

FILED

MAR 16 2010

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	No. H-10550 SF
	)	
EDWIN DEVERA MENDAROS,	)	
	)	
Respondent.	)	
	)	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

(Continuing Education)

TO: EDWIN DEVERA MENDAROS ("Respondent"):

On February 11, 2009, a Decision was rendered herein revoking Respondent's real estate broker license, but granting the right to a restricted real estate broker license subject to terms and conditions set forth in the Real Estate Commissioner's Decision, effective March 24, 2009, in Case No. H-10550 SF. This Decision granted the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code of the State of California, and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code. Among those terms, conditions and restrictions, the Decision required Respondent, within nine (9) months after

1 March 24, 2009, the effective date of the Decision, to present evidence satisfactory to the Real
2 Estate Commissioner that Respondent has, since the most recent issuance of an original or
3 renewal real estate license, taken and successfully completed the continuing education
4 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
5 license, and provided that if Respondent failed to satisfy this condition, the Commissioner may
6 order suspension of the restricted license until Respondent satisfy this condition.

7 As of December 24, 2009, Respondent has failed to submit proof satisfactory to
8 the Commissioner of satisfying this condition. The Commissioner has determined that
9 Respondent has failed to satisfy this condition, and as such, that Respondent is in violation of
10 Section 10177(k) of the Business and Professions Code.

11 NOW, THEREFORE, IT IS ORDERED under authority of Section 10156.7 of the
12 Business and Professions Code of the State of California that the restricted real estate license
13 heretofore issued to Respondent and the exercise of any privileges thereunder is hereby
14 suspended until such time as Respondent provides proof satisfactory to the Commissioner that
15 Respondent has satisfied the condition, described above, or pending final determination made
16 after hearing (see "Hearing Rights" set forth below).

17 IT IS FURTHER ORDERED that all license certificates and identification cards
18 issued by the Department of Real Estate which are in the possession of Respondent be
19 immediately surrendered by personal delivery or by mailing in the enclosed self-addressed,
20 stamped envelope:

21 DEPARTMENT OF REAL ESTATE
22 ATTN: Flag Section
23 P. O. Box 187000
Sacramento, CA 95818-7000

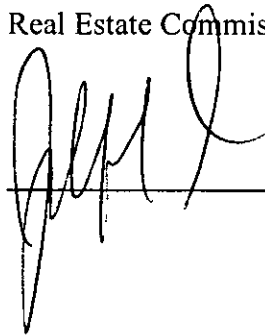
24 HEARING RIGHTS: You have the right to a hearing to contest the
25 Commissioner's determination that you are in violation of Section 10177(k). If you desire a
26 hearing, you must submit a written request. The request may be in any form, as long as it is in
27 writing and indicates that you want a hearing. Unless a written request for a hearing, signed by

1 or on behalf of you, is delivered or mailed to the Department, Legal Section, at 2201 Broadway,
2 P. O. Box 187007, Sacramento, California 95818-7007, within twenty (20) days after the date
3 that this Order was mailed to or served on you, the Department will not be obligated or required
4 to provide you with a hearing.

5 This Order shall be effective immediately.

6 DATED: 3/10/2010

7 JEFF DAVI
8 Real Estate Commissioner

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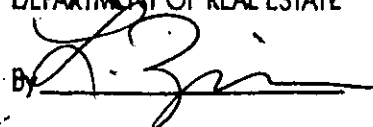
FILED

MAR - 3 2009

Department of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0781

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ATLANTIC BANCORP OF CALIFORNIA,
ATLANTIC FINANCIAL MORTGAGE, INC., a
California Corporation, and EDWIN DEVERA
MENDAROS,

Respondents.

No. H-10550 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between ATLANTIC BANCORP OF CALIFORNIA, ATLANTIC FINANCIAL MORTGAGE, INC., a California Corporation, and EDWIN DEVERA MENDAROS, (hereinafter "Respondents"), and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on November 14, 2008 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (hereinafter "APA"), shall instead and in place thereof be submitted solely on the basis of the

1 provisions of this Stipulation and Agreement.

2 2. Respondents have received, read and understand the Statement to
3 Respondent, and the Discovery Provisions of the APA filed by the Department of Real Estate in
4 this proceeding.

