

San Diego

FILED
NOV 10 2005
DEPARTMENT OF REAL ESTATE

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
3 320 W. 4TH Street, Suite 350
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982 (Office)
6 -or- (213) 576-6911 (Direct)

By *R. W. Hinderholt*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-31435 LA
)	L-2004100402
12 <u>EQUIMAX MORTGAGE & LOAN, a</u>)	
13 <u>corporation; and HOOSHANG NAMVAR,</u>)	<u>STIPULATION</u>
14 <u>individually and as designated</u>)	<u>AND</u>
15 <u>officer of Equimax Mortgage &</u>)	<u>AGREEMENT</u>
16 <u>Loan; and RODNEY M. ERMANI,</u>)	
17 <u>Respondents.</u>)	

18 It is hereby stipulated by and between Respondents
19 EQUIMAX MORTGAGE & LOAN, a corporate real estate broker, and
20 HOOSHANG NAMVAR, individually and as designated officer of
21 Equimax Mortgage & Loan (sometimes collectively referred to as
22 "Respondents"), represented by Frank M. Buda, Esq. and the
23 Complainant, acting by and through Elliott Mac Lennan, Counsel
24 for the Department of Real Estate, as follows for the purpose of
25 settling and disposing of the Accusation ("Accusation") filed on
26 November 1, 2004, in this matter:
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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act ("APA"), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement ("Stipulation").

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
24

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of
27

1 expedience and economy, Respondents choose not to contest these
2 allegations, but to remain silent and understand that, as a
3 result thereof, these factual allegations, without being admitted
4 or denied, will serve as a prima facie basis for the disciplinary
5 action stipulated to herein. The Real Estate Commissioner shall
6 not be required to provide further evidence to prove said factual
7 allegations.

8 5. This Stipulation and Respondents' decision not to
9 contest the Accusation is made for the purpose of reaching an
10 agreed disposition of this proceeding and is expressly limited to
11 this proceeding and any other proceeding or case in which the
12 Department of Real Estate ("Department"), the state or federal
13 government, or any agency of this state, another state or federal
14 government is involved.

15 6. It is understood by the parties that the Real
16 Estate Commissioner may adopt this Stipulation as his Decision in
17 this matter thereby imposing the penalty and sanctions on
18 Respondents' real estate licenses and license rights as set forth
19 in the "Order" herein below. In the event that the Commissioner
20 in his discretion does not adopt the Stipulation, it shall be
21 void and of no effect and Respondents shall retain the right to a
22 hearing and proceeding on the Accusation under the provisions of
23 the APA and shall not be bound by any stipulation or waiver made
24 herein.
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1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for Accusation in this proceeding but do
7 constitute a bar, estoppel and merger as to any allegations
8 actually contained in the Accusations against Respondent herein.

9 8. Respondents understand that by agreeing to this
10 Stipulation, Respondents agree to pay, pursuant to Business and
11 Professions Code Section 10148, the cost of audit (LA 020463)
12 which led to this disciplinary action. The amount of said cost
13 for the audit is \$3,133.75.

14 9. Respondents have received, read, and understand the
15 "Notice Concerning Costs of Subsequent Audit". Respondents
16 further understand that by agreeing to this Stipulation, the
17 findings set forth below in the Determination of Issues become
18 final, and the Commissioner may charge Respondents for the cost
19 of any subsequent audit conducted pursuant to Business and
20 Professions Code Section 10148 to determine if the violations
21 have been corrected. The maximum cost of the subsequent audit
22 will not exceed \$3,133.75.

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DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct, acts or omissions of EQUIMAX MORTGAGE & LOAN, as described in Paragraph 4, above, is in violation of Sections 10137, 10145, 10146, 10161.8 and 10240 of the Business and Professions Code ("Code") and Sections 2752, 2840, 2970 and 2972 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(d).

II.

The conduct, acts or omissions of HOOSHANG NAMVAR, as described in Paragraph 4, constitutes a failure to keep Equimax Mortgage & Loan in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee. This conduct is a basis for the suspension or revocation of Respondent's license pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent
EQUIMAX MORTGAGE & LOAN under the Real Estate Law are suspended
for a period of forty (40) days from the effective date of this
Decision; provided, however, that if Respondent petitions said
suspension (or a portion thereof) shall be stayed upon condition
that:

1. Respondent pays a monetary penalty pursuant to
Section 10175.2 of the Business and Professions Code at the rate
of \$250 per day for each day of the suspension for a total
monetary penalty of \$10,000.

