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**FILED**

1 Department of Real Estate  
320 West Fourth Street, #350  
2 Los Angeles, California 90013

JUN 12 2012

DEPARTMENT OF REAL ESTATE  
BY: *Guadalupe Salinas*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-37510 LA
12		)	2011100458
13	APEX FINANCIAL & INVESTMENTS INC,	)	
14	dba Home Assistance & Relief, and	)	<u>STIPULATION AND</u>
15	FRANCIS Y. CHOE, individually, and	)	<u>AGREEMENT</u>
16	as designated officer of Apex	)	
	Financial & Investments Inc,	)	
	Respondents.	)	

17  
18 It is hereby stipulated by and between APEX FINANCIAL &  
19 INVESTMENTS INC and FRANCIS Y. CHOE, individually and as  
20 designated officer of APEX FINANCIAL & INVESTMENTS INC, and the  
21 Complainant, acting by and through James A. Demus, Counsel for  
22 the Department of Real Estate, as follows for the purpose of  
23 settling and disposing of the First Amended Accusation in this  
24 matter, filed on October 19, 2011:

25 1. All issues which were to be contested and all  
26 evidence which was to be presented by Complainant and Respondents  
27 at a formal hearing on the First Amended Accusation, which

1 hearing was to be held in accordance with the provisions of the  
2 Administrative Procedure Act (APA), shall instead and in place  
3 thereof be submitted solely on the basis of the provisions of  
4 this Stipulation and Agreement (Stipulation).

5           2. Respondents have received, read and understand the  
6 Statement to Respondent, the Discovery Provisions of the APA and  
7 the Accusations filed by the Department of Real Estate in this  
8 proceeding.

9           3. Respondents filed Notices of Defense pursuant to  
10 Section 11506 of the Government Code for the purpose of  
11 requesting a hearing on the allegations in the Accusation.  
12 Respondents hereby freely and voluntarily withdraw said Notices  
13 of Defense. Respondents acknowledge that they understand that by  
14 withdrawing said Notices of Defense they thereby waive their  
15 right to require the Commissioner to prove the allegations in the  
16 Accusation at a contested hearing held in accordance with the  
17 provisions of the APA and that they will waive other rights  
18 afforded to them in connection with the hearing such as the right  
19 to present evidence in their defense and the right to cross-  
20 examine witnesses.

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

1 Commissioner shall not be required to provide further evidence to  
2 prove said factual allegations.

3           5. This Stipulation is based on Respondents' decision  
4 not to contest the allegations set forth in the First Amended  
5 Accusation as a result of the agreement negotiated between the  
6 parties. This Stipulation is expressly limited to this  
7 proceeding and any further proceeding initiated by or brought  
8 before the Department of Real Estate based upon the factual  
9 allegations in the First Amended Accusation and is made for the  
10 sole purpose of reaching an agreed disposition of this  
11 proceeding. The decision of Respondents not to contest the  
12 allegations contained in the "Order" herein below, is made solely  
13 for the purpose of effectuating this Stipulation. It is the  
14 intent and understanding of the parties that this Stipulation  
15 shall not be binding or admissible against Respondents in any  
16 actions against Respondents by third parties.

17           6. It is understood by the parties that the Real  
18 Estate Commissioner may adopt the Stipulation as his Decision in  
19 this matter thereby imposing the penalty and sanctions on  
20 Respondents' real estate licenses and license rights as set forth  
21 in the "Order" herein below. In the event that the Commissioner  
22 in his discretion does not adopt the Stipulation, it shall be  
23 void and of no effect, and Respondents shall retain the right to  
24 a hearing and proceeding on the First Amended Accusation under  
25 the provisions of the APA and shall not be bound by any admission  
26 or waiver made herein.



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ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE WRITTEN STIPULATION OF THE PARTIES:

I.

All licenses and licensing rights of Respondent APEX FINANCIAL & INVESTMENTS INC under the Real Estate Law are suspended for a period of ninety (90) 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:

- 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.

II.

If Respondent APEX FINANCIAL & INVESTMENTS INC petitions, an additional 30 days shall be stayed upon condition that:



1 Decision; provided, however, that sixty (60) days of said  
2 suspension, shall be stayed for two (2) years upon the  
3 following terms and conditions:

4 1. Respondent shall obey all laws, rules and  
5 regulations governing the rights, duties and responsibilities of  
6 a real estate licensee in the State of California; and

7 2. That no final subsequent determination be made,  
8 after hearing or upon stipulation that cause for disciplinary  
9 action occurred within two (2) years of the effective date of  
10 this Decision. Should such a determination be made, the  
11 Commissioner may, in his discretion, vacate and set aside the  
12 stay order and reimpose all or a portion of the stayed  
13 suspension. Should no such determination be made, the stay  
14 imposed herein shall become permanent.