5 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
6 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
7 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
8 acknowledge that they understand that by withdrawing said Notice of Defense they will thereby
9 waive their rights to require the Commissioner to prove the allegations in the Accusation at a
10 contested hearing held in accordance with the provisions of the APA, and that they will waive
11 other rights afforded to them in connection with the hearing such as the right to present evidence
12 in defense of the allegations in the Accusation and the right to cross-examine witnesses.
13

14 4. This stipulation is based on the factual allegations contained in the
15 Accusation. In the interest of expediency and economy, Respondents choose not to contest these
16 factual allegations, but to remain silent and understand that, as a result thereof, these factual
17 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
18 forth below. The Real Estate Commissioner shall not be required to provide further evidence to
19 prove such allegations.
20

21 5. This Stipulation and Respondents decision not to contest the Accusation
22 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly
23 limited to this proceeding and any other proceeding or case in which the Department of Real
24 Estate (herein "the Department"), the state or federal government, an agency of this state, or an
25 agency of another state is involved.
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1 6. It is understood by the parties that the Real Estate Commissioner may
2 adopt the Stipulation and Agreement as his decision in this matter thereby imposing the penalty
3 and sanctions on the real estate licenses and license rights of Respondents as set forth in the
4 below "Order". In the event that the Commissioner in his discretion does not adopt the
5 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the
6 right to a hearing and proceeding on the Accusations under all the provisions of the APA and
7 shall not be bound by any admission or waiver made herein.
8

9 7. The Order or any subsequent Order of the Real Estate Commissioner made
10 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any
11 further administrative or civil proceedings by the Department of Real Estate with respect to any
12 matters which were not specifically alleged to be causes for accusation in this proceeding.
13

14 8. In lieu of proceeding in this matter in accordance with the provisions of
15 the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions
16 Code), ATLANTIC BANCORP OF CALIFORNIA (hereinafter "ATLANTIC BANCORP"),
17 and ATLANTIC FINANCIAL MORTGAGE, INC. (hereinafter "AFM") wish to voluntarily
18 surrender their corporate real estate broker licenses issued by the Department of Real Estate
19 (hereinafter "Department"), pursuant to Business and Professions Code (hereinafter "the Code")
20 Section 10100.2. EDWIN DEVERA MENDAROS (hereinafter "MENDAROS") is the
21 designated broker-officer of ATLANTIC BANCORP and AFM, designated pursuant to Section
22 10211 of the Code, and is authorized to sign this declaration on behalf of ATLANTIC
23 BANCORP and AFM. MENDAROS is representing himself and is acting on behalf of
24 ATLANTIC BANCORP and AFM.
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1 9. MENDAROS understands that by so voluntarily surrendering
2 ATLANTIC BANCORP and AFM licenses, ATLANTIC BANCORP and AFM may be
3 relicensed as a broker corporation only by petitioning for reinstatement pursuant to Section
4 11522 of the Government Code. MENDAROS also understands that by so voluntarily
5 surrendering ATLANTIC BANCORP and AFM licenses, Respondents agree to the following:
6

7 A. The filing of this Stipulation and Agreement shall be deemed as
8 Respondents' ATLANTIC BANCORP and AFM declaration and petition for voluntary
9 surrender.

10 B. It shall also be deemed to be an understanding and agreement by
11 ATLANTIC BANCORP and AFM that they waive all rights ATLANTIC BANCORP and AFM
12 have to require the Commissioner to prove the allegations contained in the Accusation filed in
13 this matter at a hearing held in accordance with the provisions of the Administrative Procedure
14 Act (Government Code Sections 11400 et seq.), and that ATLANTIC BANCORP and AFM
15 also waives other rights afforded to ATLANTIC BANCORP and AFM in connection with the
16 hearing such as the right to discovery, the right to present evidence in defense of the allegations
17 in the Accusation and the right to cross-examine witnesses.
18

19 10. MENDAROS on behalf of ATLANTIC BANCORP and AFM further
20 agree that upon acceptance by the Commissioner, as evidenced by an appropriate order, all
21 affidavits and all relevant evidence obtained by the Department in this matter prior to the
22 Commissioner's acceptance, and all allegations contained in the Accusation filed in the
23 Department Case No. H-10550 SF, may be considered by the Department to be true and correct
24 for the purpose of deciding whether to grant relicensure or reinstatement pursuant to
25 Government Code Section 11522.
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11. MENDAROS on behalf of ATLANTIC BANCORP and AFM freely and voluntarily surrender all ATLANTIC BANCORP and AFM licenses and license rights under the Real Estate Law.

