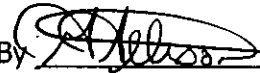


**November 18, 2011**

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187000  
5 Sacramento, CA 95818-7000  
6  
7 Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By 

8 **BEFORE THE DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 \* \* \*

11	In the Matter of the Accusation of	)	NO. H-5639 SAC
12		)	
13	DOREEN MARIE DURYEA,	)	FIRST AMENDED
14		)	ACCUSATION
15	Respondent.	)	

16  
17 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
18 of the State of California, for a First Amended Accusation against Respondent DOREEN  
19 MARIE DURYEA doing business under the fictitious names of HOME N LOAN 2 NE 1.COM,  
20 HOME SAVERS, HOME SAVERS LOANS, and A & G SOLUTIONS, (hereafter  
21 "Respondent") is informed and alleges as follows:

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23 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
24 of the State of California, makes this First Amended Accusation against Respondent in her  
25 official capacity.

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Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code").

3

At all times herein mentioned, Respondent was and is licensed by the Department of Real Estate (hereinafter "the Department") as a real estate broker.

4

At all times herein mentioned, Respondent 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 on behalf of others, for compensation or in expectation of compensation, Respondent solicited borrowers or lenders for or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

FIRST CAUSE OF ACTION

5

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

6

Within the three-year period prior to the filing of this First Amended Accusation and at all times herein mentioned, in the course and scope of the activities described in Paragraph 4, above, Respondent solicited borrowers and/or lenders, 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 in connection with loans secured directly or

1 collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d)  
 2 of the Code, wherein Respondent claimed, demanded, charged, received, and collected, and  
 3 provided a written contract for, advance fees from borrowers for services Respondent was to  
 4 perform thereafter for or in expectation of compensation, including, but not limited to, the  
 5 following transactions:

Borrower	Property	Advance Fee	Date Collected	Written Fee Agreement
Rebecca Barron	3053 McCook Way Stockton, California	\$1,495.00	8/11/09	8/10/09
		\$ 500.00	8/30/09	
		\$ 500.00	9/15/09	
		\$ 500.00	9/30/09	
		<u>\$ 500.00</u>	10/12/09	
	<u>Total</u>	<u>\$3,495.00</u>		
Cecilia M. Sanchez	1053 Chenin Blanc St. Los Banos, California	<u>\$2,495.00</u>	5/20/09	5/20/09
Jean Goldman	6 Commodore Dr., #338 Emeryville, California	\$1,000.00	7/17/10	7/17/10
		\$1,000.00	8/25/10	
		\$1,000.00	10/19/10	
		<u>\$ 995.00</u>	11/29/10	
	<u>Total</u>	<u>\$3,995.00</u>		

7

19 The fees described in Paragraph 6, above, constituted an "advance fee" within the  
 20 meaning of Section 10026 of the Code ("Advance Fee" is fee claimed, demanded, charged,  
 21 received, collected or contracted from principal for listing, for offer to sell or lease property or  
 22 business opportunity, for referral to brokers or salesmen, for soliciting borrowers or lenders, for  
 23 negotiating real estate loans) and 10131.2 of the Code (Real estate broker is a person who  
 24 engages in business of claiming, demanding, charging, receiving, collecting or contracting for  
 25 advance fees in connection with any employment to promote sale, lease of real property or  
 26 business opportunity, or exchange or to obtain loans on real property). Said fees constituted  
 27 trust funds within the meaning of Section 10145 of the Code (broker accepts funds belonging to

1 others in connection with acts requiring a real estate license) and Section 10146 of the Code  
2 (advance fees collected by broker are trust funds).

3 8

4 In connection with the collection, receipt, and handling of the advance fees as  
5 described in Paragraph 6, above, Respondent provided to the borrowers a written advance fee  
6 contract that had not been submitted to, reviewed, and approved by, the Department of Real  
7 Estate prior to use as required by Sections 10085 and 10085.5 of the Code (Unlawful to claim,  
8 demand, receive advance fee for soliciting lenders on behalf of or performing services for  
9 borrowers using an advance fee agreement not approved by Department) and Chapter 6, Title  
10 10, California Code of Regulations (hereinafter "Regulations"), Section 2970 (requiring  
11 submission to commissioner for approval of all advance fee materials and agreements).

