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**FILED**

1 Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105

MAY 24 2012

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE  
BY: Guozalpe Valencia

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 AMERICAN HOME MODIFICATION INC )  
14 and JASON ANTHONY MUCHA, )  
15 individually and as designated )  
16 officer of American Home )  
17 Modification Inc, )  
18 Respondents. )

No. H-37477 LA  
2011090777

STIPULATION  
AND  
AGREEMENT

17 It is hereby stipulated by and between Respondent  
18 JASON ANTHONY MUCHA, represented by Mark A. Nialis, Esq. and the  
19 Complainant, acting by and through James A. Demus, Counsel for  
20 the Department of Real Estate, as follows for the purpose of  
21 settling and disposing of the Accusation ("Accusation") filed on  
22 August 25, 2011, in this matter:

- 24 1. All issues which were to be contested and all  
25 evidence which was to be presented by Complainant and Respondent  
26 at a formal hearing on the Accusation, which hearing was to be  
27 held in accordance with the provisions of the Administrative

1 Procedure Act ("APA"), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement ("Stipulation").

4 2. Respondent has received, read and understands the  
5 Statement to Respondent, the Discovery Provisions of the APA and  
6 the Accusation filed by the Department of Real Estate in this  
7 proceeding.

8 3. Respondent timely filed a Notice of Defense  
9 pursuant to Section 11506 of the Government Code for the purpose  
10 of requesting a hearing on the allegations in the Accusation.  
11 Respondent hereby freely and voluntarily withdraws said Notice of  
12 Defense. Respondent acknowledges that he understands that by  
13 withdrawing said Notice of Defense he thereby waives the right to  
14 require the Commissioner to prove the allegations in the  
15 Accusation at a contested hearing held in accordance with the  
16 provisions of the APA and that he will waive other rights  
17 afforded to him in connection with the hearing such as the right  
18 to present evidence in his defense of the allegations in the  
19 Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual  
22 allegations contained in the Accusation. In the interest of  
23 expedience and economy, Respondent chooses not to contest these  
24 allegations, but to remain silent and understand that, as a  
25 result thereof, these factual allegations, without being admitted  
26 or denied, will serve as a prima facie basis for the disciplinary  
27

1 action stipulated to herein. The Real Estate Commissioner shall  
2 not be required to provide further evidence to prove said factual  
3 allegations.

4 5. This Stipulation is made for the purpose of  
5 reaching an agreed disposition of this proceeding and is  
6 expressly limited to this proceeding and any other proceeding or  
7 case in which the Department of Real Estate ("Department"), the  
8 state or federal government, or any agency of this state, another  
9 state or federal government is a party.

10 6. It is understood by the parties that the Real  
11 Estate Commissioner may adopt this Stipulation as her Decision in  
12 this matter thereby imposing the penalty and sanctions on  
13 Respondent's real estate license and license rights as set forth  
14 in the "Order" herein below. In the event that the Commissioner  
15 in her discretion does not adopt the Stipulation, it shall be  
16 void and of no effect and Respondent shall retain the right to a  
17 hearing and proceeding on the Accusation under the provisions of  
18 the APA and shall not be bound by any stipulation or waiver made  
19 herein.  
20

21 7. The Order or any subsequent Order of the Real  
22 Estate Commissioner made pursuant to this Stipulation shall not  
23 constitute an estoppel, merger or bar to any further  
24 administrative or civil proceedings by the Department of Real  
25 Estate with respect to any matters which were not specifically  
26 alleged to be causes for Accusation in this proceeding but do  
27

1 constitute a bar, estoppel and merger as to any allegations  
2 actually contained in the Accusation against Respondent herein.

3 8. Respondent understands that by agreeing to this  
4 Stipulation, Respondent agrees to pay, pursuant to Business and  
5 Professions Code Section 10148, the cost of the audit which led  
6 to this disciplinary action. The cost of said audit was  
7 \$4,135.10.

8 9. Respondent has received, read, and understands the  
9 "Notice Concerning Costs of Subsequent Audit." Respondent  
10 further understands that by agreeing to this Stipulation, the  
11 findings set forth below in the Determination of Issues become  
12 final, and the Commissioner may charge Respondent for the cost of  
13 any subsequent audit conducted pursuant to Business and  
14 Professions Code Section 10148 to determine if the violations  
15 have been corrected. The maximum cost of the subsequent audit  
16 will not exceed \$4,135.10.