2. Said payment shall be in the form of a cashier's
check or certified check made payable to the Recovery Account of
the Real Estate Fund. Said check must be received by the
Department prior to the effective date of the Decision in this
matter.

3. No further cause for disciplinary action against
the real estate license of Respondent occur within two (2) years
from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in
accordance with the terms of the Decision, the Commissioner may,
without a hearing, order the immediate execution of all or any
part of the stayed suspension, in which event Respondent shall

1 not be entitled to any repayment nor credit, prorated or
2 otherwise, for money paid to the Department under the terms of
3 this Decision.

4 5. If Respondent pays the monetary penalty and if no
5 further cause for disciplinary action against the real estate
6 license of Respondent occurs within two (2) years from the
7 effective date of the Decision, the stay hereby granted shall
8 become permanent.

9 II.

10 Respondent HOOSHANG NAMVAR is publicly reprovod.

11 III.

12 Pursuant to Section 10148 of the Business and
13 Professions Code, Respondent EQUIMAX MORTGAGE & LOAN shall pay
14 the Commissioner's reasonable cost for (a) the audit which led to
15 this disciplinary action (b) a subsequent audit to determine if
16 Respondent is now in compliance with the Real Estate Law. The
17 cost of the audit which led to this disciplinary action is
18 \$3,133.75. (LA 020463). In calculating the amount of the
19 Commissioner's reasonable cost, the Commissioner may use the
20 estimated average hourly salary for all persons performing audits
21 of real estate brokers, and shall include an allocation for
22 travel time to and from the auditor's place of work. Said amount
23 for the prior and subsequent audits shall not exceed \$6,267.50.

24 Respondent shall pay such cost within 60 days of
25 receiving an invoice from the Commissioner detailing the
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1 activities performed during the audit and the amount of time
2 spent performing those activities.

3 The Commissioner may suspend the license of Respondent
4 pending a hearing held in accordance with Section 11500, et seq.,
5 of the Government Code, if payment is not timely made as provided
6 for herein, or as provided for in a subsequent agreement between
7 the Respondent and the Commissioner. The suspension shall remain
8 in effect until payment is made in full or until Respondent
9 enters into an agreement satisfactory to the Commissioner to
10 provide for payment, or until a decision providing otherwise is
11 adopted following a hearing held pursuant to this condition.
12

13
14 DATED: 9-20-05

ELLIOTT MAC LENNAN
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

16 * * *

17 EXECUTION OF THE STIPULATION

18 We have read the Stipulation and discussed it with our
19 counsel. Its terms are understood by us and are agreeable and
20 acceptable to us. We understand that we are waiving rights given
21 to us by the California Administrative Procedure Act (including
22 but not limited to Sections 11506, 11508, 11509 and 11513 of the
23 Government Code), and we willingly, intelligently and voluntarily
24 waive those rights, including the right of requiring the
25 Commissioner to prove the allegations in the Accusation at a
26 hearing at which we would have the right to cross-examine
27

1 witnesses against us and to present evidence in defense and
2 mitigation of the charges.

3 Respondents can signify acceptance and approval of the
4 terms and conditions of this Stipulation by faxing a copy of its
5 signature page, as actually signed by Respondents, to the
6 Department at the following telephone/fax number: Elliott Mac
7 Lennan at (213) 576-6917. Respondents agree, acknowledge and
8 understand that by electronically sending to the Department a fax
9 copy of Respondents' actual signature as they appear on the
10 Stipulation, that receipt of the faxed copy by the Department
11 shall be as binding on Respondents as if the Department had
12 received the original signed Stipulation.
13
14
15

16 DATED: _____

EQUIMAX MORTGAGE & LOAN, a
corporate real estate broker,
BY: HOOSHANG NAMVAR, D.O.,
Respondent

19
20 DATED: _____

HOOSHANG NAMVAR individually and as
designated officer of Equimax
Mortgage & Loan, Respondent

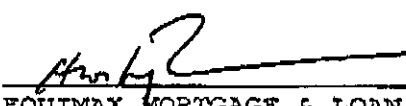
23
24 DATED: _____

FRANK M. BUDA, ESQ.
Attorney for Respondents
Approved as to form


1 witnesses against us and to present evidence in defense and
2 mitigation of the charges.

