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FILED
JAN 20 2012
DEPARTMENT OF REAL ESTATE
By *K. Contreras*

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 PRO CITY MORTGAGE CORPORATION,) NO. H-5513 SAC
14 a Corporation, and,)
15 DANIEL FLORENCE,) FIRST AMENDED
16 Respondents.) ACCUSATION
17)

18 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of
19 the State of California, for First Amended Accusation against PRO CITY MORTGAGE
20 CORPORATION (herein "PCMC") and DANIEL FLORENCE (herein "FLORENCE") (herein
21 "Respondents"), is informed and alleges as follows:

22 1

23 The Complainant makes this First Amended Accusation in her official capacity.

24 2

25 At all times mentioned herein, Respondents were and now are licensed and/or
26 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
27 Professions Code) (herein "the Code").

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At all times mentioned herein, PCMC was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through FLORENCE as designated officer-broker of PCMC to qualify said corporation and to act for said corporation as a real estate broker.

4

At all times herein mentioned, FLORENCE was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of PCMC. As said designated officer-broker, FLORENCE was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of PCMC for which a license is required.

5

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

6

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders or borrowers for or negotiated loans or loan modifications or collected payments or performed services for borrowers or lenders or note owners in connection with loans or loan modifications secured directly or collaterally by liens on real property or on a business opportunity.

1 FIRST CAUSE OF AMENDED ACCUSATION

2 7

3 The allegations in Paragraphs 1 through 6 are incorporated herein by reference.

4 8

5 In so acting as real estate brokers, Respondents accepted or received funds in trust
6 (herein "trust funds") from or on behalf of lenders, investors, borrowers and others in connection
7 with the mortgage loan brokerage and loan modification activities described in Paragraph 5,
8 above, and thereafter from time to time made disbursements of said trust funds.

9 9

10 The aforesaid trust funds accepted or received by Respondents were deposited or
11 caused to be deposited by Respondents into one or more bank accounts (herein "trust fund
12 accounts") maintained by Respondents for the handling of trust funds at the Roseville, California,
13 branches of Umpqua Bank and Wells Fargo Bank including but not necessarily limited to the
14 following accounts:

15 (a) Umpqua Bank:

16 "Pro City Mortgage Corporation Client Trust Account,"
17 account number xxxxx0893 (herein "Trust #1");

18 (b) Wells Fargo Bank:

19 "Pro City Mortgage Corporation Client Trust Account,"
20 account number xxxxxx5532 (herein Trust #2).

21 10

22 Between about July 1, 2008 and about October 31, 2009, in connection with the
23 activities described in Paragraphs 5 through 9, above, Respondents:

24 (a) caused, suffered or permitted the balance of funds in Trust #2, on about
25 September 30, 2009, to be reduced to \$2,946.00, an amount less than the liability of Respondents
26 to all owners of such funds, without first obtaining the written consent of each and every owner
27 of such funds in violation of Section 2832.1 of Chapter 6, Title 10, California Code of
Regulations (herein the "Regulations");

1 (b) failed to furnish each principal with a verified copy of an accounting at the
2 end of each calendar quarter and when the contract had been completely performed, and failed to
3 furnish to the Commissioner a verified copy of such accountings on his demand, in violation of
4 Section 10146 of the Code and Section 2972 of the Regulations;

5 (c) failed to keep a columnar record in chronological sequence of all trust funds
6 received and disbursed from Trusts #1 and #2 containing all the information required by Section
7 2831 of the Regulations;

8 (d) failed to reconcile at least once a month, the balance of all separate
9 beneficiary or transaction records with Trusts #1 and #2, as required by Section 2831.2 of the
10 Regulations;

11 (e) authorized James Pastore, an unlicensed person without fidelity bond
12 coverage to make withdrawals from Trusts #1 and #2, in violation of Section 2834 of the
13 Regulations; and

14 (f) employed and compensated the following salespersons for performing
15 licensed activities during the time their real estate salesperson licenses had expired or who were
16 not affiliated with any broker, in violation of Sections 10130 and 10137 of the Code:

<u>Employee</u>	<u>License Number</u>	<u>License Status</u>
Andrew Ventura	1483976	Expired 4/4/09
Zulema J. Garcia	1429936	Expired 4/13/08
Frederic Saunders	1769501	No Broker
Keith Prentice	1826808	No Broker

21 SECOND CAUSE OF AMENDED ACCUSATION

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23 The allegations in Paragraphs 1 through 10 are incorporated herein by reference.

24 12

25 At all times herein mentioned, Respondents failed to submit to the Department
26 any or all materials used in advanced fee agreements, including but not limited to radio and
27 television advertisements used to solicit prospective property owners at least 10 calendar days

1 before it was used in obtaining said advance fee agreements, while conducting the activities
2 described in Paragraph 6, above, in violation of Section of 10085 (review of advanced fee
3 agreement and materials) of the Code and Section 2970 (review of advanced fee agreement and
4 materials) of the Regulations.

