

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-4082 SD
INSTANT MORTGAGE LENDING CORP., a)	
California corporation, JACK EVAN PROBER,)	<u>STIPULATION AND AGREEMENT</u>
SYDNEY ERIC KAHN, and NOTE TRACKER)	
CORP., a New York Corporation,)	
)	
Respondents.)	

It is hereby stipulated by and between Respondent JACK EVAN PROBER (hereinafter referred to as "Respondent" or "Respondent PROBER"), acting in pro per, and the Complainant, acting by and through Michael B. Rich, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on March 30, 2010, in this matter (hereinafter "the Accusation"):

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.

///

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

4 3. On April 12, 2010, Respondent PROBER filed a Notice of Defense
5 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on
6 the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said
7 Notice of Defense. Respondent acknowledges that Respondent understands that by
8 withdrawing said Notice of Defense Respondent will thereby waive Respondent's right to
9 require the Department of Real Estate Commissioner (hereinafter "the Commissioner") to
10 prove the allegations in the Accusation at a contested hearing held in accordance with the
11 provisions of the APA and that Respondent will waive other rights afforded to Respondent in
12 connection with the hearing such as the right to present evidence in defense of the allegations
13 in the Accusation and the right to cross-examine witnesses.

14 4. Respondent, pursuant to the limitations set forth below, hereby admits that
15 the factual allegations in the Accusation pertaining to Respondent are true and correct and
16 stipulates and agrees that the Commissioner shall not be required to provide further evidence of
17 such allegations.

18 5. It is understood by the parties that the Commissioner may adopt the
19 Stipulation and Agreement as her decision in this matter, thereby imposing the penalty and
20 sanctions on Respondent's real estate license and license rights as set forth in the "Order"
21 below. In the event that the Commissioner in her discretion does not adopt the Stipulation and
22 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
23 and proceeding on the Accusation under all the provisions of the APA and shall not be bound
24 by any admission or waiver made herein.

25 ///

26 //

27 /

1 6. This Stipulation and Agreement shall not constitute an estoppel, merger or
2 bar to any further administrative or civil proceedings by the Department of Real Estate with
3 respect to any matters which were not specifically alleged to be causes for accusation in this
4 proceeding.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations, admissions and waivers and solely for
7 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
8 that the following Determination of Issues shall be made:

9 I

10 The acts and omissions of Respondent JACK EVAN PROBER described in the
11 Accusation are grounds for the suspension or revocation of the licenses and license rights of
12 Respondent under the provisions of Section 10177(h) of the Business and Professions Code
13 (hereinafter "the Code") and/or Section 10159.2 of the Code and Section 2725 of Chapter 6,
14 Title 10, California Code of Regulations (hereinafter "Regulations") all in conjunction with
15 Section 10177(d) of the Code.

16 ORDER

17 I

18 A. All licenses and licensing rights of Respondent JACK EVAN PROBER
19 under the Real Estate Law are suspended for a period of thirty (30) days from the effective date
20 of this Decision; provided, however, that thirty (30) days of said suspension shall be stayed for
21 two (2) years upon the following terms and conditions:

- 22 1. Respondent shall obey all laws, rules and regulations governing the
23 rights, duties and responsibilities of a real estate licensee in the State of
24 California; and,
25 2. That no final subsequent determination be made, after hearing or upon
26 stipulation, that cause for disciplinary action occurred within two (2) years
27 of the effective date of this Decision. Should such a determination be

1 made, the Commissioner may, in his discretion, vacate and set aside the
2 stay order and re-impose all or a portion of the stayed suspension. Should
3 no such determination be made, the stay imposed herein shall become
4 permanent.

5 B. Respondent shall, within six (6) months from the effective date of this
6 Decision, take and pass the Professional Responsibility Examination administered by the
7 Department including the payment of the appropriate examination fee. If Respondent fails to
8 satisfy this condition, the Commissioner may order suspension of Respondent's license until
9 Respondent passes the examination.

10 C. Respondent shall have, within one hundred twenty (120) days prior to the
11 effective date of the Decision herein, enrolled in and successfully completed the trust fund
12 accounting and handling course specified in paragraph (3), subdivision (a) of Section 10170.5 of
13 the Business and Professions Code. Respondent shall, prior to the effective date of this
14 Decision, submit evidence satisfactory to the Commissioner that Respondent has successfully
15 completed the trust fund handling course. If Respondent fails to satisfy this condition, the
16 Commissioner may order suspension of Respondent's license until Respondent provides
17 satisfactory evidence that he has satisfied this condition.

18
19 11/29/11
20 DATED

Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

21 ///

22 //

23 /

FILED

August 11, 2011

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-4082 SD
INSTANT MORTGAGE LENDING CORP., a)	
California Corporation, JACK EVAN PROBER,)	
SYDNEY ERIC KAHN, and NOTE TRACKER)	
CORP., a New York Corporation,)	
)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On April 1, 2010, an Accusation under Case No. H-4082 SD was filed in this matter against Respondent INSTANT MORTGAGE LENDING CORP., a California Corporation.

On April 15, 2010, Respondent petitioned the Commissioner to voluntarily surrender its corporate real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that petition of Respondent INSTANT MORTGAGE LENDING CORP. for voluntary surrender of its corporate real estate broker license is accepted as of the effective date of this Order as set forth below, based upon the

1 understanding and agreement expressed in Respondent's Declaration dated July 21, 2011
2 (attached as Exhibit "A" hereto).

3 Respondent's license certificate(s) and any branch office license certificate(s)
4 shall be sent to the below listed address so that such will reach the Department on or before the
5 effective date of this Order:

6
7 DEPARTMENT OF REAL ESTATE
8 Attn: Licensing Flag Section
9 P. O. Box 187000
10 Sacramento, CA 95818-7000

11 This Order shall become effective at 12 o'clock noon on SEP 01 2011

12 DATED: August 11, 2011

13
14 BARBARA J. BIGBY
15 Acting Real Estate Commissioner

16 
17 By WILLIAM E. MORAN
18 Assistant Commissioner, Enforcement
19
20
21
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
) NO. H-4082 SD
INSTANT MORTGAGE LENDING CORP., a)
California corporation, JACK EVAN PROBER,)
SYDNEY ERIC KAHN, and NOTE TRACKER)
CORP., a New York corporation,)
)
Respondents.)
_____)

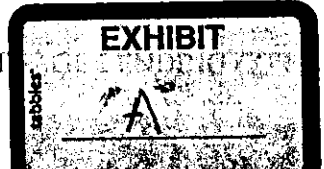
DECLARATION

My name is ISRAEL HECHTER, and I am currently an officer of INSTANT
MORTGAGE LENDING CORP, 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 INSTANT MORTGAGE LENDING CORP, which is acting in pro per in this matter.

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), INSTANT
MORTGAGE LENDING CORP, wishes to voluntarily surrender its real estate license(s) issued
by the Department of Real Estate ("Department"), pursuant to Business and Professions Code
Section 10100.2.

H-4082 SD

INSTANT MORT



1 INSTANT MORTGAGE LENDING CORP, understands that by so voluntarily
2 surrendering its license(s), it may be relicensed as a broker only by petitioning for reinstatement
3 pursuant to Section 11522 of the Government Code. INSTANT MORTGAGE LENDING
4 CORP, also understands that by so voluntarily surrendering its license(s), it agrees to the
5 following:

6 1. INSTANT MORTGAGE LENDING CORP, admits that all allegations
7 contained in the Accusation filed in this matter are true and correct.

8 2. The filing of this Declaration shall be deemed as the petition of
9 INSTANT MORTGAGE LENDING CORP, for voluntary surrender.

10 3. It shall also be deemed to be an understanding and agreement by
11 INSTANT MORTGAGE LENDING CORP, that it waives all rights it has to require the
12 Commissioner to prove the allegations contained in the Accusation filed in this matter at a
13 hearing held in accordance with the provisions of the Administrative Procedure Act
14 (Government Code Sections 11400 et seq.), and that it also waives other rights afforded to it in
15 connection with the hearing such as the right to discovery, the right to present evidence in
16 defense of the allegations in the Accusation and the right to cross-examine witnesses.

17 4. INSTANT MORTGAGE LENDING CORP, further agrees that upon
18 acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all
19 relevant evidence obtained by the Department in this matter prior to the Commissioner's
20 acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-
21 4082 SD, may be considered by the Department to be true and correct for the purpose of
22 deciding whether to grant relicensure or reinstatement pursuant to Government Code Section
23 11522.

24 5. INSTANT MORTGAGE LENDING CORP, freely and voluntarily surrenders all
25 of its licenses and license rights under the Real Estate Law.

26 ///

27 //

1 I declare under penalty of perjury under the laws of the State of California that
2 the above is true and correct and that this declaration was executed 7/21/11,
3 2011, at San Diego, California.
4

5 INSTANT MORTGAGE LENDING CORP,
6

7
8 By: 

ISRAEL HECHTER

9 president
10 (Title)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

August 11, 2011

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
INSTANT MORTGAGE LENDING CORP., a)
California Corporation, JACK EVAN PROBER,)
SYDNEY ERIC KAHN, and NOTE TRACKER)
CORP., a New York Corporation,)
Respondents.)

NO. H-4082 SD

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On April 1, 2010, an Accusation under Case No. H-4082 SD was filed in this matter against Respondent NOTE TRACKER CORP., a New York Corporation.

On April 15, 2010, Respondent petitioned the Commissioner to voluntarily surrender its corporate real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that petition of Respondent NOTE TRACKER CORP. for voluntary surrender of its corporate real estate broker license 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 July 21, 2011 (attached as Exhibit "A" hereto).

1 Respondent's license certificate(s) and any branch office license certificate(s)
2 shall be sent to the below listed address so that such will reach the Department on or before the
3 effective date of this Order:

4
5 DEPARTMENT OF REAL ESTATE
6 Attn: Licensing Flag Section
7 P. O. Box 187000
8 Sacramento, CA 95818-7000

9
10 This Order shall become effective at 12 o'clock noon on SEP 01 2011

11
12 DATED: August 11, 2011

13
14 BARBARA J. BIGBY
15 Acting Real Estate Commissioner

16
17 William E. Moran

18
19 By WILLIAM E. MORAN
20 Assistant Commissioner, Enforcement
21
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-4082 SD
INSTANT MORTGAGE LENDING CORP., a)	
California corporation, JACK EVAN PROBER,)	
SYDNEY ERIC KAHN, and NOTE TRACKER)	
CORP., a New York corporation,)	
)	
Respondents.)	
)	

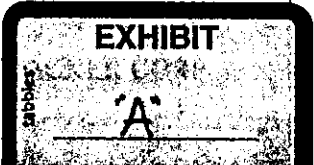
DECLARATION

My name is ISRAEL HECHTER, and I am currently an officer of NOTE TRACKER CORP, 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 NOTE TRACKER CORP, which is acting in pro per in this matter.

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), NOTE TRACKER CORP, wishes to voluntarily surrender its real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

H-4082 SD

NOTE T



1 NOTE TRACKER CORP, understands that by so voluntarily surrendering its
2 license(s), it may be relicensed as a broker only by petitioning for reinstatement pursuant to
3 Section 11522 of the Government Code. NOTE TRACKER CORP, also understands that by so
4 voluntarily surrendering its license(s), it agrees to the following:

5 1. NOTE TRACKER CORP, admits that all allegations contained in the
6 Accusation filed in this matter are true and correct.

7 2. The filing of this Declaration shall be deemed as the petition of NOTE
8 TRACKER CORP, for voluntary surrender.

9 3. It shall also be deemed to be an understanding and agreement by NOTE
10 TRACKER CORP, that it waives all rights it has to require the Commissioner to prove the
11 allegations contained in the Accusation filed in this matter at a hearing held in accordance with
12 the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.),
13 and that it also waives other rights afforded to it in connection with the hearing such as the right
14 to discovery, the right to present evidence in defense of the allegations in the Accusation and the
15 right to cross-examine witnesses.

16 4. NOTE TRACKER CORP, further agrees that upon acceptance by the
17 Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence
18 obtained by the Department in this matter prior to the Commissioner's acceptance, and all
19 allegations contained in the Accusation filed in the Department Case No. H-4082 SD, may be
20 considered by the Department to be true and correct for the purpose of deciding whether to grant
21 relicensure or reinstatement pursuant to Government Code Section 11522.