15 IV.

16 If Respondent FRANCIS Y. CHOE petitions, an additional  
17 30 days shall be stayed upon condition that:

18 1. Respondent pays a monetary penalty pursuant to  
19 Section 10175.2 of the Code at the rate of \$100 for each day of  
20 the suspension for a total monetary penalty of \$3,000.

21 2. Said payment shall be in the form of a cashier's  
22 check or certified check made payable to the Recovery Account of  
23 the Real Estate Fund. Said check must be received by the  
24 Department prior to the effective date of the Decision in this  
25 matter.

26  
27



1 having taken and successfully completed the continuing education  
2 course on trust fund accounting and handling specified in  
3 paragraph (3) of subdivision (a) of Section 10170.5 of the  
4 Business and Professions Code. Proof of satisfaction of this  
5 requirement includes evidence that respondent has successfully  
6 completed the trust fund account and handling continuing  
7 education course within 120 days prior to the effective date of  
8 the Decision in this matter.

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DATED: 5/11/12

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

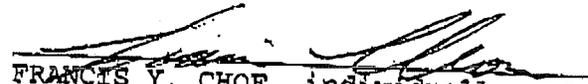
EXECUTION OF THE STIPULATION

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 First Amended  
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.

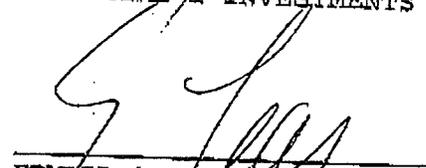
Respondents can signify acceptance and approval of the  
terms and conditions of this Stipulation by faxing a copy of the

1 signature page, as actually signed by Respondents, to the  
 2 Department at the following telephone/fax number: James A. Demus  
 3 at (213) 576-6917. Respondents agree, acknowledge and understand  
 4 that by electronically sending to the Department a fax copy of  
 5 Respondent's actual signature as it appears on the Stipulation,  
 6 that receipt of the faxed copy by the Department shall be as  
 7 binding on Respondents as if the Department had received the  
 8 original signed Stipulation.

9  
 10 DATED: 5/09/12

  
 FRANCIS Y. CHOE, individually and  
 as designated officer of APEX  
 FINANCIAL & INVESTMENTS INC.

11  
 12  
 13  
 14 DATED: 5/9/12

  
 EDWARD O. LEAR  
 Attorney for Respondents

15  
 16  
 17 \* \* \*

18  
 19 The foregoing Stipulation and Agreement is hereby  
 20 adopted as my Decision as to Respondents APEX FINANCIAL &  
 21 INVESTMENTS INC and FRANCIS Y. CHOE and shall become effective at  
 22 12 o'clock noon on \_\_\_\_\_, 2012.

23 IT IS SO ORDERED \_\_\_\_\_, 2012

24  
 25 Real Estate Commissioner  
 26  
 27 \_\_\_\_\_

1 signature page, as actually signed by Respondents, to the  
2 Department at the following telephone/fax number: James A. Demus  
3 at (213) 576-6917. Respondents agree, acknowledge and understand  
4 that by electronically sending to the Department a fax copy of  
5 Respondent's actual signature as it appears on the Stipulation,  
6 that receipt of the faxed copy by the Department shall be as  
7 binding on Respondents as if the Department had received the  
8 original signed Stipulation.

9  
10 DATED: \_\_\_\_\_

FRANCIS Y. CHOE, individually and  
as designated officer of APEX  
FINANCIAL & INVESTMENTS INC.

11  
12  
13  
14 DATED: \_\_\_\_\_

EDWARD O. LEAR  
Attorney for Respondents

15  
16  
17 \* \* \*

18  
19 The foregoing Stipulation and Agreement is hereby  
20 adopted as my Decision as to Respondents APEX FINANCIAL &  
21 INVESTMENTS INC and FRANCIS Y. CHOE and shall become effective at  
22 12 o'clock noon on **JUL 13 2012**, 2012.