12 9

13 Within the three-year period prior to the filing of this First Amended Accusation,  
14 in connection with the collection and disbursement of trust funds, the aforesaid trust funds  
15 accepted or received by Respondent, were deposited or caused to be deposited by said  
16 Respondent into a bank account maintained by Respondent at Wells Fargo Bank, Empire Ranch  
17 Branch, 25015 Blue Ravine Road, Folsom, California, Account No. 6122617266, entitled "A &  
18 G Ventures, LLC" (hereinafter "Account #1) with Respondent, licensed real estate salesperson  
19 licensee Jaclyn Jones, and Brandon Goodwin, an unlicensed, bonded individual, as the  
20 authorized signatories on said account.

21 10

22 Within the three-year period prior to the filing of this First Amended Accusation,  
23 in connection with the collection, receipt and handling of advance fees described in Paragraph 6,  
24 above, Respondent failed to deposit said funds into a trust account in the name of the broker as  
25 trustee as required by Section 2832(a) of the Regulations (place funds accepted on behalf of  
26 another into a trust account in the name of the broker, or broker's fictitious business name if  
27 broker licensed in that name, as trustee), disbursed the advance fee trust funds to herself or

1 others and failed to provide to the borrowers the required verified accounting of the advance fee  
2 trust funds and failed to provide to the borrowers any accounting expressly representing the  
3 amounts of trust funds disbursed, the date of trust fund disbursement, the commission paid, and  
4 overhead and profit as required by Section 10146 of the Code and containing the information  
5 required by Section 2972 of the Regulations (requiring broker to provide principal with verified  
6 accounting of advance fee trust funds collected and disbursed identifying agent name,  
7 principal's name, services rendered, trust account into which funds deposited, amount of  
8 advance fee, amounts disbursed, commissions paid, overhead, costs, and profit).

9 11

10 Within the three-year period prior to the filing of this First Amended Accusation,  
11 in connection with the collection and disbursement of trust funds as set forth in Paragraphs 6, 9,  
12 and 10, above, Respondent failed to deposit and maintain the trust funds in a trust account or  
13 neutral escrow depository, or to deliver said funds into the hands of the owners of the funds, as  
14 required by Section 10145 of the Code, in such a manner that as of September 2, 2009, there  
15 was a trust fund shortage in the approximate sum of \$13,427.95 in Account #1.

16 12

17 Within the three-year period prior to the filing of this First Amended Accusation,  
18 in connection with the collection and disbursement of trust funds as set forth in Paragraphs 6, 9,  
19 and 10, above, Respondent:

- 20 (a) Failed to maintain a control record for trust funds received and disbursed  
21 and containing the information 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 Bank Account #1 for trust funds deposited to said  
26 account;

27

- 1 (b) Failed to keep a separate record for each beneficiary or transaction,  
2 accounting for all funds that have been deposited to Account #1  
3 containing all of the information required by Section 2831.1 of the  
4 Regulations (broker shall keep separate record for each beneficiary for all  
5 funds including identity of parties, dates of deposit and withdrawal,  
6 amounts, check numbers, balance after posting) including, but not limited  
7 to an accurate daily balance after posting transactions;
- 8 (c) Failed to perform, at least once a month, a reconciliation of all the  
9 separate beneficiary records with the control record, and/or failed  
10 to maintain a record of such reconciliations as required by Section 2831.2  
11 of the Regulations (maintain written record of and perform once each  
12 month balance of all separate beneficiary funds and reconcile funds  
13 received with funds disbursed, etc.) for Bank Account #1 for trust funds  
14 deposited into said account; and,
- 15 (d) Failed to obtain the prior written consents of the principals for the  
16 reduction of the aggregate balance of trust funds in Account #1 to  
17 an amount less than the existing aggregate trust fund liability to the  
18 owners of said funds as required by Section 2832.1 of the Regulations  
19 (requiring written consent of every principal whose funds in the account  
20 shall be obtained by broker prior to each disbursement if such reduces the  
21 balance of funds in account to an amount less than existing trust fund  
22 aggregate liability of broker to all owners of funds).