22 5. NOTE TRACKER CORP, freely and voluntarily surrenders all of its licenses and
23 license rights under the Real Estate Law.

24 ///

25 //

1 I declare under penalty of perjury under the laws of the State of California that
2 the above is true and correct and that this declaration was executed 7/21/11,
3 2011, at San Diego, California.
4

5 NOTE TRACKER CORP,
6

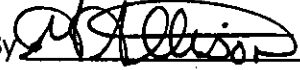
7 By: 
8 ISRAEL HECHTER

9 president
10 (Title)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

August 26, 2011

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) NO. H-4082 SD
SYDNEY ERIC KAHN,)
Respondent.)

DISMISSAL

Respondent, SYDNEY ERIC KAHN, passed away on March 5, 2011.

The Accusation herein filed on March 30, 2010, is DISMISSED.

IT IS SO ORDERED 8/25/11

BARBARA J. BIGBY
Acting Real Estate Commissioner



1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-1126

FILED

MAR 30 2010

DEPARTMENT OF REAL ESTATE
By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
)	NO. H-4082 SD
12 INSTANT MORTGAGE LENDING CORP., a)	
13 California corporation, JACK EVAN PROBER,)	ACCUSATION
14 SYDNEY ERIC KAHN, and NOTE TRACKER)	
CORP., a New York corporation,)	
)	
15 Respondents.)	
)	

16
17 The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the
18 State of California, for Accusation against Respondent INSTANT MORTGAGE LENDING
19 CORP., a California Corporation, Respondent JACK EVAN PROBER, Respondent SYDNEY
20 ERIC KAHN, and Respondent NOTE TRACKER CORP., a New York corporation, is informed
21 and alleges as follows:

22 1

23 The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the
24 State of California, makes this Accusation against Respondents in his official capacity.

25 2

26 Respondents INSTANT MORTGAGE LENDING CORP., JACK EVAN
27 PROBER, SYDNEY ERIC KAHN, and NOTE TRACKER CORP., are presently licensed

1 and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California
2 Business and Professions Code (hereafter "the Code").

3 3

4 At all times herein mentioned, Respondent INSTANT MORTGAGE LENDING
5 CORP. (hereafter "Respondent IMLC") was and is licensed by the Department of Real Estate
6 (hereinafter "the Department") as a corporate real estate broker.

7 4

8 At all times herein mentioned, Respondent JACK EVAN PROBER (hereinafter
9 "Respondent PROBER") was and is licensed by the Department as an individual real estate
10 broker.

11 5

12 At all times beginning on June 8, 2003, through August 6, 2007, Respondent
13 SYDNEY ERIC KAHN (hereinafter "Respondent KAHN") was licensed by the Department as
14 an individual real estate broker. At all times beginning on and after August 7, 2007, the
15 individual real estate broker license and corporate officer license or license rights of Respondent
16 KAHN were and remain suspended.

17 6

18 At all times beginning on and after April 13, 2009, Respondent PROBER was
19 and is licensed by the Department as the designated broker/officer of Respondent IMLC. As
20 said designated broker/officer, Respondent PROBER was at all times on and after April 13,
21 2009, responsible pursuant to Section 10159.2 and Section 10177(h) of the Code and Section
22 2725 of Chapter 6, Title 10, California Code of Regulations (hereinafter "the Regulations") for
23 the supervision and control of the activities of the officers, agents, real estate licensees, and
24 employees of Respondent IMLC and of the activities of the corporation for which a real estate
25 license is required.

26 ///

27 ///

At all times beginning on February 21, 2006, through August 6, 2007, inclusive, Respondent KAHN was licensed by the Department as the designated broker/officer of Respondent IMLC. Beginning on and after August 7, 2007, the broker/officer license or license rights of Respondent KAHN were indefinitely suspended. Said broker/officer license expired on February 20, 2010. As said designated broker/officer, Respondent KAHN was at all times from February 21, 2006, through August 6, 2007, inclusive, responsible pursuant to Section 10159.2 and Section 10177(h) of the Code and Section 2725 of Chapter 6, Title 10, California Code of Regulations for the supervision and control of the activities of the officers, agents, real estate licensees, and employees of Respondent IMLC and of the activities of the corporation for which a real estate license is required.

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent IMLC, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent IMLC committed such act or omission while engaged in the furtherance of the business or operations of Respondent IMLC and while acting within the course and scope of their corporate authority and employment.

At all times beginning on October 5, 2009, Respondent NOTE TRACKER CORP., (hereinafter "Respondent NTC") was and is licensed by the Department as a corporate real estate broker with Respondent PROBER licensed by the Department as its designated broker/officer. At no time prior to October 5, 2009, was Respondent NTC licensed by the Department as a real estate broker.

At all times herein mentioned, Israel Hechter, an individual not licensed by the Department as either a real estate broker or as a real estate salesperson, was and is the chief

1 executive officer and sole stockholder of Respondent IMLC and was and is the agent for service
2 of process for, the chief executive officer of, and a stockholder of Respondent NTC, with each
3 corporate Respondent located at and conducting business from the same principal place of
4 business, and, therefore, having such unity of ownership, direction, management and control,
5 that, as hereinafter set forth, all actions and omissions taken to serve the objectives, purposes
6 and benefits of one corporation were taken to serve the objectives, purposes and benefits of the
7 other corporation and vice versa such that each was the alter ego of the other and each was the
8 alter ego of Israel Hechter.

9 11

10 At all times as hereinafter set forth, Respondent IMLC, Respondent KAHN,
11 Respondent PROBER and Respondent NTC engaged in the business of, acted in the capacity of,
12 advertised, or assumed to act as a real estate broker within the State of California within the
13 meaning of Section 10131(d) of the Code, including on behalf of others, for compensation or in
14 expectation of compensation, Respondents solicited borrowers or lenders for or negotiated loans
15 or collected payments or performed services for borrowers or lenders or note owners in
16 connection with loans secured directly or collaterally by liens on real property or on a business
17 opportunity.

18 FIRST CAUSE OF ACTION

19 12

20 There is hereby incorporated in this First, separate and distinct, Cause of Action,
21 all of the allegations contained in Paragraphs 1 through 11, inclusive, of the Accusation with the
22 same force and effect as if herein fully set forth.

23 13

24 Within the three-year period prior to the filing of this Accusation in the course
25 and scope of the activities described in Paragraph 11, above, from August 7, 2007, through
26 April 12, 2009, inclusive, Respondent IMLC solicited borrowers and/or lenders for, and/or
27 negotiated loans secured directly or collaterally by liens on real property, wherein such loans

were to be brokered, arranged, processed, and/or consummated on behalf of others, and/or solicited and negotiated to perform services for borrowers or lenders in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d) of the Code, for or in expectation of compensation, including, but not limited to, the following transactions:

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
Neena Chauhan	1115 Creekside Way #C Ojai, California	Keith Youngswick	\$ 38,486.01	7/16/07
Joe Coccimiglio	919-923 S. State Street Salt Lake City, Utah	Joseph Oppedisano	\$200,000.00	8/14/07
Jeronimo Martinez	1366 Corbie Circle Vista, California	Eddie Schwartz	\$ 50,000.00	8/15/07
Alex & Stephanie Dominguez	2365 W. Claxton Street Yuma, Arizona	Circuit Lenders	\$ 40,000.00	8/27/07
Catherina Van Veen	8663 Forsythe Street Sunland, California	Gayle Kern	\$ 85,000.00	9/1/07
Hector Avalos	796 Cedar Avenue Chula Vista, California	Weintraub	\$ 26,090.00	9/18/07
Paul Lee & David Lee	344 W. Lancaster Blvd. Lancaster, California	Joseph Oppedisano	\$ 60,000.00	10/11/07
Maureen Seiferling	15655 Fantail Court San Leandro, California	Marilyn Goldman	\$125,000.00	11/7/07
Thomas Necaster	10227 Haskell Avenue North Hills, California	Suzanne Siegal	\$ 65,000.00	12/17/07
Patricia Friedman	845 Woodstream Street Stockton, California	CLOF1	\$ 11,000.00	1/9/08
David S. Bryant	1750 N. Mariposa Ave. Ontario, California	Eddie Schwartz	\$ 65,000.00	1/31/08

///

1	Joseph Arceneaux	702 York Court San Diego, California	John Davito	\$100,000.00	2/5/08
2					
3	Regina Diaz	713 Glenoaks Blvd. San Fernando, California	Irma Schwartz	\$ 50,000.00	2/8/08
4					
5	Alberto & Alicia Canchola	1900 Ferrera Way Oxnard, California	Robert Berk	\$ 22,000.00	3/26/08
6					
7	Juan C. Chavez	3151 N. Corona Place Nogales, Arizona	Robert Berk	\$ 35,000.00	3/26/08
8					
9	Neil D. Hartstein	407 - 2nd Street Fillmore, California	Michael Goldberg	\$ 60,000.00	4/17/08
10					
11	Neena Chauhan	1115 Creekside Way #C Ojai, California	Joseph Oppedisano	\$ 3,500.00	7/8/08
12					
13	Thomas Rey Ellington	82 Hitchcock Canyon Carmel Valley, California	Paul Velick	\$ 55,000.00	3/18/09

14

At all times from August 7, 2007, through April 12, 2009, inclusive, Respondent IMLC engaged in activities requiring a real estate broker license as set forth in Paragraphs 11, and 13, above, when Respondent IMLC did not have a designated broker/officer licensee through whom it engaged in the business of a real estate broker.

15

The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 13 and 14, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent IMLC under Section 10211 of the Code (corporate broker licensee must designate in license application one officer of the corporation through whom it engages in the business of a real estate broker), Section 10159 of the Code (each officer of a corporate broker through whom the corporation is licensed to act as a broker is, while so employed under such license, a licensed real estate broker, but licensed only to act as such for and on behalf of the corporation), and Section 10130 of the Code (unlawful to engage in the business of or act in the capacity of a real estate broker without obtaining a real estate license) all in conjunction with Section

1 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of
2 the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of Chapter 6, Title
3 10, California Code of Regulations).

4 SECOND CAUSE OF ACTION

5 16

6 There is hereby incorporated in this Second, separate and distinct, Cause of
7 Action, all of the allegations contained in Paragraphs 1 through 15, inclusive, of the Accusation
8 with the same force and effect as if herein fully set forth.

9 17

10 Within the three-year period prior to the filing of this Accusation, in the
11 course and scope of the activities described in Paragraph 11, above, and at all times prior to
12 October 5, 2009, Respondent NTC solicited borrowers and/or lenders for, and/or negotiated to
13 perform services for borrowers or lenders in connection with loans secured directly or
14 collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d)
15 of the Code, for or in expectation of compensation, including, but not limited to, the following
16 transactions:

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
Neena Chauhan	1115 Creekside Way #C Ojai, California	Keith Youngswick	\$ 38,486.01	7/16/07
Joe Coccimiglio	919-923 S. State Street Salt Lake City, Utah	Joseph Oppedisano	\$200,000.00	8/14/07
Jeronimo Martinez	1366 Corbie Circle Vista, California	Eddie Schwartz	\$ 50,000.00	8/15/07
Alex & Stephanie Dominguez	2365 W. Claxton Street Yuma, Arizona	Multiple Investors	\$ 40,000.00	8/27/07
Catherina Van Veen	8663 Forsythe Street Sunland, California	Gayle Kern	\$ 85,000.00	9/1/07

27 ///

1	Hector Avalos	796 Cedar Avenue	Weintraub	\$ 26,090.00	9/18/07
2		Chula Vista, California			
3	Paul Lee & David Lee	344 W. Lancaster Blvd.	Joseph Oppedisano	\$ 60,000.00	10/11/07
4		Lancaster, California			
5	Maureen Seiferling	15655 Fantail Court	Marilyn Goldman	\$125,000.00	11/7/07
6		San Leandro, California			
7	Thomas Necaster	10227 Haskell Avenue	Suzanne Siegal	\$ 65,000.00	12/17/07
8		North Hills, California			
9	Patricia Friedman	845 Woodstream Street	CLOF1	\$ 11,000.00	1/9/08
10		Stockton, California			
11	David S. Bryant	1750 N. Mariposa Ave.	Eddie Schwartz	\$ 65,000.00	1/31/08
12		Ontario, California			
13	Joseph Arceneaux	702 York Court	John Davito	\$100,000.00	2/5/08
14		San Diego, California			
15	Regina Diaz	713 Glenoaks Blvd.	Irma Schwartz	\$ 50,000.00	2/8/08
16		San Fernando, California			
17	Alberto & Alicia Canchola	1900 Ferrera Way	Robert Berk	\$ 22,000.00	3/26/08
18		Oxnard, California			
19	Juan C, Chavez	3151 N. Corona Place	Robert Berk	\$ 35,000.00	3/26/08
20		Nogales, Arizona			
21	Neil D. Hartstein	407 - 2nd Street	Michael Goldberg	\$ 60,000.00	4/17/08
22		Fillmore, California			
23	Neena Chauhan	1115 Creekside Way #C	Joseph Oppedisano	\$ 3,500.00	7/8/08
24		Ojai, California			
25	Thomas Rey Ellington	82 Hitchcock Canyon	Paul Velick	\$ 55,000.00	3/18/09
26		Carmel Valley, California			

18

At all times from July 17, 2007, through March 19, 2009, inclusive, Respondent
NTC engaged in activities requiring a real estate broker license as set forth in Paragraphs 11 and

///

1 17, above, when Respondent NTC did not have a real estate broker license issued by the
2 Department.

