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DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11
12 In the Matter of the Accusation of)
13 COSTA FINANCIAL REAL ESTATE,) No. H-4397 SD
14 INC. and MAURICIO G. CASTILLO,) ACCUSATION
15 Respondents.)
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17 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy
18 Real Estate Commissioner of the State of California, for cause of Accusation against COSTA
19 FINANCIAL REAL ESTATE, INC. (herein "COSTA FINANCIAL"), individually and doing
20 business as "Pacific West Financial Consultants" and "Pacific West", and MAURICIO G.
21 CASTILLO, also known as "Mauricio Delcastillo" and "Mauricio Gerard Delcastillo Carranza"
22 (herein "CASTILLO"), (collectively "Respondents"), is informed and alleges as follows:

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

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1
2 CASTILLO is presently licensed and/or has license rights under the Code as a real
3 estate broker, which license expired on September 25, 2011. At all times relevant, CASTILLO
4 was licensed by the Department as the designated broker/officer of COSTA FINANCIAL. As
5 the designated broker/officer, CASTILLO was responsible, pursuant to Section 10159.2
6 (responsibility of corporate officer in charge) of the Code, for the supervision of the activities of
7 the officers, agents, real estate licensees and employees of COSTA FINANCIAL for which a real
8 estate license is required.

9
10 At no time has Mauricio Calvi ("Calvi") been licensed by the Department to
11 conduct real estate activities in the State of California.

12
13 At all times relevant, Respondents engaged in the business of, acted in the
14 capacity of, advertised or assumed to act as a real estate broker in the State of California within
15 the meaning of Section 10131(d) of the Code, including performing services for one or more
16 borrowers and negotiated to do one or more of the following acts for another or others, for or in
17 expectation of compensation: negotiate one or more loans for, or perform services for, borrowers
18 and/or lenders with respect to the collection of advance fees and loan modification, loan
19 refinance, principal reduction, foreclosure abatement or short sale services and/or those
20 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
21 on real property; and charged, demanded or collected an advance fee for any of the services
22 offered.

23
24 Whenever reference is made in an allegation in this Accusation to an act or
25 omission of COSTA FINANCIAL, such allegation shall be deemed to mean that the officers,
26 directors, employees, agents and real estate licensees employed by or associated with COSTA
27 FINANCIAL committed such act or omission while engaged in furtherance of the business or

1 operations of COSTA FINANCIAL and while acting within the course and scope of their
2 corporate authority and employment.

3 FIRST CAUSE OF ACTION

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5 On or about March 26, 2012, an audit was conducted of COSTA FINANCIAL at
6 the offices of its attorney, Steven C. Vondran, located at 620 Newport Center Drive, Suite 1100,
7 Newport Beach, California, and at the Department's Oakland District Office, where the auditor
8 examined the records for the period of April 1, 2009, through February 29, 2012 (the audit
9 period).

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11 While acting as a real estate broker as described in Paragraph 4, above, and
12 within the audit period, COSTA FINANCIAL accepted or received funds in trust (trust funds)
13 in the course of the real estate activities described in Paragraph 4, above, and deposited or
14 caused the funds to be deposited into a bank accounts maintained by COSTA FINANCIAL,
15 including:

16 Bank Account #1

17 Union Bank
18 8949 Clairemont Mesa Blvd.
19 San Diego, California 992123

20 Account No.: XXXXX-X4478

21 Account Name: Costa Financial Real Estate Inc dba
22 Pacific West Financial Consultants

23 Signatories: Mauricio Delcastillo (REB/D.O.)
24 Mauricio Calvi (not licensed)

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

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27 In the course of the activities described in Paragraph 4, above, in connection
with the collection and disbursement of trust funds:

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1 (a) COSTA FINANCIAL failed to maintain control records for Bank
2 Account #1, resulting in an inability of the Department's auditor to determine the balance of
3 that account. Such acts and/or omissions by COSTA FINANCIAL violate Section 10145
4 (handling of trust funds) of the Code and Sections 2831 (trust fund records maintenance) and
5 2831.1 (maintenance of separate records for each beneficiary or transaction) of Title 10 of the
6 California Code of Regulations ("the Regulations").

7 (b) COSTA FINANCIAL failed to deposit trust funds it collected from
8 borrowers into a trust account. Such acts and/or omissions by COSTA FINANCIAL violate
9 Section 10146 (deposit of trust funds into trust account) of the Code.

10 (c) COSTA FINANCIAL failed to designate Bank Account #1 as a trust
11 account. Such acts and/or omissions by COSTA FINANCIAL violate Section 10145 of the
12 Code and Section 2832 (trust fund handling) of the Regulations.

13 (d) COSTA FINANCIAL allowed non-licensee Calvi to withdraw trust funds
14 from Bank Account #1 and did not provide adequate fidelity bond coverage for him. Such acts
15 and/or omissions by COSTA FINANCIAL violate Section 10145 of the Code and Section 2834
16 (trust account withdrawals) of the Regulations.

17 (e) COSTA FINANCIAL failed to maintain separate records for each
18 beneficiary or transaction for Bank Account #1. Such acts and/or omissions by COSTA
19 FINANCIAL violate Section 10145 of the Code and Section 2831.1 of the Regulations.