* * *

DETERMINATION OF ISSUES

By reason of the foregoing stipulations and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

I

The acts and omissions of Respondent ATLANTIC BANCORP and AFM as described in the First Cause of Action of the Accusation are grounds for the suspension or revocation of ATLANTIC BANCORP and AFM licenses and license rights under Section 2742(c) of the Commissioner's Regulations (Title 10 of the California Code of Regulations) (hereinafter "the Regulations") in conjunction with Section 10177(d) of the Code.

II

The acts and omissions of Respondent ATLANTIC BANCORP and MENDAROS as described in the Second Cause of Action of the Accusation are grounds for the suspension or revocation of ATLANTIC BANCORP and MENDAROS licenses and license rights under Section 10148 of the Code in conjunction with Section 10177(d) of the Code.

III

The acts and/or omissions of Respondent MENDAROS described in the Second Cause of Action of the Accusation, constitute failure on the part of MENDAROS, as designated broker-officer for ATLANTIC BANCORP, to exercise reasonable supervision and control over

1 the licensed activities of ATLANTIC BANCORP required by Section 10159.2 of the Code, and
2 is cause for the suspension or revocation of MENDAROS license and/or license rights under
3 Section 10177(h) of the Code.

4 IV

5 The acts and omissions of Respondent ATLANTIC BANCORP and
6 MENDAROS as described in the Third Cause of Action of the Accusation are grounds for the
7 suspension or revocation of ATLANTIC BANCORP and MENDAROS licenses and license
8 rights under Section 2740 of the Regulations in conjunction with Section 10177(d) of the Code.

9 * * *

10 ORDER

11 I

12 All licenses and licensing rights of MENDAROS under the Real Estate Law are
13 revoked; provided, however, a restricted real estate broker license shall be issued to Respondent
14 pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes
15 application therefore and pays to the Department of Real Estate the appropriate fee for the
16 restricted license within 90 days from the effective date of this Decision. The restricted license
17 issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business
18 and Professions Code and to the following limitations, conditions and restrictions imposed under
19 authority of Section 10156.6 of that Code:

- 20 1. The restricted license issued to Respondent may be suspended prior to
21 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
22 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
23 capacity as a real estate licensee.

1 2. The restricted license issued to Respondent may be suspended prior to
2 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
3 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
4 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
5 license.

6 3. Respondent shall not be eligible to apply for the issuance of an
7 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
8 of a restricted license until two (2) years have elapsed from the effective date of this Decision.

9 4. Respondent shall, within nine (9) months from the effective date of this
10 Order, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since
11 the most recent issuance of an original or renewal real estate license, taken and successfully
12 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
13 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the
14 Commissioner may order the suspension of the restricted license until Respondent presents such
15 evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the
16 Administrative Procedure Act to present such evidence.

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20 II

21 ATLANTIC BANCORP and AFM's petition for voluntary surrender of their
22 corporate real estate broker licenses is accepted as of the effective date of this Order as set forth
23 below, based upon the understanding and agreement expressed in Respondents' Declaration
24 incorporated herein as part of this Stipulation and Agreement. Respondents' license certificates,
25 pocket cards and any branch office license certificates shall be sent to the below listed address so
26 that they reach the Department on or before the effective date of this Order:
27

DEPARTMENT OF REAL ESTATE

Attn: Licensing Flag Section

P. O. Box 187000

Sacramento, CA 95818-7000

20-Jan-09

DATED

TRULY SUGHRUE

Counsel for Complainant

* * *

I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

ATLANTIC BANCORP OF CALIFORNIA

Respondent

JANUARY 15, 2009

DATED

By:

EDWIN DEVERA MENDAROS,

Designated Broker/Officer

ATLANTIC FINANCIAL MORTGAGE, INC.
Respondent

JANUARY 15, 2009

DATED

By:

EDWIN DEVERA MENDAROS,
Designated Broker/Officer

JANUARY 15, 2009

DATED

EDWIN DEVERA MENDAROS
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and
shall become effective at 12 o'clock noon on MAR 24 2009

IT IS SO ORDERED

2/11/

, 2009.

