor designated as trust accounts, in violation of Code Section 10145 of the Code and Regulation 2832(a);

(G) Failed to deposit advance fees collected from borrowers for commercial loans brokered. Errantly, advance fees were deposited into CLCI's general operating account, violation of Code Section 10146 and Regulation 2972;

(H) Mixed and commingled trust funds and personal funds by depositing advance fees received from borrowers for commercial loans brokered into CLCI's general operating account, in violation of Code Section 10176(e);

(I) 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, in violation of Code Section 10085 and Regulation 2970;

(J) Failed to provide a complete description of services to be rendered provided to each homeowner-borrower in 10 point type font and, an allocation and disbursement of the amount collected as the advance fee for each commercial loan serviced, violation of Code Section 10146 and Regulation 2972;

(K) 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 Leroy Grove, Cecilio Rodriguez, David Cardenas, Datta Vikram, Henry Co, Kathleen Ucinski, Byron Vasquez and Arturo Villasensor, in violation of Code Section 10240 and Regulation 2840;

(L) Employed and compensated Nicole Ferguson, Angel Couch, Laurie Duenas and Gwyn Kerr, as commercial loan agents who Respondents knew were not licensed by the Department as real estate brokers or as a real estate salespersons employed by a real estate broker, for performing acts for which a real estate

license is required, including soliciting mortgage loans, in violation of Code Section 10137.

(M) Listed an address for CLCI's escrow division that was not listed with the Department as either a branch office or a mailing address of CLCI in violation of Code Section 10162 and Regulation 2715. As aforesaid in Paragraph 7(B) above, and repeated herein, CLCI listed 11870 Pierce Street, Suite 200, Riverside, CA 92505, as its main office. On January 26, 2009, CLCI, the next business day after notice, corrected this violation; and

(N) The conduct of Respondent OAKLEY 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 CLCI, as required by Code Section 10159.2, and to keep UHI in compliance with the Real Estate Law, with specific regard to the brokering of commercial loan and advance fee handling and collection, requiring a real estate license, in violation of Code Sections 10159.2, 10177(h) and 2725. OAKLEY had no system in place for regularly monitoring MANNING's compliance with the Real Estate Law especially in regard to establishing, systems, policies and procedures to review trust fund handling and advance fee solicitation, handling and collection, in violation of Code Section 10177(h) and Regulation 2725. OAKLEY failed to appropriate policies, rules or procedures in place to review, oversee, inspect and manage and

especially to prevent the deposit of trust funds into OAKLEY's general operating accounts which were not designated as trust accounts, or to maintain any trust fund handling records, in the form of advance fees, which were improperly deposited into a general bank account.

Disciplinary Statues and Regulations

12.

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

PARAGRAPH	PROVISIONS VIOLATED
11(A)	Code Sections 10145, 10176(i) and/or 10177(g) and Regulation 2832.1
11(B)	Code Sections 10085, 10145, 10146, 10176(i) and 10177(g and Regulations 2970 and 2972
11(C)	Code Section 10145 and Regulation 2831
11(D)	Code Section 10145 and Regulation 2831.1

11(E)	Code Section 10145 and Regulation 2831.2
11(F)	Code Section 10145 and Regulation 2832(a)
11(G)	Code Section 10146 and Regulation and 2972(a)
11(H)	Code Sections 10145 and 10176(e)
11(I)	Code Section 10085 and Regulation 2970
11(J)	Code Section 10146 and Regulation 2972
11(K)	Code Section 10240 and Regulation 2840
11(L)	Code Section 10137
11(M)	Code Section 10162 and Regulation 2715

11(N) Code Sections 10159.2 and 10177(h) and Regulation 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of CLCI and OAKLEY, under the provisions of Code Sections 10176(e), for commingling 10176(i), for fraud and dishonest dealing including conversion of trust funds, 10177(d) for violation of the Real Estate Law, and/or 10177(g), for negligence.

SECOND CAUSE OF ACCUSATION
(Fraud in a Civil Action)
(Business And Professions Code 10177.5)

13.

On or about January 5, 2011 in the Superior Court of the State of California, for the County of Riverside, in Case No. RIC10009032, La Casa Anaheim Resort, LLC, vs. Commercial Lending Capital, Inc., et al a Judgment Confirming Award of Arbitrator was entered against Respondent CLCI inter alia based on grounds of fraud, misrepresentation or deceit with reference to a transaction for which a real estate license is required, in the amount of $318,000.

14.

The facts set forth in Paragraph 13, above, constitute cause under Code Sections 10177.5, 10176(a), 10176(b), 10176(i) of the Code for discipline of the license and license rights of Respondents CLCI and OAKLEY under the Real Estate Law, and under

Code Sections 10176(i) and/or 10177(g).

THIRD CAUSE OF ACCUSATION
(Bait and Switch Tactics for Fraudulent Commercial Lending)

General Allegations

15.

From January 1, 2007 and continuing thereafter to date, Respondents CLCI and OAKLEY solicited individual borrowers and solicited real estate brokers with a view toward obtaining referrals for loans from the brokers clientele.

Specific Allegations

16.

CLCI fraudulently emphasized that CLCI was a wholesale lender using CLCI's own funds to directly fund loans to real estate brokers applying to CLCI seeking loans for borrowers. Respondents represented to individuals and to brokers that CLCI would directly fund commercial mortgage loans for the broker's clients. CLCI did not represent to said brokers that it brokered loans. In truth and in fact, CLCI did not fund any direct loans and did not have a 'correspondent' direct lender.

