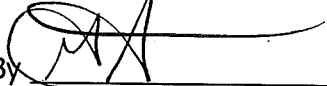


**FILED**

**February 16, 2012**

1 RICHARD K. UNO, COUNSEL (SBN 98275)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

By  \_\_\_\_\_

5 Telephone: (916) 227-0789  
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7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 CAL WEST HOME LOANS INC. and, )  
13 MICHAEL BRUNO, )  
14 Respondents. )

No. H-11331 SF  
ACCUSATION

15 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of  
16 the State of California for cause of Accusation against CAL WEST HOME LOANS, INC.  
17 (herein "CWHL"), and MICHAEL BRUNO (herein "BRUNO"), (collectively herein  
18 "Respondents") is informed and alleges as follows:

19 1

20 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of  
21 the State of California, makes this Accusation against Respondents in his official capacity.

22 2

23 Respondents CWHL and BRUNO are presently licensed and/or has license rights  
24 under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein  
25 "the Code").

26 ///

27 ///

1 3

2 At all times mentioned herein, CWHL was licensed by the Department as a  
3 corporate real estate broker. CWHL also obtained a Mortgage Loan Originator Endorsement  
4 (herein "MLO Endorsement") from the Department.

5 4

6 At all times mentioned herein, BRUNO was licensed by the Department as a real  
7 estate broker. BRUNO also obtained an MLO Endorsement from the Department.

8 5

9 At all times during the audit period, BRUNO was licensed by the Department as  
10 the designated broker/officer of CWHL. As the designated broker/officer, BRUNO was  
11 responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the  
12 officers, agents, real estate licensees and employees of CWHL for which a real estate license is  
13 required to ensure the compliance of the corporation with the Real Estate law and the  
14 Regulations.

15 6

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.

24 7

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

1 such act or omission while engaged in furtherance of the business or operations of CWHL and  
2 while acting within the course and scope of their corporate authority and employment.

3 FIRST CAUSE OF ACTION

4 8

5 Beginning on or about August 23, 2011, and intermittently through September 6,  
6 2011, the Department conducted an audit of CWHL's real estate business for the period of  
7 January 1, 2010, to June 30, 2011, as set forth in Audit No. OK 11-0001(MLB), dated  
8 November 17, 2011. During the course of the real estate activities described in Paragraph 6,  
9 above, CWHL received and disbursed funds held in trust on behalf of others.

10 9

11 CWHL maintained two (2) bank accounts at First Bank dba First Bank & Trust,  
12 24 East 4<sup>th</sup> Avenue, San Mateo, California 94401:

13 (1) Trust Account #1 was designated as "Cal West Home Loans, Inc. Trustee  
14 Account (Michael Bruno, Broker)", Account No. XXXXXX0724;

15 (2) Trust Account #1 was designated as "Cal West Home Loans, Inc. Investor's  
16 Turst Account, Michael Bruno, Broker", Account No. XXXXXX8664.

17 From time to time CWHL made disbursements from said funds.

18 10

19 The following facts were ascertained by the audit for the period referred to above

20 a. Trust Fund Accountability was established for Trust Account #1 and as of  
21 December 31, 2010 a shortage of \$3,924.71 was discovered and as of April 30,  
22 2011 a shortage of \$12,998.43 was discovered, in violation of Section 10145 of  
23 the Code;

24 b. Trust Fund Accountability was established for Trust Account #2 and as of  
25 December 31, 2010 a shortage of \$1,920.95 was discovered and as of April 30,  
26 2011 a shortage of \$1,920.95 was discovered, in violation of Section 10145 of the  
27 Code;

1 c. CWHL failed to obtain the written consent of every owner of trust funds in  
2 Trust Account #1 and Trust Account #2 to allow the balance of the trust account  
3 to fall to an amount less than the existing aggregate trust fund liability of the  
4 broker to all owners of the funds in violation of Section 2832.1 of the  
5 Regulations. After discovery, CWHL failed to notify owners of the trust funds of  
6 the trust account shortages;

7 d. CWHL failed to deposit installment payments from borrowers (listed below)  
8 into Trust Account #1 within three (3) days as required by Section 2832(a) of the  
9 Regulations and Section 10145 of the Code.