JEFF DAVI
Real estate Commissioner

FILED

NOV 14 2008

DEPARTMENT OF REAL ESTATE

By 

ANGELA L. CASH, Counsel (SBN 230882)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0805 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of	)	
	)	H-10550 SF
ATLANTIC BANCORP OF CALIFORNIA,	)	
ATLANTIC FINANCIAL MORTGAGE,	)	<u>ACCUSATION</u>
INC., a California Corporation, and	)	
EDWIN DEVERA MENDAROS,	)	
	)	
Respondents.	)	

The Complainant, E.J. HABERER, II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ATLANTIC BANCORP OF CALIFORNIA (hereinafter "Respondent ATLANTIC BANCORP"), ATLANTIC FINANCIAL MORTGAGE, INC., a California Corporation (hereinafter "Respondent AFM") and EDWIN DEVERA MENDAROS (hereinafter "Respondent MENDAROS"), is informed and alleges as follows:

PRELIMINARY ALLEGATIONS

I

The Complainant makes this Accusation against Respondents in his official capacity.

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1 II

2 Respondent MENDAROS is presently licensed and/or has license rights under the
3 Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the
4 Code") as a real estate broker.

5 III

6 At all times herein mentioned, Respondents ATLANTIC BANCORP and AFM
7 were and now are licensed by the Department of Real Estate of the State of California
8 (hereinafter "the Department") as corporate real estate brokers by and through Respondent
9 MENDAROS as designated officer-broker of Respondents ATLANTIC BANCORP and AFM
10 to qualify said corporations and to act for said corporations as a real estate broker.

11 IV

12 At all times herein mentioned, Respondent MENDAROS was and now is
13 licensed by the Department as a real estate broker, individually and as designated officer-broker
14 of Respondents ATLANTIC BANCORP and AFM. As said designated officer-broker,
15 Respondent MENDAROS is at all times mentioned herein responsible pursuant to Section
16 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
17 licensees and employees of Respondents ATLANTIC BANCORP and AFM for which a license
18 is required.

19 V

20 At all times herein mentioned, Respondents engaged in the business of, acted in
21 the capacity of, advertised, or assumed to act as a real estate broker within the State of
22 California within the meaning of Section 10131(a) of the Code, including the operation and
23 conduct of a real estate resale brokerage with the public wherein, on behalf of others, for
24 compensation or in expectation of compensation, Respondents sold or offered to sell, bought or
25 offered to buy, solicited prospective sellers or purchases of, solicited or obtained listings of,
26 and/or negotiated the purchase or sale of real property pursuant to Section 10131(a).

27 ///

1 FIRST CAUSE OF ACTION

2 VI

3 The allegations of Paragraphs I through V are incorporated herein by reference.

4 VII

5 Effective November 1, 2007 and continuing through the present, the corporate
6 powers, rights and privileges of Respondent ATLANTIC BANCORP were suspended by the
7 California Franchise Tax Board pursuant to the provisions of the California Revenue and
8 Taxation Code.

9 VIII

10 Effective October 1, 2001 and continuing through the present, the corporate
11 powers, rights and privileges of Respondent AFM were suspended by the California Franchise
12 Tax Board pursuant to the provisions of the California Revenue and Taxation Code.

13 IX

14 The facts alleged in Paragraphs VII and VIII, above, violate Section 2742(c) of
15 Chapter 6, Title 10, California Code of Regulations (hereinafter "the Regulations") and
16 constitute grounds for the suspension or revocation of the licenses and license rights of
17 Respondents ATLANTIC BANCORP and AFM under Section 10177(d) of the Code.