3 Respondents can signify acceptance and approval of the
4 terms and conditions of this Stipulation by faxing a copy of its
5 signature page, as actually signed by Respondents, to the
6 Department at the following telephone/fax number: Elliott Mac
7 Lennan at (213) 576-6917. Respondents agree, acknowledge and
8 understand that by electronically sending to the Department a fax
9 copy of Respondents' actual signature as they appear on the
10 Stipulation, that receipt of the faxed copy by the Department
11 shall be as binding on Respondents as if the Department had
12 received the original signed Stipulation.


13
14
15 DATED: 9/22/05


EQUIMAX MORTGAGE & LOAN, a
corporate real estate broker,
BY: HOOSHANG NAMVAR, D.O.,
Respondent

16
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18
19 DATED: 9/22/05


HOOSHANG NAMVAR individually and as
designated officer of Equimax
Mortgage & Loan, Respondent

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22
23 DATED: 9-22-08

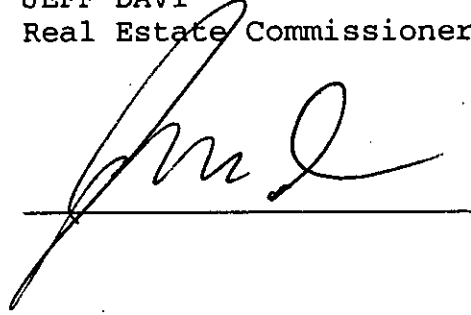

FRANK M. BUDA, ESQ.
Attorney for Respondents
Approved as to form

* * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision as to Respondents EQUIMAX MORTGAGE & LOAN
3 and HOOSHANG NAMVAR, individually and as designated officer of
4 Equimax Mortgage & Corporation, and shall become effective at 12
5 o'clock noon on NOV 30, 2005.

6 IT IS SO ORDERED 11-3, 2005.

7 JEFF DAVI
8 Real Estate Commissioner

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1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
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4 Los Angeles, CA 90013-1105

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FILED
NOV 10 2005
DEPARTMENT OF REAL ESTATE

By K. K. K. K.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-31435 LA

12 EQUIMAX MORTGAGE & CORPORATION;)

13 and, HOOSHANG NAMVAR,)

14 individually and as designated)

officer of Equimax Mortgage &)

15 Corporation; and RODNEY M. EMRANI,)

16 Respondents.)

STIPULATION

AND

AGREEMENT

18 It is hereby stipulated by and between Respondent

19 RODNEY M. EMRANI (sometimes collectively referred to as

20 "Respondents"), represented by Mary E. Work, Esq. and the

21 Complainant, acting by and through Elliott Mac Lennan, Counsel

22 for the Department of Real Estate, as follows for the purpose of

23 settling and disposing of the Accusation ("Accusation") filed on

24 November 1, 2004, in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondent
27

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement (Stipulation).

6 2. Respondent has received, read and understands the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

10 3. Respondent filed a Notice of Defense pursuant to
11 Section 11506 of the Government Code for the purpose of
12 requesting a hearing on the allegations in the Accusation.
13 Respondent hereby freely and voluntarily withdraws said Notice of
14 Defense. Respondent acknowledges that he understands that by
15 withdrawing said Notice of Defense he thereby waives his right to
16 require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that he will waive other rights
19 afforded to him in connection with the hearing such as the right
20 to present evidence in his defense of the allegations in the
21 Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on the allegations
23 contained in the Accusation. In the interest of expedience and
24 economy, Respondent chooses not to contest these allegations, but
25 to remain silent and understands that, as a result thereof, these
26
27

1 allegations, without being admitted or denied, will serve as a
2 prima facie basis for the disciplinary action stipulated to
3 herein. The Real Estate Commissioner shall not be required to
4 provide further evidence to prove said allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation is made for the purpose of reaching an
7 agreed disposition of this proceeding and is expressly limited to
8 this proceeding and any other proceeding or case in which the
9 Department of Real Estate ("Department"), the state or federal
10 government, or any agency of this state, another state or federal
11 government is involved.

12 6. It is understood by the parties that the Real
13 Estate Commissioner may adopt this Stipulation as his Decision
14 in this matter thereby imposing the penalty and sanctions on
15 Respondent's real estate licenses and license rights as set forth
16 in the "Order" herein below. In the event that the Commissioner,
17 in his discretion, does not adopt the Stipulation, it shall be
18 void and of no effect and Respondent shall retain the right to
19 a hearing and proceeding on the Accusation under the provisions
20 of the APA and shall not be bound by any stipulation or waiver
21 made herein.
22

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
27

1 Estate with respect to any matters which were not specifically
2 alleged to be causes for Accusation in this proceeding but do
3 constitute a bar, estoppel and merger as to any allegations
4 actually contained in the Accusation against Respondent herein.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing, it is stipulated and agreed
7 that the following determination of issues shall be made:

8 The conduct of RODNEY M. ERMANI, as described in
9 Paragraph 4, above, constitutes a violation of Business and
10 Professions Code ("Code") Section 10130. This conduct is a basis
11 for the suspension or revocation of Respondent's real estate
12 salesperson license pursuant to Code Section 10177(f).

