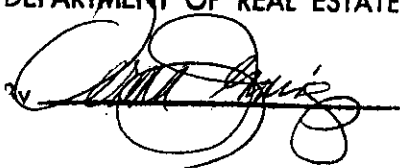


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FILED
AUG - 9 2010
DEPARTMENT OF REAL ESTATE


BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-35808 LA
)	L-2009060205
ROYALCOURT MORTGAGE, INC., and)	
JAMES MICHAEL LA PETER, individually)	
and as designated officer of the corporation,)	
<u>JOSEPH WILEY ROBINSON,</u>)	
ANGELICA NIETO,)	
MARGARET GARCIA MORENO,)	
and FRED MORENO,)	
)	
Respondents.)	
)	

ORDER DENYING RECONSIDERATION

On June 28, 2010, a Decision After Rejection ("Decision") was rendered in the above-entitled matter. The Decision was to become effective on July 27, 2010, but was stayed by separate Order to August 6, 2010.

On July 23, 2010, Respondent JOSEPH WILEY ROBINSON petitioned for reconsideration of the Decision of June 28, 2010.

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I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of June 28, 2010, and reconsideration is hereby denied.

IT IS SO ORDERED 8/5/2010.

JEFF DAVI
Real Estate Commissioner



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FILED
JUL 27 2010
DEPARTMENT OF REAL ESTATE
[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-35808 LA
)	OAH #2009060205
JOSEPH WILEY ROBINSON,)	
)	
<u>Respondent.</u>)	

ORDER STAYING EFFECTIVE DATE

On June 28, 2010, a Decision After Rejection was rendered in the above-entitled matter to become effective July 27, 2010.

IT IS HEREBY ORDERED that the effective date of the Decision of June 28, 2010, is stayed for a period of 10 days to consider Respondent's petition for reconsideration.

The Decision of June 28, 2010, shall become effective at 12 o'clock noon on August 6, 2010.

DATED: July 27, 2010.

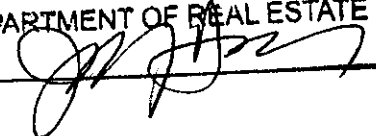
JEFF DAVI
Real Estate Commissioner

By: *[Signature]*
PHILLIP IHDE
Regional Manager

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FILED

JUL - 7 2010

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-35808 LA
)	L-2009060205
ROYALCOURT MORTGAGE, INC., and)	
JAMES MICHAEL LA PETER, individually)	
and as designated officer of the corporation)	
JOSEPH WILEY ROBINSON,)	
ANGELICA NIETO,)	
MARGARET GARCIA MORENO,)	
and FRED MORENO,)	
)	
Respondents.)	

DECISION AFTER REJECTION

Nancy Beezy Micon, Administrative Law Judge ("ALJ"), Office of Administrative Hearings, State of California, heard this matter on November 3, 2009 in Los Angeles, California.

James R. Peel, Real Estate Counsel represented Robin Trujillo, Deputy Real Estate Commissioner ("Complainant").

Attorney Carl F. Agren represented Respondents ROYALCOURT MORTGAGE, INC. ("ROYALCOURT") and JAMES MICHAEL LA PETER ("LA PETER"), individually and as designated officer of the corporation, who was present at the hearing. Respondents JOSEPH

1 WILEY ROBINSON ("ROBINSON"), MARGARET GARCIA MORENO ("M. MORENO"),
2 and FRED MORENO ("F. MORENO") represented themselves. Respondent ANGELICA
3 NIETO did not appear at the hearing.

4 Johanna Aime Jordan provided Spanish-English interpreter services for witness
5 Miguel Orozco Lopez during the hearing.

6 Oral and documentary evidence was received and argument was heard. The
7 record was held open through November 12, 2009 to give Respondents the opportunity to submit
8 evidence concerning the Internal Revenue Service requirements for signatures from depositors of
9 cash deposits exceeding \$10,000.00. On November 12, 2009, Respondent LA PETER submitted
10 a brief on the issue of the currency transaction, which was marked for identification only as
11 Exhibit BBB. The record was closed and the matter submitted for decision on November 12,
12 2009. On December 14, 2009, the ALJ issued a Proposed Decision which I declined to adopt as
13 my Decision herein.

14 Pursuant to Section 11517(c) of the Government Code of the State of California,
15 Respondents were served with notice of my determination not to adopt the Proposed Decision of
16 the ALJ along with a copy of said Proposed Decision. Respondents were notified that I would
17 decide the case upon the record, the transcript of proceedings held on November 3, 2009, and
18 upon any written argument offered by Respondents and Complainant. Respondents M.
19 MORENO and F. MORENO submitted joint argument on March 23, 2010. Respondent
20 ROBINSON submitted argument on March 23, 2010. Respondent LA PETER submitted
21 argument on April 20, 2010. Complainant submitted argument on May 20, 2010.

22 I have given careful consideration to the record in this case including the
23 transcript of the proceedings held on November 3, 2009 and the arguments submitted by the
24 parties.