23 13

24 The acts and/or omissions of Respondent as alleged above constitute cause for  
25 the suspension or revocation of the license and license rights of Respondent under the following  
26 provisions:

- 27 (a) As alleged in Paragraphs 6, 7 and 8, above, under Sections 10085 and

1 10085.5 of the Code (Unlawful to claim, demand, receive advance fee for  
2 soliciting lenders on behalf of or performing services for borrowers using  
3 an advance fee agreement not approved by Department) and Section 2970  
4 of the Regulations (requiring submission to commissioner for approval of  
5 all advance fee materials and agreements) all in conjunction with Section  
6 10177(d) of the Code (suspension or revocation of license for willful  
7 disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§  
8 11000 et seq. of the Code, or of the Regulations);

9 (b) As alleged in Paragraphs 9 and 10, above, under Section 10146 of the  
10 Code (advance fees are trust funds and broker collecting advance fees  
11 shall deposit such fees into a trust account) and Section 2972 of the  
12 Regulations (requiring broker to provide principal with verified  
13 accounting of advance fee trust funds collected and disbursed identifying  
14 agent name, principal's name, services rendered, trust account into which  
15 funds deposited, amount of advance fee, amounts disbursed, commissions  
16 paid, overhead, costs, and profit) all in conjunction with Section 10177(d)  
17 of the Code;

18 (c) As alleged in Paragraph 10, above, under Section 2832(a) of the  
19 Regulations (place funds accepted on behalf of another into a trust  
20 account in the name of the broker, or broker's fictitious business name if  
21 broker licensed in that name, as trustee) in conjunction with Section  
22 10177(d) of the Code;

23 (d) As alleged in Paragraph 11, under Section 10145 of the Code (broker  
24 accepting funds belonging to others not immediately placed into hands of  
25 principal or into neutral escrow depository shall deposit funds into a trust  
26 account maintained by broker in a bank until disbursed in accordance  
27 with principal's instructions) in conjunction with Section 10177(d) of the

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Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. of the Code, or of the Regulations);

- (e) As alleged in Paragraph 12(a), under Section 2831 of the Regulations (requiring record of trust funds received and disbursed in columnar form, in chronological sequence, dates of receipt, from whom received, dates disbursed, date deposited, identity of depository, daily balance, etc.) in conjunction with Section 10177(d) of the Code;
- (f) As alleged in Paragraph 12(b), under Section 2831.1 of the Regulations (broker shall keep separate record for each beneficiary for all funds including identity of parties, dates of deposit and withdrawal, amounts, check numbers, balance after posting) in conjunction with Section 10177(d) of the Code;
- (g) As alleged in Paragraph 12(c), under Section 2831.2 of the Regulations (maintain written record of and perform once each month balance of all separate beneficiary funds and reconcile funds received with funds disbursed, etc.) in conjunction with Section 10177(d) of the Code; and,
- (h) As alleged in Paragraph 12(d), under Section 2832.1 of the Regulations (requiring written consent of every principal whose funds in the account shall be obtained by broker prior to each disbursement if such reduces the balance of funds in account to an amount less than existing trust fund aggregate liability of broker to all owners of funds) in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

There is hereby incorporated in this Second, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 13, inclusive, of the First

1 Amended Accusation with the same force and effect as if herein fully set forth.

2 15

3 Within the three-year period prior to the filing of this First Amended Accusation  
4 and at all times herein mentioned, in the course and scope of the activities described in  
5 Paragraph 4, above, Respondent solicited borrowers and/or lenders, and/or negotiated loans  
6 secured directly or collaterally by liens on real property, wherein such loans were to be  
7 brokered, arranged, processed, and/or consummated on behalf of others, and/or solicited and  
8 negotiated to perform services for borrowers in connection with loans secured directly or  
9 collaterally by liens on real property or on a business opportunity, pursuant to Section 10131(d)  
10 of the Code, wherein Respondent claimed, demanded, charged, received, and collected, and  
11 provided a written contract for, advance fees from borrowers for services Respondent was to  
12 perform thereafter for or in expectation of compensation, including, but not limited to, the  
13 following transaction:

14 Borrower	Property	Advance Fee	Date Collected	Written Fee Agreement
15 Rebecca Barron	3053 McCook Way	\$1,495.00	8/11/09	8/10/09
16	Stockton, California	\$ 500.00	8/30/09	
17		\$ 500.00	9/15/09	
18		\$ 500.00	9/30/09	
		<u>\$ 500.00</u>	10/12/09	
	<u>Total</u>	<u>\$3,495.00</u>		
19				
20 Jean Goldman	6 Commodore Dr., #338	\$1,000.00	7/17/10	7/17/10
21	Emeryville, California	\$1,000.00	8/25/10	
		\$1,000.00	10/19/10	
		<u>\$ 995.00</u>	11/29/10	
22	<u>Total</u>	<u>\$3,995.00</u>		

