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DEPARTMENT OF REAL ESTATE

JAN 11 1991

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

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BY *Jana S. Chow*

In the Matter of the Accusation of)
MARK McCLELLAN HATHAWAY,)
Respondent.)

No. H- 23186 LA

DECISION

The Proposed Decision dated December 14, 1990 of Randolph Brendia, Regional Manager, Department of Real Estate, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on January 31, 1991.

IT IS SO ORDERED January 7, 1991.

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-23186 LA
MARK MC CLELLAN HATHAWAY,)
et al.,)
Respondents.)

PROPOSED DECISION

This matter was presided over by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California, on December 14, 1990.

Robert E. Baker, Counsel, represented the Complainant.

Respondent MARK MC CLELLAN HATHAWAY was not present but signed a Waiver of Appearance.

The matters involving the Accusation of Interstate Mortgage Company, Inc., and Gary R. Rodriguez were previously severed for hearing and decisions rendered.

The matter of the Accusation of MARK MC CLELLAN HATHAWAY was submitted upon the written Stipulation of the parties and, pursuant thereto, the following Decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

1.

The complainant, Robert D. Gilmore, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

2.

Respondent MARK MC CLELLAN HATHAWAY (hereinafter Respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter the Code).

3.

At all times herein mentioned, Respondent was licensed by the Department as a real estate broker, both individually and as the designated officer of Interstate Mortgage Company, Inc.

4.

At some time prior to January 1, 1990, Respondent changed his current residence address to 2930 Francis Avenue, #303, Los Angeles, California, without notifying the Real Estate Commissioner of said change in a timely manner.

DETERMINATION OF ISSUES

The acts and omissions of HATHAWAY, as described in Findings of Fact 4 are in violation of Section 2715 of Title 10, Chapter 6, California Code of Regulations and are cause to suspend his licenses and license rights under Section 10177(d) of the Code.

ORDER

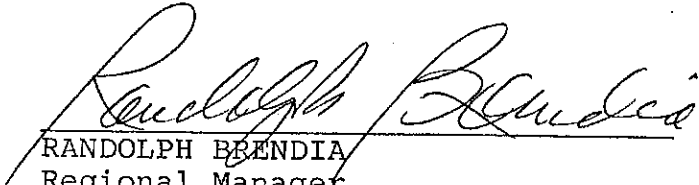
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Pursuant to Stipulation, all allegations made against Respondent MARK McCLELLAN HATHAWAY, except those set forth in complainant's Fourth Amendment to Accusation filed June 14, 1990, are dismissed.

II

The licenses and license rights of MARK McCLELLAN HATHAWAY under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby suspended for a period of thirty (30) days.

DATED: 14 Dec. 1990.


RANDOLPH BENDIA
Regional Manager
Department of Real Estate

Handwritten initials/signature

1 ROBERT E. BAKER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5
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9
10 (213) 620-4790

JUN 14 1990

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

11	In the Matter of the Accusation of)	No. H-23186 LA
12	MARK MC CLELLAN HATHAWAY, et al.,)	<u>FOURTH AMENDMENT</u>
13	Respondent.)	<u>TO ACCUSATION</u>
14)	

15 The Accusation and Amendments to Accusation heretofore
16 filed on December 8, 1987, December 29, 1987, February 19, 1988
17 and April 21, 1989, are hereby amended as follows:

18 30.

19 Complainant incorporates Paragraphs 1 through 29 but
20 deletes and strikes any and all charges as they relate to HATHAWAY
21 being involved in the LaGrande loan described in Paragraph 4.

22 31.

23 On or before December 23, 1989, HATHAWAY changed his
24 residence address from 3198 W. 7th Street #606, Los Angeles to
25 an address or addresses known only to HATHAWAY including, but not
26 limited to, 2930 Francis Avenue, #303, Los Angeles. At no time
27 to date has HATHAWAY maintained on file with the Real Estate

1 Commissioner his current residence address.

2

32.

3

4 The omissions of HATHAWAY, as set forth in Paragraph
5 31, are in violation of Section 2715 of the Regulations, and are
6 cause to suspend or revoke his license under Section 10177(d) of
7 the Code.

8 Dated at Los Angeles, California

9 this 14th day of June, 1990.