5 13

6 At all times mentioned herein, Respondents entered into loan modification
7 agreements and collected an advance fee in the sum of about \$3,990.00 from each of the
8 following property owners, prior to a review by the Commissioner, in violation of Section
9 10085.5 (collection of advance fees) of the Code and Section 2970 the Regulations:

<u>Owners</u>	<u>Property Address</u>	<u>Agreement Date</u>
Ruth W. and Robert B.	1700 5 th Street Lincoln, CA 95648	1/19/09
Zachary and Stefanie R.	3604 Sardinia Island Way Sacramento, CA 95834	1/20/09
Richard and Tammy R.	6701 Thistleloop Court Sacramento, CA 95842	1/22/09
Todd P.	12720 Shockley Court Auburn, CA 95603	1/22/09
Paul and Sandi S.	3549 Envero Way Rancho Cordova, CA 95670	1/22/09
Alexander and Evelyn B.	1135 Diablo Court Auburn, CA 95603	1/30/09
Loreto and Lori B.	780 Sheffield Lane Lincoln, CA 95648	2/2/09
Stacy C.	3637 Cummings Way North Highlands, CA 95660	2/4/09
Keith M.	505 E. 8 th Street Lincoln, CA 95648	2/9/09
David and Wendy J.	8499 Mountain Bell Drive Elk Grove, CA 95624	2/16/09

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2 On about April 29, 2009, Dan and Gabriela D. contacted Respondents to obtain a
3 loan modification after hearing Respondents' radio advertisements.

4
5 On about April 30, 2009, Dan and Gabriela D. met with Respondent PCMC's
6 employees, Lisa Dominguez (herein "Dominguez") and Brian Giovacchini (herein "Giovacchini"),
7 who assured Dan and Gabriela D. that Respondents would not take the case unless they were 100
8 per cent confident that they could do a loan modification, which met a target monthly payment of
9 about \$2,500 per month with a 30-year fixed interest rate. In reliance on the radio advertisements
10 and the Respondents' representations, Dan and Gabriela D. entered into an Engagement Agreement,
11 prior to a review by the Commissioner, for their property located at 8555 Walden Woods, Granite
12 Bay, CA 95746, wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy
13 Plan for any reason within four (4) months from the Effective Date of this Agreement, Services
14 Two (2) and Three (3) will not be complete and, therefore, the remaining \$1,150 in the Client
15 Trust Account will be returned to Client." Respondents collected an advance fee in the amount of
16 about \$3,990.00, in violation of Section 10085.5 of the Code and Section 2970 the Regulations.

17
18 By about February 9, 2010, Respondents failed to obtain a loan modification or
19 make a refund to Dan and Gabriela D., contrary to Respondents' representations described in
20 Paragraph 20, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or
21 10177(j) of the Code.

22 FIFTH CAUSE OF AMENDED ACCUSATION – ADRIAN AND PATTY G.

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24 The allegations in Paragraphs 1 through 21 are incorporated herein by reference.

25
26 In about April 2009, Adrian and Patty G. were solicited by Respondent PCMC's
27 employee, Fred Saunders (herein "Saunders"), for loan modification services.

1
2 On about May 27, 2009, Adrian and Patty G. met with Saunders who
3 represented that "documents looked good, looks good for loan modification," and in reliance
4 on Respondents' representations, entered into an Engagement Agreement, prior to a review by
5 the Commissioner, for their property located at 108 Walnut Drive, Tehachapi, CA 93561,
6 wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy Plan for any
7 reason within six (6) months from the Effective Date of this Agreement, Services Two (2) and
8 Three (3) will not be complete and, therefore, the remaining \$1,150 in the Client Trust Account
9 will be returned to Client" and "Services Two (2) and Three (3) will be completed within
10 Four (4) months from the effective date of this Agreement. Services Two (2) and Three (3)
11 will be completed on or before: 9-27-09." Respondents collected an advance fee in the amount
12 of about \$3,990.00, in violation of Section 10085.5 of the Code and Section 2970 the
13 Regulations.

14
15 By about February 4, 2010, Respondents failed to obtain a loan modification or
16 make a refund to Adrian and Patty G., contrary to Respondents' representations and their
17 Engagement Agreement, described in Paragraph 24, above, in violation of Sections 10176(a), (b),
18 and (i), and/or 10177(g) and/or 10177(j) of the Code.

19 SIXTH CAUSE OF AMENDED ACCUSATION – RANDY V. AND LAUREN R.

20
21 The allegations in Paragraphs 1 through 25 are incorporated herein by reference.

22
23 In about July of 2009, Randy V., and Lauren R., contacted Respondents in order
24 to obtain a loan modification after hearing Respondents' radio advertisement.

