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**FILED**

MAY 21 2014

**BUREAU OF REAL ESTATE**  
By L. Just

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of :	)	No. H-11702 SF
	)	
BROKER'S NETWORK, INC. and	)	<u>ACCUSATION</u>
MICHAEL MARK MENDOZA,	)	
	)	
Respondents.	)	

The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against BROKER'S NETWORK INC. ("BROKER'S"), (dba Broker's Mortgage), and MICHAEL MARK MENDOZA ("MENDOZA") (dba Broker's Mortgage; Broker's Network) (collectively referred to as "Respondents"), is informed and alleges as follows:

PRELIMINARY ALLEGATIONS

1

The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

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At all times mentioned herein, BROKER'S was and is licensed by the State of California Bureau of Real Estate ("Bureau") as a corporate real estate broker.

4

At all times mentioned herein, MENDOZA was and is licensed by the Bureau individually as a real estate broker. At all times mentioned herein, MENDOZA was the designated officer of BROKER'S.

5

MENDOZA also holds individual mortgage loan originator license endorsement number 343900 and control person mortgage loan originator license endorsement number 387205.

6

At all times herein mentioned, John Mendoza is and was licensed by the Bureau as a real estate salesperson. At no time mentioned herein was John Mendoza's license held under BROKER'S.

7

At no time mentioned was Maria Jackson licensed by the Bureau in any capacity.

8

At no time mentioned was Tical Trading, Inc. licensed by the Bureau in any capacity.

9

At all times relevant herein, Respondent performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or performed services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens

1 on real property; and charged, demanded or collected an advance fee for any of the services  
2 offered.

3 **FIRST CAUSE OF ACTION**  
4 **Unlawful Collection of Advance Fee**  
5 **(As to Respondents BROKER'S and MENDOZA)**

6 10

7 In connection with the activities described above in Paragraph 9, Respondents  
8 collected advance fees within the meaning of sections 10026 (advance fee definition) and  
9 10131.2 (broker definition – advance fees) of the Code in exchange for providing loan  
10 modification services in connection with, but not limited to, the following real properties:

<b>Name of Borrower</b>	<b>Property Address</b>	<b>Date Payment Made &amp; Amount</b>	<b>Date Loan Mod. Completed/Offered</b>
Maria L. and Carlos L.	1792 Claremont Dr. Los Banos, CA	8/4/2011 - \$550.00 8/31/2011 - \$550.00 9/14/2011 - \$550.00 10/14/2011 - \$500.00	No Loan Mod. Offered
David S.	791 Lakebird Dr. Sunnyvale, CA	10/17/2011 - \$925.00 11/4/2011 - \$925.00	Loan Mod Successful on 5/8/2012
Gloria C.	164 Sierra Vista Pl.	6/12/2010 - \$1,650.00 7/12/2010 - \$500.00 8/12/2010 - \$500.00 9-12-2010 - \$500.00	Loan Mod. Successful on 10/26/2010

11 11

12 The acts or omissions of Respondents, as alleged above in Paragraphs 9 and 10,  
13 violate sections 10085.5 (advance fees collection) and 10085.6 (collection of advance fees prior  
14 to performance of services) of the Code and section 2944.7 (loan modification services –  
15 prohibition of advance fees) of the California Civil Code.

16 12

17 The acts and/or omissions of Respondents as alleged above in Paragraphs 10 and  
18 11, are grounds for discipline under section 10177(q) (failure to comply with Civil Code related  
19 to mortgages) of the Code.

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SECOND CAUSE OF ACTION  
Audit Violations  
(As to Respondent BROKER'S)

13

Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated by this reference as if fully set forth herein.

14

Beginning on or about May 22, 2012, and continuing intermittently through June 19, 2012, an audit was conducted of BROKER'S records. The auditor herein examined the records for the period June 1, 2009, through April 30, 2012.

15

While acting as a real estate licensee as described in Paragraph 8, BROKER'S accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, note purchasers, borrowers and others in connection with the servicing, solicitation, negotiation, processing and consummation of mortgage loan investments by BROKER'S.