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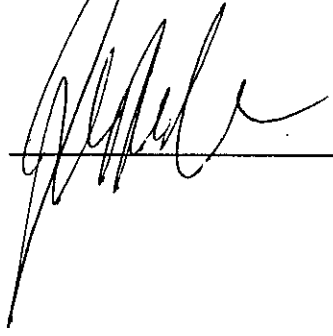
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The Proposed Decision dated December 14, 2009, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on
JUL 27 2010

IT IS SO ORDERED 6-28, 2010.

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ROYALCOURT MORTGAGE, INC., and
JAMES MICHAEL LA PETER, individually
and as designated officer of the corporation,
JOSEPH WILEY ROBINSON, ANGELICA
NIETO, MARGARET GARCIA MORENO,
and FRED MORENO,

Respondents.

Case No. H-35808 LA

OAH No. 2009060205

PROPOSED DECISION

Nancy Beezy Micon, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on November 3, 2009, in Los Angeles, California.

James R. Peel, Real Estate Counsel, represented Deputy Real Estate Commissioner Robin L. Trujillo (complainant).

Attorney Carl F. Agren represented respondents Royalcourt Mortgage, Inc., and James Michael La Peter, individually and as designated officer of the corporation, who was present at the hearing. Respondents Joseph Wiley Robinson, Margaret Garcia Moreno, and Fred Moreno represented themselves. Respondent Angelica Nieto did not appear at the hearing.¹

Johanna Aime Jordan provided Spanish-English interpreter services for witness Miguel Orozco Lopez during the hearing.

Oral and documentary evidence was received and argument was heard. The record was held open through November 12, 2009, to give respondents the opportunity to submit evidence concerning the Internal Revenue Service requirements for signatures from depositors of cash deposits exceeding \$10,000. On November 12, 2009, respondent Michael LaPeter submitted a brief on the issue of the currency transaction, which was marked for

¹ The Department, rather than pursuing a remand for the processing of an in-house default, asked that the case proceed against respondent Angelica Nieto.

identification only as Exhibit BBB. The record was closed and the matter submitted for decision on November 12, 2009.

FACTUAL FINDINGS

Jurisdiction and Licensing

1. On May 22, 2009, complainant, acting in her official capacity, filed the Accusation. In April 2009, respondents Royalcourt Mortgage, Inc. (Royalcourt Mortgage), James Michael La Peter (LaPeter), Joseph Wiley Robinson (Robinson), Margaret Garcia Moreno (M. Moreno), and Fred Moreno (F. Moreno) filed Notice of Defense forms. This action then ensued.
2. Respondent Angelica Nieto (Nieto) did not file a Notice of Defense to the Accusation. She was nevertheless served with a Notice of Hearing on Accusation, which provided notice to Nieto that the hearing in this matter would take place at the Office of Administrative Hearings in Los Angeles on November 3 and 4, 2009. Nieto did not appear at the hearing.
3. Complainant contends respondents' conduct, acts and/or omissions in connection with the submission of false documentation to obtain two loans for a borrower provides grounds for the suspension or revocation of their real estate licenses, pursuant to Business and Professions Code sections 10176, subdivisions (a) and (i), and 10177, subdivisions , (f), (g), and (j). Complainant further contends that respondent LaPeter's conduct, in failing to ensure full compliance with the Real Estate Law, provides grounds for the suspension or revocation of his real estate licenses, pursuant to Business and Professions Code section 10177, subdivisions (d), (g), and (h).
4. Respondents LaPeter, Robinson, and M. Moreno deny wrongdoing. Respondent F. Moreno did not testify or present argument in defense to the allegations.
5. Respondents are presently licensed or have licensing rights with the Department of Real Estate (the Department). Respondents' licenses were in effect at all times relevant to this action.
6. Respondent Royalcourt Mortgage was licensed as a real estate broker on February 24, 2003. At all times relevant to this action, respondent Royalcourt Mortgage acted as a real estate broker in the State of California pursuant to Business and Professions Code section 10131, subdivision (d), including soliciting borrowers and lenders and negotiating loans on real property. Respondent LaPeter was the designated officer of respondent Royalcourt Mortgage and was responsible for the supervision and control of the activities conducted on behalf of respondent Royalcourt Mortgage.
7. The Department has previously taken disciplinary action against respondents Royalcourt Mortgage and LaPeter in Case No. H-33975 LA, effective October 2, 2002. The

Department alleged disciplinary action was also taken against respondent LaPeter in Case Nos. H-26009 LA and H-29444 LA but no evidence was submitted in support of this allegation. Respondent LaPeter acknowledged that the discipline occurred.

Factual Background

8. Borrower Miguel Orozco Lopez (Lopez) purchased a property located at 1171 West Vine Street, San Bernardino, California (Vine Street property) for \$285,000. The loan for the purchase of the Vine Street property closed on March 29, 2006 with People's Choice Home Loan, Inc. financing a first mortgage in the amount of \$270,750.

9. Lopez purchased a property located at 188 North Victoria Avenue, San Jacinto, California (Victoria Avenue property) for \$230,000. The loan for the purchase of the Victoria Avenue property closed on April 10, 2006 with Fremont Investment & Loan financing a first mortgage for \$184,000, and a second mortgage for \$46,000.