17  
18 DETERMINATION OF ISSUES

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

21 The conduct of JASON ANTHONY MUCHA as described in  
22 Paragraph 4 above, is in violation of Business and Professions  
23 Code ("Code") Sections 10137, 10145, and 10159.2 and provides a  
24 basis for discipline of Respondent's license and license rights  
25 as violations of the Real Estate law pursuant to Code Sections  
26 10137, 10177(d), 10177(g) and 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent JASON ANTHONY MUCHA under the Real Estate Law are suspended for a period of one hundred twenty (120) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension, shall be stayed for two (2) years 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 two (2) years 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 60 days shall be stayed upon condition that:

1                   1. Respondent pays a monetary penalty pursuant to  
2 Section 10175.2 of the Code at the rate of \$50 for each day of  
3 the suspension for a total monetary penalty of \$3,000.

4                   2. Said payment shall be in the form of a cashier's  
5 check or certified check made payable to the Recovery Account of  
6 the Real Estate Fund. Said check must be received by the  
7 Department prior to the effective date of the Decision in this  
8 matter.

9                   3. No further cause for disciplinary action against  
10 the real estate license of Respondent occurs within two years  
11 from the effective date of the Decision in this matter.

12                   4. If Respondent fails to pay the monetary penalty in  
13 accordance with the terms and conditions of the Decision, the  
14 Commissioner may, without a hearing, order the immediate  
15 execution of all or any part of the stayed suspension in which  
16 event the Respondent shall not be entitled to any repayment nor  
17 credit, prorated or otherwise, for money paid to the Department  
18 under the terms of this Decision.

19                   5. If Respondent pays the monetary penalty and if no  
20 further cause for disciplinary action against the real estate  
21 license of Respondent occurs within two years from the effective  
22 date of the Decision, the stay hereby granted shall become  
23 permanent.  
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II.

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 her 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.

III

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Respondent JASON ANTHONY MUCHA shall within six (6) months from the effective date of the Decision herein, take and

1 pass the Professional Responsibility Examination administered by  
2 the Department, including the payment of the appropriate  
3 examination fee. If Respondent JASON ANTHONY MUCHA fails to  
4 satisfy this condition, the Commissioner may order suspension of  
5 Respondent JASON ANTHONY MUCHA's license until Respondent passes  
6 the examination.

7 IV

8 All licenses and licensing rights of Respondent JASON  
9 ANTHONY MUCHA are indefinitely suspended unless or until  
10 Respondent provides proof satisfactory to the Commissioner, of  
11 having taken and successfully completed the continuing education  
12 course on trust fund accounting and handling specified in  
13 paragraph (3) of subdivision (a) of Section 10170.5 of the  
14 Business and Professions Code. Proof of satisfaction of this  
15 requirement includes evidence that respondent has successfully  
16 completed the trust fund account and handling continuing  
17 education course within 120 days prior to the effective date of  
18 the Decision in this matter.  
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20 V

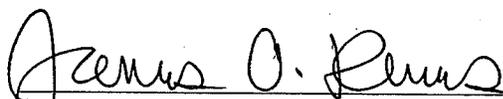
21 If, by the effective date of the Decision herein,  
22 Respondent fails to provide proof satisfactory to the  
23 Commissioner of restitution as set forth below, the Commissioner  
24 may order suspension of Respondent's license until Respondent  
25 provides proof of restitution satisfactory to the Commissioner:  
26  
27

Name	Restitution Amount
Mario Flores	\$1,500
Erika May	\$2,250
Kathleen Correa	\$1,500
Aurora Ramirez	\$1,500
James Henderson	\$1,500
Ramiro Rivera	\$1,500
Gilberto Garcia	\$1,500
Clarence Allen	\$1,500
Jose Zuniga	\$1,750
Sheldon Vess	\$875
Barbara Johnson	\$1,500
Alejandro Alencaster	\$1,500
Cruz Robles	\$1,500
Socrates Socratous	\$1,750
Margaret Robledo	\$1,500

VI

All proof of payment and completed coursework shall be  
submitted to Department Counsel James A. Demus, Attention: Legal  
Section, Department of Real Estate, 320 W. Fourth St., Suite 350,  
Los Angeles, California 90013-1105, on or before the dates set  
forth above.