3 19

4 The acts and/or omissions of Respondent NTC as alleged in Paragraphs 17 and
5 18, above, constitute cause for the suspension or revocation of the licenses and license rights of
6 Respondent NTC under Section 10130 of the Code (unlawful to engage in the business of or act
7 in the capacity of a real estate broker without obtaining a real estate license) in conjunction with
8 Section 10177(d) of the Code (suspension or revocation of license for willful disregard or
9 violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the
10 Regulations) and/or Section 10177(f) of the Code (acted or conducted itself in a manner that
11 would have warranted the denial of its application for a real estate license).

12 THIRD CAUSE OF ACTION

13 20

14 There is hereby incorporated in this Third, separate and distinct, Cause of Action,
15 all of the allegations contained in Paragraphs 1 through 19, inclusive, of the Accusation with the
16 same force and effect as if herein fully set forth.

17 21

18 Within the three-year period prior to the filing of this Accusation, in the course
19 and scope of the activities described in Paragraph 11, above, from March 8, 2007, through
20 August 7, 2007, inclusive, while Respondent KAHN was designated broker/officer, Respondent
21 IMLC solicited borrowers and/or lenders for, and/or negotiated loans secured directly or
22 collaterally by liens on real property, wherein such loans were to be brokered, arranged,
23 processed, and/or consummated on behalf of others, and/or solicited and negotiated to perform
24 services for borrowers or lenders in connection with loans secured directly or collaterally by
25 liens on real property or on a business opportunity, pursuant to Section 10131(d) of the Code,
26 for or in expectation of compensation, including, but not limited to, the following transactions:

27 ///

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
Juan De La Rosa	2867 Todd Street Oceanside, California	Annette Bosch	\$ 80,000.00	3/8/07
Luz H. Mata	515 Center Street Chula Vista, California	Judi Goldman Eddie Schwartz	\$ 22,000.00 \$ 50,000.00	4/3/07 4/3/07
Althea Lett	209 Lonetree Court Milpitas, California	Tina Armstrong	\$ 17,500.00	4/6/07
Rick & Rita Rivas	2326 S. Goldcrest Avenue Los Gatos, California	Anna Oppedisano Joseph Giovinazzo	\$ 43,000.00 \$ 43,000.00	4/20/07 4/20/07
John & Beverly Herrera	3121 Fillmore Avenue Bakersfield, California	Eddie Schwartz	\$ 45,000.00	6/11/07
Rudolph & Pimpa Huzar	9907 Wilmington Avenue Los Angeles, California	Patricia Litrenta	\$ 10,000.00	6/15/07
Flora James	1281 - 61st Avenue Oakland, California	Robert Berk	\$ 85,000.00	6/18/07

22

Within the three-year period prior to the filing of this Accusation, in the course and scope of the activities described in Paragraph 11, above, from April 13, 2009, through June 30, 2009, inclusive, while Respondent PROBER was designated broker/officer, Respondent IMLC solicited borrowers and/or lenders for, and/or negotiated loans secured directly or collaterally by liens on real property, wherein such loans were to be brokered, arranged, processed, and/or consummated on behalf of others, and/or solicited and negotiated to perform services for borrowers or lenders in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d) of the Code, for or in expectation of compensation, including, but not limited to, the following transactions:

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
John Burdette	9183 Nightingdale Road ?, California	WestgateMtgProfit	\$ 65,000.00	4/9/09

1	David P. Noyes	68 Monarch Bay Drive	WestgateMtgProfit	\$325,000.00	5/4/09
2		Dana Point, California			
3	Janice Poythress	1588 Borman Way	Anna Oppedisano	\$191,896.00	5/4/09
4		Chico, California	WestgateMtgProfit	\$125,000.00	5/4/09
5	Kerri L. Quaglino	20592 Charlotte Court	Eddie Prober	\$ 30,000.00	5/4/09
6		Soulsbyville, California			
7	Richard Rameriz	1750 W. Citracado Pkwy.	Tina Armstrong	\$ 79,516.00	5/4/09
8		Escondido, California			
9	Elizabeth C. Hennessy	723 New Jersey Avenue	WestgateMtgProfit	\$ 50,000.00	6/24/09
10		Norfolk, Virginia			

23

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in acting as a real estate broker as described in Paragraphs 11, 13, 21, and 22, above, Respondent IMLC, accepted or received and/or disbursed funds in trust, including investor funds, borrower loan funds, borrower payments, and foreclosure proceeds (hereinafter "trust funds") from or on behalf of investors, lenders, note owners, borrowers, and/or others in connection with said mortgage activities and loan services conducted on behalf of lenders and borrowers.

24

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in connection with the collection and disbursement of trust funds, the aforesaid trust funds accepted or received by Respondent IMLC were deposited or caused to be deposited by Respondent IMLC into a bank account at Wells Fargo Bank, 3830 Valley Centre Drive, in San Diego, California, Account No. 3827445044, entitled "Note Tracker Corp" (hereinafter "Account #1) with Israel Hechter as the sole signatory on said account.

25

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in connection with the collection and disbursement of trust funds, as set forth

1 in Paragraphs 23 and 24, above, Respondent IMLC failed to deposit and maintain the trust funds
2 in a trust account or neutral escrow depository, or to deliver them into the hands of the owners
3 of the funds, as required by Section 10145 of the Code (requiring broker to place trust funds into
4 neutral escrow, into broker's trust fund, or into hands of principal), in such a manner that as of
5 June 30, 2009, there was a trust fund shortage in Account #1 in the sum of \$258,245.15.

6 26

7 Within the three-year period prior to the filing of this Accusation, in connection
8 with the collection and disbursement of trust funds held on behalf of another or others,
9 Respondent IMLC and Respondent NTC commingled trust funds with Respondents' own
10 money or property and converted said trust funds to their own use and benefit or to purposes not
11 authorized by the rightful owners of said funds in violation of Sections 10145 and 10176(e) of
12 the Code (commingling broker funds with trust funds grounds for suspension or revocation) and
13 Section 2835 of the Regulations (prohibiting commingling and requiring broker owned fees to
14 be disbursed from trust account within 25 days). The exact amount of said converted trust funds
15 is unknown to Complainant, but well known to Respondents and is not less than \$218,210.85.

16 27

17 Within the three-year period prior to the filing of this Accusation, and at all times
18 herein mentioned, in connection with the collection and disbursement of trust funds, as alleged
19 above, Respondent IMLC:

- 20 (a) Failed to maintain a control record for trust funds received and disbursed
21 and containing the information as required by Section 2831 of the
22 Regulations (requiring record of trust funds received and disbursed in
23 columnar form, in chronological sequence, dates of receipt, from whom
24 received, dates disbursed, date deposited, identity of depository, daily
25 balance, etc.) for Account #1;
- 26 (b) Failed to maintain a separate record for each beneficiary of trust funds
27 received and disbursed as required by Section 10145(g) of the Code

1 (broker shall maintain separate record of receipt and disposition of all
2 trust funds) and Section 2831.1 of the Regulations (broker shall keep
3 separate record for each beneficiary, accounting for all funds deposited to
4 trust account, in columnar chronological form deposit date and amount,
5 disbursement dates, disbursement check numbers, and balance after
6 posting);

7 (c) Failed to perform, at least once a month, a reconciliation of all the
8 separate beneficiary records with the control record, and/or failed
9 to maintain a record of such reconciliations as required by Section 2831.2
10 of the Regulations (perform monthly a balance of all separate beneficiary
11 funds and reconcile funds received with funds disbursed, and maintain a
12 record of such reconciliations) for Account #1;

13 (d) Failed to designate Account #1 as a trust account in the name of
14 Respondent IMLC as broker and as trustee and deposited client trust
15 funds into that account in violation of Section 2832 of the Regulations
16 (requiring account into which trust funds deposited be designated a trust
17 account in the name of the broker or the broker's licensed fictitious
18 business name);

19 (e) Permitted Israel Hechter, a person who neither held a California real
20 estate license nor was bonded, to be a signatory on Account #1 in
21 violation of Section 2834 of the Regulations (requiring withdrawals from
22 account holding trust funds to be performed only by authorized
23 signatories who must be broker as trustee, designated broker/officer,
24 licensed broker employee or real estate salesperson licensed to broker, or
25 an unlicensed employee having fidelity bond coverage equal to maximum
26 amount of trust funds in account); and,
27

- 1 (f) Failed to maintain canceled checks and deposit receipts for Account #1 in
2 violation of Section 10148 of the Code (broker shall retain for three years
3 copies of all deposit receipts, canceled checks, trust records obtained or
4 executed by broker in connection with any transaction requiring a real
5 estate license) and/or Section 2836 of the Regulations (broker shall
6 maintain all trust fund records described in Section 10148 of the Code).

7 28

8 The acts and/or omissions of Respondent IMLC as alleged above constitute cause
9 for the suspension or revocation of the licenses and license rights of Respondent IMLC under
10 the following provisions:

- 11 (a) As alleged in Paragraph 25, under Section 10145 of the Code in
12 conjunction with Section 10177(d) of the Code (suspension or revocation
13 of license for willful disregard or violation of the Real Estate Law, §§
14 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations);
15 (b) As alleged in Paragraph 26, under Section 10145 of the Code and Section
16 2835 of the Regulations all in conjunction with Section 10177(d) of the
17 Code and under Section 10176(e) of the Code;
18 (c) As alleged in Paragraph 27(a), under Section 2831 of the Regulations in
19 conjunction with Section 10177(d) of the Code;
20 (d) As alleged in Paragraph 27(b), under Section 10145(g) of the Code and
21 Section 2831.1 of the Regulations all in conjunction with Section
22 10177(d) of the Code;
23 (e) As alleged in Paragraph 27(c), under Section 2831.2 of the Regulations in
24 conjunction with Section 10177(d) of the Code;
25 (f) As alleged in Paragraph 27(d), under Section 2832 of the Regulations in
26 conjunction with Section 10177(d) of the Code;

27 ///

- 1 (g) As alleged in Paragraph 27(e), under Section 2834 of the Regulations in
2 conjunction with Section 10177(d) of the Code; and,
3 (h) As alleged in Paragraph 27(f), under Section 10148 of the Code and
4 Section 2836 of the Regulations all in conjunction with Section 10177(d)
5 of the Code.

6 29

7 The acts and/or omissions of Respondent NTC as alleged in Paragraph 26, above,
8 constitute cause for the suspension or revocation of the licenses and license rights of
9 Respondent NTC under Section 10177(f) of the Code (acted or conducted itself in a manner that
10 would have warranted the denial of its application for a real estate license) and/or Section
11 10177(j) of the Code (engaged in any other conduct, whether of the same or a different character
12 than specified in this section, which constitutes fraud or dishonest dealing) and/or Section
13 10177(d) of the Code.