10. a. Respondents Royalcourt Mortgage, LaPeter, and Robinson acted as the mortgage broker for the loans on the Vine Street and Victoria Avenue properties.

b. On the Vine Street property loan, respondent Royalcourt Mortgage was paid a \$595 processing fee, a \$5,130 broker fee, and a \$2,000 administration fee.

c. On the Victoria Avenue property loan, respondent Royalcourt Mortgage was paid a \$3,450 broker fee, a \$150 appraisal fee, a \$945 processing fee, a \$12.39 credit report fee, and a \$92.39 packaging fee.

d. Respondent Robinson and respondent LaPeter, on behalf of respondent Royalcourt Mortgage, had an agreement where they would split a proportional share of the commission on loan transactions.

11. The loan application for the Vine Street property was dated January 28, 2006. The loan application for the Victoria Avenue property was dated January 30, 2006.

12. The loans on the Vine Street property and the Victoria Avenue property were obtained through the use of false documentation to the lenders, including:

a. On the loan application for the Vine Street property, it falsely represented the borrower's employment history. It falsely stated that Lopez had been working as an Outreach Service Worker for Inland Empire Immigration Services at 560 Arrowhead Avenue in San Bernardino for two years. On the Victoria Avenue loan application, it correctly stated that Lopez had been working for one year as an Outreach Service Specialist at Inland Behavioral Health Services at 1963 North "E" Street in San Bernardino. San Bernardino Community Service at 560 Arrowhead Avenue was listed as previous employment from January 2004 to February 2005. The monthly income for Lopez's previous employment was falsely stated to be \$5,700 per month.

b. On both loan applications, the current base salary for Lopez was falsely stated as \$6,500 per month. In fact, Lopez earned approximately \$1,250 per month in January 2006.

c. Both loan applications contained the following question, on page 3: "Is any part of the down payment borrowed?" The applicant was instructed to provide a written explanation on a continuation sheet if the question was answered in the affirmative. The loan application for both loans responded to the question by checking a "no" box. In fact, the down payment for both loans was borrowed.

d. Both loan applications represented to the lenders that Lopez, the borrower, intended to occupy the property as his primary residence. The borrower did not intend to occupy either property as his primary residence.

e. The loan application for the Victoria Avenue property did not disclose the purchase of the Vine Street property.

13. Respondent Robinson, acting as a loan broker for respondent Royalcourt Mortgage, oversaw the completion of the loan applications and their submission to the lenders.

14. Respondent Robinson, at the time of the closure of the loans on the Vine Street and Victoria Avenue properties, knew that both loans were closed under the premise that the borrower would occupy each property as his primary residence. Respondent Robinson knew that borrower Lopez could not simultaneously occupy both the Vine Street property and the Victoria Avenue property as his primary residence.

15. As brokers on both transactions, respondents Royalcourt, LaPeter, and Robinson failed to disclose a known liability by not disclosing Lopez's purchase of the Vine Street property, which had a loan settlement date of March 29, 2006, to the lender on the Victoria Avenue property. The Victoria Avenue property loan settlement date was April 10, 2006.

16. Respondents Robinson, Nieto, M. Moreno and F. Moreno arranged the transfer of the Vine Street property and the Victoria Avenue property to Lopez. In order to finalize the transactions, respondent Robinson, Nieto, M. Moreno and F. Moreno arranged for Lopez to submit false documentation to the lenders in order for Lopez to qualify for the loans on both properties.

17. The lenders relied upon the documentation received from respondents when they agreed to make the loans to Lopez.

18. The lenders would either have denied the loans completely or made loans on less favorable terms and conditions had the lenders been provided with accurate information from respondents.

19. The lenders were damaged when payments stopped being made on the loans. Foreclosure proceedings ensued.

Witness Testimony

20. Complainant presented testimony from two witnesses: Lopez, the borrower on the Vine Street and Victoria Avenue loans, and Kimberly Wessler, a Senior Deputy Real Estate Commissioner for the Department, who testified to her knowledge regarding requirements for loan transactions.

21. Lopez credibly testified that he believed he was purchasing the Vine Street property in partnership with respondents Nieto, M. Moreno and F. Moreno. Lopez contends respondents M. Moreno and F. Moreno agreed to supply the cash needed for the transactions and that respondent Robinson brought the funds for Lopez to deposit when he met with Lopez at Lopez's credit union. Lopez credibly testified that he believed the Vine Street property would be used as a home shelter for women, and that it would also serve as an investment. Lopez explained that respondent Nieto told him that the Victoria Avenue property was to be purchased and re-financed, with the proceeds from the re-finance split between the partners to that transaction. It turned out that the Vine Street property, after its purchase, was used as a rental property. According to Lopez, respondents M. Moreno and F. Moreno made the second mortgage payment on the Vine Street property although their check did not clear with the bank.

22. Lopez asserts that the signature on the loan application for the Victoria Avenue property was not his signature. Lopez contends he never saw the loan application for the Victoria Avenue property. Lopez asserts that the information on the loan application for the Vine Street property was correct when it was presented to him for signature. According to Lopez, respondents Nietos, M. Moreno and R. Moreno told him they would take care of the paperwork. Lopez signed the paperwork presented to him by M. Moreno and F. Moreno when he was a guest at their home. He described the atmosphere at the time as a party. At the hearing, Lopez provided his work history and salary information. Lopez credibly testified that he gave respondents M. Moreno and F. Moreno his accurate personal information, including work history and salary information, when he met with them in connection with the property transactions.

