

January 7, 2012

RICHARD K. UNO, Counsel (SBN 98275)

Department of Real Estate

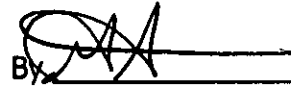
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DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
MAIN STREET TRUST REAL ESTATE)
INVESTMENT COMPANY, INC., and)
DELORES M. RODRIGUEZ-GAMBA,)
)
Respondents.)

NO. H-11295 SF

ACCUSATION

The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of the State of California, for Accusation against Respondent MAIN STREET TRUST REAL ESTATE INVESTMENT COMPANY, INC. (hereinafter "MSTRE"), Respondent DELORES M. RODRIGUEZ-GAMBA (hereinafter "RODRIGUEZ-GAMBA"), collectively (hereinafter "Respondents") are informed and alleges as follows:

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

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

5 3
6 RODRIGUEZ-GAMBA is presently licensed and/or has license rights under the
7 Code as a real estate broker.

8 4
9 At all times herein mentioned, RODRIGUEZ-GAMBA was licensed by the
10 Department of Real Estate (hereinafter "Department") as the designated broker/officer of
11 MSTRE. As the designated broker/officer, RODRIGUEZ-GAMBA was responsible, pursuant to
12 Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real
13 estate licensees and employees of MSTRE for which a real estate license is required to ensure the
14 compliance of the corporation with the Real Estate law and the Regulations.

15 5
16 At all times herein mentioned, Respondents engaged in the business of, acted in
17 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
18 within the meaning of Section 10131(d) of the Code, including the operation and conduct of a
19 loan brokerage business with the public wherein, on behalf of others, for compensation or in
20 expectation of compensation, and claimed, demanded, charged, received, collected or contracted
21 for an advance fee, Respondents solicited lenders and borrowers for loans secured directly or
22 collaterally by liens on real property, and wherein Respondents arranged negotiated, processed,
23 and consummated such loans and Section 10131(e) of the Code, including the operation and
24 conduct of a loan servicing business with the public wherein, on behalf of others, for
25 compensation or in expectation of compensation, sold or offered to sell, bought or offered to
26 buy, or exchanged or offered to exchange a real property sales contract, or a promissory note
27 secured directly or collaterally by a lien on real property or on a business opportunity, and
performed services for the holders thereof.

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

FIRST CAUSE OF ACTION

Complainant refers to Paragraphs 1 through 6, above, and incorporates the same, herein, by reference.

Beginning on July 16, 2010, and continuing intermittently through October 7, 2010, an audit was conducted of MSTRE's main office located at 19439 Riverside Drive, in Sonoma, California and at the Oakland District Office of the Department of Real Estate located at 1515 Clay Street, Suite 702, Oakland, California, where the auditor examined records for the period of July 1, 2007 through June 30, 2010 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, MSTRE accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lender, investors, borrowers and others in connection with the mortgage loan brokerage activities, deposited or caused to be deposited those funds into a bank account maintained by MSTRE as follows:

- a) Exchange Bank, P. O. Box 3788, Santa Rosa, California, Account No. XXXXXX4256, entitled "Main Street Tst Real Est Invesmt Co. Inc. Trust Account" (Trust Account #1), and thereafter from time to time made disbursements of said trust funds.

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1 (g) Failed to disclose its real estate license identification number on its
2 business card as required by Section 10140.6 of the Code.

3 11

4 The acts and/or omissions of MSTRE as alleged above violate Sections 2831.1
5 (Separate Beneficiary Records) and 2834 (Trust Fund Signatories) of the Regulations and of
6 Sections 10140.6 (Disclose License ID), 10145 (Trust Fund Handling), 10231.2 (Provide Lender
7 Purchaser Disclosure Statement) and 10238(e) (Disclose Ownership Interest in Property to be
8 used as Security) of the Code and are grounds for discipline under Section 10177(d) (Willful
9 Disregard/Violation of Real Estate Law) and 10177(g) (Negligence/Incompetence Real Estate
10 Licensee) of the Code.

11 SECOND CAUSE OF ACTION

12 12

13 Complainant refers to Paragraphs 1 through 11, above, and incorporates them
14 herein by reference.

15 13

16 At all times herein above mentioned, RODRIGUEZ-GAMBA was responsible,
17 as the designated broker officer of MSTRE, for the supervision and control of the activities
18 conducted on behalf of the corporation by its officers and employees to ensure its compliance
19 with the Real Estate Law and the Regulations. RODRIGUEZ-GAMBA failed to exercise
20 reasonable supervision and control over the property management brokering activities of
21 MSTRE. In particular, RODRIGUEZ-GAMBA permitted, ratified and/or caused the conduct
22 described in the First Cause of Action, above, to occur, and failed to take reasonable steps,
23 including but not limited to the handling of trust funds, supervision of employees, and the
24 implementation of policies, rules, procedures, and systems to ensure the compliance of the
25 corporation with the Real Estate Law and the Regulations.

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The above acts and/or omissions of RODRIGUEZ-GAMBA violate Section 2725 (Broker Supervision) of the Regulations and Section 10159.5 (Designated Officer Responsibility) of the Code and are grounds for disciplinary action under the provisions of Section 10177(d) and 10177(h) (Failure to Supervise) of the Code.

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


E. J. HABERER, II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 19th day of October, 2011.