13 ORDER

14 WHEREFORE THE FOLLOWING ORDER IS HEREBY MADE:

15 All licenses and licensing rights of Respondent RODNEY
16 M. EMRANI under the Real Estate Law suspended for a period of
17 sixty (60) days from the effective date of this Decision;
18 provided, however, that if Respondent petitions, the initial
19 thirty (30) days of said suspension (or a portion thereof) shall
20 be stayed for two (2) years upon condition that:

21 1. Respondent pays a monetary penalty pursuant to
22 Section 10175.2 of the Business and Professions Code at the rate
23 of \$66.66 per day for each day of the suspension for a total
24 monetary penalty of \$2,000.
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1 2. Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 3. No further cause for disciplinary action against
7 the real estate license of Respondent occurs within two (2) years
8 from the effective date of the Decision in this matter.

9 4. If Respondent fails to pay the monetary penalty in
10 accordance with the terms of the Decision, the Commissioner may,
11 without a hearing, order the immediate execution of all or any
12 part of the stayed suspension, in which event the Respondent
13 shall not be entitled to any repayment nor credit, prorated or
14 otherwise, for money paid to the Department under the terms of
15 this Decision.

16 5. If Respondent pays the monetary penalty and if no
17 further cause for disciplinary action against the real estate
18 license of Respondent occurs within two (2) years from the
19 effective date of the Decision, the stay hereby granted shall
20 become permanent
21

22 6. The remaining thirty (30) days of the sixty (60)
23 day suspension shall be stayed for two (2) years upon the
24 following terms and conditions:

25 (a) Respondent shall obey all laws, rules and
26 regulations governing the rights, duties and responsibilities of
27

1 a real estate licensee in the State of California; and

2 (b) That no final subsequent determination be made
3 after hearing or upon stipulation, that cause for disciplinary
4 action occurred within two (2) years of the effective date of
5 this Decision. Should such a determination be made, the
6 Commissioner may, in his discretion, vacate and set aside the
7 stay order and reimpose all or a portion of the stayed
8 suspension. Should no such determination be made, the stay
9 imposed herein shall become permanent.

10
11 DATED: 10-24-05

ELL
12 ELLIOTT MAC LENNAN, Counsel for
13 the Department of Real Estate

14 * * *

15 I have read the Stipulation and Agreement, have
16 discussed it with my counsel, and its terms are understood by me
17 and are agreeable and acceptable to me. I understand that I am
18 waiving rights given to me by the California Administrative
19 Procedure Act (including but not limited to Sections 11506,
20 11508, 11509 and 11513 of the Government Code), and I willingly,
21 intelligently and voluntarily waive those rights, including the
22 right of requiring the Commissioner to prove the allegations in
23 the Accusation at a hearing at which I would have the right to
24 cross-examine witnesses against me and to present evidence in
25 defense and mitigation of the charges.

26 ///

Respondent RODNEY M. EMRANI can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED:

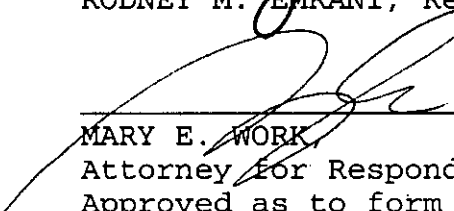
9/13/05



RODNEY M. EMRANI, Respondent

DATED:

9/23/05



MARY E. WORK,
Attorney for Respondent
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at
12 o'clock noon on NOV 30, 2005.

IT IS SO ORDERED 11-3, 2005.

