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**FILED**

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105

SEP 25 2008

4 213) 576-6911

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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ORDER TO DESIST

AND REFRAIN

15 The Real Estate Commissioner of the State of California  
16 ("Commissioner") has caused an investigation to be conducted of  
17 your activities, as described herein, and based upon the findings  
18 of that investigation, is of the opinion that:

19 YOU, GARCIA AND ASSOCIATES REALTY INC. ("G&A"), and  
20 YOU, GILBERTO GARCIA ("GARCIA"), individually and as designated  
21 officer of Garcia And Associates Realty Inc. have violated  
22 Sections 10145 and 10159.5 of the California Business and  
23 Professions Code ("Code"), and Sections 2725, 2731, 2831,  
24 2831(c), 2831.1, 2832(a), 2831.2, 2834, 2950(d), 2950(g) and 2951  
25 of Title 10, Chapter 6, of the California Code of Regulations  
26 ("Regulations").  
27

## LICENSE HISTORY

### 1.

A. At all times material herein, G&A was originally licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through GARCIA on August 7, 2007, as the designated officer and broker responsible, pursuant to Code Section 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf G&A by G&A's officers, agents and employees, including GARCIA.

B. At all times material herein, GARCIA was licensed by the Department as a real estate broker.

### 2.

All further references to "you" include the parties identified in Paragraph 1 above, and also include the officers, directors, employees, agents and real estate licensees employed by or associated with said parties and 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.

## BROKERAGE AND LICENSED ACTIVITIES

### 3.

At all times mentioned, in the City of South Gate, County of Los Angeles, you acted as real estate brokers and conducted licensed activities within the meaning of:

1           A. Code Section 10131(d). You operated a mortgage and  
2 loan brokerage dba Credit Corp; and

3           B. In addition, you conducted broker-controlled  
4 escrows through its escrow division under the exemption set forth  
5 in California Financial Code Section 17006(a)(4) for real estate  
6 brokers performing escrows incidental to a real estate  
7 transaction where the broker is a party and where the broker is  
8 performing acts for which a real estate license is required.

9                           AUDIT REPORT

10                                 4.

11           On June 26, 2008, the Department completed an audit  
12 examination of your books and records pertaining to the broker-  
13 escrow activities described in Paragraph 3 that require a real  
14 estate license. The audit examination covered a period of time  
15 beginning on September 1, 2006 to May 30, 2008. The audit  
16 examination revealed violations of the Code and the Regulations  
17 as set forth in the following paragraphs, and more fully  
18 discussed in Audit Report LA 070121 and the exhibits and work  
19 papers attached to said audit report.  
20

21                           TRUST ACCOUNT

22                                 5.

23           At all times mentioned, in connection with the  
24 activities described in Paragraph 4, above, you accepted or  
25 received funds including funds in trust (hereinafter "trust  
26 funds") from or on behalf of actual or prospective parties,  
27

1 including lenders, borrowers, homeowners and escrow holders for  
2 mortgage loan transactions you handled and thereafter made  
3 deposits and or disbursements of such funds. From time to time  
4 herein mentioned during the audit period, said trust funds were  
5 deposited and/or maintained by you in the bank account as  
6 follows:

7 "Garcia And Associates Realty Inc. .  
8 Account No. 2006000097086"  
9 Wachovia Bank  
Charlotte, North Carolina (escrow trust account)

10 GARCIA AND ASSOCIATES REALTY INC.

11 VIOLATIONS OF THE REAL ESTATE LAW

12 6.

13 In the course of activities described in Paragraph 3  
14 above, and during the examination period described in Paragraph  
15 4, you, G&A and you, GARCIA, acted in violation of the Code and  
16 the Regulations in that you:

17 (a) Permitted, allowed or caused the disbursement of  
18 trust funds from the escrow trust account where the disbursement  
19 of funds reduced the total of aggregate funds in the escrow trust  
20 account, to an amount which, on May 30, 2008, was \$104,132.921  
21 less than the existing aggregate trust fund liability of G&A to  
22 every principal who was an owner of said funds, without first  
23 obtaining the prior written consent of the owners of said funds,  
24 as required by Code Section 10145 and Regulations 2832.1, 2950(d)  
25 2950(g) and 2951.  
26  
27

1 (b) Failed to maintain an adequate control record in  
2 the form of a columnar record in chronological order of all trust  
3 funds received, deposited and disbursed by the escrow trust fund,  
4 as required by Code Section 10145 and Regulations 2831, 2831(c),  
5 2950(d) and 2951.