23  
24 16

25 Within the three-year period prior to the filing of this First Amended Accusation,  
26 in connection with the collection, receipt and handling of advance fees described in Paragraph  
27 15, above, Respondent violated Section 10085.6 of the Code (effective October 11, 2009,

1 unlawful to claim, demand, charge, collect or receive an advance fee to negotiate, attempt to  
2 negotiate, arrange, attempt to arrange, or offer to perform a mortgage loan modification or other  
3 form of mortgage loan forbearance) by collecting advance fees after October 11, 2009.

4 17

5 The acts and/or omissions of Respondent as alleged in Paragraphs 15 and 16,  
6 above, constitute cause for the suspension or revocation of the license and license rights of  
7 Respondent under Section 10085.6 of the Code in conjunction with Section 10177(d) of the  
8 Code (suspension or revocation of license for willful disregard or violation of the Real Estate  
9 Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations)

10 THIRD CAUSE OF ACTION

11 18

12 There is hereby incorporated in this Third, separate and distinct, Cause of Action,  
13 all of the allegations contained in Paragraphs 1 through 17, inclusive, of the First Amended  
14 Accusation with the same force and effect as if herein fully set forth.

15 19

16 Within the three-year period prior to the filing of this First Amended Accusation,  
17 in connection with the collection, receipt and handling of advance fees described in Paragraph 6,  
18 above, in order to induce Rebecca Barron, Cecilia M. Sanchez, and Jean Goldman (hereinafter  
19 "Borrowers") to respectively pay the advance fees set forth in Paragraph 6, above, Respondent  
20 represented to Borrowers that Respondent would:

- 21 1.) Contact, respectively, the lenders holding trust deeds encumbering the  
22 Borrowers' respective real properties, as set forth in Paragraph 6, above, and  
23 would negotiate with the lenders for favorable loan modifications including  
24 lowest interest rates, lower monthly payments, principal reduction, or other  
25 favorable terms, and do so by communicating regularly with said lenders;
- 26 2.) Contact said borrowers when a loan modification package was submitted to  
27 borrower's lender;

- 1 3.) Would deposit advance fees paid into the broker's trust account;
- 2 4.) Would provide to borrowers a verified accounting for the advance fee trust funds
- 3 at the end of each calendar quarter following execution of the advance fee
- 4 agreement; and/or,
- 5 5.) Perform a loan audit to uncover violations of state and federal law and, if
- 6 violations were discovered, refer the borrower to an attorney, or, if no violations
- 7 were discovered, would perform loan modification negotiations with the lender.

8 20

9 The representations described in Paragraph 19, above, were false and misleading

10 and were known by Respondent to be false and misleading when made or were made by

11 Respondent with no reasonable grounds for believing said representations to be true, and/or said

12 Respondent should have known at the time through the exercise of reasonable diligence that

13 such representations were false and misleading. In truth and in fact, Respondent either:

- 14 1.) Failed to regularly contact the lenders, failed to contact lenders at all, and/or
- 15 failed to negotiate with the respective lenders;
- 16 2.) Failed to collect and/or provide the lenders with all of the Borrowers'
- 17 documentation or information necessary to negotiate a loan modification;
- 18 3.) Accepted the Borrowers' advance fees knowing that said Borrowers did not
- 19 qualify for a loan modification or without any regard as to whether the Borrowers
- 20 qualified for a loan modification;
- 21 4.) Failed to place advance fees into a trust account held by broker as Respondent
- 22 did not have a trust account in the name of the Respondent as trustee;
- 23 5.) Failed to provide a verified quarterly accounting for advance fee trust funds
- 24 received; and/or,
- 25 6.) Failed to communicate with the Borrowers' regarding the status of the loan
- 26 modifications or about the information requested by the lenders.

27 21



1 At no time has the Department of Real Estate licensed Jesse Ochoa as a real  
2 estate broker or as a real estate salesperson.

3 26

4 At no time has the Department of Real Estate licensed Miranda Trujillo or  
5 Miranda Trujillo as a real estate broker or as a real estate salesperson.