JEFF DAVI
Real Estate Commissioner

5/12

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of) Case No. H-31435 LA
)
EQUIMAX MORTGAGE & LOAN, a corporation;) OAH No. L-2004110579
HOOSHANG NAMVAR, individually and as)
designated officer of Equimax Mortgage)
& Loan; and RODNEY M. EMRANI,)
_____)

Respondent(s)

FILED
JAN 19 2005
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on MAY 10, 11, 12 and 13, 2005, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: January 19, 2005

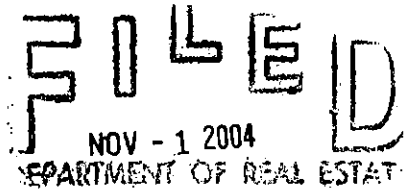
By

CHRIS LEONG
CHRIS LEONG, Counsel

cc: Equimax Mortgage & Loan
Hooshang Namvar
Rodney M. Emrani
Frank M. Buda, Esq.
Mary E. Work, Esq.
Eric Goff, L.A. Audits
Sacto.
OAH

5/22.
1 CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982
4 -or- (213) 576-6910 (Direct)



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6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 EQUIMAX MORTGAGE & LOAN,) No. H-31435 LA
13 a corporation;) A C C U S A T I O N
14 HOOSHANG NAMVAR,)
15 individually and as designated)
16 officer of Equimax Mortgage &)
Loan; and RODNEY M. EMRANI,)
Respondents.)

17 The Complainant, Janice Waddell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against EQUIMAX MORTGAGE & LOAN, a corporation (hereafter
20 "EQUIMAX"); HOOSHANG NAMVAR, individually and as designated
21 officer of EQUIMAX (hereafter "NAMVAR"); and RODNEY M. EMRANI
22 (hereafter "EMRANI") (hereafter sometimes both referred to as
23 "Respondents"), is informed and alleges in her official capacity
24 as follows:

25 1.

26 Respondents are presently licensed and/or have license
27 rights under the Real Estate Law, Part 1 of Division 4 of the

1 California Business and Professions Code (hereafter "Code").

2 2.

3 At all times material herein, Respondent EQUIMAX was
4 and still is licensed by the Department of Real Estate of the
5 State of California (hereafter "Department") as a corporate real
6 estate broker.

7 3.

8 At all times material herein, NAMVAR was and still is
9 licensed by the Department as a real estate broker, individually
10 and as designated officer of EQUIMAX. As the designated officer
11 of EQUIMAX, NAMVAR was responsible pursuant to Code Section
12 10159 for supervision.

13 4.

14 On or about January 7, 2003, EMRANI was and still is
15 licensed by the Department as a real estate salesperson. He is
16 employed by EQUIMAX. Prior to this he was not licensed.

17 5.

18 At all times material herein, Respondents engaged in
19 the business of, acted in the capacity of, advertised or assumed
20 to act as real estate brokers for others in the State of
21 California, within the meaning of Code Section 10131(a) and (d),
22 including the operation and conduct of a real estate sales, loan
23 and loan servicing business with the public wherein Respondents
24 sold and purchased real property on behalf of owners of real
25 property and/or solicited borrowers for loans secured by
26 interest in real property and/or serviced loans secured by
27 interest in real property in expectation of compensation.

6.

All further references to "Respondents", unless otherwise specified, include the parties identified in Paragraphs 2 through 4 above, and also include the employees, agents and real estate licensees employed by or associated with said parties, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

PRIOR DEPARTMENTAL ACTION

7.

On August 9, 1994, Order to Desist and Refrain Case No. H-25916 LA was issued to EQUIMAX. EQUIMAX was ordered to desist and refrain from performing any and all activities requiring a real estate license, unless and until said activities were performed in compliance with Section 10145 of the Code and Sections 2725, 2752, 2831.2, 2832 and 2832.1 of Title 10, Chapter 6, California Code of Regulations (hereafter "Regulations").

FIRST CAUSE OF ACCUSATION

(Audit Findings)

8.

On September 11, 2003, the Department concluded its examination of Respondents EQUIMAX and NAMVAR's books and records pertaining to Respondents' activities as real estate brokers in Audit No. LA020463, covering a period from approximately June 1, 2002 to June 30, 2003. The examination revealed violations of the Regulations, as set forth below, and

1 as more specifically set forth in Audit No. LA020463 and the
2 Exhibits attached to said Audit Report.

3 9.

4 At all times herein, in connection with the broker
5 escrow, real estate sales, loan and loan servicing activity
6 described in Paragraph 5 above, Respondents EQUIMAX and NAMVAR
7 accepted or received funds, including funds in trust (hereafter
8 "trust funds") from or on behalf of actual and prospective
9 parties to transactions handled by Respondents EQUIMAX and
10 NAMVAR. These funds were maintained in two accounts. The first
11 account was at Network Bank/Golden Pacific Bank, 845 N. Euclid
12 Ave., Ontario, CA 91762, in the name of Equimax Mortgage & Loan,
13 Trust Account, Account No. 29630 (hereafter "T/A#1"). The
14 second account was at East West Bank/Pacific Business Bank,
15 10100 Pioneer Blvd., Suite 1000, Santa Fe Springs, CA 90670, in
16 the name of Equimax Mortgage & Loan Trust Account, Account No.
17 010-08239 (hereafter "T/A#2").