23 IT IS SO ORDERED June 3, 2012

24  
25 Real Estate Commissioner

26  
27 

- 10 - By WAYNE S. BELL  
Chief Counsel

SACTO  
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**FILED**

OCT 19 2011

1 JAMES DEMUS, Counsel (SBN 225005)  
2 Department of Real Estate  
3 320 West Fourth St., #350  
4 Los Angeles, CA 90013  
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DEPARTMENT OF REAL ESTATE  
BY: *James Demus*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-37510 LA
	)	
	)	
APEX FINANCIAL & INVESTMENTS INC,	)	<u>FIRST AMENDED</u>
dba Home Assistance & Relief and	)	<u>ACCUSATION</u>
FRANCIS Y. CHOE, individually, and	)	
as designated officer of Apex	)	
Financial & Investments Inc,	)	
	)	
Respondents.	)	

19 This Accusation amends the Accusation filed on  
20 September 8, 2011. The Complainant, Robin Trujillo, a Deputy  
21 Real Estate Commissioner of the State of California, for cause  
22 of Accusation against APEX FINANCIAL & INVESTMENTS INC, dba  
23 Home Assistance & Relief and FRANCIS Y. CHOE, individually, and  
24 as designated officer of Apex Financial & Investments Inc, is  
25 informed and alleges as follows:

26 ///  
27 ///

1 1.

2 The Complainant, Robin Trujillo, a Deputy Real Estate  
3 Commissioner of the State of California, makes this Accusation  
4 in her official capacity.

5 2.

6 APEX FINANCIAL & INVESTMENTS INC, ("APEX") is  
7 presently licensed and/or has license rights under the Real  
8 Estate Law (Part 1 of Division 4 of the Business and  
9 Professions Code, hereinafter "Code"), as a corporate real  
10 estate broker. APEX was initially licensed with the Department  
11 of Real Estate for the State of California ("Department") as a  
12 corporate real estate broker on March 3, 2003.

13 3.

14 FRANCIS Y. CHOE ("CHOE") is presently licensed and/or  
15 has license rights under the Real Estate Law, as a real estate  
16 broker. Since March 2, 2003, APEX has been licensed by the  
17 Department as a corporate real estate broker by and through  
18 CHOE, as the designated officer and broker responsible,  
19 pursuant to Code Section 10159.2 for supervising the activities  
20 requiring a real estate license conducted on behalf of APEX or  
21 by APEX's officers, agents and employees, including CHOE.

22 4.

23 On August 28, 2009, APEX filed Fictitious Business  
24 Name Statement with the Los Angeles Registrar-Recorder/  
25 County Clerk for "Home Assistance & Relief" ("HAR"). CHOE  
26 signed this statement on behalf of APEX.

27 ///

1 FIRST CAUSE FOR ACCUSATION

2 (Advance Fee Agreement)

3 5.

4 At all times material herein, Respondents APEX and  
5 CHOE were engaged in the business of, acted in the capacity of,  
6 advertised or assumed to act as real estate brokers in the  
7 State of California, within the meaning of Code Sections  
8 10131(d) and 10131.2, including soliciting borrowers,  
9 negotiating loans or performing services for borrowers and  
10 collecting or contracting for the collection of an advance fee,  
11 within the meaning of Code Section 10026.

12 6.

13 On or about September 24, 2008, in response to a  
14 television advertisement, Juan Parra and Erika Padilla  
15 ("Complainants") entered into an agreement with HAR, in which  
16 HAR agreed to negotiate a modification of the loan on  
17 Complainants property located at 443 W.93<sup>rd</sup> Street, Los Angeles,  
18 CA, in exchange for the payment of \$2,500 in advance fees.

19 7.

20 The agreement described in Paragraph 6 above,  
21 constitutes an advance fee agreement within the meaning of Code  
22 Section 10026. APEX and CHOE failed to submit the advance fee  
23 agreement described above to the Commissioner ten days before  
24 using it, in violation of Code Section 10085 and Section 2970  
25 of Title 10, California Code of Regulations ("Regulations").  
26 Said conduct, acts and/or omissions of Respondents APEX and  
27 CHOE constitutes cause to suspend or revoke the licenses and

1 license rights of APEX and CHOE pursuant to Code Sections  
2 10177(d) and/or 10177(g).

3 8.

4 The loan modification agreement described in  
5 paragraph 6 above used the fictitious business name of "Home  
6 Assistance & Relief" when APEX did have that fictitious  
7 business name licensed with the Department, in violation of  
8 Code Section 10159.5 and Regulation 2731. This provides cause  
9 for the suspension or revocation of the licenses and license  
10 rights of APEX and CHOE pursuant to Code Sections 10177(d)  
11 and/or 10177(g).