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cc: Mark McClellan Hathaway

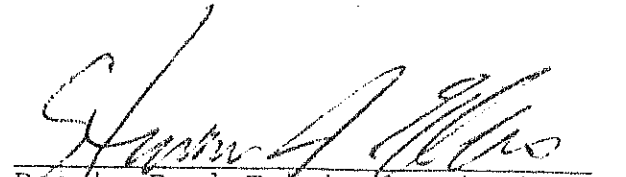
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Sacto.

OAH

GS

27


Deputy Real Estate Commissioner

SAMP. CLASS

1 ROBERT E. BAKER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5
6
7
8 (213) 620-4790

APR 21 1989
DEPARTMENT OF REAL ESTATE
BY *[Signature]*

9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * *

12 In the Matter of the Accusation of) No. H-23186 LA
13)
14 INTERSTATE MORTGAGE COMPANY,)
15 INC., a California corporation;) THIRD AMENDMENT
16 MARK McCLELLAN HATHAWAY,) TO ACCUSATION
17 individually and as designated)
18 officer of Interstate Mortgage)
19 Company, Inc.; and GARY R.)
20 RODRIGUEZ,)
21 Respondents.)

22 The Accusation and Amendments to Accusation heretofore
23 filed on December 8, 1987; December 29, 1987; and February 19,
24 1988, are hereby amended as follows:

25 29.

26 The conduct of HATHAWAY, as described in Paragraphs 4,
27 8, 9, 15 and 20, in employing RODRIGUEZ and Rockwell when they were
not licensed to conduct acts requiring a real estate license, is

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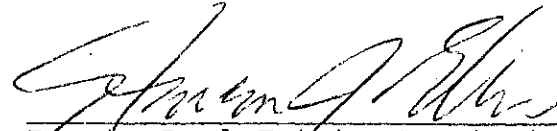
1 cause to suspend the license and license rights of HATHAWAY under
2 Section 10137 of the Code.

3 Dated at Los Angeles, California

4 this 21st day of April, 1989.

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Deputy Real Estate Commissioner

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25 cc: Mark McClellan Hathaway

Gary R. Rodriguez

26 Jack Alex, Esq.

Sacto.

27 OAH

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SACD.
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FEB 19 1988

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

1 ROBERT E. BAKER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FORMERLY:

In the Matter of the Accusation of)	No. H-23186 LA
GARY R. RODRIGUEZ,)	<u>SECOND AMENDMENT</u>
Respondent.)	<u>TO ACCUSATION</u>

AMENDED TO:

In the Matter of the Accusation of)
 INTERSTATE MORTGAGE COMPANY,)
 INC., a California corporation;)
 MARK McCLELLAN HATHAWAY,)
 individually and as designated)
 officer of Interstate Mortgage)
 Company, Inc.; and GARY R.)
 RODRIGUEZ,)
 Respondents.)

24 The Accusation and Amendment to Accusation heretofore
25 filed on December 8, 1987, and December 29, 1987, in the
26 above-mentioned matter are hereby amended as follows:

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11.

The allegations set forth in Paragraphs 1 through 10 of the Accusation and Amendment filed December 8, 1987, and December 29, 1987, are incorporated by reference.

12.

INTERSTATE MORTGAGE COMPANY, INC. (hereinafter INTERSTATE), and MARK McCLELLAN HATHAWAY (hereinafter HATHAWAY) are presently licensed and/or have license rights under the Code.

13.

At all times herein mentioned, INTERSTATE was licensed by the Department of Real Estate of the State of California (hereinafter Department) as a corporate real estate broker by and through HATHAWAY as designated officer.

14.

At all times herein mentioned, HATHAWAY was licensed by the Department as a real estate broker, both individually and as the designated officer of INTERSTATE, to qualify said corporation and to act for said corporation as a real estate broker and, under Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of INTERSTATE by its officers and employees as necessary to secure full compliance with the provisions of the Code and of the Regulations of the Real Estate Commissioner.

15.

At no time herein mentioned was Brian (aka Bryan) Rockwell (hereinafter Rockwell) licensed as a real estate broker

1 or a real estate salesperson. However, during a period of time in
2 1985, Rockwell was employed by INTERSTATE and HATHAWAY to solicit
3 for, and negotiate, loans secured by liens on real property and
4 was paid by INTERSTATE and HATHAWAY for said services.