6 27

7 Within the three-year period prior to the filing of this First Amended Accusation  
8 and at all times herein mentioned, in the course and scope of the activities described in  
9 Paragraph 4, above, Respondent employed or compensated Gary Spears, Jesse Ochoa and  
10 Miranda Trujillo to solicit borrowers and/or lenders, and/or to negotiate loans secured directly or  
11 collaterally by liens on real property, wherein such loans were to be brokered, arranged,  
12 processed, and/or consummated on behalf of others, and/or to solicit and to negotiate to perform  
13 services for borrowers in connection with loans secured directly or collaterally by liens on real  
14 property or on a business opportunity, pursuant to Section 10131(d) of the Code, including, but  
15 not limited to, the following transactions:

<b>Borrower</b>	<b>Property</b>	<b>Written Fee Agreement</b>	<b>Solicited by Unlicensed Employee</b>
17 Rebecca Barron	3053 McCook Way 18 Stockton, California	8/10/09	Gary Spears
19 Cecilia M. Sanchez	1053 Chenin Blanc St. 20 Los Banos, California	5/20/09	Jesse Ochoa
21 Jean Goldman	6 Commodore Dr., #338 22 Emeryville, California	7/17/10	Miranda Trujillo

23 28

24 By employing and/or compensating Gary Spears, Jesse Ochoa and Miranda  
25 Trujillo as set forth in Paragraph 27, above, Respondent violated Section 10137 of the Code  
26 (unlawful for real estate broker to employ or compensate any person for performing acts  
27

1 requiring a real estate license unless person is a licensed salesperson in the broker's employ or is  
2 another licensed broker) in conjunction with and Section 10177(d) the Code (suspension or  
3 revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq.  
4 of the Code, or of the Regulations).

5 29

6 The acts and/or omissions of Respondent as alleged in Paragraphs 26, 27, and 28,  
7 above, constitute cause for the suspension or revocation of the license and license rights of  
8 Respondent under Section 10137 of the Code in conjunction with Section 10177(d) of the Code.

9 WHEREFORE, Complainant prays that a hearing be conducted on the  
10 allegations of this First Amended Accusation and that upon proof thereof a Decision be  
11 rendered imposing disciplinary action against all licenses and license rights of Respondent  
12 DOREEN MARIE DURYEA under the Real Estate Law (Part 1 of Division 4 of the Business  
13 and Professions Code), and for such other and further relief as may be proper under other  
14 provisions of law.

15  
16  
17   
18 TRICIA D. SOMMERS  
19 Deputy Real Estate Commissioner

20 Dated at Sacramento, California,  
21 this 16<sup>th</sup> day of November, 2011.

**FILED**

**July 12, 2011**

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187000  
5 Sacramento, CA 95818-7000  
6  
7 Telephone: (916) 227-1126

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	NO. H-5639 SAC
12		)	
13	DOREEN MARIE DURYEA,	)	ACCUSATION
14		)	
15	Respondents.	)	
16	_____)		

17  
18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
19 of the State of California, for Accusation against Respondent DOREEN MARIE DURYEA  
20 doing business under the fictitious names of HOME N LOAN 2 NE 1.COM, HOME SAVERS,  
21 HOME SAVERS LOANS, and A & G SOLUTIONS, is informed and alleges as follows:

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

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2

Respondent DOREEN MARIE DURYEA is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code").

3

At all times herein mentioned, Respondent DOREEN MARIE DURYEA (hereafter "Respondent DURYEA") was and is licensed by the Department of Real Estate (hereinafter "the Department") as a real estate broker.

4

At all times herein mentioned, Respondent DURYEA 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 on behalf of others, for compensation or in expectation of compensation, Respondents solicited borrowers or lenders for or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

FIRST CAUSE OF ACTION

5

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

6

Within the three-year period prior to the filing of this Accusation and at all times herein mentioned, in the course and scope of the activities described in Paragraph 4, above, Respondent DURYEA solicited borrowers and/or lenders, 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

1 perform services for borrowers in connection with loans secured directly or collaterally by liens  
 2 on real property or on a business opportunity, pursuant to Section 10131(d) of the Code,  
 3 wherein Respondent claimed, demanded, charged, received, and collected, and provided a  
 4 written contract for, advance fees from borrowers for services Respondents were to perform  
 5 thereafter for or in expectation of compensation, including, but not limited to, the following  
 6 transactions:

Borrower	Property	Advance Fee	Date Collected	Written Fee Agreement
Rebecca Barron	3053 McCook Way Stockton, California	\$1,495.00	8/11/09	8/10/09
		\$ 500.00	8/30/09	
		\$ 500.00	9/15/09	
		\$ 500.00	9/30/09	
		\$ 500.00	10/12/09	
	<u>Total</u>	<u>\$3,495.00</u>		
Cecilia M. Sanchez	1053 Chenin Blanc St. Los Banos, California	<u>\$2,495.00</u>	5/20/09	5/20/09
Jean Goldman	6 Commodore Dr., #338 Emeryville, California	\$1,000.00	7/17/10	7/17/10
		\$1,000.00	8/25/10	
		\$1,000.00	10/19/10	
		<u>\$ 995.00</u>	11/29/10	
	<u>Total</u>	<u>\$3,995.00</u>		

7

20 The fees described in Paragraph 6, above, constituted an "advance fee" within the  
 21 meaning of Section 10026 of the Code ("Advance Fee" is fee claimed, demanded, charged,  
 22 received, collected or contracted from principal for listing, for offer to sell or lease property or  
 23 business opportunity, for referral to brokers or salesmen, for soliciting borrowers or lenders, for  
 24 negotiating real estate loans) and 10131.2 of the Code (Real estate broker is a person who  
 25 engages in business of claiming, demanding, charging, receiving, collecting or contracting for  
 26 advance fees in connection with any employment to promote sale, lease of real property or  
 27 business opportunity, or exchange or to obtain loans on real property). Said fees constituted

1 trust funds within the meaning of Section 10145 of the Code (broker accepts funds belonging to  
2 others in connection with acts requiring a real estate license) and Section 10146 of the Code  
3 (advance fees collected by broker are trust funds).

4 8

5 In connection with the collection, receipt, and handling of the advance fees as  
6 described in Paragraph 6, above, Respondent provided to the borrowers a written advance fee  
7 contract that had not been submitted to, reviewed, and approved by, the Department of Real  
8 Estate prior to use as required by Sections 10085 and 10085.5 of the Code (Unlawful to claim,  
9 demand, receive advance fee for soliciting lenders on behalf of or performing services for  
10 borrowers using an advance fee agreement not approved by Department) and Chapter 6, Title  
11 10, California Code of Regulations (hereinafter "Regulations"), Section 2970 (requiring  
12 submission to commissioner for approval of all advance fee materials and agreements).

13 9

14 Within the three-year period prior to the filing of this Accusation, in connection  
15 with the collection and disbursement of trust funds, the aforesaid trust funds accepted or  
16 received by Respondent DURYEA, were deposited or caused to be deposited by said  
17 Respondent into a bank account maintained by Respondent at Wells Fargo Bank, Empire Ranch  
18 Branch, 25015 Blue Ravine Road, Folsom, California, Account No. 6122617266, entitled "A &  
19 G Ventures, LLC" (hereinafter "Account #1) with Respondent DURYEA, licensed real estate  
20 salesperson licensee Jaclyn Jones, and Brandon Goodwin, an unlicensed, bonded individual, as  
21 the authorized signatories on said account.

22 10

23 Within the three-year period prior to the filing of this Accusation, in connection  
24 with the collection, receipt and handling of advance fees described in Paragraph 6, above,  
25 Respondents failed to deposit said funds into a trust account in the name of the broker as trustee  
26 as required by Section 2832(a) of the Regulations (place funds accepted on behalf of another  
27 into a trust account in the name of the broker, or broker's fictitious business name if broker

1 licensed in that name, as trustee), disbursed the advance fee trust funds to herself or others and  
2 failed to provide to the borrowers the required verified accounting of the advance fee trust funds  
3 and failed to provide to the borrowers any accounting expressly representing the amounts of  
4 trust funds disbursed, the date of trust fund disbursement, the commission paid, and overhead  
5 and profit as required by Section 10146 of the Code and containing the information required by  
6 Section 2972 of the Regulations (requiring broker to provide principal with verified accounting  
7 of advance fee trust funds collected and disbursed identifying agent name, principal's name,  
8 services rendered, trust account into which funds deposited, amount of advance fee, amounts  
9 disbursed, commissions paid, overhead, costs, and profit).