25
26 On about July 6, 2009, Randy V., and Lauren R., met with Respondent PCMC's
27 employee Barbara Manino (herein "Manino") who induced Randy V., and Lauren R., to enter

1 into an Engagement Agreement by representing that there was a 99 percent chance of getting a
2 conventional loan at a monthly rate they could afford, 30-year fixed, principle and interest, if they
3 hired Respondents. In reliance on Manino's representations, Randy V., and Lauren R., entered
4 into an Engagement Agreement, prior to a review by the Commissioner, for their property
5 located at 2157 Riggs Avenue, Sacramento, CA 95835. Respondents collected an advance fee
6 for the loan modification in the amount of about \$4,590.00, in violation Section 10085.5 of the
7 Code and Section 2970 the Regulations.

8 29

9 By about March 29, 2010, Respondents failed to obtain the loan modification
10 described in Paragraph 28, above, contrary to their representations, in violation of Sections
11 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

12 SEVENTH CAUSE OF AMENDED ACCUSATION – TOM AND DEBBY H.

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14 The allegations in Paragraphs 1 through 29 are incorporated herein by reference.

15 31

16 On about January 28, 2010, Tom and Debby H., contacted Respondents to obtain
17 a loan modification on Tom and Debby H.'s' property located at 4513 Pheasant Lane, Rocklin,
18 CA 95765. Respondent PCMC's employee, Mike Reilly (herein "Reilly"), had Tom and Debby
19 H., sign a five (5) month money back guarantee contract, Agreement for Loan Modification
20 Packaging Services, and charged an advance fee of \$1,290.00 for Respondents' loan
21 modification services with respect to arranging a loan modification, in violation of Section
22 10085.6 (collection of advance fee prohibited for loan modifications) of the Code.

23 32

24 By about July 10, 2010, Tom and Debby H., were not able to obtain a loan
25 modification and Respondents failed to make a full refund to Tom and Debby H., pursuant to the
26 five (5) month money back guarantee contract described Paragraph 31, above, in violation of
27 Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

1 EIGHTH CAUSE OF AMENDED ACCUSATION – SUZANNE M.

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3 The allegations in Paragraphs 1 through 32 are incorporated herein by reference.

4 34

5 On about May 14, 2010, Suzanne M., contacted Respondents to obtain a loan
6 modification on Suzanne M.'s property located at 1601 Condor Court, Roseville, CA 95661.
7 Respondent PCMC's employee, Giovacchini, had Suzanne M., sign a five (5) month money back
8 guarantee contract, Agreement for Loan Modification Packaging Services, explaining that PCMC
9 had all the tools Suzanne M., needed. Giovacchini gave Suzanne M., a PCMC folder, told her
10 that she could call him for further assistance, told her to request a refund if she could not obtain a
11 loan modification in five months, and charged an advance fee of \$2,490.00 to Suzanne M.'s
12 VISA card for Respondents' services with respect to arranging a loan modification, in violation
13 of Section 10085.6 of the Code.

14 35

15 By about September 23, 2010, Suzanne M., was not able to obtain a loan
16 modification and Respondents failed to make a full refund, pursuant to the five (5) month
17 money back guarantee contract described Paragraph 34, above, in violation of Sections 10176(a),
18 (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

19 NINTH CAUSE OF AMENDED ACCUSATION – BROKER SUPERVISION

20 36

21 The allegations in Paragraphs 1 through 35 are incorporated herein by reference.

22 37

23 At all times mentioned herein, FLORENCE failed to exercise reasonable
24 supervision over the acts of PCMC and its agents and employees in such a manner as to allow
25 the acts and omissions on the part of PCMC, described above, to occur, in violation of Sections
26 10177(g) and (h) and 10159.2 of the Code, and Section 2725 of the Regulations.

27 ///

1
2 The facts alleged above are grounds for the suspension or revocation of the
3 licenses and license rights of Respondents under the following provisions of the Code and/or
4 the Regulations:

- 5 (a) as to Paragraph 10(a) under Section of 2832.1 of the Regulations in
6 conjunction with Section 10177(d) of the Code;
- 7 (b) as to Paragraph 10(b) under Section 10146 of the Code and Section
8 2972 of the Regulations in conjunction with Section 10177(d) of the
9 Code;
- 10 (c) as to Paragraph 10(c) under Section of 2831 of the Regulations in
11 conjunction with Section 10177(d) of the Code;
- 12 (d) as to Paragraph 10(d) under Section 2831.2 of the Regulations in
13 conjunction with Section 10177(d) of the Code;
- 14 (e) as to Paragraph 10(e) under Section of 2834 of the Regulations in
15 conjunction with Section 10177(d) of the Code;
- 16 (f) as to Paragraph 10(f) under Sections 10130 and 10137 of the Code in
17 conjunction with Section 10177(d) of the Code;
- 18 (g) as to Paragraph 13, 16, 20, 24 and 28 under Section 10085.5 of the
19 Code and Section 2970 of the Regulations in conjunction with
20 Section 10177(d) of the Code;
- 21 (h) as to Paragraphs 31 and 34 under Section 10085.6 in conjunction
22 with Section 10177(d) of the Code;
- 23 (i) as to Paragraphs 17, 21, 25 29, 32, and 35 under Sections 10176(a),
24 (b), and (i), and/or 10177(g) and/or 10177(j) of the Code; and,
- 25 (j) as to Paragraph 37 and Respondent FLORENCE, under Sections
26 10177(g) and (h) and 10159.2 of the Code and Section 2725 of the
27 Regulations, in conjunction with Section 10177(d) of the Code.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this First Amended 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 applicable provisions of law.