18 10.

19 Respondents EQUIMAX, NAMVAR and EMRANI acted in
20 violation of the Code and the Regulations in that:

21 (a) Respondent EMRANI performed licensed acts in
22 expectation of compensation before he was licensed, including
23 soliciting and negotiating a loan secured by interest in real
24 property for William Woolfson (hereafter "Woolfson"), in
25 violation of Code Sections 10130 and 10177(f). Respondents
26 EQUIMAX and NAMVAR compensated EMRANI for performing these acts,
27 in violation of Code Section 10137.

1 (b) during the audit period, EQUIMAX accepted advance
2 fees without having filed the advance fee agreement and
3 materials with the Department, in violation of Code Section
4 10085 and 10146 and Regulations 2970.

5 (c) EQUIMAX accepted advance fees and did not provide
6 the principal or the Department with a verified accounting with
7 the required accounting content, in violation of Code Section
8 10146 and Regulations 2972.

9 (d) EQUIMAX charged the borrower, Woolfson, for
10 credit report fees in excess of the amount billed by the credit
11 reporting company, in violation of Code Section 10176(g).

12 (e) NAMVAR received trust funds and credit report
13 fees, from borrowers including, Ryan, Moinzadeh, Shah, Garcia
14 and Ebrahimi, and failed to forward the balance of the trust
15 funds due to the borrowers, in violation of Code Section 10145.

16 (f) NAMVAR did not always retain on file a true and
17 correct copy of an Department approved Mortgage Loan Disclosure
18 Statement as signed by the borrowers, including Moinzadeh,
19 Woolfson, Ebrahimi, Shah, Daialiar and/or the broker or the
20 broker's representative, in violation of Code Section 10240 and
21 Regulation 2840.

22 (g) NAMVAR failed to immediately notify the
23 Department of the termination of a licensee, Joseph Mollaie, in
24 violation of Code Section 10161.8 and Regulation 2752.

25 11.

26 The conduct, acts and omissions of Respondents EQUIMAX
27 and NAMVAR, as set forth in Paragraph 10, above, violated the

Code and Regulations as set forth above and constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10176(a), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

12.

At all times William Woolfson ("hereafter "Woolfson") was the owner of real property located at 3715 Calle Jazmin, Calabasas, CA 91302 (hereafter "Jazmin property"). Woolfson hired Respondents as his agent to refinance the loan on the Jazmin property. Respondents failed to disclose to Woolfson that they would be paid a yield spread premium for processing the loan. This constituted a secret profit. In addition, Respondents failed to disclose to Woolfson that the terms of the loan contained a prepayment penalty for three (3) years. This prepayment penalty, prevented Woolfson from refinancing again when the interest rates dropped. This resulted in Woolfson paying more money in interest than he would have. If Woolfson had known of the prepayment penalty and the yield spread premium, he would not have agreed to the loan.

13.

The conduct, acts and omissions of Respondents EQUIMAX NAMVAR and EMRANI, in failing to disclose the yield spread premium and prepayment penalty to borrower Woolfson, as indicated in Paragraph 12, constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10176(g),

10176(i) and/or 10177(g).

THIRD CAUSE OF ACCUSATION

14.

Further, Respondent NAMVAR, as the officer designated by EQUIMAX, is the person responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with Real Estate Law, as set forth in Paragraphs 10 through 12. This is further cause to discipline the license and license rights of Respondent NAMVAR pursuant to Sections 10177(d) and 10177(g) and/or 10177(h) of the Code.

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of
5 Respondents, EQUIMAX MORTGAGE & LOAN, a corporation; HOOSHANG
6 NAMVAR, individually and as designated officer of EQUIMAX; and
7 and RODNEY M. EMRANI, under the Real Estate Law (Part 1 of
8 Division 4 of the Business and Professions Code), and for such
9 other and further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California
12 this 28 day of October, 2004.

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15 Deputy Real Estate Commissioner
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22

23 cc: Equimax Mortgage & Loan
24 Hooshang Namvar
25 Rodney M. Emrani
26 Sacto.
27 LA Audit/Goff
ST
Janice Waddell