6 (c) Failed to maintain an adequate separate record for  
7 each beneficiary or transaction, thereby failing to account for  
8 all trust funds received, deposited and disbursed for the escrow  
9 trust account, as required by Code Section 10145 and Regulation  
10 2831.1, 2950(d) and 2951.

11 (d) The escrow trust account was not designated as a  
12 trust account, in violation of Code Section 10145 of the Code and  
13 Regulations 2832(a), 2950(d), 2950(f) and 2951.

14 (e) Permitted unlicensed and unbonded person Elvira  
15 Herrera, as an authorized signatory on the escrow trust account,  
16 in violation of Code Section 10145 and Regulations 2834, 2950(d)  
17 and 2951.

18 (f) Failed to perform a monthly reconciliation of the  
19 balance of all separate beneficiary or transaction records  
20 maintained pursuant to Regulation 2831.1 with the record of all  
21 trust funds received and disbursed by the escrow trust account,  
22 as required by Code Section 10145 and Regulation 2831.2, 2950(d)  
23 and 2951.

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1 (g) Used the fictitious name of "Garcia and Associates"  
2 to conduct licensed activities including broker-controlled  
3 escrows without holding a license bearing said fictitious  
4 business name, in violation of Code Section 10159.5 and  
5 Regulation 2731.

6 (h) Failed to notify the Department of the employment  
7 of four salespersons within five days of employment, Hernandez,  
8 Munoz, Mota and Martinez, as required by Code Section 10161.8 and  
9 Regulation 2752;

10 (i) Failed to maintain a signed broker salesperson  
11 agreements with salespersons Hernandez, Munoz, Mota and Martinez,  
12 in violation of Section 2726 of the Regulations; and

13 (j) GARCIA failed to exercise adequate supervision over  
14 the real estate resale activities of G&A requiring a real estate  
15 license in order to ensure compliance the Real Estate Laws and  
16 Regulations and had no system in place for regularly monitoring  
17 compliance with the Real Estate Law, especially in regard to the  
18 handling of trust funds, in violation of Code Sections 10159.2,  
19 10177(h) and Regulation 2725.  
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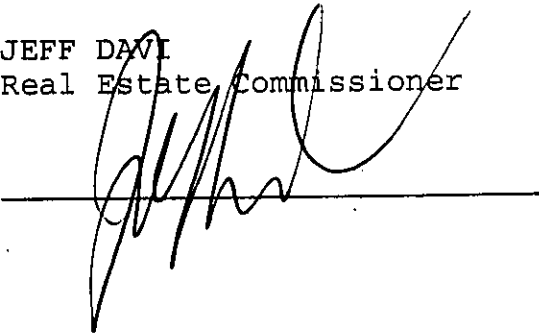
27

1 NOW, THEREFORE, YOU, GARCIA AND ASSOCIATES REALTY INC.,  
2 and YOU, GILBERTO GARCIA, ARE ORDERED TO DESIST AND REFRAIN from  
3 performing any and all acts requiring a real estate license in  
4 California unless and until you are in compliance with:

5 Sections 10145, 10159.2, 10159.5, 10161.8 and 10177(h)  
6 of the California Business and Professions Code and Sections  
7 2725, 2726, 2731, 2752, 2831, 2831(c), 2831.1, 2832(a), 2831.2,  
8 2834, 2950(d), 2950(g) and 2951 of Title 10, Chapter 6, of the  
9 California Code of Regulations.

10 AND FURTHERMORE, YOU, GARCIA AND ASSOCIATES REALTY  
11 INC., and YOU, GILBERTO GARCIA, ARE ORDERED TO DESIST AND REFRAIN  
12 from performing any and all acts requiring a real estate license  
13 in California unless and until unless and until you have restored  
14 the shortage in your escrow trust account, Account No.  
15 2006000097086, at Wachovia Bank, Charlotte, North Carolina in the  
16 amount of \$104,131.92.

17  
18 DATED 9-18-08

19  
20 JEFF DAVIS  
21 Real Estate Commissioner  
22   
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24

25 cc: Garcia And Associates Realty Inc.  
26 c/o Gilberto Garcia D.O.  
27 12127 Garfield Ave.  
South Gate  
CA 90280