10 11

11 Within the three-year period prior to the filing of this Accusation, in connection  
12 with the collection and disbursement of trust funds as set forth in Paragraphs 6, 9, and 10,  
13 above, Respondent DURYEA failed to deposit and maintain the trust funds in a trust account or  
14 neutral escrow depository, or to deliver said funds into the hands of the owners of the funds, as  
15 required by Section 10145 of the Code, in such a manner that as of September 2, 2009, there  
16 was a trust fund shortage in the approximate sum of \$13,427.95 in Account #1.

17 12

18 Within the three-year period prior to the filing of this Accusation, in connection  
19 with the collection and disbursement of trust funds as set forth in Paragraphs 6, 9, and 10,  
20 above, Respondent DURYEA:

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

- 1 (b) Failed to keep a separate record for each beneficiary or transaction,  
2 accounting for all funds that have been deposited to Account #1  
3 containing all of the information required by Section 2831.1 of the  
4 Regulations (broker shall keep separate record for each beneficiary for all  
5 funds including identity of parties, dates of deposit and withdrawal,  
6 amounts, check numbers, balance after posting) including, but not limited  
7 to an accurate daily balance after posting transactions;
- 8 (c) Failed to perform, at least once a month, a reconciliation of all the  
9 separate beneficiary records with the control record, and/or failed  
10 to maintain a record of such reconciliations as required by Section 2831.2  
11 of the Regulations (maintain written record of and perform once each  
12 month balance of all separate beneficiary funds and reconcile funds  
13 received with funds disbursed, etc.) for Bank Account #1 for trust funds  
14 deposited into said account; and,
- 15 (d) Failed to obtain the prior written consents of the principals for the  
16 reduction of the aggregate balance of trust funds in Account #1 to  
17 an amount less than the existing aggregate trust fund liability to the  
18 owners of said funds as required by Section 2832.1 of the Regulations  
19 (requiring written consent of every principal whose funds in the account  
20 shall be obtained by broker prior to each disbursement if such reduces the  
21 balance of funds in account to an amount less than existing trust fund  
22 aggregate liability of broker to all owners of funds).

23 13

24 The acts and/or omissions of Respondent DURYEA as alleged above constitute  
25 cause for the suspension or revocation of the licenses and license rights of Respondent under the  
26 following provisions:

- 27 (a) As alleged in Paragraphs 6, 7 and 8, above, under Sections 10085 and

1 10085.5 of the Code (Unlawful to claim, demand, receive advance fee for  
2 soliciting lenders on behalf of or performing services for borrowers using  
3 an advance fee agreement not approved by Department) and Section 2970  
4 of the Regulations (requiring submission to commissioner for approval of  
5 all advance fee materials and agreements) all in conjunction with Section  
6 10177(d) of the Code (suspension or revocation of license for willful  
7 disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§  
8 11000 et seq. of the Code, or of the Regulations);

9 (b) As alleged in Paragraphs 9 and 10, above, under Section 10146 of the  
10 Code (advance fees are trust funds and broker collecting advance fees  
11 shall deposit such fees into a trust account) and Section 2972 of the  
12 Regulations (requiring broker to provide principal with verified  
13 accounting of advance fee trust funds collected and disbursed identifying  
14 agent name, principal's name, services rendered, trust account into which  
15 funds deposited, amount of advance fee, amounts disbursed, commissions  
16 paid, overhead, costs, and profit) all in conjunction with Section 10177(d)  
17 of the Code;

18 (c) As alleged in Paragraph 10, above, under Section 2832(a) of the  
19 Regulations (place funds accepted on behalf of another into a trust  
20 account in the name of the broker, or broker's fictitious business name if  
21 broker licensed in that name, as trustee) in conjunction with Section  
22 10177(d) of the Code;

23 (d) As alleged in Paragraph 11, under Section 10145 of the Code (broker  
24 accepting funds belonging to others not immediately placed into hands of  
25 principal or into neutral escrow depository shall deposit funds into a trust  
26 account maintained by broker in a bank until disbursed in accordance  
27 with principal's instructions) in conjunction with Section 10177(d) of the

1 Code (suspension or revocation of license for willful disregard or  
2 violation of the Real Estate Law, §§ 10000 et seq. of the Code, or of the  
3 Regulations);

4 (e) As alleged in Paragraph 12(a), under Section 2831 of the Regulations  
5 (requiring record of trust funds received and disbursed in columnar form,  
6 in chronological sequence, dates of receipt, from whom received, dates  
7 disbursed, date deposited, identity of depository, daily balance, etc.) in  
8 conjunction with Section 10177(d) of the Code;