DATED: 4/23/12

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

EXECUTION OF THE STIPULATION

1  
2 I have read the Stipulation and discussed it with my  
3 counsel. Its terms are understood by me and are agreeable and  
4 acceptable to me. I understand that I am waiving rights given to  
5 me by the California Administrative Procedure Act (including but  
6 not limited to Sections 11506, 11508, 11509 and 11513 of the  
7 Government Code), and I willingly, intelligently and voluntarily  
8 waive those rights, including the right of requiring the  
9 Commissioner to prove the allegations in the Accusation at a  
10 hearing at which I would have the right to cross-examine  
11 witnesses against me and to present evidence in defense and  
12 mitigation of the charges.

13  
14 Respondent can signify acceptance and approval of the  
15 terms and conditions of this Stipulation by faxing a copy of its  
16 signature page, as actually signed by Respondent, to the  
17 Department at the following telephone/fax number: James A. Demus  
18 at (213) 576-6917. Respondent agrees, acknowledges and  
19 understands that by electronically sending to the Department a  
20 fax copy of Respondent's actual signature as it appears on the  
21 Stipulation that receipt of the faxed copy by the Department  
22 shall be as binding on Respondent as if the Department had  
23 received the original signed Stipulation.

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26 DATED: 4-11-12

  
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JASON ANTHONY MUCHA, Respondent

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DATED: April 11, 2012

Mark Nialis  
MARK A. NIALIS  
Attorney for Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondent JASON ANTHONY MUCHA and  
shall become effective at 12 o'clock noon on

JUN 25 2012

IT IS SO ORDERED 5/18/2012

Real Estate Commissioner

Wayne S. Bell

By WAYNE S. BELL  
Chief Counsel

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**FILED**

MAY 24 2012

DEPARTMENT OF REAL ESTATE

BY: Margaret Valencia

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-37477 LA
	)	2011090777
<u>AMERICAN HOME MODIFICATION INC,</u>	)	
and JASON ANTHONY MUCHA,	)	
individually and as designated	)	
officer of American Home	)	
Modification Inc.,	)	
	)	
Respondents.	)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On August 25, 2011, an Accusation was filed in this matter against Respondent AMERICAN HOME MODIFICATION INC.

On April 11, 2012, 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 AMERICAN HOME MODIFICATION 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

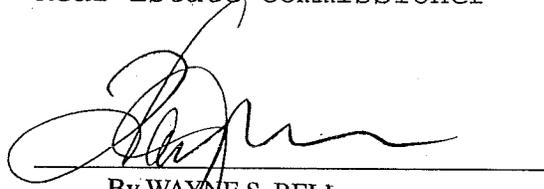
1 agreement expressed in Respondent's Declaration dated April 11,  
2 2012(attached as Exhibit "A" hereto). Respondent's license  
3 certificate(s), pocket card(s) and any branch office license  
4 certificate(s) shall be sent to the below listed address so that  
5 they reach the Department on or before the effective date of this  
6 Order:

7  
8 DEPARTMENT OF REAL ESTATE  
9 Attn: Licensing Flag Section  
10 P. O. Box 187000  
11 Sacramento, CA 95818-7000

12 This Order shall become effective at 12 o'clock noon  
13 on JUN 13 2012

14 DATED: 5/18/2012

15 Real Estate Commissioner

16   
17 By WAYNE S. BELL  
18 Chief Counsel

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-37477 LA
	)	2011090777
<u>AMERICAN HOME MODIFICATION INC</u>	)	
and JASON ANTHONY MUCHA,	)	
individually and as designated	)	
officer of American Home	)	
Modification Inc,	)	
	)	
Respondents,	)	

DECLARATION

My name is Jason Anthony Mucha and I am currently the designated officer of AMERICAN HOME MODIFICATION INC, which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of AMERICAN HOME MODIFICATION INC. AMERICAN HOME MODIFICATION INC is represented in this matter by Mark A. Nialis, 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) AMERICAN HOME MODIFICATION

1 INC wishes to voluntarily surrender its real estate license  
2 issued by the Department of Real Estate ("Department"), pursuant  
3 to Business and Professions Code Section 10100.2.