16

The aforesaid trust funds accepted or received by BROKER'S were deposited or caused to be deposited by BROKER'S into one or more bank accounts (hereinafter "trust funds accounts") maintained by BROKER'S for the handling of trust funds, including but not limited to the following:

<b>BANK ACCOUNT # 1</b>	
Bank Name and Location:	Bank of America 1510 The Alameda San Jose, CA 95126
Account No.:	XXXXX-X7336
Entitled:	Brokers Network Inc.
Signatories:	Michael Mendoza, D.O. (REB), John Mendoza (RES) and Jose A. Palma (unlicensed)
No. of Signatures Required:	Unknown

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<b>BANK ACCOUNT # 2</b>	
Bank Name and Location:	Bank of America 1510 The Alameda San Jose, CA 95126
Account No.:	XXXXXX-X7393
Entitled:	Brokers Network Inc.
Signatories:	Michael Mendoza, D.O. (REB), John Mendoza (RES) and Jose A. Palma (unlicensed)
No. of Signatures Required:	Unknown

17

In the course of the activities described in Paragraph 8, Respondents:

(a) failed to maintain or keep an accurate record in chronological sequence of all trust funds received and disbursed (control record) for Bank Account #2 containing all the information required by Title 10, Section 2831 of the California Code of Regulations (“the Regulations”), in violation of Section 10145 of the Code;

(b) failed to deposit advance fees collected from borrowers into a trust account, in violation of Section 10146 of the Code;

(c) failed to properly designate Bank Accounts #1 and #2 as trust accounts in the name of BROKER’S or its fictitious business name, as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

(d) failed to maintain separate records for each beneficiary in Bank Account #2, in violation of Section 2831 of the Regulations;

(e) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records with the balance of the control records for Bank Account #2, in violation Section 10145 of the Code and Section 2831.2 of the Regulations;

(f) failed to furnish a verified accounting with respect to advance fees to the principals at the end of each calendar quarter and when the contract was completely performed by Respondent, in violation of Section 10145 of the Code and Section 2972 of the Regulations;

(g) allowed John Mendoza, a real estate salesperson who is not licensed to BROKER’S and Jose A. Palma, an unlicensed person, to serve as authorized signors on Bank

1 Account #1 and Bank Account #2 without providing for fidelity bond coverage, in violation of  
2 Section 10145 of the Code, and Section 2834 of the Regulations;

3 (h) commingled the money of others, specifically, the client money described  
4 above in Paragraph 5, with BROKER'S own money in that BROKER'S deposited advance fees  
5 and real estate commissions into its Bank Account #2, and also disbursements of business  
6 expenses and payment of commissions from Bank Account #2, to Maria Jackson and Tacil  
7 Trading, Inc., in violation of Section 10176(e) and/or (i) of the Code;

8 (i) employed and compensated Maria Jackson, an unlicensed person, and Tacil  
9 Trading, Inc., an unlicensed entity with unlicensed employees, to perform loan modification  
10 activities which require a real estate license, in violation of Sections 10130 and 10137 of the  
11 Code;

12 (j) used cancelled fictitious business name "Broker's Mortgage" in conducting  
13 loan modification services and used the fictitious business name "Realty World – Broker's  
14 Network" in conducting real estate transactions after it had become a cancelled dba, both in  
15 violation of Section 10159.5 of the Code, and Section 2731 of the Regulations;

16 (k) failed to provide to borrowers on at least four closed loan transactions a  
17 Mortgage Loan Disclosure Statement (MLDS) or a Good Faith Estimate (GFE), in violation of  
18 Section 10240(c) of the Code;

19 (l) failed to file Mortgage Call Reports with the National Mortgage Loan  
20 System and Registry (NMLS&R) for the third and fourth quarters of 2011 and first quarter of  
21 2012, in violation of Section 10166.08 of the Code;

22 (m) failed to ensure that licensee MENDOZA disclosed his license identification  
23 number and unique NMLS&R identification number on a closed purchase contract, in violation  
24 of Section 10140.6(b) of the Code and Section 2773 of the Regulations;

25 (n) failed to maintain possession of the real estate salesperson licenses for  
26 Francisco M. Castro, Hector C. Cisneros, Ronald Merino, Lucila Montoya, Paul B. Thottungal,

27 ///

1 and Enrique Vasquez, in violation of Section 10160 of the Code and Section 2753 of the  
2 Regulations; and

3 (o) continued to engage in real estate related activities while the corporation  
4 was not in good standing with the California Office of the Secretary of State, in violation of  
5 Section 2742 of the Regulations.