9 (f) As alleged in Paragraph 12(b), under Section 2831.1 of the Regulations  
10 (broker shall keep separate record for each beneficiary for all funds  
11 including identity of parties, dates of deposit and withdrawal, amounts,  
12 check numbers, balance after posting) in conjunction with Section  
13 10177(d) of the Code;

14 (g) As alleged in Paragraph 12(c), under Section 2831.2 of the Regulations  
15 (maintain written record of and perform once each month balance of all  
16 separate beneficiary funds and reconcile funds received with funds  
17 disbursed, etc.) in conjunction with Section 10177(d) of the Code; and,

18 (h) As alleged in Paragraph 12(d), under Section 2832.1 of the Regulations  
19 (requiring written consent of every principal whose funds in the account  
20 shall be obtained by broker prior to each disbursement if such reduces the  
21 balance of funds in account to an amount less than existing trust fund  
22 aggregate liability of broker to all owners of funds) in conjunction with  
23 Section 10177(d) of the Code.

24 SECOND CAUSE OF ACTION

25 14

26 There is hereby incorporated in this Second, separate and distinct, Cause of  
27 Action, all of the allegations contained in Paragraphs 1 through 13, inclusive, of the Accusation

1 with the same force and effect as if herein fully set forth.

2 15

3 Within the three-year period prior to the filing of this Accusation, in connection  
4 with the collection, receipt and handling of advance fees described in Paragraph 6, above, in  
5 order to induce Rebecca Barron, Cecilia M. Sanchez, and Jean Goldman (hereinafter  
6 "Borrowers") to respectively pay the advance fees set forth in Paragraph 6, above, Respondent  
7 DURYEA represented to Borrowers that Respondent would:

- 8 1.) Contact, respectively, the lenders set forth in Paragraph 6, above, holding trust  
9 deeds encumbering the Borrowers' respective real properties and would  
10 negotiate with the lenders for favorable loan modifications including lowest  
11 interest rates, lower monthly payments, principal reduction, or other favorable  
12 terms; or,
- 13 2.) Perform a loan audit to uncover violations of state and federal law and, if  
14 violations were discovered, refer the borrower to an attorney, or, if no violations  
15 were discovered, would perform loan modification negotiations with the lender.

16 16

17 The representations described in Paragraph 15, above, were false and misleading  
18 and were known by Respondent DURYEA to be false and misleading when made or were made  
19 by Respondent with no reasonable grounds for believing said representations to be true, and/or  
20 said Respondent should have known at the time through the exercise of reasonable diligence  
21 that such representations were false and misleading. In truth and in fact, Respondent DURYEA  
22 either:

- 23 1.) Failed to contact the lenders and/or failed to negotiate with the respective  
24 lenders;
- 25 2.) Failed to provide the lenders with all of the Borrowers' documentation or  
26 information necessary to negotiate a loan modification;

27

- 1 3.) Accepted the Borrowers' advance fees knowing that said Borrowers did not  
2 qualify for a loan modification or without any regard as to whether the Borrowers  
3 qualified for a loan modification; or,  
4 4.) Failed to communicate with the Borrowers' regarding the status of the loan  
5 modifications or about the information requested by the lenders.

6 17

7 The acts and omissions of Respondent DURYEA described in Paragraphs 15 and  
8 16, above, constitute misrepresentation, fraud, deceit, and dishonest dealing.

9 18

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

- 13 (a) As alleged in Paragraphs 15, 16, and 17, under 10176(a) of the Code  
14 (making a substantial misrepresentation);  
15 (d) As alleged in Paragraphs 15, 16, and 17, under Section 10176(b) of the  
16 Code (making any false promises of a character likely to influence,  
17 persuade or induce);  
18 (e) As alleged in Paragraphs 15, 16, and 17, under Section 10176(i) of the  
19 Code (any other conduct, whether of the same or a different character  
20 than specified in this section, which constitutes fraud or dishonest  
21 dealing); and/or,  
22 (f) As alleged in Paragraphs 15, 16, and 17, under Section 10177(g) of the  
23 Code (demonstrated negligence or incompetence in performing an act for  
24 which he or she is required to hold a license).

25 ///

26 //

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                    TRICIA D. SOMMERS  
10                    Deputy Real Estate Commissioner

11 Dated at Sacramento, California,  
12 this 28<sup>th</sup> day of June, 2011.