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TRICIA SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 19th day of January, 2012.

1 MARY F. CLARKE, Counsel (SBN 186744)
2 DEPARTMENT OF REAL ESTATE
3 P. O. Box 187007
Sacramento, CA 95818-7007

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5 -or- (916) 227-0780 (Direct)

FILED

DEC - 1 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 PRO CITY MORTGAGE CORPORATION,) NO. H-5513 SAC
14 a Corporation, and,)
15 DANIEL FLORENCE,) ACCUSATION
16 Respondents.)
17)

18 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of
19 the State of California, for Accusation against PRO CITY MORTGAGE CORPORATION
20 (herein "PCMC") and DANIEL FLORENCE (herein "FLORENCE") (herein "Respondents"),
21 is informed and alleges as follows:

22 1

23 The Complainant makes this Accusation in her official capacity.

24 2

25 At all times mentioned herein, Respondents were and now are licensed and/or
26 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
27 Professions Code) (herein "the Code").

1 3

2 At all times mentioned herein, PCMC was and now is licensed by the State of
3 California Department of Real Estate (herein the "Department") as a corporate real estate broker
4 by and through FLORENCE as designated officer-broker of PCMC to qualify said corporation
5 and to act for said corporation as a real estate broker.

6 4

7 At all times herein mentioned, FLORENCE was and now is licensed by the
8 Department as a real estate broker, individually and as designated officer-broker of PCMC.
9 As said designated officer-broker, FLORENCE was at all times mentioned herein responsible
10 pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers,
11 agents, real estate licensees, and employees of PCMC for which a license is required.

12 5

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

18 6

19 At all times herein mentioned, Respondents engaged in the business of, acted in
20 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
21 on behalf of others, for compensation or in expectation of compensation within the meaning of
22 Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage
23 with the public wherein, on behalf of others, for compensation or in expectation of compensation,
24 Respondents solicited lenders or borrowers for or negotiated loans or loan modifications or
25 collected payments or performed services for borrowers or lenders or note owners in connection
26 with loans or loan modifications secured directly or collaterally by liens on real property or on a
27 business opportunity.

1 FIRST CAUSE OF ACCUSATION

2 7

3 The allegations in Paragraphs 1 through 6 are incorporated herein by reference.

4 8

5 In so acting as real estate brokers, Respondents accepted or received funds in trust
6 (herein "trust funds") from or on behalf of lenders, investors, borrowers and others in connection
7 with the mortgage loan brokerage and loan modification activities described in Paragraph 5,
8 above, and thereafter from time to time made disbursements of said trust funds.

9 9

10 The aforesaid trust funds accepted or received by Respondents were deposited or
11 caused to be deposited by Respondents into one or more bank accounts (herein "trust fund
12 accounts") maintained by Respondents for the handling of trust funds at the Roseville, California,
13 branches of Umpqua Bank and Wells Fargo Bank including but not necessarily limited to the
14 following accounts:

15 (a) Umpqua Bank:

16 "Pro City Mortgage Corporation Client Trust Account,"
17 account number 991500893 (herein "Trust #1");

18 (b) Wells Fargo Bank:

19 "Pro City Mortgage Corporation Client Trust Account,"
20 account number 9219465532 (herein Trust #2).

21 10

22 Between about July 1, 2008 and about October 31, 2009, in connection with the
23 activities described in Paragraphs 5 through 9, above, PCMC:

24 (a) caused, suffered or permitted the balance of funds in Trust #2, on about
25 September 30, 2009, to be reduced to \$2,946.00, an amount less than the liability of Respondents
26 to all owners of such funds, without first obtaining the written consent of each and every owner
27 of such funds in violation of Section 2832.1 of Chapter 6, Title 10, California Code of
Regulations (herein the "Regulations");

1 (b) failed to furnish each principal with a verified copy of an accounting at the
2 end of each calendar quarter and when the contract had been completely performed, and failed to
3 furnish to the Commissioner a verified copy of such accountings on his demand, in violation of
4 Section 10146 of the Code and Section 2972 of the Regulations;

5 (c) failed to keep a columnar record in chronological sequence of all trust funds
6 received and disbursed from Trusts #1 and #2 containing all the information required by Section
7 2831 of the Regulations;

8 (d) failed to reconcile at least once a month, the balance of all separate
9 beneficiary or transaction records with Trusts #1 and #2, as required by Section 2831.2 of the
10 Regulations;