4 I understand that AMERICAN HOME MODIFICATION INC, by so  
5 voluntarily surrendering its license, can only have it reinstated  
6 in accordance with the provisions of Section 11522 of the  
7 Government Code. I also understand that by so voluntarily  
8 surrendering its license, AMERICAN HOME MODIFICATION INC agrees  
9 to the following:

10 The filing of this Declaration shall be deemed as its  
11 petition for voluntary surrender. It shall also be deemed to be  
12 an understanding and agreement by AMERICAN HOME MODIFICATION INC  
13 that it waives all rights it has to require the Commissioner to  
14 prove the allegations contained in the Accusation filed in this  
15 matter at a hearing held in accordance with the provisions of the  
16 Administrative Procedure Act (Government Code Sections 11400 et  
17 seq.), and that it also waives other rights afforded to it in  
18 connection with the hearing such as the right to discovery, the  
19 right to present evidence in defense of the allegations in the  
20 Accusation and the right to cross-examine witnesses. I further  
21 agree on behalf of AMERICAN HOME MODIFICATION INC that upon  
22 acceptance by the Commissioner, as evidenced by an appropriate  
23 order, all affidavits and all relevant evidence obtained by the  
24 Department in this matter prior to the Commissioner's acceptance,  
25 and all allegations contained in the Accusation filed in the  
26 Department Case No. H-37477 LA, may be considered by the  
27 Department to be true and correct for the purpose of deciding

1 whether or not to grant reinstatement of AMERICAN HOME  
2 MODIFICATION INC's license pursuant to Government Code Section  
3 11522.

4 I agree to pay the Commissioner's reasonable cost for  
5 the audit which led to this action. In calculating the amount of  
6 the Commissioner's reasonable cost, the Commissioner may use the  
7 estimated average hourly salary for all persons performing audits  
8 of real estate brokers, and shall include an allocation for  
9 travel time to and from the auditor's place of work. I will pay  
10 such cost within 60 days of receiving an invoice from the  
11 Commissioner detailing the activities performed during the audit  
12 and the amount of time spent performing those activities.

13 I am aware that if I petition for reinstatement in the  
14 future, that payment of the audit costs will be a condition of  
15 reinstatement.

16 I declare under penalty of perjury under the laws of  
17 the State of California that the above is true and correct and  
18 that I am acting freely and voluntarily on behalf of AMERICAN  
19 HOME MODIFICATION INC to surrender its license and all license  
20 rights attached thereto.

21 4-11-12 Orange, CA  
22 Date and Place

  
23 AMERICAN HOME MODIFICATION INC  
24 by JASON ANTHONY MUCHA  
25  
26  
27

AUG 25 2011

1 JAMES DEMUS, Counsel (SBN 225005)  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

DEPARTMENT OF REAL ESTATE  
BY: Joseph Aiu

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6910  
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-37477 LA

12 AMERICAN HOME MODIFICATION INC and )  
13 JASON ANTHONY MUCHA, individually )  
14 and as designated officer of )  
15 American Home Modification Inc, )

A C C U S A T I O N

Respondents. )

16  
17 The Complainant, Joseph Aiu, a Deputy Real Estate  
18 Commissioner of the State of California, for cause of Accusation  
19 against AMERICAN HOME MODIFICATION INC and JASON ANTHONY MUCHA,  
20 individually and as designated officer of American Home  
21 Modification Inc, alleges as follows:

22 1.

23 The Complainant, Joseph Aiu, acting in his official  
24 capacity as a Deputy Real Estate Commissioner of the State of  
25 California, makes this Accusation against AMERICAN HOME  
26 MODIFICATION INC and JASON ANTHONY MUCHA.

27 ///

1 2.

2 All references to the "Code" are to the California  
3 Business and Professions Code and all references to "Regulations"  
4 are to Title 10, Chapter 6, California Code of Regulations.

5 LICENSE HISTORY

6 3.

7 A. AMERICAN HOME MODIFICATION INC ("AHMI") is  
8 presently licensed and/or has license rights with the Department  
9 of Real Estate ("Department") as a corporate real estate broker.