5 16.

6 At all times herein mentioned, INTERSTATE, RODRIGUEZ,
7 HATHAWAY and Rockwell were acting as the agent or employee of the
8 other and acting within the course and scope of such agency and
9 employment.

10 17.

11 At all times herein mentioned, INTERSTATE, HATHAWAY,
12 RODRIGUEZ and Rockwell engaged in the business of, acted in the
13 capacity of, advertised and assumed to act as real estate agents
14 as defined in Sections 10131(d) and 10132 of the Code, including
15 the operation and conduct of a mortgage loan brokerage business
16 with the public, wherein borrowers and lenders were solicited by
17 INTERSTATE, HATHAWAY, RODRIGUEZ and Rockwell for loans secured by
18 liens on real property and thereafter said loans were arranged,
19 negotiated, processed and consummated on behalf of others for or
20 in expectation of compensation.

21 18.

22 On or about June 18, 1986, in accordance with Section
23 1905(b) of the Corporations Code of the State of California, a
24 certificate of dissolution was filed by INTERSTATE with the State
25 of California, Office of the Secretary of State.

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19.

During a period of time from the summer of 1984 to February of 1985, while INTERSTATE, RODRIGUEZ and Rockwell continued to conduct activities requiring a real estate license, HATHAWAY was a student residing outside the continental United States.

20.

In or about April of 1985, Mary Lazar Hall (hereinafter Hall) represented Jerry and Sharon Teafatiller (hereinafter Teafatillers) in their purchase of real property commonly known as 1842 East Pioneer Drive, West Covina, California. After the Teafatillers' offer to purchase said property for \$95,000.00 was accepted by the sellers, Hall referred the Teafatillers to INTERSTATE and Rockwell to make an application for a \$70,000.00 loan to purchase the property. During the transaction which followed, Rockwell and INTERSTATE prepared or caused to be prepared false tax returns in order to qualify the Teafatillers for their loan. Rockwell and INTERSTATE also knowingly inserted false information on the Teafatillers' loan application, which was forwarded by INTERSTATE, HATHAWAY and Rockwell to the proposed lender, CFM.

21.

At or about the time Rockwell, acting as the agent of INTERSTATE and HATHAWAY, filled out the Teafatillers' loan application, the Teafatillers delivered to Rockwell their joint Federal Tax Returns for the years of 1983 and 1984 prepared by Kenneth L. Gratz in 1983 and Berkley & Associates in 1984. These

1 returns showed an adjusted gross income of \$13,230.00 in 1983 and
2 \$23,452.00 in 1984. Thereafter, Rockwell and INTERSTATE, knowing
3 the true income of the Teafatillers, prepared, or caused to be
4 prepared, false tax returns for the Teafatillers showing gross
5 incomes of \$53,450.00 in 1983 and \$63,452.00 in 1984 naming Vic
6 Alagozian as the alleged preparer. In addition, Rockwell
7 represented on the Teafatillers' loan application that Jerry
8 Teafatiller was making \$2,116.00 per month as the vice president
9 of McKenzie Enterprises, which was not true.

10 22.

11 After preparing, or causing to be prepared, the false
12 tax returns for the Teafatillers and the falsified loan
13 application, Rockwell, INTERSTATE and HATHAWAY submitted said
14 false documents to CFM in order to induce CFM to fund a \$70,000.00
15 loan to the Teafatillers.

16 23.

17 On or about April 9, 1985, CFM, relying on the bogus
18 information referred to above, in Paragraphs 20 through 22,
19 prepared by Rockwell and INTERSTATE, funded the requested loan to
20 the Teafatillers. CFM would not have funded the loan to the
21 Teafatillers had it known the tax returns in the loan file
22 submitted to it by INTERSTATE, HATHAWAY and Rockwell were bogus.
23 Within the last year, CFM first learned of the false information
24 submitted to it by INTERSTATE, HATHAWAY and Rockwell.

25 24.

26 CFM also learned, within the last year, of the false
27 information and documents submitted to it by INTERSTATE, HATHAWAY

1 and RODRIGUEZ.

2 25.