11 (e) authorized James Pastore, an unlicensed person without fidelity bond
12 coverage to make withdrawals from Trusts #1 and #2, in violation of Section 2834 of the
13 Regulations; and

14 (f) employed and compensated the following salespersons for performing
15 licensed activities during the time their real estate salesperson licenses had expired or who were
16 not affiliated with any broker, in violation of Sections 10130 and 10137 of the Code:

<u>Employee</u>	<u>License Number</u>	<u>License Status</u>
Andrew Ventura	1483976	Expired 4/4/09
Zulema J. Garcia	1429936	Expired 4/13/08
Frederic Saunders	1769501	No Broker
Keith Prentice	1826808	No Broker

21 SECOND CAUSE OF ACCUSATION

22 11

23 The allegations in Paragraphs 1 through 10 are incorporated herein by reference.

24 12

25 At all times herein mentioned, Respondents failed to submit to the Department
26 any or all materials used in advanced fee agreements, including but not limited to radio and
27 television advertisements used to solicit prospective property owners at least 10 calendar days

1 before it was used in obtaining said advance fee agreement, while conducting the activities
2 described in Paragraph 5, above, in violation of Section of 10085 (review of advanced fee
3 agreement and materials) of the Code and Section 2970 (review of advanced fee agreement and
4 materials) of the Regulations.

5 13

6 At all times mentioned herein, Respondents entered into loan modification
7 agreements with the following property owners, prior to a review by the Commissioner, in
8 violation of Section 10085 of the Code and Section 2970 the Regulations:

9	<u>Owners</u>	<u>Property Address</u>	<u>Agreement Date</u>
10	Ruth Williams and	1700 5 th Street	1/19/09
11	Robert Bennett	Lincoln, CA 95648	
12	Zachary J. and	3604 Sardinia Island Way	1/20/09
13	Stefanie M. Rooney	Sacramento, CA 95834	
14	Richard D. and	6701 Thistleloop Court	1/22/09
15	Tammy M. Rutter	Sacramento, CA 95842	
16	Todd A. Phillips	12720 Shockley Court	1/22/09
17		Auburn, CA 95603	
18	Paul and	3549 Envero Way	1/22/09
19	Sandi Snelgrove	Rancho Cordova, CA 95670	
20	Alexander D. and	1135 Diablo Court	1/30/09
21	Evelyn Bowers	Auburn, CA 95603	
22	Loreto C. and	780 Sheffield Lane	2/2/09
23	Lori L. Benzon	Lincoln, CA 95648	
24	Stacy L. Crocker	3637 Cummings Way	2/4/09
25		North Highlands, CA 95660	
26	Keith Madieros	505 E. 8 th Street	2/9/09
27		Lincoln, CA 95648	
	David and	8499 Mountain Bell Drive	2/16/09
	Wendy Johnson	Elk Grove, CA 95624	

28 THIRD CAUSE OF ACCUSATION – WILLIAMS/BENNETT

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30 The allegations in Paragraphs 1 through 13 are incorporated herein by reference.

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2 On or about January 19, 2009, Ruth Williams (herein "Williams") and Robert
3 Bennett (herein "Bennett") contacted Respondents' "800" number to obtain a loan modification
4 and entered into an Engagement Agreement for their property located at 1700 5th Street, Lincoln,
5 CA 95648, wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy
6 Plan for any reason within four (4) months from the Effective Date of this Agreement, Services
7 two (2) and Three (3) will not be complete and, therefore, the remaining \$1,490 in the Client
8 Trust Account will be returned to Client."

9
10 On or about February 21, 2009, in reliance on representations made in the
11 Engagement Agreement, Williams and Bennett made a payment to Respondents in the amount of
12 \$3,990.00 for the loan modification.
13

14
15 By about April 20, 2010, Respondents failed to obtain a loan modification or to
16 make a refund to Williams and Bennett, contrary to the representations in their Engagement
17 Agreement described in Paragraph 15, above, in violation of Sections 10176(a), (b), and (i),
18 and/or 10177(g) and/or 10177(j) of the Code.

19 FOURTH CAUSE OF ACCUSATION – RUTTER

20
21 The allegations in Paragraphs 1 through 17 are incorporated herein by reference.

22
23 On or about January 22, 2009 Richard Rutter (herein "Rutter"), having been
24 solicited by Respondents' radio advertisement, contacted Respondents to obtain a loan
25 modification and entered into an Engagement Agreement for his property located at
26 6701 Thistleloop Court, Sacramento, CA 95842, wherein Respondent agreed that if "Pro City
27 has been unable to obtain a Remedy Plan for any reason within four (4) months from the

1 Effective Date of this Agreement, Services two (2) and Three (3) will not be complete and,
2 therefore, the remaining \$1,490 in the Client Trust Account will be returned to Client” and in
3 reliance on the representations made in the radio advertisement and the Engagement Agreement,
4 Rutter made a payment to Respondents in the amount of \$3,990.00 for the loan modification.