12 SECOND CAUSE FOR ACCUATION

13 (Audit Investigation)

14 9.

15 On September 20, 2011, the Department completed an  
16 audit examination of the books and records of APEX pertaining  
17 to the activities described in Paragraph 5 which require a real  
18 estate license. The audit examination covered a period of time  
19 from July 1, 2008 to June 30, 2011. The audit examination  
20 revealed violations of the Code and the Regulations as set  
21 forth in the following paragraphs, and as more fully discussed  
22 in Audit Report LA100186 and the exhibits and workpapers  
23 attached to said audit report.

24 TRUST ACCOUNT

25 10.

26 During the audit period APEX did not maintain a trust  
27 account.

1 VIOLATIONS OF THE REAL ESTATE LAW

2 11.

3 In the course of activities described in Paragraph 5  
4 above and during the examination period described in Paragraph  
5 9, Respondents APEX and CHOE acted in violation of the Code and  
6 the Regulations in that:

7 (a) APEX did not maintain a columnar record for  
8 advance fees collected for loan modification services, which  
9 were deposited into APEX's general account, in violation of  
10 Code Section 10145 and Regulation 2831.

11 (b) APEX collected advance fees from borrowers and  
12 deposited them in a general account, commingling them with  
13 APEX's funds, in violation of Code Sections 10145, 10146 and  
14 10176(e) and Regulation 2832.

15 (c) A Mortgage Loan Disclosure Statement ("MLDS")  
16 was not always contained in loan files provided for the audit,  
17 in violation of Code Section 10240 and Regulation 2840.

18 (d) The MLDS in some of the loan files examined did  
19 not include APEX's license number and/or the license number of  
20 the APEX representative who negotiated the loan, in violation  
21 of Code Section 10236.4(b).

22 (e) CHOE did not disclose his real estate license  
23 number and his National Mortgage Licensing System number on his  
24 business card, in violation of Code Section 10140.6(b) and  
25 Regulation 2773.

26 (f) CHOE was not aware that non-licensee Maria  
27 Hernandez was soliciting loan modifications and collecting

1 advance fees for loan modification transactions. This  
2 demonstrated a lack of responsibility by the corporate officer  
3 in charge, in violation of Code Section 10159.2 and Regulation  
4 2725.

5 12.

6 The conduct of Respondents APEX and CHOE, described  
7 in Paragraph 11, above, violated the Code and the Regulations  
8 as set forth below:

9	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10	11(a)	Code Section 10145 and Regulation
11		2831
12	11(b)	Code Sections 10145, 10146 and
13		10176(e) and Regulation 2832
14	11(c)	Code Section 10240 and Regulation
15		2840
16	11(d)	Code Section 10236.4(b)
17	11(e)	Code Section 10140.6(b) and
18		Regulation 2773
19	11(f)	Code Section 10159.2 and
20		Regulation 2725 (CHOE)
21		
22		

23 The foregoing violations constitute cause for the  
24 suspension or revocation of the real estate license and license  
25 rights of APEX and CHOE, under the provisions of Code Sections  
26 10176(e), 10177(d) and/or 10177(g), and CHOE under the  
27 provisions of Code Section 10177(h).

1  
2 The overall conduct of Respondent CHOE constituted a  
3 failure on his part, as an officer designated by a corporate  
4 broker licensee, to exercise reasonable supervision and control  
5 over the licensed activities of APEX as required by Code  
6 Section 10159.2, and to keep APEX in compliance with the Real  
7 Estate Law, and is cause for the suspension or revocation of  
8 the real estate license and license rights of CHOE pursuant to  
9 the provisions of Code Sections 10177(d), 10177(g) and  
10 10177(h).

11 WHEREFORE, Complainant prays that a hearing be  
12 conducted on the allegations of this Accusation and that upon  
13 proof thereof, a decision be rendered imposing disciplinary  
14 action against all the licenses and license rights of  
15 Respondents APEX FINANCIAL & INVESTMENTS INC and FRANCIS Y.  
16 CHOE under the Real Estate Law, and for such other and further  
17 relief as may be proper under other applicable provisions of  
18 law.

19 Dated at Los Angeles, California  
20 this 19 day of October, 2011.

21  
22   
23 \_\_\_\_\_  
24 Robin Trujillo  
25 Deputy Real Estate Commissioner

26 cc: APEX FINANCIAL & INVESTMENTS INC  
27 FRANCIS Y. CHOE  
Robin Trujillo  
Sacto.