14 FOURTH CAUSE OF ACTION

15 30

16 There is hereby incorporated in this Fourth, separate and distinct, Cause of
17 Action, all of the allegations contained in Paragraphs 1 through 29, inclusive, of the Accusation
18 with the same force and effect as if herein fully set forth.

19 31

20 Within the three-year period prior to the filing of this Accusation and at all times
21 herein mentioned, in acting as a real estate broker as described in Paragraphs 11, 13, 21, and 22,
22 above, and in connection with the collection and disbursement of trust funds, the aforesaid trust
23 funds accepted or received by Respondent IMLC that were deposited or caused to be deposited
24 by Respondent IMLC into Account #1 were held in said account as follows:

25 ///

26 ///

27 ///

Investor/ Lender	Loan Payoff Received by IMLC	Loan/ Borrower	Date Received	Remaining in Account Until/After
Gayle Kern	\$ 90,000.00	Stephens loan	8/9/07	6/30/09
	\$ 85,000.00	Van Veen loan	8/9/07	6/30/09
Tina Armstrong	\$ 44,102.00	(Floating - no specific loan)	2/09	6/30/09
Keith Youngswick	\$ 26,373.44	(Floating - no specific loan)	11/08	6/30/09
Annette Bosch	\$ 56,290.00	Faust loan	1/26/09	6/30/09
Anna Maria Oppedisano	\$ 70,000.00	Garcia loan	1/7/09	6/30/09
Joseph Oppedisano	\$ 95,000.00	Garcia loan	1/7/09	6/30/09
Joseph Oppedisano	\$ 30,000.00	Huggins loan	12/10/07	6/30/09
Joseph Giovinazzo	\$ 25,000.00	Hessick loan	4/27/09	6/30/09

32

At no time herein mentioned did Respondent IMLC have a written agreement with the lenders set forth in Paragraph 31, above, allowing Respondent IMLC to retain for a period exceeding 25 days in Account #1 the loan funds of said lenders after said loans were paid pursuant to the terms of the promissory notes.

33

At no time herein mentioned did Respondent NTC have a written agreement with the lenders set forth in Paragraph 31, above, allowing Respondent NTC to retain for a period exceeding 25 days in Account #1 the loan funds of said lenders after said loans were paid pursuant to the terms of the promissory notes.

///

The acts and omissions of Respondent IMLC as set forth in Paragraphs 31 and 32, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent IMLC under Section 10231 of the Code (broker shall not accept loan funds from a lender, or directly or indirectly cause such funds to be deposited to an escrow, except as to a specific loan to be secured directly or collaterally by a lien on real property) and Sections 10231.1 and 10232.4(c) (broker shall not retain funds payable pursuant to terms of promissory note secured directly or collaterally by a lien on real property for a period longer than 25 days except pursuant to written agreement with lender) all in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations) and/or Sections 10176(i) and 10177(j) of the Code (engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing).

The acts and omissions of Respondent NTC as set forth in Paragraphs 31 and 33, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent under Section 10130 of the Code (unlawful to engage in the business of or act in the capacity of a real estate broker without obtaining a real estate license) in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations) and/or Section 10177(f) of the Code (acted or conducted itself in a manner that would have warranted the denial of its application for a real estate license) and/or Section 10177(j) of the Code (engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing) and/or Section 10177(d) of the Code.

///

1 FIFTH CAUSE OF ACTION

2 36

3 There is hereby incorporated in this Fifth, separate and distinct, Cause of Action,
4 all of the allegations contained in Paragraphs 1 through 35, inclusive, of the Accusation with the
5 same force and effect as if herein fully set forth.

6 37

7 Within the three-year period prior to the filing of this Accusation and at all times
8 herein mentioned, Respondent IMLC was a real estate broker meeting the "threshold" criteria of
9 Section 10232(a) of the Code (within a 12 month period either negotiates 10 or more loans
10 secured directly or collaterally by real property aggregating \$1,000,000.00 or more, or collects
11 note payments on behalf of lenders or obligors aggregating \$250,000 or more) and Section
12 10232(b) of the Code (negotiates two or more new loans secured directly or collaterally by real
13 property aggregating more than \$250,000 within 3 consecutive months or within 6 consecutive
14 months sells 5 or more new loans or existing promissory notes secured directly or collaterally by
15 real property aggregating more than \$500,000) when Respondent negotiated and closed 22 loans
16 having an aggregate total exceeding \$2.06 million exclusive of loans in which Israel Hechter
17 was an investor.

18 38

19 Within the three-year period prior to the filing of this Accusation and at all times
20 herein mentioned, Respondent IMLC was, and/or Respondent NTC acted as, a real estate broker
21 meeting the "threshold" criteria of Section 10232(a) of the Code (within a 12 month period
22 either negotiates 10 or more loans secured directly or collaterally by real property aggregating
23 \$1,000,000.00 or more, or collects note payments on behalf of lenders or obligors aggregating
24 \$250,000 or more) by collecting payments totaling more than \$299,000.00 from borrowers on
25 behalf of private lenders during a three month period from May 1, 2007 to July 31, 2007.

26 ///

27 ///

1
2 Within the three-year period prior to the filing of this Accusation and at all times
3 herein mentioned, in so acting as a mortgage loan broker and agent as set forth in Paragraphs 37
4 and 38, above, Respondent IMLC failed to file with the Department of Real Estate within thirty
5 (30) days after the end of the first three quarters of Respondent's 2007 fiscal year the trust fund
6 status reports required by Section 10232.25 of the Code (requiring threshold lender within 30
7 days after the end of each of the first three fiscal quarters to submit to the Commissioner a trust
8 fund status report).

9
10 Within the three-year period prior to the filing of this Accusation and at all times
11 herein mentioned, in so acting as a mortgage loan broker and agent as set forth in Paragraphs 37
12 and 38, above, Respondent IMLC failed to file with the Department of Real Estate an annual
13 status report for Respondent's 2007 and 2008 fiscal years containing the information set forth in
14 Section 10232.2 of the Code (broker shall within 90 days after end of fiscal year annually file
15 with Commissioner report of review by independent public accountant of trust fund financial
16 statements, receipt and disposition of all funds applied to loans and loan servicing, with
17 itemized trust fund accounting).

18
19 Within the three-year period prior to the filing of this Accusation and at all times
20 herein mentioned, in so acting as a mortgage loan broker and agent as set forth in Paragraphs 37
21 and 38, above, Respondent IMLC failed to file with the Department of Real Estate written
22 notification that it met the threshold criteria as required by Section 10232(e) of the Code (broker
23 meeting the criteria of Section 10232 shall notify the Department in writing within 30 days after
24 making that determination).

25
26 Within the three-year period prior to the filing of this Accusation and at all times
27 herein mentioned, in so acting as a mortgage loan broker and agent as set forth in Paragraph 38,

1 above, Respondent NTC failed to file with the Department of Real Estate within thirty (30) days
2 after the end of the first three quarters of Respondent's 2007 fiscal year the trust fund status
3 reports required by Section 10232.25 of the Code (requiring threshold lender within 30 days
4 after the end of each of the first three fiscal quarters to submit to the Commissioner a trust fund
5 status report).

6 43

7 Within the three-year period prior to the filing of this Accusation and at all times
8 herein mentioned, in so acting as a mortgage loan broker and agent as set forth in Paragraph 38,
9 above, Respondent NTC failed to file with the Department of Real Estate an annual status report
10 for Respondent's 2007 and 2008 fiscal years containing the information set forth in Section
11 10232.2 of the Code (broker shall within 90 days after end of fiscal year annually file with
12 Commissioner report of review by independent public accountant of trust fund financial
13 statements, receipt and disposition of all funds applied to loans and loan servicing, with
14 itemized trust fund accounting).

15 44

16 Within the three-year period prior to the filing of this Accusation and at all times
17 herein mentioned, in so acting as a mortgage loan broker and agent as set forth in Paragraph 38,
18 above, Respondent NTC failed to file with the Department of Real Estate written notification
19 that it met the threshold criteria as required by Section 10232(e) of the Code (broker meeting the
20 criteria of Section 10232 shall notify the department in writing within 30 days after making that
21 determination).

22 45

23 The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 37, 38,
24 39, 40 and 41, above, constitute grounds for the suspension or revocation of the licenses and
25 license rights of Respondent IMLC under the following provisions:

- 26 (a) As alleged in Paragraph 39, under Section 10232.25 of the Code in
27 conjunction with Section 10177(d) of the Code (suspension or revocation

1 of license for willful disregard or violation of the Real Estate Law, §§
2 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations);

3 (b) As alleged in Paragraph 40, under Section 10232.2 of the Code in
4 conjunction with Section 10177(d) of the Code; and,

5 (c) As alleged in Paragraph 41, under Section 10232(e) of the Code in
6 conjunction with Section 10177(d) of the Code.

7 46

8 The acts and/or omissions of Respondent NTC as alleged in Paragraphs 38, 42,
9 43, and 44, above, constitute grounds for the suspension or revocation of the licenses and
10 license rights of Respondent NTC under the following provisions:

11 (a) As alleged in Paragraphs 38, 42, 43, and 44, under Section 10130 of the
12 Code (unlawful to engage in the business of or act in the capacity of a real
13 estate broker without obtaining a real estate license) in conjunction with
14 Section 10177(d) of the Code (suspension or revocation of license for
15 willful disregard or violation of the Real Estate Law, §§ 10000 et seq. and
16 §§ 11000 et seq. of the Code, or of the Regulations) and/or Section
17 10177(f) of the Code (acted or conducted itself in a manner that would
18 have warranted the denial of its application for a real estate license);

19 (b) As alleged in Paragraph 42, under Section 10232.25 of the Code in
20 conjunction with Section 10177(d) of the Code (suspension or revocation
21 of license for willful disregard or violation of the Real Estate Law, §§
22 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations);

23 (c) As alleged in Paragraph 43, under Section 10232.2 of the Code in
24 conjunction with Section 10177(d) of the Code; and,

25 (d) As alleged in Paragraph 44, under Section 10232(e) of the Code in
26 conjunction with Section 10177(d) of the Code.

27 ///

1 SIXTH CAUSE OF ACTION

2 47

3 There is hereby incorporated in this Sixth, separate and distinct, Cause of Action,
4 all of the allegations contained in Paragraphs 1 through 46, inclusive, of the Accusation with the
5 same force and effect as if herein fully set forth.

6 48

7 Within the three-year period prior to the filing of this Accusation, in the
8 course and scope of the activities described in Paragraph 11, above, from July 17, 2007,
9 through March 24, 2008, inclusive, Respondent IMLC solicited borrowers and/or lenders for,
10 and/or negotiated loans secured directly or collaterally by liens on real property, wherein such
11 loans were to be brokered, arranged, processed, and/or consummated on behalf of others, and/or
12 solicited and negotiated to perform services for borrowers or lenders in connection with loans
13 secured directly or collaterally by liens on real property or on a business opportunity, pursuant to
14 Section 10131(d) of the Code, for or in expectation of compensation, including, but not limited
15 to, the following transactions:

16	Borrower	Property	Lender/ Investor	Amount Loaned	Date Closed
17	Neena Chauhan	1115 Creekside Way #C	Keith Youngswick	\$ 38,486.01	7/16/07
18		Ojai, California	Joseph Oppedisano	\$ 3,500.00	7/8/08
19	Alex & Stephanie	2365 W. Claxton Street	Circuit	\$ 40,000.00	8/28/07
20	Dominguez	Yuma, Arizona	Investors		
21	Neil D. Hartstein	407 - 2nd Street	Michael Goldberg	\$ 60,000.00	4/18/08
22		Fillmore, California			
23	Thomas Rey	82 Hitchcock Canyon	Paul Velick	\$ 55,000.00	3/18/09
24	Ellington	Carmel Valley, California			
25	Thomas Rey	82 Hitchcock Canyon	Michael Goldberg	\$ 62,000.00	3/18/09
26	Ellington	Carmel Valley, California			
27	Catherina	8663 Forsythe Street	Gayle Kern	\$ 85,000.00	9/13/07
	Van Veen	Sunland, California			

1	Catherina	8663 Forsythe Street	Joseph Oppedisano	\$ 40,000.00	9/13/07
2	Van Veen	Sunland, California			
3	Georginna Vega	4431 Berwick Drive	Michael Barone	\$ 85,000.00	10/16/08
4		San Diego, California			
5	Alberto & Alicia	1900 Ferrera Way	Robert Berk	\$ 22,000.00	3/20/08
6	Canchola	Oxnard, California			
7	Juan C, Chavez	3151 N. Corona Place	Robert Berk	\$ 35,000.00	3/24/08
8		Nogales, Arizona			

49

Within the three-year period prior to the filing of this Accusation, and at all times herein mentioned, in the course and scope of soliciting and negotiating with lenders to lend and/or to purchase promissory notes as set forth in Paragraph 48, above, Respondent IMLC was required under Section 10232.5 of the Code to provide a Lender Purchaser Disclosure Statement (hereinafter "LPDS") to each lender containing the information required by Section 10232.5 of the Code (broker must provide disclosure to lender containing property address, estimated fair market value, type of construction, borrower income and credit, note terms, property encumbrances, other anticipated loans, loan servicing provisions, broker's commissions, joint beneficiary arrangements).

