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FILED
JUN 11 2012

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DEPARTMENT OF REAL ESTATE
By R. Mar

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13) No. H-4365 SD
14 PROPERTY BROKERAGE AND)
15 LOANS and JEFFREY CHARO,) ACCUSATION
16 Respondents.)

17 The Complainant, VERONICA KILPATRICK, in her official capacity as a
18 Deputy Real Estate Commissioner of the State of California, for cause of Accusation against
19 PROPERTY BROKERAGE AND LOANS, individually and doing business as "Homestart",
20 ("PBL"), and JEFFREY CHARO, ("CHARO"), (collectively "Respondents"), is informed and
21 alleges as follows:

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23 PBL is presently licensed and/or has license rights under the Real Estate Law,
24 Part 1 of Division 4 of the Business and Professions Code, ("the Code"), as a corporate real
25 estate broker.

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CHARO is presently licensed and/or has license rights under the Code as a real estate broker. At all times relevant, CHARO was licensed by the Department as the designated broker/officer of PBL. As the designated broker/officer, CHARO was responsible, pursuant to Section 10159.2 (responsibility of corporate officer in charge) of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of PBL for which a real estate license is required.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged, negotiated, processed and consummated such loans.

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

FIRST CAUSE OF ACTION

On or about October 20, 2011, and continuing intermittently through November 19, 2011, an audit was conducted of Respondents at their main office located at 1150 Silverado

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1 Street, Suite 204, La Jolla, California, and the Department's Oakland District Office, where the
2 auditor examined the records for the period of April 1, 2009, through June 30, 2011 (the audit
3 period).

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5 While acting as a real estate broker as described in Paragraph 3, above, and
6 within the audit period, Respondents accepted or received funds in trust (trust funds) in the
7 course of the mortgage loan activities described in Paragraph 3, above, and deposited or caused
8 the funds to be deposited into a bank accounts maintained by Respondents, including:

9 Trust Account #1

10 JPMorgan Chase Bank, N.A.
11 P.O. Box 660022
12 Dallas, TX 75266-0022

13 Account No.: XXXXXXX705-2

14 Account Name: Homestart (Trust Account)

15 Signatories: Jeffrey Charo, REB

16 Bank Account #1

17 JPMorgan Chase Bank, N.A.
18 P.O. Box 660022
19 Dallas, TX 75266-0022

20 Account No.: XXXXXXX706-0

21 Account Name: Homestart

22 Signatories: Jeffrey Charo, REB

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24 Thereafter, from time-to-time, Respondents made disbursements of said trust funds.

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26 In the course of the activities described in Paragraph 3, above, in connection
27 with the collection and disbursement of trust funds:

1 (a) Respondents failed to maintain adequate trust records resulting in an
2 inability by the Department's auditor to conduct a reconciliation of the adjusted bank balance to
3 the accountability of Trust Account #1. Such acts and/or omissions by Respondents violate of
4 Section 10145 (trust fund handling) of the Code.

5 (b) Respondents failed to maintain a record of all trust funds deposited into
6 and disbursed from Trust Account #1. Such acts and/or omissions by Respondents violate
7 Section 2831 (trust fund records) of the Regulations.

8 (c) Respondents allowed trust funds from Trust Account #1 to be used to pay
9 telephone bills, car payments and American Express bills of CHARO. Such acts and/or
10 omissions by Respondents violate Sections 10145 and 10177(j) (fraud or dishonest dealing) of
11 the Code.

12 (d) Respondents failed to maintain a separate record for each beneficiary of
13 Trust Account #1. Such acts and/or omissions by Respondents violate Section 10145 of the
14 Code and Section 2831.1 (maintenance of separate records for each beneficiary or transaction)
15 of the Regulations.

16 (e) Respondents failed to maintain accurate written monthly reconciliations
17 for the balances of all of the separate records with the control records for Trust Account #1.
18 Such acts and/or omissions by Respondents violate Section 10145 of the Code and Section
19 2831.2 (trust account reconciliation) of the Regulations.

20 (f) Respondents deposited trust funds on at least two (2) occasions into Bank
21 Account #1, which was not designated as a trust account. Such acts and/or omissions by
22 Respondents violate Section 10176(e) (commingling) of the Code, and Section 2742
23 (commingling) of the Regulations.