<u>DATE OF RECEIPT</u>	<u>BORROWER</u>	<u>AMOUNT</u>	<u>ACTUAL DEP DATE</u>
10 04/15/11	ANNA S.	\$671.88	05/03/11
11 04/15/12	SHERRY R.	\$415.63	05/03/11
12 04/15/11	GUILLELMO R.	\$280.08	05/03/11
13 04/15/11	BRUCE N.	\$1,875.00	05/03/11
14 04/15/11	OCTAVIA S.	\$427.08	05/03/11
15 04/15/11	JOHN R.	\$229.17	05/03/11
16 04/15/11	CHIKEZIE N.	\$394.17	05/03/11
17 04/15/11	HILDA P.	\$341.67	05/03/11
18 04/15/11	JEREMY S.	\$1,558.33	05/03/11
19 04/15/11	SHARON S.	\$208.33	05/03/11

20  
21 e. CWHL failed to maintain a record of all trust funds received and disbursed  
22 for Trust Account #1 as required by Section 2831 of the Regulations;

23 f. CWHL failed to maintain separate beneficiary records for Trust Account #1,  
24 as required by Section 2831.1 of the Regulations;

25 g. CWHL failed to perform the required monthly reconciliations comparing the  
26 balance of the control records to the total balance of the beneficiary records for  
27

1 Trust Account #1 and Trust Account #2, as required by Section 2831.2 of the  
2 Regulations;

3 h. CWHL failed to provide Lender Purchaser Disclosure Statements (herein  
4 "LPDS") to those lenders set forth below, before the date that a lender was  
5 obligated to fund a loan in violation of Section 10232.4 of the Code.

6 <u>LENDER</u>	<u>LOAN NO.</u>	<u>DATE FUNDING DUE</u>	<u>DATE LPDS SIGNED</u>
7 Edward B.	C-2139	04/09/10	04/15/10
8 Christina D.	C-2154	06/09/10	06/16/10
9 Brittney B.	C-2154	06/09/10	06/16/10
10 Michael C.	C-2154	06/09/10	12/28/10
11 John F.	C-2189	01/20/11	01/26/11
12 Bruce E.	C-2196	03/17/11	03/23/11

13 11

14 The acts and omissions of Respondent CWHL described in Paragraph 6, above,  
15 constitute violations of Sections 2831 (Control Records), 2831.1 (Separate Beneficiary Records),  
16 2831.2 (Monthly Reconciliations), 2832 (Trust Fund Designation), 2832(a) (Deposit Trust  
17 Funds) and 2832.1 (Written Consent Trust Fund Owners) of the Regulations and Sections 10145  
18 (Trust Fund Handling) and 10232.4 (LPDS Forms) of the Code and constitute grounds for  
19 disciplinary action under Sections 10177(d) (Willful Disregard/Violation of Real Estate Law) or,  
20 in the alternative, 10177(g) (Negligence/Incompetence Real Estate Licensee) of the Code.

21 SECOND CAUSE OF ACTION

22 12

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

25 13

26 At all times herein above mentioned, BRUNO was responsible, as the designated  
27 broker officer of CWHL, for the supervision and control of the activities conducted on behalf of

1 the corporation by its officers and employees. BRUNO failed to exercise reasonable supervision  
2 and control over the property mortgage loan brokering activities of CWHL. In particular,  
3 BRUNO permitted, ratified and/or caused the conduct described in the First Cause of Action,  
4 above, to occur, and failed to take reasonable steps, including but not limited to the handling of  
5 trust funds, supervision of employees, and the implementation of policies, rules, procedures, and  
6 systems to ensure the compliance of the corporation with the Real Estate Law and the  
7 Regulations.

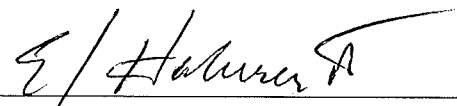
8 14

9 The above acts and/or omissions of BRUNO violate Section 10159.2 of the Code  
10 and Section 2725 of the Regulations and constitute grounds for disciplinary action under Section  
11 10177(h) of the Code.

12 15

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

17 WHEREFORE, Complainant prays that a hearing be conducted on the  
18 allegations of this Accusation and that upon proof thereof a decision be rendered imposing  
19 disciplinary action against all licenses and license rights of Respondent, under the Real Estate  
20 Law (Part 1 of Division 4 of the Business and Professions Code), for the reasonable cost of  
21 investigation and litigation of this case, including agency attorney's fees and for such other and  
22 further relief as may be proper under the provisions of law.

23   
24 \_\_\_\_\_  
25 E. J. HABERER, II  
26 Deputy Real Estate Commissioner

27 Dated at Oakland California,  
this 15 day of February, 2012.