23. Lopez never spoke with respondent Robinson about his background information, such as his work history and salary information. Lopez credibly testified that he never told respondent Robinson that he intended to occupy the Victoria Avenue property; the topic of occupancy was not discussed between Lopez and respondent Robinson.

24. Lopez acknowledged that he never met or spoke with respondent LaPeter.

25. Respondent Robinson has been a real estate licensee for approximately 18 years. At hearing, respondent Robinson explained that he was contacted by respondent F. Moreno, who requested that Lopez be pre-qualified for the purchase of the Vine Street property. Respondent Robinson asserts that, two days later, he was contacted by respondent F. Moreno about pre-qualifying a purchaser named Barrajas for the Victoria Avenue property. Respondent Robinson asserts that Lopez met with Matt Baldini, the loan processor who worked under respondent Robinson at respondent Royalcourt Mortgage, in order to obtain the information needed for the loan application. Respondent Robinson nevertheless acknowledges that the loan applications show that he was the interviewer of the loan applicant. Respondent Robinson asserts that he observed Lopez looking at the loan applications and believed that Lopez read them. According to respondent Robinson, Lopez supplied the work history and salary information contained on the loan applications, initially stated he was going to be a non-owner occupier and that the money for the loans would not be borrowed. Respondent Robinson asserts that Lopez's salary information was verified by phone. He did not obtain a written verification of the employment and salary information. Respondent Robinson asserts that it is the lender who verifies the employment. Respondent Robinson contends that the occupancy arrangements for the Victoria Avenue property changed toward the end of the transaction, after the loan application had been submitted. Respondent Robinson admits that it was an oversight for him not to amend the loan application to correct the occupancy information. He claims he left a phone message for a loan representative, who did not return his phone call.

26. Respondent Robinson denies that he gave any funds to Lopez for Lopez to deposit at his credit union. Respondent Robinson contends that he met Lopez at Lopez's credit union in order to obtain a cashier's check and a Verification of Deposit required for the closing of the loan transactions.² Respondent Robinson contends that he was not aware of any side deals concerning the properties. Respondent Robinson's assertions were not supported by independent evidence. He did not, for example, provide any written verifications of the work history or salary information contained on the loan applications. Matt Baldini, the loan processor, did not testify at the hearing.

27. Respondent M. Moreno testified that she has been a licensed real estate salesperson since 2005 but that she has never worked as a realtor. Respondent M. Moreno is married to respondent F. Moreno. In 2004, respondent M. Moreno processed loans for a broker. She currently works for J.P. Morgan Chase Bank as a loan officer. She has worked in the banking industry for three years. Respondent M. Moreno denies that there was a partnership between Lopez, Nieto, and her and her husband. She also denies that she and her husband supplied money to Lopez to purchase the properties. Respondent M. Moreno provided a convoluted explanation about a check being issued on the Vine Street property

² The Verification of Deposit document, dated March 24, 2006, shows that Lopez's current account balance was \$21,384.41 but that his average account balance for the previous two months was \$4,130.78. The information contained in the Verification of Deposit supports Lopez's assertion that the funds for the purchase transaction were borrowed.

that had to do with money owed to her mother. Respondent M. Moreno did not have any dealings with respondent LaPeter. Respondent M. Moreno's assertions were not supported by independent evidence, and were not credited.

28. Respondent F. Moreno and respondent Angelica Nieto did not testify at the hearing and therefore did not refute Lopez's account of the transactions. F. Moreno was the real estate salesperson for both the seller and the buyer on the Vine Street property transaction. He represented the buyer on the Victoria Avenue real estate transaction.

29. Respondent LaPeter has held a broker license for 28 years. Before obtaining the broker license, he was a real estate salesperson. Respondent LaPeter has been an active real estate licensee for approximately 36 years. At one time, respondent LaPeter operated 10 offices with approximately 600 agents working under him. He was the owner of respondent Royalcourt Mortgage, which he closed after he became aware of the allegations in this case. He currently operates only one real estate office, Courtside Financial, Inc., a Century 21 franchisee, with approximately 190 people working under him. Respondent LaPeter is involved in the California Association of Realtors, where he holds the designation of Honorary Director for Life. He is active in the Big Brothers organization and supports Children's Hospital of Orange County.

30. Respondent LaPeter credibly testified that he did not place the loans on the Vine Street and Victoria Avenue properties. Respondent Robinson was his only active loan representative at respondent Royalcourt Mortgage. Respondent LaPeter acknowledges that he reviewed the loan file on the Victoria Avenue property. He contends that Barrajas was the purchaser at the time he reviewed the file. If he had seen that the same buyer was listed as an owner-occupier on two transactions, respondent LaPeter contends he would have stopped the loans. Respondent LaPeter spoke with respondent Robinson when he learned of the allegations in this matter. He informed respondent Robinson, who he viewed as an excellent employee, that he would not continue working with him. Respondent LaPeter voluntarily surrendered his license for respondent Royalcourt Mortgage, filed papers discontinuing respondent Robinson's employment, closing the corporation, and abandoning it. Respondent LaPeter took immediate corrective action when he learned of the Department's allegations.