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6 20

7 By about November 6, 2009, Respondents failed to obtain a loan modification or
8 to make a refund to Rutter, contrary to the representations in their Engagement Agreement
9 described in Paragraph 19, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g)
10 and/or 10177(j) of the Code.

11 FIFTH CAUSE OF ACCUSATION – BOWERS

12 21

13 The allegations in Paragraphs 1 through 20 are incorporated herein by reference.

14 22

15 On or about January 30, 2009, Alexander and Evelyn Bowers (herein “the
16 Bowers”) contacted Respondents to obtain a loan modification and entered into an Engagement
17 Agreement for their property located at 1135 Diablo Ct., Auburn, CA 95603, wherein
18 Respondents agreed that if “Pro City has been unable to obtain a Remedy Plan for any reason
19 within four (4) months from the Effective Date of this Agreement, Services two (2) and three (3)
20 will not be complete and, therefore, the remaining \$1,490 in the Client Trust Account will be
21 returned to Client” and in reliance on representations made in the Engagement Agreement the
22 Bowers’ made a payment to Respondents in the amount of \$3,990.00 for the loan modification.

23 23

24 By about November 7, 2009, Respondents failed to obtain a loan modification or
25 to make a refund to the Bowers’, contrary to the representations in their Engagement Agreement
26 described in Paragraph 22, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g)
27 and/or 10177(j) of the Code.

1 SIXTH CAUSE OF ACCUSATION – JACKSON

2 24

3 The allegations in Paragraphs 1 through 23 are incorporated herein by reference.

4 25

5 In or about March of 2009, Larry and Alicia Jackson (herein “the Jackson’s”)
6 contacted Respondents after hearing Respondents’ radio advertisement in order to obtain a loan
7 modification.

8 26

9 On or about March 31, 2009, the Jackson’s met with Respondents’ employee
10 Hope Enders (herein “Enders”) who represented that the “loan modification would be approved
11 since all cases are reviewed up front by their team of specialists and if they could not guarantee
12 100 percent that the loan modification would be approved, then Pro City Mortgage stated they
13 would not accept the case,” and, the Jackson’s “case had already been pre-reviewed and there
14 would be no problem of it being approved for modification.” Enders also represented that the
15 new monthly mortgage payment would be between about \$1,800.00 and \$2,100.00. In reliance
16 on the radio advertisement and on Respondents’ representations, the Jackson’s entered into an
17 Engagement Agreement for their property located at 5210 Lotus Pond Way, Elk Grove, CA
18 95757, and made a payment to Respondents in the amount of \$3,990.00 for the loan
19 modification.

20 27

21 On about October 25, 2009, Respondents failed to obtain the loan modification
22 described in Paragraph 26, above, contrary to the representations made by Respondents, in
23 violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

24 SEVENTH CAUSE OF ACCUSATION – BEEBY/VALDEZ

25 28

26 The allegations in Paragraphs 1 through 27 are incorporated herein by reference.
27

On or about April 22, 2009, Charles Beeby (herein "Beeby") and Rosalie Valdez (herein "Valdez"), met with Respondents' employee Kelly Rebecca Roberts (herein "Roberts") who assured Beeby and Valdez that Respondents would get them about \$1,000.00-\$1,100.00 in monthly mortgage relief. In reliance on Respondents' representations, Beeby and Valdez entered into an Engagement Agreement for their property located at 1248 Manza Circle, Roseville, CA 95678, wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy Plan for any reason within six (6) months from the Effective Date of this Agreement, Services two (2) and Three (3) will not be complete and, therefore, the remaining \$1,265 in the Client Trust Account will be returned to Client," and made a payment to Respondents in the amount of \$4,390.00 for the loan modification.

On about August 31, 2009, Beeby and Valdez extended the deadline date in the Engagement Agreement described in Paragraph 29, to be November 24, 2009.

By about January 27, 2010, Respondents failed to obtain the loan modification described in Paragraph 29, above, contrary to Respondents' representations, and failed to provide a refund to Beeby and Valdez by November 24, 2009, contrary to the Engagement Agreement extension described in Paragraph 30, above, all in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

EIGHTH CAUSE OF ACCUSATION – DOXAN

The allegations in Paragraphs 1 through 31 are incorporated herein by reference.

On or about April 29, 2009, Dan and Gabriela Doxan (herein "the Doxan's") contacted Respondents to obtain a loan modification after hearing Respondents' radio advertisement, advertising a money back guarantee on loan modifications.

On about April 30, 2009, the Doxan's met with Respondents' employees, Lisa Dominguez and Brian Giovacchini, who assured the Doxan's that Respondents would not take the case unless they were 100 per cent confident that they could do a loan modification, which met a target monthly payment of \$2,500.00 per month with a 30-year fixed interest rate. In reliance on the radio advertisement and the Respondents' representations, the Doxan's entered into an Engagement Agreement for their property located at 8555 Walden Woods, Granite Bay, CA 95746, wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy Plan for any reason within four (4) months from the Effective Date of this Agreement, Services two (2) and Three (3) will not be complete and, therefore, the remaining \$1,150 in the Client Trust Account will be returned to Client," and made a payment to Respondents in the amount of \$3,990.00 for the loan modification.