6 18

7 The acts and/or omissions of BROKER'S, as alleged above in Paragraph 17,  
8 constitute grounds for the suspension or revocation of all licenses and license rights of  
9 BROKER'S pursuant to the following provisions of the Code and Regulations:

10 As to Paragraph 17(a), under Section 10177(d) and/or 10177(g) of the Code, in  
11 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

12 As to Paragraph 17(b), under Section 10177(d) and/or 10177(g) of the Code, in  
13 conjunction with Section 10145 of the Code;

14 As to Paragraph 17(c), under Section 10177(d) and/or 10177(g) of the Code, in  
15 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

16 As to Paragraph 17(d), under Section 10177(d) and/or 10177(g) of the Code, in  
17 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

18 As to Paragraph 17(e), under Section 10177(d) and/or 10177(g) of the Code, in  
19 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

20 As to Paragraph 17(f), under Section 10177(d) and/or 10177(g) of the Code, in  
21 conjunction with Section 10145 of the Code and Section 2972 of the Regulations;

22 As to Paragraph 17(g), under Section 10177(d) and/or 10177(g) of the Code, in  
23 conjunction with Section 10145 of the Code and Section 2834 of the Regulations;

24 As to Paragraph 17(h), under Section 10177(d) and/or 10177(g) of the Code, in  
25 conjunction with Section 10176(e) and/or 10176(i) of the Code;

26 As to Paragraph 17(i), under Section 10177(d) and/or 10177(g) of the Code, in  
27 conjunction with Section 10130 and 10137 of the Code;

1 As to Paragraph 17(j), under Section 10177(d) and/or 10177(g) of the Code, in  
2 conjunction with Section 10159.5 of the Code and Section 2731 of the Regulations;

3 As to Paragraph 17(k), under Section 10177(d) and/or 10177(g) of the Code, in  
4 conjunction with Section 10240(c) of the Code;

5 As to Paragraph 17(l), under Section 10177(d) and/or 10177(g) of the Code, in  
6 conjunction with Section 10166.08 of the Code;

7 As to Paragraph 17(m), under Section 10177(d) and/or 10177(g) of the Code, in  
8 conjunction with Section 10140.6(b) of the Code and Section 2773 of the Regulations;

9 As to Paragraph 17(n), under Section 10177(d) and/or 10177(g) of the Code, in  
10 conjunction with Section 10160 of the Code and Section 2753 of the Regulations;

11 As to Paragraph 17(o), under Section 10177(d) and/or 10177(g) of the Code, in  
12 conjunction with Section 2742 of the Regulations.

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14 The acts and/or omissions of BROKER'S as alleged above in Paragraph 18  
15 entitle the Bureau to reimbursement of the costs of its audit pursuant to section 10148 of the  
16 Code.

17 THIRD CAUSE OF ACTION  
18 Failure to Supervise  
(As to Respondent MENDOZA)

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20 Each and every allegation in Paragraphs 1 through 19, inclusive, is incorporated  
21 by this reference as if fully set forth herein.

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23 MENDOZA, as the designated broker officer of BROKER'S, was required to  
24 exercise reasonable supervision and control over the activities of BROKER'S. MENDOZA  
25 failed to exercise reasonable supervision over the acts and/or omissions of BROKER'S in such a  
26 manner as to allow the acts and/or omissions as described in Paragraphs 9 through 18, above, to  
27 occur, all in violation of section 10159.2 of the Code and section 2725 of the Regulations.



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The facts described above as to the Third Cause of Action constitutes cause for the discipline of all licenses and license rights of MENDOZA under section 10177(g) of the Code and/or section 10177(h) of the Code in conjunction with section 10177(d) of the Code.

COST RECOVERY

23

The acts and/or omissions of BROKER'S and MENDOZA, as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

24

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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 Code, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under the provisions of law.



ROBIN S. TANNER  
Deputy Real Estate Commissioner

Dated at Oakland, California,  
this 16<sup>th</sup> day of May, 2014

DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Bureau of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.

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