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25 The acts and/or omissions of Respondents as set forth in Paragraph 7, above,
26 violate Sections 10145, 10176(e) and 10177(j) of the Code, and Sections 2742, 2831, 2831.1,
27 and 2831.2 of the Regulations; and are grounds for discipline under Sections 10177(d) (willful

1 disregard or violation of real estate law) and/or 10177(g) (negligence or incompetence),
2 10176(e) and 10177(j) of the Code. In addition, the Department is entitled to reimbursement
3 for the costs of its audit pursuant to Section 10148(b) (cost of audit in final decision following
4 disciplinary hearing) of the Code.

5 SECOND CAUSE OF ACTION

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7 On or about June 28, 2010, CHARO offered loan modification services to Laurie
8 C. for her real properties located at 39 New Taunton Avenue and 288 W. Main Street, in
9 Norton, Massachusetts. On or about July 12, 2010, Laurie C. paid \$2,800 to PBL in advance
10 fees for providing the loan modification services on those properties. Respondent failed to
11 obtain loan modifications for Laurie C. and have not repaid the advance fees she paid to them.

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13 Respondents failed to submit the advance fee materials used in their property
14 management activities to the Department for review and approval prior to their use.

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16 The acts and/or omissions of Respondents as alleged in Paragraphs 9 and 10,
17 above, violate Sections 10085.5 (collection of advance fees), 10085.6 (collection of advance
18 fees) and 10177(d), in conjunction with Section 10085 (advance fee materials) of the Code,
19 Section 2944.7 and/or 2945.4 of the California Civil Code, and Section 2970 (advance fee
20 materials) of the Regulations.

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22 The acts and/or omissions of Respondents as alleged in Paragraphs 9 and 10,
23 above, are grounds for the suspension or revocation of Respondents' licenses and license rights
24 under Sections 10177(d) and/or 10177(g), 10177(j), 10177(q) (violation of Civil Code related to
25 mortgages) and 10085 of the Code, and Section 2970 of the Regulations.

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1 THIRD CAUSE OF ACTION

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3 On or about January 28, 2010, PBL's right to conduct business in the State of
4 California was forfeited by the Secretary of State of the State of California. As a result, PBL is
5 no longer in good standing with the Secretary of State.

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7 The acts and/or omissions of PBL as alleged in Paragraph 13, above violate
8 Section 2742(c) (good standing requirement) of the Regulations.

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10 The acts and/or omissions of PBL as alleged in Paragraph 13, above, are grounds
11 for discipline under Sections 10177(d) and/or 10177(g) of the Code.

12 FOURTH CAUSE OF ACTION

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14 As the designated broker officer for PBL, CHARO was responsible for the
15 supervision and control of the activities conducted on behalf of PBL by its officers and
16 employees. CHARO failed to exercise reasonable supervision and control over the property
17 management activities of PBL. In particular, CHARO permitted, ratified and/or caused the
18 conduct described in the First through Third Causes of Action, above, to occur, and failed to
19 take reasonable steps, including, but not limited to, the handling of trust funds, supervision of
20 employees and the implementation of policies, rules, procedures and systems to ensure the
21 compliance of the corporation with the Real Estate Law and the Regulations.

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23 The acts and/or omissions of CHARO as set forth in Paragraph 16, above,
24 violate Section 10159.2 of the Code and Section 2725 (broker supervision) of the Regulations,
25 and are grounds for disciplinary action under Sections 10177(d) and/or 10177(g), and 10177(h)
26 (reasonable broker supervision) of the Code.

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1 COST RECOVERY

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3 Section 10106 of the Code provides, in pertinent part, that in any order issued in
4 resolution of a disciplinary proceeding before the department, the commissioner may request
5 the administrative law judge to direct a licensee found to have committed a violation of this part
6 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
7 case.

8 WHEREFORE, Complainant prays that a hearing be conducted on the
9 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
10 disciplinary action against all licenses and license rights of Respondents under the Code, and for
11 such other and further relief as may be proper under the provisions of law.

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14 VERONICA KILPATRICK
15 Deputy Real Estate Commissioner

16 Dated at San Diego, California,
17 this 7 day of June, 2012.