10 B. JASON ANTHONY MUCHA ("MUCHA") is presently  
11 licensed and/or has license rights issued by the Department as a  
12 real estate broker.

13 C. From January 12, 2009, through the present, AHMI  
14 was licensed by the Department as a corporate real estate broker  
15 by and through MUCHA, as the designated officer and broker  
16 responsible, pursuant to Code Section 10159.2 for supervising the  
17 activities requiring a real estate license conducted on behalf of  
18 AHMI or by AHMI's officers, agents and employees, including  
19 MUCHA.

20 BROKERAGE

21 AMERICAN HOME MODIFICATION INC

22 4.

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



1 audit period, in violation of Code Section 10145 and Regulation  
2 2831.1.

3 (d) AHMI did not maintain the monthly reconciliation  
4 of all the separate records to the control records of all the  
5 trust funds received and disbursed, in violation of Code Section  
6 10145 and Regulation 2831.2.

7 (e) Unlicensed individuals without fidelity bond  
8 insurance were allowed to sign for withdrawals from the trust  
9 account, in violation of Code Section 10145 and Regulation 2834.

10 (f) AHMI collected some advance fees through a credit  
11 card company, which deposited the advance fees into AHMI's  
12 general business account, where they were commingled with AHMI's  
13 funds. AHMI also transferred advance fees collected and not yet  
14 earned from a trust account into a general business account, in  
15 violation of Code Section 10176(e) and Regulation 2835.

16 (g) Some advance fees collected by AHMI for loan  
17 modification services were not deposited into a trust account, in  
18 violation of Code Section 10146.

19 (h) AHMI collected advance fees from principals for  
20 loan modification services, without providing an accounting to  
21 the principals showing the services rendered, identifying the  
22 trust account into which the advance fees were deposited and  
23 providing details of how the funds were disbursed, in violation  
24 of Regulation 2972.

25 (i) AHMI employed and compensated Colleen Acosta, an  
26 unlicensed individual to negotiate loan modifications for  
27 borrowers, in violation of Code Section 10137.

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7.

The conduct of Respondents AHMI and MUCHA, described in Paragraph 6, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6(a)	Code Section 10145 and Regulation 2832.1
6(b)	Code Section 10145 and Regulation 2831
6(c)	Code Section 10145 and Regulation 2831.1
6(d)	Code Section 10145 and Regulation 2831.2
6(e)	Code Section 10145 and Regulation 2834
6(f)	Code Section 10176(e) and Regulation 2835
6(g)	Code Section 10146
6(h)	Regulation 2972
6(i)	Code Section 10137

8.

Said conduct, acts, and/or omissions are cause for the suspension or revocation of the real estate license and license rights of AHMI and MUCHA, under the provisions of Code Sections 10176(e), 10177(d) and/or 10177(g).

1 NEGLIGENCE

2 9.

3 The overall conduct of Respondents AHMI and MUCHA  
4 constitutes negligence or incompetence. This conduct and  
5 violation are cause for the suspension or revocation of the real  
6 estate license and license rights of said Respondents pursuant to  
7 Code Section 10177(g).

8 SUPERVISION AND COMPLIANCE

9 10.

10 The overall conduct of Respondent MUCHA constituted a  
11 failure on his part, as a former officer designated by a  
12 corporate broker licensee, to exercise reasonable supervision and  
13 control over the licensed activities of AHMI as required by Code  
14 Section 10159.2, and to keep AHMI in compliance with the Real  
15 Estate Law, and is cause for the suspension or revocation of the  
16 real estate license and license rights of MUCHA pursuant to the  
17 provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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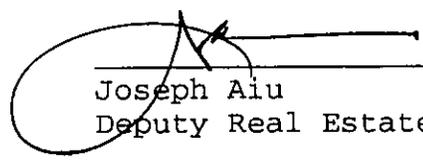
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the licenses and license rights of Respondents AMERICAN HOME MODIFICATION INC and JASON ANTHONY MUCHA, individually and as designated officer of American Home Modification Inc, 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 04 day of August, 2011

  
\_\_\_\_\_  
Joseph Aiu  
Deputy Real Estate Commissioner

cc: AMERICAN HOME MODIFICATION INC  
JASON ANTHONY MUCHA  
Joseph Aiu  
Sacto  
Audits