**FILED**

SEP 08 2011

DEPARTMENT OF REAL ESTATE  
BY: Shirley H. Lewis

1 JAMES DEMUS, Counsel (SBN 225005)  
2 Department of Real Estate  
3 320 West Fourth St., #350  
4 Los Angeles, CA 90013  
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )

No. H-37510 LA

APEX FINANCIAL & INVESTMENTS INC, )  
dba Home Assistance & Relief and )  
FRANCIS Y. CHOE, individually, and )  
as designated officer of Apex )  
Financial & Investments Inc, )

A C C U S A T I O N

Respondents. )

The Complainant, Robin Trujillo, a Deputy Real Estate  
Commissioner of the State of California, for cause of  
Accusation against APEX FINANCIAL & INVESTMENTS INC, dba Home  
Assistance & Relief and FRANCIS Y. CHOE, individually, and as  
designated officer of Apex Financial & Investments Inc, is  
informed and alleges as follows:

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1. . . . .

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2. . . . .

APEX FINANCIAL & INVESTMENTS INC, ("APEX") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a corporate real estate broker. APEX was initially licensed with the Department of Real Estate for the State of California ("Department") as a corporate real estate broker on March 3, 2003.

3. . . . .

FRANCIS Y. CHOE ("CHOE") is presently licensed and/or has license rights under the Real Estate Law, as a real estate broker. Since March 2, 2003, APEX has been licensed by the Department as a corporate real estate broker by and through CHOE, 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 APEX or by APEX's officers, agents and employees, including CHOE.

4. . . . .

On August 28, 2009, APEX filed Fictitious Business Name Statement with the Los Angeles Registrar-Recorder/ County Clerk for "Home Assistance & Relief" ("HAR"). CHOE signed this statement on behalf of APEX.

///

1 5.

2 At all times material herein, Respondents APEX and  
3 CHOE were engaged in the business of, acted in the capacity of,  
4 advertised or assumed to act as real estate brokers in the  
5 State of California, within the meaning of Code Sections  
6 10131(d) and 10131.2, including soliciting borrowers,  
7 negotiating loans or performing services for borrowers and  
8 collecting or contracting for the collection of an advance fee,  
9 within the meaning of Code Section 10026.

10 6.

11 On or about September 24, 2008, in response to a  
12 television advertisement, Juan Parra and Erika Padilla  
13 ("Complainants") entered into an agreement with HAR, in which  
14 HAR agreed to negotiate a modification of the loan on  
15 Complainants property located at 443 W.93<sup>rd</sup> Street, Los Angeles,  
16 CA, in exchange for the payment of \$2,500 in advance fees.

17 7.

18 The agreement described in Paragraph 6 above,  
19 constitutes an advance fee agreement within the meaning of Code  
20 Section 10026. APEX and CHOE failed to submit the advance fee  
21 agreement described above to the Commissioner ten days before  
22 using it, in violation of Code Section 10085 and Section 2970  
23 of Title 10, California Code of Regulations ("Regulations").  
24 Said conduct, acts and/or omissions of Respondents APEX and  
25 CHOE constitutes cause to suspend or revoke the licenses and  
26 license rights of APEX and CHOE pursuant to Code Sections  
27 10177(d) and/or 10177(g).

8.

The loan modification agreement described in paragraph 6 above used the fictitious business name of "Home Assistance & Relief" when APEX did have that fictitious business name licensed with the Department, in violation of Code Section 10159.5 and Regulation 2731. This provides cause for the suspension or revocation of the licenses and license rights of APEX and CHOE pursuant to Code Sections 10177(d) and/or 10177(g).

9.

The overall conduct of Respondent CHOE constituted a failure on her part, as an officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of APEX as required by Code Section 10159.2, and to keep APEX in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of CHOE pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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1                   WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all the licenses and license rights of  
5 Respondents APEX FINANCIAL & INVESTMENTS INC and FRANCIS Y.  
6 CHOE under the Real Estate Law, and for such other and further  
7 relief as may be proper under other applicable provisions of  
8 law.

9 Dated at Los Angeles, California

10 this 6 day of September, 2011

11  
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13   
14 Robin Trujillo  
15 Deputy Real Estate Commissioner  
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24

25 CC: APEX FINANCIAL & INVESTMENTS INC  
26 FRANCIS Y. CHOE  
27 Robin Trujillo  
Sacto.