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend respondent Royalcourt Mortgage, Inc.'s, respondent Joseph Wiley Robinson's, respondent Angelica Nieto's, respondent Margaret Garcia Moreno's, and respondent Fred Moreno's real estate licenses, pursuant to Business and Professions Code sections 10176, subdivisions (a) and (i), and 10177, subdivisions (f), (g), and (j), as set forth in factual finding numbers 1-30, and legal conclusion numbers 4-11.

2. Cause exists to revoke or suspend respondent Michael La Peter's real estate licenses, pursuant to Business and Professions Code section 10177, subdivisions (g) and (h), as set forth in factual finding numbers 1-30, and legal conclusion numbers 5-11.

3. Complainant failed to establish that cause exists to revoke or suspend respondent Michael La Peter's real estate license under Business and Professions Code sections 10176 or 10177, subdivision (f) and (j), as set forth in factual finding number 1-30, and legal conclusion number 4-11, since it was not established that respondent LaPeter participated in any dishonest dealings.

4. Business and Professions Code section 10176 states in pertinent part:

The commissioner may . . . temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

(a) Making any substantial misrepresentation.

[¶] . . . [¶]

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

5. Business and Professions Code section 10177, states in pertinent part:

The commissioner may suspend or revoke the license of a real estate licensee . . . who . . . has done any of the following:

[¶] . . . [¶]

(d) Willfully disregarded or violated the Real Estate Law

[¶] . . . [¶]

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

[¶] . . . [¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

6. The evidence established that respondents Nieto, M. Moreno, F. Moreno and Robinson were guilty of making substantial misrepresentations, which conduct constituted fraud, dishonest dealing, gross negligence, or incompetence in connection with the loan transactions on the Vine Street and Victoria Avenue properties. Respondents asserted that Lopez should not be believed. The following arguments were made on the issue of Lopez's credibility:

a. Respondents Robinson, LaPeter and Royalcourt Mortgage argued that Lopez's testimony about depositing borrowed funds should not be believed because the Internal Revenue Service would have been notified had a deposit in an amount over \$10,000 been made into Lopez's credit union account. No evidence was presented, however, from anyone at the credit union on whether or not notification was made to the Internal Revenue Service. Respondent LaPeter's brief on the issue indicates that the bank is required to sign the form, not the depositor. Lopez's testimony that he did not sign a form, when it was the bank that would have been required to sign the Internal Revenue Service form, is not a basis for impeaching Lopez's credibility. Further, Lopez's testimony that money was deposited into his account was supported by documentary evidence. The Verification of Deposit form showed that Lopez's account balance had in fact increased by approximately \$17,000 from the average account balance of the previous two months.

b. Respondent Robinson argued that Lopez's testimony concerning respondent Robinson's delivery of the funds to Lopez when they met at Lopez's credit union is not credible because respondent Robinson would lose money if he conducted his business by giving people funds. Lopez, however, never testified that respondent Robinson gave him Robinson's money. He merely stated that respondent Robinson delivered the money. Respondent Robinson's argument does not impeach Lopez's credibility on this point.

c. Respondent LaPeter argued that Lopez's choice to testify through an interpreter adversely reflected on his credibility. The evidence did not establish who determined that an interpreter be used. Lopez never denied that he speaks English. A decision to have a witness testify in his or her native language does not reflect a lack of credibility on the part of the witness.

7. Lopez's credibility, however, is not integral in establishing the culpability of respondents Robinson and F. Moreno in this case. There is no dispute that respondent Robinson, by the time of the closing of the Victoria Avenue loan transaction, knew that Lopez could not be the primary occupant of both the Vine Street and Victoria Avenue properties. Respondent Robinson also knew that Lopez had already submitted a loan application on the Vine Street property when the Victoria Avenue loan transaction was processed. He nevertheless allowed the loan transactions to close without amending the loan applications to notify the lenders of the true facts concerning occupancy and Lopez's

purchase of the Vine Street property, a known liability that would have impacted the Victoria Avenue loan. Respondent Robinson argues that the Verification of Deposit document, which shows funds in Lopez's account, supports respondent Robinson's contention that he did not meet with Lopez to give him funds. The Verification of Deposit document, however, shows that Lopez did not have sufficient funds in his account to close either property transaction during the two months before the document was filled out. The document therefore supports Lopez's assertion that the funds to close the property transactions were borrowed. Respondent Robinson should have been alerted to this possibility based on his review of the deposit verification document. The facts against respondent Robinson, when viewed together, lead to the conclusion that he was somehow involved in the dishonest dealings. Even if one credits respondent Robinson's assertion that he was not responsible for false statements in the loan applications, respondent Robinson's handling of the transactions is still a serious concern. It was undisputed that F. Moreno was the real estate agent involved in the transactions. Lopez's testimony about his "partnership" with Nieto, M. Moreno, and F. Moreno is credited. It was supported by the testimony of respondent M. Moreno, who indicated that there was a money transaction between Lopez and her family. Lopez's testimony about wanting to invest in a women's shelter was believable.