50

Within the three-year period prior to the filing of this Accusation, and at all times herein mentioned, in the course and scope of soliciting and negotiating with lenders to loan or to purchase promissory notes as set forth in Paragraph 48, above, Respondent IMLC failed to provide a LPDS to the lenders as set forth in Paragraph 48, above, failed to keep a copy of the LPDS provided to the aforesaid lenders, and/or failed to make a copy of the LPDS as provided to the aforesaid lenders available to the Commissioner's representative after notice.

///

///

Within the three-year period prior to the filing of this Accusation, and at all times herein mentioned, in the course and scope of soliciting and negotiating with borrowers as set forth in Paragraph 48, above, Respondent IMLC was required under Section 10240 of the Code (broker shall within 3 days after acceptance of a loan application or before borrower becomes obligated on note provide statement in writing signed by borrower containing all information required by Section 10241 of the Code) to provide to each borrower a copy of the "Mortgage Lender Disclosure Statement" (hereinafter "MLDS") that conformed to the requirements of Section 10241 of the Code (requiring MLDS to disclose: all costs and expenses of loan; commissions, points and bonuses paid to broker; liens encumbering property; amounts to be paid by borrower to others; loan balance; funds due to borrower; principal; interest rate; balloon payments; name, address and license number of broker; inclusion of broker controlled funds; prepayment terms; a statement that the MLDS does not constitute a loan commitment; name and license number of broker's salesperson employee.).

Within the three-year period prior to the filing of this Accusation, and at all times herein mentioned, in the course and scope of soliciting and negotiating with borrowers as set forth in Paragraph 48, above, Respondent IMLC failed to provide a MLDS to the borrowers as set forth in Paragraph 48, above, failed to keep a copy of the MLDS provided to the aforesaid borrowers as set forth in Paragraph 48, above, and/or failed to make a copy of the MLDS as provided to the aforesaid lenders as set forth in Paragraph 48, above, available to the Commissioner's representative after notice.

The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 49, 50, 51, and 52, above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent IMLC under the following provisions:

///

- 1 (a) As alleged in Paragraphs 49 and 50, under Section 10232.5 of the Code in
2 conjunction with Section 10177(d) of the Code (suspension or revocation
3 of license for willful disregard or violation of the Real Estate Law, §§
4 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations),
5 and/or under Section 10148 of the Code (broker shall retain for three
6 years copies of all documents and records executed or obtained by broker
7 in connection with any transaction requiring a real estate license and shall
8 make such available to the Commissioner's representative upon notice)
9 and/or Section 10232.4(a) of the Code (requiring broker to keep copy of
10 LPDS for three years) all in conjunction with Section 10177(d) of the
11 Code;
- 12 (b) As alleged in Paragraphs 51 and 52, under Sections 10240 and 10241 of
13 the Code in conjunction with Section 10177(d) of the Code and/or under
14 Section 10148 of the Code in conjunction with Section 10177(d) of the
15 Code; and,
- 16 (c) As alleged in Paragraphs 49, 50, 51, and 52, under Section 10177(g) of
17 the Code (demonstrated negligence or incompetence in performing an act
18 for which he or she is required to hold a license)

19 SEVENTH CAUSE OF ACTION

20 54

21 There is hereby incorporated in this Seventh, separate and distinct, Cause of
22 Action, all of the allegations contained in Paragraphs 1 through 53, inclusive, of the Accusation
23 with the same force and effect as if herein fully set forth.

24 55

25 Within the three-year period prior to the filing of this Accusation, in the course
26 and scope of the activities described in Paragraph 11, above, Respondent IMLC solicited lenders
27 for, and/or negotiated loans secured directly or collaterally by liens on real property, wherein

such loans were to be brokered, arranged, processed, and/or consummated on behalf of others, and solicited and negotiated to perform services for lenders in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d) of the Code, for or in expectation of compensation, including, but not limited to, the following transactions:

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
Alex & Stephanie Dominguez	2365 W. Claxton Street Yuma, Arizona	Circuit Investors	\$ 40,000.00	8/28/07
Thomas Rey Ellington	82 Hitchcock Canyon Carmel Valley, California	Paul Velick	\$ 55,000.00	3/18/09
Thomas Rey Ellington	82 Hitchcock Canyon Carmel Valley, California	Michael Goldberg	\$ 62,000.00	3/18/09
Neil D. Hartstein	407 - 2nd Street Fillmore, California	Michael Goldberg	\$ 60,000.00	4/18/08
Georginna Vega	4431 Berwick Drive San Diego, California	Michael Barone	\$ 85,000.00	10/16/08
Marion Foster	3056 Slivkoff Drive Escondido, California	Edwin A. Prober	\$100,000.00	12/7/05
Craig & Judy Woods	Unknown	Joseph Oppedisano	\$100,000.00	4/26/07
Charles Faust	Unknown	Annette Bosch	\$ 60,000.00	3/19/07
Loreto & Genoveva Garcia	Unknown	Joseph Oppedisano Anna Oppedisano	\$ 95,000.00 \$ 70,000.00	9/25/07 9/25/07
Jo Ann Hessick	8585 El Dorado Road Atascadero, California	Joseph Giovinazzo	\$125,000.00	4/9/07
Huggins	Unknown	Joseph Oppedisano	\$ 30,000.00	12/10/07
Juan C. Chavez	3151 N. Corona Place Nogales, Arizona	Robert Berk	\$ 35,000.00	3/26/08

1	Alberto & Alicia	1900 Ferrera Way	Robert Berk	\$ 22,000.00	3/26/08
2	Canchola	Oxnard, California			
3	Neena Chauhan	1115 Creekside Way #C	Keith Youngswick	\$ 38,486.01	7/16/07
4		Ojai, California	Joseph Oppedisano	\$ 3,500.00	7/8/08

5 56

6 Within the three-year period prior to the filing of this Accusation, and at all times
7 herein mentioned, in the course and scope of soliciting and negotiating with lenders for services
8 to collect loan payments from borrowers and to disburse same to lenders as set forth in
9 Paragraph 55, above, Respondent IMLC negotiated with said lenders either on its own behalf to
10 perform as a loan servicer or on behalf of Respondent NTC to be the loan servicer, at a time
11 when Respondent NTC was neither licensed by the Department of Real Estate as a real estate
12 broker nor exempt from licensure as a real estate broker.

13 57

14 Within the three-year period prior to the filing of this Accusation, and at all times
15 herein mentioned, in the course and scope of the activities described in Paragraphs 55 and 56,
16 above, Respondent IMLC was required under Section 10233(a) of the Code (requiring broker
17 undertaking to service promissory notes secured directly or collaterally by real property to have
18 written authorization from the lender or note owner that is compliant with the terms of Section
19 10238(k)(1), (k)(2), (k)(4) and (k)(5) of the Code) to provide a written agreement to the lenders
20 obligating either a licensed real estate broker or a person exempted from the licensing
21 requirement to act as agent for the lenders for the purpose of collecting and disbursing loan
22 payments as required under Section 10238(k) of the Code (requiring servicer of notes and trust
23 deeds to be a licensed real estate broker or a person exempted from licensure under Chapter 3 of
24 the Real Estate Law, Business and Professions Code, Sections 10130 et seq.)

25 58

26 Within the three-year period prior to the filing of this Accusation, and at all times
27 herein mentioned, in the course and scope of the activities described in Paragraphs 55 and 56,

1 above, Respondent IMLC was required to provide to the lenders a written agreement for
2 servicing notes and trust deeds that contained pursuant to Section 10238(k) of the Code the
3 following terms:

- 4 (a) Pursuant to Section 10238(k)(1)(A) of the Code, terms stating that
5 payments received on the notes would be immediately deposited to a trust
6 account maintained in accordance with Section 10145 of the Code and
7 Section 2830.1 et seq. of the Regulations;
- 8 (b) Pursuant to Section 10238(k)(1)(B) of the Code, terms stating that
9 payments received on the notes would not be commingled with the assets
10 of the servicing agent or used for any other transactions for which the
11 funds were received;
- 12 (c) Pursuant to Section 10238(k)(2) of the Code, terms stating that payments
13 received on the notes shall be transmitted to the lender within 25 days
14 after receipt by the agent;
- 15 (d) Pursuant to Section 10238(k)(4) of the Code, terms stating that the
16 servicing agent shall file a request for notice of default upon any prior
17 encumbrances and promptly notify the note purchasers or lenders of any
18 default on prior encumbrances or notes subject to the servicing
19 agreement; and,
- 20 (e) Pursuant to Section 10238(k)(5) of the Code, terms stating that the
21 servicing agent shall promptly forward copies to each note purchaser or
22 lender any notice of trustee sale filed on behalf of the lender's or
23 purchaser's behalf and any request for reconveyance of the deed of trust.

24 59

25 Within the three-year period prior to the filing of this Accusation, in the course
26 and scope of the activities described in Paragraphs 55, 56, 57, and 58, above, Respondent IMLC
27 failed to provide to and/or failed to obtain for the lenders written loan servicing agreements

containing the terms and language required under Section 10233 and 10238(k) of the Code as set forth in paragraph 58, above, in all of the following transactions:

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
Alex & Stephanie Dominguez	2365 W. Claxton Street Yuma, Arizona	Circuit Investors	\$ 40,000.00	8/28/07
Thomas Rey Ellington	82 Hitchcock Canyon Carmel Valley, California	Paul Velick	\$ 55,000.00	3/18/09
Thomas Rey Ellington	82 Hitchcock Canyon Carmel Valley, California	Michael Goldberg	\$ 62,000.00	3/18/09
Neil D. Hartstein	407 - 2nd Street Fillmore, California	Michael Goldberg	\$ 60,000.00	4/18/08
Georginna Vega	4431 Berwick Drive San Diego, California	Michael Barone	\$ 85,000.00	10/16/08
Marion Foster	3056 Slivkoff Drive Escondido, California	Edwin A. Prober	\$100,000.00	12/7/05
Jo Ann Hessick	8585 El Dorado Road Atascadero, California	Joseph Giovinazzo	\$125,000.00	4/9/07
Juan C. Chavez	3151 N. Corona Place Nogales, Arizona	Robert Berk	\$ 35,000.00	3/26/08
Alberto & Alicia Canchola	1900 Ferrera Way Oxnard, California	Robert Berk	\$ 22,000.00	3/26/08

60

Within the three-year period prior to the filing of this Accusation, in the course and scope of the activities described in Paragraphs 55, 56, 57, 58 and 59, above, Respondent IMLC failed to make available to the Commissioner's representative after notice and/or failed to retain a copy for three years the loan servicing agreements Respondent negotiated for and/or obtained for lenders in all of the following transactions:

Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
Craig & Judy Woods	Unknown	Joseph Oppedisano	\$100,000.00	4/26/07
Charles Faust	Unknown	Annette Bosch	\$ 60,000.00	3/19/07
Loreto & Genoveva Garcia	Unknown	Joseph Oppedisano	\$ 95,000.00	9/25/07
		Anna Oppedisano	\$ 70,000.00	9/25/07
Huggins	Unknown	Joseph Oppedisano	\$ 30,000.00	12/10/07
Neena Chauhan	1115 Creekside Way #C Ojai, California	Keith Youngswick	\$ 38,486.01	7/16/07
		Joseph Oppedisano	\$ 3,500.00	7/8/08