18 SECOND CAUSE OF ACTION

19 X

20 The allegations of Paragraphs I through IX are incorporated herein by reference.

21 XI

22 On or about June 13, 2008, a designated representative of the Real Estate
23 Commissioner made demand, pursuant to Section 10148 of the Code, that on or before July 2,
24 2008, Respondents ATLANTIC BANCORP and MENDAROS make available for examination,
25 inspection and copying by the Department, all of Respondent ATLANTIC BANCORP's books
26 and records pertaining to Respondent ATLANTIC BANCORP's real estate brokerage activities
27 from 2005 through 2007, including all 1099's, W-2's, payroll registers, checks, trust records and

1 any employment agreements executed or obtained by Respondent ATLANTIC BANCORP in
2 connection with the purchase of real property located at 628 Lomita Avenue, Millbrae, California
3 94030.

4 XII

5 In connection with the Department's request described in Paragraph XI, above,
6 Respondents ATLANTIC BANCORP and MENDAROS failed and refused to make said records
7 available for inspection and/or failed to retain said records in violation of Section 10148 of the
8 Code.

9 XIII

10 The acts and omissions of Respondents ATLANTIC BANCORP and
11 MENDAROS described in Paragraphs XI and XII, above, violate Section 10148 of the Code and
12 constitute cause for the suspension or revocation of the licenses and license rights of
13 Respondents ATLANTIC BANCORP and MENDAROS under Section 10177(d) of the Code.

14 XIV

15 The acts and omissions of Respondent MENDAROS, described above in
16 Paragraphs XI and XII, constitute failure on the part of Respondent MENDAROS, as designated
17 broker-officer of Respondent ATLANTIC BANCORP, to exercise reasonable supervision and
18 control over the licensed activities of Respondent ATLANTIC BANCORP as required by
19 Section 10159.2 and constitute cause for the suspension or revocation of the licenses and license
20 rights of Respondents ATLANTIC BANCORP and MENDAROS under Sections 10177(g)
21 and/or 10177(h) of the Code.

22 THIRD CAUSE OF ACTION

23 XV

24 The allegations of Paragraphs I through XIV are incorporated herein by
25 reference.

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27 ///

1 XVI

2 Prior to June 22, 2008, Respondent ATLANTIC BANCORP was licensed by the
3 Department by and through designated broker officer Respondent MENDAROS. Effective on
4 approximately June 22, 2008, MENDAROS' designated officer license for Respondent
5 ATLANTIC BANCORP expired. At no time subsequent to June 22, 2008, has Respondent
6 ATLANTIC BANCORP been duly licensed by the Department with any designated broker
7 officer of record.

8 XVII

9 Beginning in approximately June 22, 2008, at a time when Respondent
10 MENDAROS' designated officer license was expired, Respondent ATLANTIC BANCORP
11 engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate
12 broker in the State of California within the meaning of Section 10131(a) of the Code wherein
13 Respondent ATLANTIC BANCORP for or in expectation of compensation solicited
14 prospective sellers or purchases of, solicited or obtained listings of, and/or negotiated the
15 purchase or sale of real property pursuant to Section 10131(a).

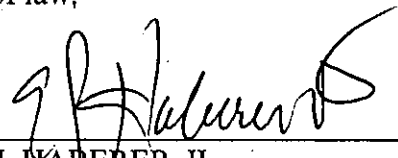
16 XVIII

17 In acting as described in Paragraphs XVI and XVII, above, while Respondent
18 ATLANTIC BANCORP was not in good legal standing with the office of the Secretary of State,
19 Respondent ATLANTIC BANCORP violated, and Respondent MENDAROS willfully caused,
20 suffered and permitted Respondent ATLANTIC BANCORP to violate Section 2740 of the
21 Regulations.

22 XIX

23 The acts and omissions of Respondents ATLANTIC BANCORP and
24 MENDAROS described in Paragraphs XVI and XVII, above, violate Section 2740 of the
25 Regulations and constitute cause for the suspension or revocation of the licenses and license
26 rights of Respondents ATLANTIC BANCORP and MENDAROS under Section 10177(d) of the
27 Code.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a Decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondents under the Code, and for such other
4 and further relief as may be proper under provisions of law,

5
6 
7 E.J. HABERER, II
8 Deputy Real Estate Commissioner

9 Dated at Oakland, California
10 this 27th day of October, 2008.
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