8. Complainant failed to establish that respondent LaPeter knowingly participated in any wrongdoing. Complainant proved that respondent LaPeter failed to adequately supervise the Vine Street and Victoria Avenue loan transactions. Respondent LaPeter, however, took immediate corrective action when he became aware of the allegations in this case by severing respondent Robinson's employment and discontinuing the corporate activities of respondent Royalcourt Mortgage.

9. The objective of a disciplinary proceeding is to protect the public, the licensed profession or occupation, maintain integrity, high standards, and preserve public confidence in real estate professionals. (*Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Clerici v. Dept. of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1030-1031.)

10. The qualities of honesty, truthfulness, integrity, and good reputation are fundamental to a real estate licensee's occupation. (*Golde v. Fox* (1979) 98 Cal.App.3d 167, at pp. 176-177.) The evidence failed to establish that, as real estate licensees, respondents Robinson, Nieto, M. Moreno, and F. Moreno retain such qualities. The evidence did not support a conclusion that the public would be sufficiently protected if the Department allowed these respondents to retain their real estate licenses. Respondents' conduct was so intrinsically linked to their work within the real estate industry, and violated the necessary core qualities of honesty, truthfulness, and integrity, that even if respondents Robinson, Nieto, M. Moreno and F. Moreno were issued restricted real estate licenses, there would remain a significant concern as to whether the public would be protected from their potential dishonest acts. Revocation is therefore appropriate.

11. Taking into consideration the violations established by the evidence, it is appropriate to restrict respondent LaPeter's real estate broker license in order to assure the public's protection. Revocation would be too severe an outcome for respondent LaPeter

under the facts established in this case. A reasonable period of restriction shall allow the Department to appropriately monitor respondent LaPeter's broker activities to ensure that respondent LaPeter conducts any supervisory activities in accordance with the law. As respondent Royalcourt Mortgage appears to have surrendered its license and failed to represent its interests in this proceeding, given the legal conclusions reached herein, it is appropriate to revoke its corporate broker license in order to protect the public.

ORDER

1. All licenses and licensing rights of respondents Royalcourt Mortgage, Inc., Joseph Wiley Robinson, Angelica Nieto, Margaret Garcia Moreno, and Fred Moreno under the Real Estate Law are revoked.

2. All licenses and licensing rights of respondent James Michael La Peter (LaPeter) under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent LaPeter pursuant to Section 10156.5 of the Business and Professions Code if respondent LaPeter makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent LaPeter shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The restricted license issued to respondent LaPeter may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent LaPeter's conviction or plea of nolo contendere to a crime which is substantially related to respondent LaPeter's fitness or capacity as a real estate licensee.

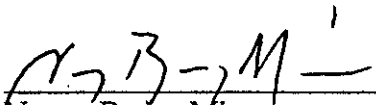
b. The restricted license issued to respondent LaPeter may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent LaPeter has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

c. Respondent LaPeter shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

d. Respondent LaPeter shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent LaPeter has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent LaPeter fails to satisfy this condition, the Commissioner may order the suspension of the restricted license

until respondent LaPeter presents such evidence. The Commissioner shall afford respondent LaPeter the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: December 14, 2009



Nancy Beezy Micon
Administrative Law Judge
Office of Administrative Hearings

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FILED
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DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
ROYALCOURT MORTGAGE, INC.,
and JAMES MICHAEL LA PETER,
individually and as designated
officer of the corporation,
JOSEPH WILEY ROBINSON,
ANGELICA NIETO,
MARGARET GARCIA MORENO,
and FRED MORENO,
Respondents.

No. H-35808 LA
OAH No. 2009060205

NOTICE

TO THE RESPONDENTS AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated
December 14, 2009, of the Administrative Law Judge is not adopted as the Decision of the Real
Estate Commissioner. A copy of the Proposed Decision dated December 14, 2009, is attached
for your information.

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1 In accordance with Section 11517(c) of the Government Code of the State of
2 California, the disposition of this case will be determined by me after consideration of the record
3 herein including the transcript of the proceedings held on November 3, 2009, and any written
4 argument hereafter submitted on behalf of Respondents and Complainant.

5 Written argument of Respondents to be considered by me must be submitted
6 within 15 days after receipt of the transcript of the proceedings of November 3, 2009, at the Los
7 Angeles office of the Department of Real Estate unless an extension of the time is granted for
8 good cause shown.

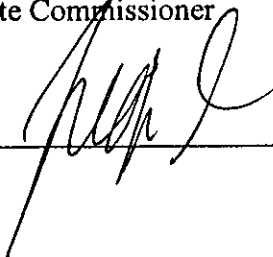
9 Written argument of Complainant to be considered by me must be submitted
10 within 15 days after receipt of the argument of Respondents at the Los Angeles office of the
11 Department of Real Estate unless an extension of the time is granted for good cause shown.

12 DATED: _____

3/2/2010

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14 JEFF DAVI
15 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

ROYALCOURT MORTGAGE, INC., and
JAMES MICHAEL LA PETER, individually
and as designated officer of the corporation,
JOSEPH WILEY ROBINSON, ANGELICA
NIETO, MARGARET GARCIA MORENO,
and FRED MORENO,

Respondents.