61

Within the three-year period prior to the filing of this Accusation, in the course and scope of the activities described in Paragraphs 55, 56, 57, 58 and 59, above, Respondent IMLC lowered the rate of interest due and the monthly amount payable under the promissory notes to the lenders without any written agreement with said lenders, or failed to make the new written agreements available to the Commissioner's representative after notice and/or failed to retain a copy for three years any new written loan servicing agreements lowering the interest rate, in, but not limited to, the following transactions:

Borrower	Property	Lender/ Investor	Note Rate	Lowered to	Date Lowered
Neena Chauhan	1115 Creekside Way #C Ojai, California	Keith Youngswick	14.5%	10%	5/09
		Joseph Oppedisano	14.5%	5%	1/09
A. & A. Canchola	1900 Ferrera Way Oxnard, California	Robert Berk	12%	7%	1/09
Juan C. Chavez	3151 N. Corona Place Nogales, Arizona	Robert Berk	12%	7%	1/09

///

///

///

The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 55 through 61, inclusive, above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent IMLC under the following provisions:

- (a) As alleged in Paragraphs 55 through 61, inclusive, above, under Section 10177(g) of the Code (demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license);
- (b) As alleged in Paragraph 59, above, under Sections 10233 and 10238(k) of the Code all in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations);
- (c) As alleged in Paragraph 60, above, under Section 10148 of the Code (broker shall retain for three years copies of all documents and records executed or obtained by broker in connection with any transaction requiring a real estate license and shall make such available to the Commissioner's representative upon notice) in conjunction with Section 10177(d) of the Code; and,
- (d) As alleged in Paragraph 61, above, under Sections 10233 and 10238(k) of the Code and/or Section 10148 of the Code all in conjunction with Section 10177(d) of the Code, and/or Sections 10176(i) and/or Section 10177(j) of the Code (engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing).

///

///

///

EIGHTH CAUSE OF ACTION

63

There is hereby incorporated in this Eighth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 62, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

64

Within the three-year period prior to the filing of this Accusation in the course and scope of the activities described in Paragraph 11, above, Respondent IMLC solicited borrowers and/or lenders for, and/or negotiated loans secured directly or collaterally by liens on real property, wherein such loans were to be brokered, arranged, processed, and/or consummated on behalf of others, and/or solicited and negotiated to perform services for borrowers or lenders in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d) of the Code, for or in expectation of compensation, wherein Respondent IMLC secured the loans by recording deeds of trust in the name of Respondent IMLC as beneficiary in, but not limited to, the following transactions:

Borrower	Property	Lender Investor	Date Closed	Trust Deed Recorded
Neena Chauhan	1115 Creekside Way #C	Keith Youngswick	7/17/07	7/17/07
	Ojai, California	Joseph Oppedisano	7/17/07	7/17/07
Alex & Stephanie Dominguez	2365 W. Claxton Street	Circuit Lenders	8/28/07	9/11/07
	Yuma, Arizona			
Neil D. Hartstein	407 - 2nd Street	Michael Goldberg	4/18/08	4/18/08
	Fillmore, California			
Thomas Rey	82 Hitchcock Canyon	Paul Velick	3/20/09	3/20/09
Ellington	Carmel Valley, California	Michael Goldberg	3/20/09	3/20/09
Catherina Van Veen	8663 Forsythe Street	Gayle Kern	9/13/07	9/12/07
	Sunland, California	Joseph Oppedisano	9/13/07	9/12/07

1	Georginna Vega	4431 Berwick Drive	Michael Barone	10/16/08	10/16/08
2		San Diego, California			
3	Alberto & Alicia	1900 Ferrera Way	Robert Berk	3/20/08	3/25/08
4	Canchola	Oxnard, California			
5	Juan C. Chavez	3151 N. Corona Place	Robert Berk	3/24/08	3/24/08
6		Nogales, Arizona			

65

At no time within the three-year period prior to the filing of this Accusation and at no time prior to June 30, 2009, in the course and scope of the activities described in Paragraph 64, above, did Respondent IMLC record an assignment of its interests as beneficiary in the deeds of trust to the investors and lenders as set forth in Paragraph 64, above.

66

The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 64 and 65, above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent IMLC under Section 10242 of the Code (broker negotiating loan secured by real property shall record trust deed in county where property is located naming lender as beneficiary who shall not be the broker or broker's nominee, or broker who sells or exchanges or who negotiates sale or exchange of promissory note secured by trust deed shall cause proper assignment of trust deed to be executed and recorded) in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations), and/or Sections 10176(i) and/or Section 10177(j) of the Code (engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing).

///

///

///

1 NINTH CAUSE OF ACTION

2 67

3 There is hereby incorporated in this Ninth, separate and distinct, Cause of Action,
4 all of the allegations contained in Paragraphs 1 through 66, inclusive, of the Accusation with the
5 same force and effect as if herein fully set forth.

6 68

7 Within the three-year period prior to the filing of this Accusation in the course
8 and scope of the activities described in Paragraph 11, above, Respondent IMLC engaged in the
9 business of selling or offering to sell undivided interests in a note or notes secured directly by
10 one or more parcels of real property equivalent to a series transaction and met the definition of a
11 multi-lender within the meaning of Sections 10237 and 10238 of the Code in, but not limited to,
12 the following transactions:

13 Borrower	Property	Lender/ Investor	Amount Loaned	Date Funded
14				
15 Neena Chauhan	1115 Creekside Way #C	Keith Youngswick	\$ 38,486.01	7/16/07
	Ojai, California	Joseph Oppedisano	\$ 3,500.00	7/8/08
16				
17 Catherina	8663 Forsythe Street	Gayle Kern	\$ 85,000.00	9/1/07
Van Veen	Sunland, California	Joseph Oppedisano	\$ 40,000.00	Unknown
18				
19 Thomas Rey	82 Hitchcock Canyon	Paul Velick	\$ 55,000.00	3/18/09
Ellington	Carmel Valley, California	Michael Goldberg	\$ 62,000.00	3/18/09

20 69

21 In so acting as a multi-lender mortgage loan broker and agent as set forth in
22 Paragraph 68, above, Respondent IMLC failed to obtain from the investors the qualifications of
23 income and net worth form in accordance with Section 10238(f) of the Code (requiring broker to
24 obtain from investor a statement that investment does not exceed 10% of investor's net worth or
25 does not exceed 10% of investor's adjusted gross income) and/or failed to retain copies of said
26 forms for three years or failed to make copies available to the Commissioner's representative
27 after notice in violation of Section 10148 of the Code (licensed broker shall retain for three years

1 all listings, deposit receipts, canceled checks, trust records, documents executed or obtained by
2 broker in connection with transactions requiring a broker license, and shall make such records
3 available after notice to the Commissioner or his designated representative for examination,
4 inspection, and copying) in all of, but not limited to, the transactions set forth in Paragraph 68,
5 above.

6 70

7 In so acting as a multi-lender mortgage loan broker and agent as set forth in
8 Paragraph 68, above, Respondent IMLC failed to file with the Department of Real Estate within
9 30 days after the first multi-lender transaction the multi-lender notice as required by Section
10 10238(a) of the Code (requiring broker to file with Department the multi-lender notice in the
11 form prescribed and containing the information set forth in the section within 30 days after the
12 first transaction or within 30 days of a material change in the information).

13 71

14 In so acting as a multi-lender mortgage loan broker and agent as set forth in
15 Paragraph 68, above, Respondent IMLC failed, pursuant to Section 10238(l) of the Code
16 (requiring multi-lender broker to provide the disclosure set forth in Section 10232.5 of the
17 Code), to provide to the investors the LPDS containing the information required by Section
18 10232.5 of the Code (broker must provide disclosure to lender containing property address,
19 estimated fair market value, type of construction, borrower income and credit, note terms,
20 property encumbrances, other anticipated loans, loan servicing provisions, broker's
21 commissions, joint beneficiary arrangements) and/or failed to retain for three years, or make
22 available to the Commissioner's representative after notice, copies of said LPDS forms in
23 violation of Section 10148 of the Code.

24 72

25 In so acting as a multi-lender mortgage loan broker and agent as set forth in
26 Paragraph 68, above, Respondent IMLC failed to sell the notes or interests subject to a written
27 agreement that obligated a licensed real estate broker or a person exempted from the

1 requirement to hold a real estate broker license to act as agent for lenders or note purchasers to
2 service the note or deed of trust, including receipt and transmission of payments and the
3 institution of foreclosure, when it caused, permitted or allowed the loan servicing to be
4 undertaken by Respondent NTC at a time when Respondent NTC was neither licensed by the
5 Department as a real estate broker nor exempt from licensure as a real estate broker, all in
6 violation of Section 10238(k) of the Code (notes or interests sold pursuant to this section shall
7 be subject to written agreement obligating a licensed real estate broker or a person exempted
8 from licensure under Chapter 3 of the Real Estate Law, Business and Professions Code,
9 Sections 10130 et seq., to be servicer of notes and trust deeds).

10 73

11 In so acting as a multi-lender mortgage loan broker and agent as set forth in
12 Paragraph 68, above, Respondent IMLC failed to sell the notes or interest subject to and failed
13 to provide to the lenders a written agreement for loan servicing as required by Section 10238(k)
14 of the Code for servicing notes and trust deeds that contained pursuant to Section 10238(k) of
15 the Code the following terms:

- 16 (a) Pursuant to Section 10238(k)(1)(A) of the Code, terms stating that
17 payments received on the notes would be immediately deposited to a trust
18 account maintained in accordance with Section 10145 of the Code and
19 Section 2830.1 et seq. of the Regulations;
- 20 (b) Pursuant to Section 10238(k)(1)(B) of the Code, terms stating that
21 payments received on the notes would not be commingled with the assets
22 of the servicing agent or used for any other transactions for which the
23 funds were received;
- 24 (c) Pursuant to Section 10238(k)(2) of the Code, terms stating that payments
25 received on the notes shall be transmitted to the lender within 25 days
26 after receipt by the agent;

27 ///

(d) Pursuant to Section 10238(k)(4) of the Code, terms stating that the servicing agent shall file a request for notice of default upon any prior encumbrances and promptly notify the note purchasers or lenders of any default on prior encumbrances or notes subject to the servicing agreement; and,

(e) Pursuant to Section 10238(k)(5) of the Code, terms stating that the servicing agent shall promptly forward copies to each note purchaser or lender any notice of trustee sale filed on behalf of the lender's or purchaser's behalf and any request for reconveyance of the deed of trust.

74

In so acting as a multi-lender mortgage loan broker and agent as set forth in Paragraph 68, above, Respondent IMLC lowered the rate of interest due and the monthly amount payable under the promissory notes to the lenders without any written agreement with said lenders, or failed to make such new written agreements available to the Commissioner's representative after notice and/or failed to retain a copy for three years any such new written loan servicing agreements lowering the interest rate, and/or sold undivided interest in notes secured directly or collaterally by real property that did have identical terms for each investor in, but not limited to, the following transactions:

Borrower	Property	Lender/ Investor	Note Rate	Lowered to	Date Lowered
Neena Chauhan	1115 Creekside Way #C Ojai, California	Keith Youngswick Joseph Oppedisano	14.5% 14.5%	10% 5%	5/09 1/09
Catherina Van Veen	8663 Forsythe Street Sunland, California	Gayle Kern Joseph Oppedisano	13% 12.5%	N/A N/A	N/A N/A

75

In so acting as a multi-lender mortgage loan broker and agent as set forth in Paragraph 68, above, Respondent IMLC failed to include in the loan transaction documents, as required under Section 10238(i) of the Code, any terms requiring that a default upon any interest

1 or note is a default upon all interests or notes and that holders of more than 50 percent of the
2 recorded beneficial interest of the notes or interests may govern the actions to be taken on behalf
3 of all holders in accordance with Section 2941.9 of the Civil Code in the event of default or
4 foreclosure.