By about February 9, 2010, Respondents failed to obtain a loan modification or make a refund to the Doxan's, contrary to Respondents' representations described in Paragraphs 33 and 34, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

NINTH CAUSE OF ACCUSATION – ALVA

The allegations in Paragraphs 1 through 35 are incorporated herein by reference.

On or about May 4, 2009, Prisco and Teresita Alva (herein "the Alva's") contacted Respondents to obtain a loan modification after hearing Respondents' radio advertisement in which the president of PCMC stated "no modification – no fee.

On or about May 15, 2009, the Alva's met with Respondents' employee Lisa Walker (herein "Walker") and, in reliance on the advertisement, entered into an Engagement

1 Agreement for their properties located at 6612 Galloway Way, Elk Grove, CA 95758 and
2 5116 Throe Court, Elk Grove, CA 95758, and made a payment to Respondents in the amount
3 of \$7,980.00 for the loan modifications.

4 39

5 By about September 24, 2009, Respondents failed to obtain loan modifications
6 or make full refunds, contrary to the representations made in Respondents' radio advertisement
7 described in Paragraph 37, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g)
8 and/or 10177(j) of the Code.

9 TENTH CAUSE OF ACCUSATION – GAMBLE

10 40

11 The allegations in Paragraphs 1 through 39 are incorporated herein by reference.

12 41

13 In or about April 2009, Adrian and Patty Gamble (herein "the Gamble's") were
14 solicited by Respondents' employee Fred Saunders (herein "Saunders") for loan modification
15 services.

16 42

17 On about May 27, 2009, the Gamble's met with Saunders who represented that
18 "documents looked good, looks good for loan modification," and in reliance on Respondents'
19 representations, entered into an Engagement Agreement for their property located at 108 Walnut
20 Drive, Tehachapi, CA 93561, wherein Respondents agreed that if "Pro City has been unable to
21 obtain a Remedy Plan for any reason within six (6) months from the Effective Date of this
22 Agreement, Services two (2) and Three (3) will not be complete and, therefore, the remaining
23 \$1,150 in the Client Trust Account will be returned to Client" and "Services two (2) and Three
24 (3) will be completed within Four (4) months from the effective date of this Agreement. Services
25 Two (2) and Three (3) will be completed on or before: 9-27-09," and made a payment to
26 Respondents in the amount of \$3,990.00 for the loan modification.

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By about February 4, 2010, Respondents failed to obtain a loan modification or make a refund to the Gamble's, contrary to Respondents' representations and their Engagement Agreement described in Paragraph 42, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

ELEVENTH CAUSE OF ACCUSATION – HEITMAN

44

The allegations in Paragraphs 1 through 43 are incorporated herein by reference.

45

In about June 2009, Kurt and Julia A. Heitman (herein "the Heitman's") spoke with Respondents' employees Enders and Colleen McDaniels (herein "McDaniels"), who represented to the Heitman's that they would receive a full refund if the monthly payment amounts in the contract were not met. In reliance on Respondents' representations the Heitman's entered into an Engagement Agreement for their property located at 25051 Campo Rojo, Lake Forest, CA 92630, wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy Plan for any reason within Five (5) months from the Effective Date of this Agreement, Services two (2) and Three (3) will not be complete and, therefore, the remaining \$1,150 in the Client Trust Account will be returned to Client" and made a payment to Respondents in the amount of \$3,990.00 for the loan modification.

46

By about March 8, 2010, Respondents failed to obtain a loan modification or to make a refund to the Heitman's, contrary to Respondents' representations and their Engagement Agreement described in Paragraph 45, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

TWELFTH CAUSE OF ACCUSATION – VASQUEZ / RADEMACHER

47

The allegations in Paragraphs 1 through 46 are incorporated herein by reference.

1 48

2 In or about July of 2009, Randy Vasquez (herein "Vasquez") and Lauren
3 Rademacher (herein "Rademacher") contacted Respondents after hearing Respondents' radio
4 advertisement in order to obtain a loan modification.

5 49

6 On or about July 6, 2009, Vasquez and Rademacher met with Respondents'
7 employee Barbara Manino (herein "Manino") and FLORENCE who induced Vasquez and
8 Rademacher to enter into an Engagement Agreement by representing that there was a 99 percent
9 chance of getting a conventional loan at a monthly rate they could afford, 30-year fixed,
10 principle and interest, if they hired Respondents. In reliance on Respondents' representations,
11 Vasquez and Rademacher entered into an Engagement Agreement for their property located at
12 2157 Riggs Avenue, Sacramento, CA 95835, and made a payment to Respondents in the amount
13 of \$4,590.00 for the loan modification.