Case No. H-35808 LA

OAH No. 2009060205

PROPOSED DECISION

Nancy Beezy Micon, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on November 3, 2009, in Los Angeles, California.

James R. Peel, Real Estate Counsel, represented Deputy Real Estate Commissioner Robin L. Trujillo (complainant).

Attorney Carl F. Agren represented respondents Royalcourt Mortgage, Inc., and James Michael La Peter, individually and as designated officer of the corporation, who was present at the hearing. Respondents Joseph Wiley Robinson, Margaret Garcia Moreno, and Fred Moreno represented themselves. Respondent Angelica Nieto did not appear at the hearing.¹

Johanna Aime Jordan provided Spanish-English interpreter services for witness Miguel Orozco Lopez during the hearing.

Oral and documentary evidence was received and argument was heard. The record was held open through November 12, 2009, to give respondents the opportunity to submit evidence concerning the Internal Revenue Service requirements for signatures from depositors of cash deposits exceeding \$10,000. On November 12, 2009, respondent Michael LaPeter submitted a brief on the issue of the currency transaction, which was marked for

¹ The Department, rather than pursuing a remand for the processing of an in-house default, asked that the case proceed against respondent Angelica Nieto.

identification only as Exhibit BBB. The record was closed and the matter submitted for decision on November 12, 2009.

FACTUAL FINDINGS

Jurisdiction and Licensing

1. On May 22, 2009, complainant, acting in her official capacity, filed the Accusation. In April 2009, respondents Royalcourt Mortgage, Inc. (Royalcourt Mortgage), James Michael La Peter (LaPeter), Joseph Wiley Robinson (Robinson), Margaret Garcia Moreno (M. Moreno), and Fred Moreno (F. Moreno) filed Notice of Defense forms. This action then ensued.

2. Respondent Angelica Nieto (Nieto) did not file a Notice of Defense to the Accusation. She was nevertheless served with a Notice of Hearing on Accusation, which provided notice to Nieto that the hearing in this matter would take place at the Office of Administrative Hearings in Los Angeles on November 3 and 4, 2009. Nieto did not appear at the hearing.

3. Complainant contends respondents' conduct, acts and/or omissions in connection with the submission of false documentation to obtain two loans for a borrower provides grounds for the suspension or revocation of their real estate licenses, pursuant to Business and Professions Code sections 10176, subdivisions (a) and (i), and 10177, subdivisions (f), (g), and (j). Complainant further contends that respondent LaPeter's conduct, in failing to ensure full compliance with the Real Estate Law, provides grounds for the suspension or revocation of his real estate licenses, pursuant to Business and Professions Code section 10177, subdivisions (d), (g), and (h).

4. Respondents LaPeter, Robinson, and M. Moreno deny wrongdoing. Respondent F. Moreno did not testify or present argument in defense to the allegations.

5. Respondents are presently licensed or have licensing rights with the Department of Real Estate (the Department). Respondents' licenses were in effect at all times relevant to this action.

6. Respondent Royalcourt Mortgage was licensed as a real estate broker on February 24, 2003. At all times relevant to this action, respondent Royalcourt Mortgage acted as a real estate broker in the State of California pursuant to Business and Professions Code section 10131, subdivision (d), including soliciting borrowers and lenders and negotiating loans on real property. Respondent LaPeter was the designated officer of respondent Royalcourt Mortgage and was responsible for the supervision and control of the activities conducted on behalf of respondent Royalcourt Mortgage.

7. The Department has previously taken disciplinary action against respondents Royalcourt Mortgage and LaPeter in Case No. H-33975 LA, effective October 2, 2002. The

Department alleged disciplinary action was also taken against respondent LaPeter in Case Nos. H-26009 LA and H-29444 LA but no evidence was submitted in support of this allegation. Respondent LaPeter acknowledged that the discipline occurred.

Factual Background

8. Borrower Miguel Orozco Lopez (Lopez) purchased a property located at 1171 West Vine Street, San Bernardino, California (Vine Street property) for \$285,000. The loan for the purchase of the Vine Street property closed on March 29, 2006 with People's Choice Home Loan, Inc. financing a first mortgage in the amount of \$270,750.

9. Lopez purchased a property located at 188 North Victoria Avenue, San Jacinto, California (Victoria Avenue property) for \$230,000. The loan for the purchase of the Victoria Avenue property closed on April 10, 2006 with Fremont Investment & Loan financing a first mortgage for \$184,000, and a second mortgage for \$46,000.

10. a. Respondents Royalcourt Mortgage, LaPeter, and Robinson acted as the mortgage broker for the loans on the Vine Street and Victoria Avenue properties.

b. On the Vine Street property loan, respondent Royalcourt Mortgage was paid a \$595 processing fee, a \$5,130 broker fee, and a \$2,000 administration fee.

c. On the Victoria Avenue property loan, respondent Royalcourt Mortgage was paid a \$3,450 broker fee, a \$150 appraisal fee, a \$945 processing fee, a \$12.39 credit report fee, and a \$92.39 packaging fee.

d. Respondent Robinson and respondent LaPeter, on behalf of respondent Royalcourt Mortgage, had an agreement where they would split a proportional share of the commission on loan transactions.