5 76

6 The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 68
7 through 75, inclusive, above, constitute grounds for the suspension or revocation of the licenses
8 and license rights of Respondent IMLC under the following provisions:

- 9 (a) As alleged in Paragraphs 68 through 75, inclusive, above, under Section
10 10177(g) of the Code (demonstrated negligence or incompetence in
11 performing an act for which he or she is required to hold a license);
- 12 (b) As alleged in Paragraph 69, above, under Section 10238(f) of the Code
13 and/or Section 10148 of the Code all in conjunction with Section
14 10177(d) of the Code (suspension or revocation of license for willful
15 disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§
16 11000 et seq. of the Code, or of the Regulations);
- 17 (c) As alleged in Paragraph 70, above, under Section 10238(a) of the Code in
18 conjunction with Section 10177(d) of the Code;
- 19 (d) As alleged in Paragraph 71, above, under Section 10238(l) of the Code
20 and/or Section 10148 of the Code all in conjunction with Section
21 10177(d) of the Code;
- 22 (e) As alleged in Paragraph 72, above, under Section 10238(k) of the Code in
23 conjunction with Section 10177(d) of the Code;
- 24 (f) As alleged in Paragraph 73, above, under Sections 10238(k)(1), (k)(1)(B),
25 (k)(2), (k)(4), and (k)(5) of the Code all in conjunction with Section
26 10177(d) of the Code;

27 ///

- 1 (g) As alleged in Paragraph 74, above, under Sections 10233 and 10238(k) of
2 the Code and/or Section 10148 of the Code, and/or Section 10238(g) of
3 the Code (notes or interests of purchasers shall be identical in their
4 underlying terms, including right to direct foreclosures, rights to rate of
5 interest) all in conjunction with Section 10177(d) of the Code, and/or
6 Section 10176(i) and/or Section 10177(j) of the Code (engaged in any
7 other conduct, whether of the same or a different character than specified
8 in this section, which constitutes fraud or dishonest dealing); and,
9 (h) As alleged in Paragraph 75, above, under Section 10238(i) of the Code in
10 conjunction with Section 10177(d) of the Code.

11 TENTH CAUSE OF ACTION

12 77

13 There is hereby incorporated in this Tenth, separate and distinct, Cause of
14 Action, all of the allegations contained in Paragraphs 1 through 76, inclusive, of the Accusation
15 with the same force and effect as if herein fully set forth.

16 78

17 Within the three-year period prior to the filing of this Accusation, on or about
18 July 11, 2007, Respondent IMLC solicited and negotiated a loan for \$65,000.00 to Neena
19 Chauhan (hereinafter "Borrower Chauhan"), to be secured by Borrower Chauhan's real property
20 at 1115 Creekside Way #C, Ojai, California, subject to monthly interest only payments of
21 \$704.17 and a balloon payment due and payable at maturity, when Respondent IMLC knew or
22 should have known at the time through the exercise of reasonable diligence, that Borrower
23 Chauhan was additionally obligated to pay \$863.00 per month to another lender holding a senior
24 lien on her property, that she was subject to real property tax impounds of \$227.00 per month,
25 and that that her monthly income was \$2,100.00 per month. In the course and scope of
26 soliciting and negotiating said loan on or about July 11, 2007, Respondent IMLC accepted a
27 loan application for Borrower Chauhan that falsely stated her income was \$6,000.00 per month

1 when Respondent IMLC knew or should have known at the time through the exercise of
2 reasonable diligence, that Borrower Chauhan was not married and that the income information
3 contained in the loan application included the income of her brother who was not a loan
4 applicant, did not have an interest in the borrower's property, and who would not become
5 obligated under the terms of the loan.

6 79

7 On or about July 16, 2007, Respondent IMLC induced Keith Youngswick to loan
8 \$38,486.01 to Borrower Chauhan as part of the \$65,000.00 loan set forth in Paragraph 78,
9 above, by concealing from said lender the fact, as Respondent knew or should have known at
10 the time through the exercise of reasonable diligence, that Borrower Chauhan's income was
11 \$2,100.00 per month and that her monthly mortgage debt to income ratio was 85.4%.

12 80

13 Within the three-year period prior to the filing of this Accusation, on or about
14 July 11, 2007, Respondent IMLC induced Borrower Chauhan to borrow the \$65,000.00 set forth
15 in Paragraph 78, above, by providing to Borrower Chauhan a written loan contract that stated
16 that she would be able to draw funds from the loan proceeds during the draw period by "writing
17 a check using one of the checks" that Respondent would furnish. In truth and in fact,
18 Respondent IMLC would not and did not furnish checks to Borrower Chauhan, would and did
19 require the borrower to personally request draws, which Respondent IMLC would not promptly
20 disburse to Borrower Chauhan, and Respondent would and did delay disbursements to said
21 borrower.

22 81

23 At all times herein mentioned herein, when soliciting and negotiating the loan set
24 forth in Paragraph 78, above, Respondent IMLC knew or should have known at the time through
25 the exercise of reasonable diligence, that Borrower Chauhan had insufficient income to comply
26 with the repayment terms of said loan.

27 ///

The acts and omissions of Respondent IMLC described in Paragraphs 78, 79, 80 and 81, above, constitute misrepresentation, fraud, deceit, and dishonest dealing.

The facts alleged in Paragraphs 78, 79, 80 and 81, above, are grounds for the suspension or revocation of the licenses and licensing rights of Respondent IMLC under the following provisions:

- (a) As to Paragraphs 79 and 80, above, under Section 10176(a) of the Code (making a substantial misrepresentation);
- (b) As to Paragraph 80, under Section 10176(b) of the Code (making any false promises of a character likely to influence, persuade or induce);
- (c) As to Paragraphs 78, 79, 80 and 81, under Section 10176(i) of the Code (any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing);
- (d) As to Paragraphs 78, 79, 80 and 81, under Section 10177(j) of the Code (any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing); and/or,
- (e) As to Paragraphs 78, 79, and 80, under Section 10177(g) of the Code (demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license).

ELEVENTH CAUSE OF ACTION

There is hereby incorporated in this Eleventh, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 83, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

///

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in connection with the loan brokerage activities described in Paragraph 11, above, Respondent IMLC solicited and/or negotiated for loans to be secured by the borrowers' real property on the following terms, including, but not limited to, the following transactions:

1.) Real Property: 1115 Creekside Way #C, Ojai, California

Borrower: Neena Chauhan

Purpose of Property: Borrower's primary residence

Purpose of Loan: Home equity line of credit.

Loan Amount: \$65,000.00.

Closing Date: 7/17/07.

Date of Promissory Note: 7/11/07

Interest Rate: 13.0% per annum (initial rate)

Points & Fees: Outside broker fee of \$3,000.00, origination points of \$3,900.00 plus \$1,495.00 processing fee, \$1,395.00 underwriting fee, \$280.00 administrative fee, \$850.00 document preparation, \$140.00 funding fee, \$75.00 wire fee, and \$295.00 appraisal review fee for total fees of \$11,430.00 or 17.58% of principal amount of loan.

Fully Amortized Installments: No.

Interest Only Installments: Yes. (\$704.17/month)

Balloon Payment: Yes.

Term: 60 months or 5 years.

Mortgage Debt to Gross Monthly Income Ratio: 85.4% (including senior loan of \$1,090/month)

2.) Real Property: 1900 Ferrera Way, Oxnard, California

Borrower: Alberto & Alicia Canchola

Purpose of Property: Borrower's primary residence

1 Purpose of Loan: Home equity line of credit.

2 Loan Amount: \$22,000.00.

3 Closing Date: 3/20/08.

4 Date of Promissory Note: 3/14/08

5 Interest Rate: 15.5% per annum.

6 Points & Fees: Outside broker fee of \$2,500.00, origination points of
7 \$4,000.00 plus \$1,020.00 processing fee, \$1,110.00 underwriting fee,
8 \$120.00 administrative fee, \$220.00 application fee, \$975.00 document
9 preparation, \$180.00 document review, \$80.00 funding fee, \$100.00 e-
10 mail fee, \$75.00 courier fee, \$75.00 wire fee, and \$130.00 warehouse fee
11 for total fees of \$10,585.00 or 48.11% of principal amount of loan.

12 Fully Amortized Installments: No.

13 Interest Only Installments: Yes. $(.0004247 \times \$22,000 \times 30 =$
14 \$280.27/month)

15 Balloon Payment: Yes.

16 Term: 24 months or 2 years.

17 Mortgage Debt to Gross Monthly Income Ratio: 46.3% (including senior
18 loan of \$1,481/month)

19 3.) Real Property: 407 - 2nd Street, Fillmore, California

20 Borrower: Neil D. Hartstein

21 Purpose of Property: Borrower's primary residence

22 Purpose of Loan: Home equity line of credit.

23 Loan Amount: \$60,000.00.

24 Closing Date: 4/18/08.

25 Date of Promissory Note: 4/15/08

26 Interest Rate: 15.5% per annum.

1 Points & Fees: Outside broker fee of \$3,000.00, origination points of
2 \$6,500.00 plus \$130.00 processing fee, \$1,050.00 underwriting fee,
3 \$150.00 administrative fee, \$75.00 application fee, \$1,020.00 document
4 preparation, \$130.00 document review, \$130.00 funding fee, \$100.00 e-
5 mail fee, \$55.00 courier fee, \$75.00 wire fee, \$120.00 appraisal review,
6 and \$40.00 demand fee for total fees of \$12,575.00 or 20.96% of
7 principal amount of loan.

8 Fully Amortized Installments: No.

9 Interest Only Installments: Yes. $(.0004247 \times \$60,000 \times 30 =$
10 $\$764.38/\text{month})$

11 Balloon Payment: Yes.

12 Term: 48 months or 4 years.

13 Mortgage Debt to Gross Monthly Income Ratio: 50.3% (including senior
14 loan of \$1,249.22/month)

15 4.) Real Property: 8663 Forsythe Street, Los Angeles, California

16 Borrower: Catharina M. Van Veen

17 Purpose of Property: Borrower's primary residence

18 Purpose of Loan: Home equity line of credit.

19 Loan Amount: \$125,000.00.

20 Closing Date: 9/13/07.

21 Date of Promissory Note: 9/6/07

22 Interest Rate: 15.25% per annum.

23 Points & Fees: Outside broker fee of \$6,000.00, origination points of
24 \$10,000.00 plus \$1,320.00 processing fee, \$1,510.00 underwriting fee,
25 \$125.00 administrative fee, \$75.00 application fee, \$1,150.00 document
26 preparation, \$535.00 document review, \$220.00 funding fee, \$100.00 e-
27 mail fee, \$50.00 courier fee, \$75.00 wire fee, and \$325.00 appraisal

review fee for total fees of \$21,485.00 or 17.19% of principal amount of loan.

Fully Amortized Installments: No.

Interest Only Installments: Yes. $(.00041781 \times \$125,000 \times 30 = \$1,566.78/\text{month})$

Balloon Payment: Yes.

Term: 60 months or 5 years.

Mortgage Debt to Gross Monthly Income Ratio: 44.7% (including senior loan of \$3,353.00/month for rental property)

5.) Real Property: 4431 Berwick Drive, San Diego, California

Borrower: Georginna Vega

Purpose of Property: Borrower's primary residence

Purpose of Loan: Home equity line of credit.

Loan Amount: \$85,000.00.

Closing Date: 10/16/08.

Date of Promissory Note: 10/3/08.

Interest Rate: 13.99% per annum.

Points & Fees: Outside broker fee of \$3,500.00, origination points of \$8,500.00 plus \$990.00 processing fee, \$990.00 underwriting fee, \$180.00 administrative fee, \$95.00 application fee, \$800.00 document preparation, \$250.00 document review, \$100.00 e-mail fee, \$50.00 courier fee, \$75.00 wire fee, \$150.00 appraisal review fee, and \$80.00 warehouse fee for total fees of \$15,760.00 or 18.54% of principal amount of loan.

Fully Amortized Installments: No.

Interest Only Installments: Yes. (\$990.96/month)

Balloon Payment: Yes.

Term: 60 months or 5 years.