14 50

15 By about March 29, 2010, Respondents failed to obtain the loan modification
16 described in Paragraph 49, above, contrary to their representations, in violation of Sections
17 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

18 THIRTEENTH CAUSE OF ACCUSATION – CHAMBERLAIN

19 51

20 The allegations in Paragraphs 1 through 50 are incorporated herein by reference.

21 52

22 On or about July 31, 2009, Dolly and Mark Chamberlain (herein "the
23 Chamberlain's"), having been solicited by Respondents' radio advertisement, contacted
24 Respondents to obtain a loan modification. Respondents' employees, Robert Duran and Scott
25 Davenport, represented that if the loan modification was not complete by the end of the contract
26 period the Chamberlain's would be refunded their money in full because Respondents did not
27 want "bad publicity." In reliance on Respondents' representations, the Chamberlain's entered

1 into an Engagement Agreement for their property located at 12269 Kirkwood Street, Herald, CA
2 95638, wherein Respondents agreed that if "Pro City has been unable to obtain a Remedy Plan
3 for any reason within Five (5) months from the Effective Date of this Agreement, Services two
4 (2) and Three (3) will not be complete and, therefore, the remaining \$1,150 in the Client Trust
5 Account will be returned to Client," and made a payment to Respondents in the amount of
6 \$3,990.00 for the loan modification.

7 53

8 By about January 4, 2010, Respondents failed to obtain a loan modification or
9 make a full refund to the Chamberlain's, contrary to Respondents' representations described in
10 Paragraph 52, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or
11 10177(j) of the Code.

12 FOURTEENTH CAUSE OF ACCUSATION – YATES

13 54

14 The allegations in Paragraphs 1 through 53 are incorporated herein by reference.

15 55

16 In or about August of 2009 Mary Yates (herein "Yates"), contacted Respondents
17 after hearing Respondents' radio advertisement to obtain a loan modification, in which
18 Respondents stated they could get the job done.

19 56

20 On or about August 12, 2009, Yates met with Respondents who represented that
21 Yates would get her money back within six (6) months; would receive a 100 percent refund if she
22 canceled; would deposit Yates' funds into escrow; and would be providing Yates with updates
23 every two weeks. In reliance on Respondents' representations, Yates entered into an
24 Engagement Agreement for her property located at 9616 Hickory Rail Way, Elk Grove, CA
25 95624, and made a payment to Respondents in the amount of \$3,990.00 for the loan
26 modification.

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57
By about January 7, 2010, Yates failed to get her money back within six (6) months; failed to receive a 100 per cent refund; Respondents failed to deposit her funds into escrow; and failed provide Yates with updates every two weeks, all contrary to Respondents' representations described in Paragraph 56, above, in violation of Sections 10176(a), (b), and (i), and/or 10177(g) and/or 10177(j) of the Code.

FIFTEENTH CAUSE OF ACCUSATION – BROKER SUPERVISION

58 -

The allegations in Paragraphs 1 through 57 are incorporated herein by reference.

59

At all times mentioned herein, FLORENCE failed to exercise reasonable supervision over the acts of PCMC and its agents and employees in such a manner as to allow the acts and omissions on the part of PCMC, described above, to occur, in violation of Sections 10177(g) and (h) and 10159.2 of the Code, and Section 2725 of the Regulations.

60

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or the Regulations:

(a) as to Paragraph 10(a) and Respondent PCMC, under Section of 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;

(b) as to Paragraph 10(b) and Respondent PCMC, under Section 10146 of the Code and Section 2972 of the Regulations in conjunction with Section 10177(d) of the Code;

(c) as to Paragraph 10(c) and Respondent PCMC, under Section of 2831 of the Regulations in conjunction with Section 10177(d) of the Code;

(d) as to Paragraph 10(d) and Respondent PCMC, under Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code;

1 (e) as to Paragraph 10(e) and Respondent PCMC, under Section of 2834 of
2 the Regulations in conjunction with Section 10177(d) of the Code;

3 (f) as to Paragraph 10(f) and Respondent PCMC, under Sections 10130 and
4 10137 of the Code in conjunction with Section 10177(d) of the Code;

5 (g) as to Paragraph 13 and Respondents PCMC and FLORENCE, under
6 Section 10085 of the Code and Section 2970 of the Regulations in conjunction with Section
7 10177(d) of the Code;

8 (h) as to Paragraphs 17, 20, 23, 27, 31, 35, 39, 43, 46, 50, 53, and 57 and
9 Respondents PCMC and FLORENCE, under Sections 10176(a), (b), and (i), and/or 10177(g)
10 and/or 10177(j) of the Code; and,

11 (i) as to Paragraph 59 and Respondent FLORENCE, under Sections
12 10177(g) and (h) and 10159.2 of the Code and Section 2725 of the Regulations, in
13 conjunction with Section 10177(d) of the Code.

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

19
20
21 
22 TRICIA SOMMERS
23 Deputy Real Estate Commissioner
24
25

26 Dated at Sacramento, California,
27 this 22nd day of November, 2010.