17.

As one on the goals of its fraudulent direct lending scheme, CLCI and OAKLEY required both brokers and individuals to pay an advance fee in order to obtain loans without first having an approved advance fee from the Department.

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18.

CLCI and OAKLEY perpetuated and operated its fraudulent scheme by way of unlicensed loan agents and salespersons.

Violations and Disciplinary Statues and Regulations

19.

The conduct of Respondents CLCI and OAKLEY described in Paragraphs 15 through 18, above, violated the Code and the Regulations as set forth below:

A. 10176(a) for substantial misrepresentation

B. 10176(b) for making false promises of a character likely to influence, persuade or induce individual borrowers and referring real estate brokers apply for a direct loan.

C. For 10176(c) for a continued and flagrant course of misrepresentations and/or false promises through real estate agents or salespersons.

D. 10176(i) for fraud and dishonest dealing in connection with an ongoing predatory lending scheme involving bait and switch tactics.

E. Code Section 10177(d) for violation of the Real Estate Law.

F. Code Section 10137 for employing and/or compensating unlicensed loan agents and/or licensed real estate salespersons that were non broker affiliated including, but not limited to Clinton Earl Davis, Bill Jordan, La Toya Haynes, Luis Lugo, Angel

Couch, Nicole Ferguson, Lauri Duens, Gwyn Kerr and Rene Bernal.

G. 10177(g) for negligence in connection with an ongoing predatory lending scheme.

FOURTH CAUSE OF ACCUSATION
(Advance Fee Brokerage Violations)

General Allegation

20.

At all times mentioned herein, Respondents CLCI and OAKLEY engaged in the business of an advance fee brokerage, within the definition of Code Sections 10131(d) and 10131.2.

Specific Allegation

21.

Respondents CLCI and OAKLEY charged and collected advance fees for obtaining loans brokered by CLCI, for the borrowers tabled below:

Table: Advance Fees Collected to Obtain Commercial Loans

Borrower	Date	Solicited Broker	Advance Fee
Eustacio Guerrero	09-14-07 to 12-05-09	Tony Acosta V&A Mortgage	$6,150
Ade Oluokun	12-13-07 to 03-11-09	Marc Lifebin Hilltop Consulting	$5,100
Armando Hurtado	04-10-08 to	CLCI/Rene Bernal	$6,800

	05-21-08	Luis Lugo	
Newman/ Guarino	05-16-08 to 05-28-09	Pablo Oliva/New Age Home Mortgage	$6,100
Jose Gomez	03-04-08 to 03-11-08	Martha Carrasco/ Century 21\ La Hacienda	$5,800
Di Bernardo	07-26-08 to 08-11-09	F. Gelsomino Pfd. Lenders Corp	$20,000
Mark Horn	11-07-08 to 11-24-08	Eric Scroggins Broker	$6,800
Constance Ng	11-07-08 to 11-24-08	David Daniel	$7,565
Fely Macalad	03-04-08 to 03-11-08	Dan Fisher	$9,875

22.

In the course of activities described in Paragraphs and 20 and 21, above, and during the examination period described in Paragraph 5, Respondents CLCI and OAKLEY acted in violation of the Code and the Regulations in which Respondents:

(A) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking commercial loan wherein CLCI, did not have and thus failed to provide a pre-approved advance fee agreement from the Department, in violation of Code Section 10085 and Regulation 2970, for the tabled borrowers.

(B) CLCI failed to provide a complete description of services to be rendered provided to each prospective tenant in 10 point type font and failed to provide an allocation and disbursement of the amount collected as the advance fees from the tabled borrowers, in violation of Code Section 10146 and Regulation 2972.

(C) Mixed and commingled trust funds and personal funds by depositing advance fees collected into, CLCI's non trust fund general operating account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

The foregoing violations constitutes cause for discipline of the real estate license and license rights of CLCI and OAKLEY, as aforesaid, under the provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence.

FIFTH CAUSE OF ACCUSATION
(Negligence)

23.

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

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SIXTH CAUSE OF ACCUSATION
(Breach of Fiduciary Duty)

24.

The conduct, acts and omissions of Respondents CLCI and OAKLEY constitute a breach of fiduciary duty with respect to CLCI real estate consumers and OAKLEY's clientele, and is cause for discipline of the real estate license and license rights of Respondents CLCI and OAKLEY pursuant to Code Section 10176(i) and/or 10177(g).

SEVENTH CAUSE OF ACCUSATION
(Failure to Supervise)

25.

The overall conduct of Respondent OAKLEY 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 CLCI in violation of Code Section 10159.2, and to keep CLCI in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of OAKLEY pursuant to the provisions of Code Sections 10177(h), 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 COMMERICAL LENDING CAPITAL INC. and SCOTT HUGH OAKLEY, 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 including but not limited to restorral of trust fund shortages, payment of arbitration award, restitution and costs of audits.

Dated at Los Angeles, California

this 30 March 2011

Deputy Real Estate Commissioner

cc: Commercial Lending Capital Inc.
c/o Scott Hugh Oakley D.O.
Joseph Aiu
Sacto
Enforcement - Kathryn Stanbra
Audits - Zaky Wanis