Mortgage Debt to Gross Monthly Income Ratio: 45.04 %

86

The loans set forth in Paragraph 85, above, are "covered loans" within the meaning of Section 4970 of the Financial Code in that, pursuant to said Section: 1.) the loan is secured by real property located in California used, intended to be used, or occupied as the principal dwelling of the consumer as a one-to-four residential unit; 2.) the principal balance did not exceed the then current maximum loan limit for a single family mortgage established by the Federal National Mortgage Association; 3.) the interest rate on each loan was more than 8 percentage points above the yield on Treasury securities having comparable periods of maturity on the 15th of the month immediately preceding the month in which the application for the extension of credit was received by the creditor; and/or, 4.) the total points and fees payable by the consumer at or before the closing for a mortgage or deed of trust will exceed 6 percent of the total loan amount.

87

The loans set forth in Paragraph 85, above, were covered loans within the meaning of Section 4973(m)(1) of the Financial Code (originator shall not avoid or attempt to avoid the application of this division by structuring a loan transaction as an open-end credit plan for the purpose of evading this division when the loan would have been a covered loan if the loan had been structured as a closed end loan).

88

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in connection with the loan brokerage activities described in Paragraphs 85, 86 and 87, above, Respondent IMLC originated the loans with a term of five years or less having periodic payments that when aggregated did not fully amortize the principal balance due as of the maturity date of the loan in violation of Section 4973(b)(1) of the Financial Code

1 (covered loan with term of five years or less may not provide at origination for regular periodic
2 payments that do not fully amortize principal balance as of maturity date).

3 89

4 Within the three-year period prior to the filing of this Accusation and at all times
5 herein mentioned, in connection with the loan brokerage activities described in Paragraphs 85,
6 86 and 87, above, Respondent IMLC had no reasonable belief that the borrowers could make the
7 scheduled payments on the loans in violation of Section 4973(f) of the Financial Code
8 (originator shall not make or arrange a covered loan unless at the time of consummation, the
9 originator reasonably believes the consumers will be able to make the scheduled payments based
10 upon current incomes and obligations other than equity in the dwelling, including the
11 consumer's total monthly debts and the amount owed under the loan do not exceed 55% of
12 gross monthly income),

13 90

14 Within the three-year period prior to the filing of this Accusation and at all times
15 herein mentioned, in connection with the loan brokerage activities described in Paragraphs 85,
16 86 and 87, above, Respondent IMLC failed to provide to the borrowers a copy of the "Consumer
17 Caution and Home Ownership Counseling Notice," in violation of Section 4973(k)(1) of the
18 Financial Code (requiring "Consumer Caution and Home Ownership Counseling Notice" be
19 provided to borrower no later than three business days prior to signing loan documents
20 containing the statutorily specified advice and information regarding risks, costs, taxes, and
21 credit counseling), and/or failed to retain for a period of three (3) years, and/or failed to provide
22 the Department's representative a copy of said "Consumer Caution and Home Ownership
23 Counseling Notice" in violation of Section 10148 of the Code.

24 91

25 Within the three-year period prior to the filing of this Accusation and at all times
26 herein mentioned, in connection with the loan brokerage activities described in Paragraphs 85,
27 86 and 87, above, Respondent IMLC originated the loans by financing points and fees in excess

1 of \$1,000.00, or 6 percent of the original principal balance, exclusive of points and fees,
2 whichever was greater in violation of Section 4979.6 of the Financial Code.

3 92

4 The acts and/or omissions of Respondent IMLC as alleged in Paragraphs 85, 86,
5 87, 88, 89, 90 and 91, above, constitute cause for the suspension or revocation of the licenses
6 and license rights of Respondent under the following provisions:

- 7 (a) As described in Paragraphs 85, 86, 87, 88, 89, 90 and 91, above, under
8 Sections 4975 (a)(1) and (a)(2) of the Financial Code (directing that a
9 violation of Financial Code §§ 4973, 4979.6 or 4979.7 is a violation of
10 the broker's licensing law and authorizing licensing agency to suspend
11 the license for not less than six months and not more than three years);
- 12 (b) As described in Paragraphs 85, 86, 87, 88, 89, 90 and 91, above, are
13 grounds for the suspension or revocation of Respondent's licenses and
14 license rights under Sections 10176(i) and/or 10177(j) of the Code (any
15 other conduct, whether of the same or a different character than specified
16 in this section, which constitutes fraud or dishonest dealing);
- 17 (c) As described in Paragraphs 85, 86, 87, 88, 89, 90 and 91, above, under
18 Section 10177(g) of the Code (demonstrated negligence or incompetence
19 in performing an act for which he or she is required to hold a license);
20 and/or,
- 21 (d) As described in Paragraph 90, above, are grounds for the suspension or
22 revocation of Respondent's licenses and license rights under Section
23 10148 of the Code (broker shall retain for three years copies of all
24 documents and records executed or obtained by broker in connection with
25 any transaction requiring a real estate license and shall make such
26 available to the Commissioner's representative upon notice) in
27 conjunction with Section 10177(d) of the Code (suspension or revocation

1 of license for willful disregard or violation of the Real Estate Law, §§
2 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations).

3 TWELFTH CAUSE OF ACTION

4 93

5 There is hereby incorporated in this Twelfth, separate and distinct, Cause of
6 Action, all of the allegations contained in Paragraphs 1 through 92, inclusive, of the Accusation
7 with the same force and effect as if herein fully set forth.

8 94

9 At all times herein mentioned, from April 13, 2009, through June 30, 2009,
10 Respondent PROBER was responsible, as the designated broker officer of Respondent IMLC,
11 for the supervision and control of the activities conducted on behalf of the corporation by its
12 officers and employees and of the corporate activities requiring a real estate license.
13 Respondent PROBER failed to exercise reasonable supervision and control over the loan
14 servicing and mortgage brokering activities of Respondent IMLC and its employees. In
15 particular, Respondent PROBER participated in, permitted, ratified, and/or caused, from April
16 13, 2009, through June 30, 2009, inclusive, the conduct described in the Third and Fourth
17 Causes of Action, above, to occur, and failed to take reasonable steps to insure, including, but
18 not limited to, the proper handling of trust funds, proper trust fund record keeping, proper
19 review of trust fund records and accounts, that Account #1 was designated as a trust account in
20 the name of the broker as trustee, prevention of holding investor funds for more than 25 days
21 without an agreement, and prevention of trust fund shortages and commingling, proper
22 supervision of employees, and to insure the implementation of policies, rules, procedures, and
23 systems to ensure the compliance of the corporation and its employees with the Real Estate Law
24 (Business and Professions Code Sections 10000 et seq. and Sections 11000 et seq.) and the
25 Commissioner's Regulations (Chapter 6, Title 10, California Code of Regulations).

26 ///

27 ///

The acts and/or omissions of Respondent PROBER as described in Paragraph 94, above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent PROBER under the provisions of Section 10159.2 of the Code (designated broker/officer responsible for supervision and control of activities conducted on behalf of corporation by officers, licensed salespersons and employees to secure compliance with the Real Estate Law) and Section 2725 of the Regulations (broker shall exercise reasonable supervision over: licensed employees; establish policies and procedures for compliance with Real Estate Law; supervise transactions requiring a real estate license; trust fund handling; etc.) in conjunction with Section 10177(d) of the Code and/or of Section 10177(h) of the Code (suspension or revocation for broker or designated broker/officer who fails to exercise reasonable supervision of licensed employees or licensed activities of broker corporation).

THIRTEENTH CAUSE OF ACTION

There is hereby incorporated in this Thirteenth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 95, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

At all times herein mentioned, from March 8, 2007, through August 7, 2007, Respondent KAHN was responsible, as the designated broker officer of Respondent IMLC, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees and of the corporate activities requiring a real estate license. Respondent KAHN failed to exercise reasonable supervision and control over the loan servicing and mortgage brokering activities of Respondent IMLC and its employees. In particular, Respondent KAHN participated in, permitted, ratified, and/or caused, from March 8, 2007, through August 7, 2007, inclusive, the conduct described in the Third Cause of Action, above, to occur, and failed to take reasonable steps to insure, including, but not limited to, the proper

1 handling of trust funds, proper trust fund record keeping, proper review of trust fund records and
2 accounts, that Account #1 was designated as a trust account in the name of the broker as trustee,
3 and prevention of trust fund shortages and commingling, proper supervision of employees, and
4 to insure the implementation of policies, rules, procedures, and systems to ensure the
5 compliance of the corporation and its employees with the Real Estate Law (Business and
6 Professions Code Sections 10000 et seq. and Sections 11000 et seq.) and the Commissioner's
7 Regulations (Chapter 6, Title 10, California Code of Regulations).

8 98

9 The acts and/or omissions of Respondent KAHN as described in Paragraph 97,
10 above, constitute grounds for the suspension or revocation of the licenses and license rights of
11 Respondent KAHN under the provisions Section 10159.2 of the Code (designated broker/officer
12 responsible for supervision and control of activities conducted on behalf of corporation by
13 officers, licensed salespersons and employees to secure compliance with the Real Estate Law)
14 and Section 2725 of the Regulations (broker shall exercise reasonable supervision over: licensed
15 employees; establish policies and procedures for compliance with Real Estate Law; supervise
16 transactions requiring a real estate license; trust fund handling; etc.) in conjunction with Section
17 10177(d) of the Code and/or of Section 10177(h) of the Code (suspension or revocation for
18 broker or designated broker/officer who fails to exercise reasonable supervision of licensed
19 employees or licensed activities of broker corporation).

20 MATTERS IN AGGRAVATION

21 PRIOR PROCEEDINGS

22 99

23 Effective December 8, 2004, in Case No. H-2979 SD, pursuant to Stipulation and
24 Agreement, the real estate broker license of Respondent KAHN was suspended for one hundred
25 twenty (120) days, with sixty (60) days stayed pursuant to terms and conditions, subject to stay
26 for a period of two years, upon payment of audit costs of \$5,783.15 plus follow-up audit costs, a
27 monetary penalty of \$100.00 per day for a total penalty of \$6,000.00, upon terms and conditions

1 that said stay shall become permanent if no further cause for disciplinary action occurs within
2 two (2) years of the effective date of the Decision. Respondent's broker license was suspended
3 for violating Section 10177(h) of the Business and Professions Code and Section 2725 of the
4 Commissioner's Regulations for failure, as designated broker officer of corporate real estate
5 broker licensee FIRST LA JOLLA LENDERS, INC., to properly supervise the licensed activities
6 of said corporation and thereby permitting or causing said corporate licensee to violate Sections
7 10145, 10159.5, 10229(a), 10229(e), 10229(g)(3), 10229(k), 10232.2, 10232.5, 10232.25, and
8 10240 of the Code and Sections 2731, 2831, 2831.1, 2831.2, 2832, and 2834 of the Regulations
9 in conjunction with Section 10177(d) of the Code.

10 100

11 Effective November 6, 2006, in Case No. H-3472 SD, pursuant to Stipulation and
12 Agreement, the real estate broker license of Respondent KAHN was suspended for one hundred
13 twenty (120) days, with sixty (60) days stayed pursuant to terms and conditions, subject to stay
14 for a period of two years, upon payment of audit costs of \$4,452.00 plus follow-up audit costs, a
15 monetary penalty of \$100.00 per day for a total penalty of \$6,000.00, upon terms and conditions
16 that said stay shall become permanent if no further cause for disciplinary action occurs within
17 two (2) years of the effective date of the Decision. Respondent's broker license was suspended
18 for violating Sections 10145, 10232.4 and 10240 of the Code and Sections 2831 and 2832.1 of
19 the Regulations in conjunction with Section 10177(d) of the Code, and violating Sections
20 10176(a) and 10176(g) of the Code.

21 101

22 Effective August 7, 2007, the individual real estate broker license and the
23 broker/officer license of Respondent KAHN was indefinitely suspended for failure to comply
24 with the terms and conditions of the Stipulation and Agreement in Case No. H-3472 SD, as set
25 forth in Paragraph 100, above, for failure to enroll in, complete, and pass the examination for, the
26 Professional Responsibility Course.

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondents under the Real Estate
4 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
5 relief as may be proper under other provisions of law.

6
7
8
9 
10 JOSEPH AIU
11 Deputy Real Estate Commissioner
12

13 Dated at San Diego, California,
14 this 70 day of March, 2010.
15
16
17
18
19
20
21
22
23
24
25
26
27