3 During his tenure as the designated broker-officer of
4 INTERSTATE, HATHAWAY established no procedure to check on the
5 accuracy or veracity of the loan documents prepared by INTERSTATE
6 and its agents and submitted to various prospective lenders. In
7 addition, HATHAWAY failed to review or initial any of the
8 documents prepared by Rockwell or RODRIGUEZ in the Teafatiller or
9 La Grande loans submitted to CFM.

10 26.

11 Due to the fact that INTERSTATE can no longer meet the
12 qualifications of Section 2742 of Title 10, Chapter 6, California
13 Administrative Code, due to its corporate dissolution as described
14 in Paragraph 18, there is cause to suspend or revoke the license
15 and license rights of INTERSTATE under Section 10177(f) of the
16 Code.

17 27.

18 The acts and omissions of INTERSTATE and HATHAWAY, as
19 described in Paragraphs 20 through 22, constitute making
20 misrepresentations of material facts and fraud and/or dishonest
21 dealing and are bases to suspend the licenses and license rights
22 of INTERSTATE and HATHAWAY under Sections 10176(a) and 10176(i) of
23 the Code.

24 28.

25 The conduct of HATHAWAY, as described in Paragraphs 4
26 through 7, 15 and 19 through 25, constitutes a failure to

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1 supervise the activities of INTERSTATE and also violates Section
2 2725 of Title 10, Chapter 6, California Administrative Code, and
3 is cause to suspend or revoke the licenses and license rights of
4 HATHAWAY under Section 10177(h) of the Code.

5
6 WHEREFORE, complainant prays that a hearing be conducted
7 on the allegations of this Accusation as amended and, that upon
8 proof thereof, a decision be rendered imposing disciplinary action
9 against the licenses and license rights of Respondents INTERSTATE
10 MORTGAGE COMPANY, INC., a California corporation; MARK McCLELLAN
11 HATHAWAY, individually and as designated officer of Interstate
12 Mortgage Company Inc.; and GARY R. RODRIGUEZ under the Real Estate
13 Law (Part 1 of Division 4 of the Business and Professions Code)
14 and for such other and further relief as may be proper under other
15 applicable provisions of law.

16 Dated at Los Angeles, California
17 this 19th day of February, 1988.

18
19 
20 Deputy Real Estate Commissioner

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25 cc: Interstate Mortgage Company, Inc.
26 Mark McClellan Hathaway
27 Gary R. Rodriguez
Sacto.
GS

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DEPARTMENT OF REAL ESTATE
BY *[Signature]*

1 ROBERT E. BAKER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
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7
8 (213) 620-4790

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

11	In the Matter of the Accusation of)	No. H-23186 LA
12	GARY R. RODRIGUEZ,)	<u>AMENDMENT TO</u>
13	Respondent.)	<u>ACCUSATION</u>
14)	

15 The Accusation filed on December 8, 1987, in the
16 above-mentioned matter is hereby amended as follows:

17 9.

18 The allegations set forth in Paragraphs 1, 2, 4, 5, 6 and
19 7 of the Accusation filed December 8, 1987, are incorporated by
20 reference and Paragraphs 3 and 8 are hereby amended to read, in
21 toto, as follows:

22 3.

23 At no time herein mentioned in 1984 was Respondent
24 licensed by the Department of Real Estate of the State of
25 California as a real estate broker or as a real estate salesperson.
26 Nevertheless, during 1984, Respondent was employed as a loan
27 representative by Interstate Mortgage Company Inc. (hereinafter

1 Interstate). Respondent has been licensed as a real estate
2 salesperson in the employ of Interstate Mortgage Direct Funding,
3 Inc., since July 17, 1987.

4 8.

5 The acts of Respondent, as described in Paragraphs 4
6 through 6, are acts requiring a real estate license under Section
7 10131(d) of the Code. Respondent's conduct in engaging in said
8 acts without being employed as a real estate licensee is a
9 violation of Section 10130 of the Code and is cause to suspend or
10 revoke his license and license rights under Sections 10177(d) or
11 10177(f) of the Code.

12 10.