20 (f) COSTA FINANCIAL failed to maintain accurate written monthly
21 reconciliations for the balances of all of the separate records with the control records for Bank
22 Account #1. Such acts and/or omissions by COSTA FINANCIAL violate Section 10145 of the
23 Code and Section 2831.2 (trust account reconciliation) of the Regulations.

24 (g) COSTA FINANCIAL failed to furnish a verified copy of an accounting
25 of advance fees collected at the end of each calendar quarter and when contracts were completed
26 by COSTA FINANCIAL. Such acts and/or omissions by COSTA FINANCIAL violate Section
27 10145 of the Code and Section 2972 of the Regulations.

1 (h) COSTA FINANCIAL failed to retain copies of cancelled checks and
2 deposit slips for Bank Account #1. Such acts and/or omissions by COSTA FINANCIAL violate
3 Section 10148 (maintenance of records) of the Code.

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5 The acts and/or omissions of COSTA FINANCIAL as alleged in Paragraph 8,
6 above, violate Section 10145, 10146 and 10148 of the Code, and Sections 2831, 2831.1,
7 2831.2, 2832, 2834 and 2972 of the Regulations, and are grounds for discipline under Sections
8 10177(d) (willful disregard or violation of real estate law) and/or 10177(g) (negligence or
9 incompetence) of the Code. In addition, the Department is entitled to reimbursement for the
10 costs of its audit pursuant to Section 10148(b) (cost of audit in final decision following
11 disciplinary hearing) of the Code.

12 SECOND CAUSE OF ACTION

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14 On or about August 21, 2009, Jose and Maria A. paid COSTA FINANCIAL,
15 doing business as Pacific West, an advance fee of \$2,100 for loan modification services on their
16 real property located at 2165 Harrisman Avenue, San Diego, California. COSTA FINANCIAL
17 failed to obtain a loan modification for Jose and Maria A. and has not returned the advance fees
18 it received from them.

19 11

20 The acts and or omissions of COSTA FINANCIAL, as set forth in Paragraph 10,
21 above, constitute fraud or dishonest dealing and are grounds for discipline under Sections
22 10176(i) (fraud or dishonest dealing), and 10177(d) and/or 10177(g) of the Code.

23 THIRD CAUSE OF ACTION

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25 On or about July 14, 2009, COSTA FINANCIAL entered into an agreement with
26 Francisco A. and Maria A. to provide loan modification services on their real property located at
27 610 Patricia Lane, El Cajon, California. On or about July 17, 2009, Francisco A. and Maria A.

1 paid an advance fee of \$1,250 to COSTA FINANCIAL. On or about September 14, 2009,
2 Francisco A. and Maria A. paid an additional \$1,500 in advance fees to COSTA FINANCIAL,
3 and on or about November 14, 2009, they paid a final installment of advance fees of \$250 to
4 COSTA FINANCIAL. COSTA FINANCIAL failed to obtain a loan modification for Jose A.
5 and Maria A. and has not returned the advance fees it received from them.

6 13

7 The acts and or omissions of COSTA FINANCIAL, as set forth in Paragraph 12,
8 above, constitute fraud or dishonest dealing and are grounds for discipline under Sections
9 10176(i) (fraud or dishonest dealing), and 10177(d) and/or 10177(g) of the Code.

10 FOURTH CAUSE OF ACTION

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12 Respondents have informed the Department that their main office addresses and
13 mailing addresses are 3665 Ruffin Road, Suite 300, San Diego, California 92123.

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15 In or about October 2009, Respondents vacated the Ruffin Road premises and
16 have not provided the Department with new main office and mailing addresses.

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18 The acts and/or omissions of Respondents as alleged in Paragraphs 14 and 15,
19 above, violate Section 2742(c) of the Regulations, and are grounds for discipline under Sections
20 10177(d) and/or 10177(g) of the Code.

21 FIFTH CAUSE OF ACTION

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23 As the designated broker officer for COSTA FINANCIAL, CASTILLO was
24 responsible for the supervision and control of the activities conducted on behalf of COSTA
25 FINANCIAL by its officers and employees. CASTILLO failed to exercise reasonable
26 supervision and control over the property management activities of COSTA FINANCIAL. In
27 particular, CASTILLO permitted, ratified and/or caused the conduct described in the First

1 through Fifth Causes of Action, above, to occur, and failed to take reasonable steps, including,
2 but not limited to, the handling of trust funds, supervision of employees and the
3 implementation of policies, rules, procedures and systems to ensure the compliance of the
4 corporation with the Real Estate Law and the Regulations.

5 18

6 The acts and/or omissions of CASTILLO set forth in Paragraph 17, above, violate
7 Section 10159.2 of the Code and Section 2725 (broker supervision) of the Regulations, and are
8 grounds for disciplinary action under Sections 10177(d) and/or 10177(g) and 10177(h)
9 (reasonable broker supervision) of the Code.

10 COST RECOVERY

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

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

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23 TRICIA D. SOMMERS
24 Deputy Real Estate Commissioner

25 Dated at Sacramento, California,
26 this 9th day of August, 2012.