13 In addition, the acts and omissions of Respondent, as
14 described in Paragraphs 4 through 7, constitute fraud,
15 misrepresentation and dishonest dealing and would have been a
16 valid reason to deny his present license under Section 480(a)(3)
17 of the Code and is also cause to suspend or revoke his license
18 and license rights under Sections 10177(f) and 10177(j) of the
19 Code.

20 Dated at Los Angeles, California
21 this 29th day of December, 1987.

22
23 
24 Deputy Real Estate Commissioner

25 cc: Gary R. Rodriguez
26 Interstate Mortgage Direct Funding Inc.
27 Sacto.
GS

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DEC-8 1987

DEPARTMENT OF REAL ESTATE

BY *[Signature]*

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ROBERT E. BAKER, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 620-4790

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-23186 LA
GARY R. RODRIGUEZ,)	<u>A C C U S A T I O N</u>
Respondent.)	

The complainant, Robert D. Gilmore, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against GARY R. RODRIGUEZ (hereinafter Respondent) alleges as follows:

1.

The complainant, Robert D. Gilmore, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

2.

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

1 3.

2 At all times herein mentioned, in 1984, Respondent was
3 licensed by the Department of Real Estate of the State of
4 California as a real estate salesperson and/or employed as such by
5 Interstate Mortgage Company Inc. (hereinafter Interstate).
6 Respondent is presently employed by Interstate Mtg. Direct Funding
7 Inc.

8 4.

9 In or about November, 1984, Carmin Tercero of Red Carpet
10 Realty (hereinafter Tercero) represented Dana La Grande
11 (hereinafter La Grande) in her purchase of real property commonly
12 known as 1418 Mardina Street, West Covina, California. On or
13 about December 1, 1984, Tercero referred La Grande to Respondent
14 to make an application for a \$62,400.00 loan to purchase the
15 property. During the transaction which followed, Respondent
16 prepared or caused to be prepared false tax returns in order to
17 qualify La Grande for the loan. Respondent also knowingly
18 inserted false information on La Grande's loan application, which
19 was forwarded by Respondent and Interstate to the proposed lender,
20 CentralFed Mortgage (hereinafter CFM).

21 5.

22 On or about the time Respondent filled out La Grande's
23 loan application, La Grande delivered to Respondent the joint
24 Federal Income Tax Returns of La Grande and her husband for 1982
25 and 1983 showing gross incomes of \$23,945.00 for 1982 and gross
26 incomes of \$42,686.00 for 1983. Thereafter, Respondent prepared,
27 or caused to be prepared, false tax returns for La Grande and her

1 husband showing gross incomes of \$35,411.00 for 1982 and gross
2 incomes of \$39,500.00 for 1983. On the loan application prepared
3 for La Grande, Respondent represented that La Grande was renting
4 her home on 1233 East Puente, West Covina; whereas, in truth and
5 in fact, Respondent knew that La Grande (1) owned her home on East
6 Puente where she intended to remain, and (2) was purchasing the
7 residence on Mardina Street as a "fixer-upper" which she would
8 never occupy.

9 6.

10 After preparing, or causing to be prepared, the false
11 tax returns for La Grande and the loan application with the false
12 information regarding La Grande's ownership of her home on East
13 Puente, Respondent and Interstate submitted said false returns and
14 the loan application with the false information to CFM in order
15 to induce CFM to fund a \$62,400.00 loan to La Grande.

16 7.

17 On or about December 12, 1984, CFM, relying on the bogus
18 information referred to above, in Paragraphs 5 and 6, prepared by
19 Respondent, funded the requested loan to La Grande. CFM would not
20 have funded the loan to La Grande had it known the tax returns in
21 the loan file submitted to it by Respondent and Interstate were
22 bogus and had it known La Grande would not be residing in the home
23 on Mardina Street.

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8.

The acts and omissions of Respondent, as described in Paragraphs 4 through 7, constitute making material misrepresentations of material facts and fraud and/or dishonest dealing and are bases to suspend the license and license rights of Respondent under Sections 10176(a) and 10176(i) 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 the license and license rights of Respondent GARY R. RODRIGUEZ 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 applicable provisions of law.

Dated at Los Angeles, California

this 8th day of December, 1987.


Deputy Real Estate Commissioner

cc: Gary R. Rodriguez
Interstate Mtg. Direct Funding Inc.
Sacto.
GS