11. The loan application for the Vine Street property was dated January 28, 2006. The loan application for the Victoria Avenue property was dated January 30, 2006.

12. The loans on the Vine Street property and the Victoria Avenue property were obtained through the use of false documentation to the lenders, including:

a. On the loan application for the Vine Street property, it falsely represented the borrower's employment history. It falsely stated that Lopez had been working as an Outreach Service Worker for Inland Empire Immigration Services at 560 Arrowhead Avenue in San Bernardino for two years. On the Victoria Avenue loan application, it correctly stated that Lopez had been working for one year as an Outreach Service Specialist at Inland Behavioral Health Services at 1963 North "E" Street in San Bernardino. San Bernardino Community Service at 560 Arrowhead Avenue was listed as previous employment from January 2004 to February 2005. The monthly income for Lopez's previous employment was falsely stated to be \$5,700 per month.

b. On both loan applications, the current base salary for Lopez was falsely stated as \$6,500 per month. In fact, Lopez earned approximately \$1,250 per month in January 2006.

c. Both loan applications contained the following question, on page 3: "Is any part of the down payment borrowed?" The applicant was instructed to provide a written explanation on a continuation sheet if the question was answered in the affirmative. The loan application for both loans responded to the question by checking a "no" box. In fact, the down payment for both loans was borrowed.

d. Both loan applications represented to the lenders that Lopez, the borrower, intended to occupy the property as his primary residence. The borrower did not intend to occupy either property as his primary residence.

e. The loan application for the Victoria Avenue property did not disclose the purchase of the Vine Street property.

13. Respondent Robinson, acting as a loan broker for respondent Royalcourt Mortgage, oversaw the completion of the loan applications and their submission to the lenders.

14. Respondent Robinson, at the time of the closure of the loans on the Vine Street and Victoria Avenue properties, knew that both loans were closed under the premise that the borrower would occupy each property as his primary residence. Respondent Robinson knew that borrower Lopez could not simultaneously occupy both the Vine Street property and the Victoria Avenue property as his primary residence.

15. As brokers on both transactions, respondents Royalcourt, LaPeter, and Robinson failed to disclose a known liability by not disclosing Lopez's purchase of the Vine Street property, which had a loan settlement date of March 29, 2006, to the lender on the Victoria Avenue property. The Victoria Avenue property loan settlement date was April 10, 2006.

16. Respondents Robinson, Nieto, M. Moreno and F. Moreno arranged the transfer of the Vine Street property and the Victoria Avenue property to Lopez. In order to finalize the transactions, respondent Robinson, Nieto, M. Moreno and F. Moreno arranged for Lopez to submit false documentation to the lenders in order for Lopez to qualify for the loans on both properties.

17. The lenders relied upon the documentation received from respondents when they agreed to make the loans to Lopez.

18. The lenders would either have denied the loans completely or made loans on less favorable terms and conditions had the lenders been provided with accurate information from respondents.

19. The lenders were damaged when payments stopped being made on the loans. Foreclosure proceedings ensued.

Witness Testimony

20. Complainant presented testimony from two witnesses: Lopez, the borrower on the Vine Street and Victoria Avenue loans, and Kimberly Wessler, a Senior Deputy Real Estate Commissioner for the Department, who testified to her knowledge regarding requirements for loan transactions.

21. Lopez credibly testified that he believed he was purchasing the Vine Street property in partnership with respondents Nieto, M. Moreno and F. Moreno. Lopez contends respondents M. Moreno and F. Moreno agreed to supply the cash needed for the transactions and that respondent Robinson brought the funds for Lopez to deposit when he met with Lopez at Lopez's credit union. Lopez credibly testified that he believed the Vine Street property would be used as a home shelter for women, and that it would also serve as an investment. Lopez explained that respondent Nieto told him that the Victoria Avenue property was to be purchased and re-financed, with the proceeds from the re-finance split between the partners to that transaction. It turned out that the Vine Street property, after its purchase, was used as a rental property. According to Lopez, respondents M. Moreno and F. Moreno made the second mortgage payment on the Vine Street property although their check did not clear with the bank.

22. Lopez asserts that the signature on the loan application for the Victoria Avenue property was not his signature. Lopez contends he never saw the loan application for the Victoria Avenue property. Lopez asserts that the information on the loan application for the Vine Street property was correct when it was presented to him for signature. According to Lopez, respondents Nietos, M. Moreno and R. Moreno told him they would take care of the paperwork. Lopez signed the paperwork presented to him by M. Moreno and F. Moreno when he was a guest at their home. He described the atmosphere at the time as a party. At the hearing, Lopez provided his work history and salary information. Lopez credibly testified that he gave respondents M. Moreno and F. Moreno his accurate personal information, including work history and salary information, when he met with them in connection with the property transactions.

23. Lopez never spoke with respondent Robinson about his background information, such as his work history and salary information. Lopez credibly testified that he never told respondent Robinson that he intended to occupy the Victoria Avenue property; the topic of occupancy was not discussed between Lopez and respondent Robinson.

24. Lopez acknowledged that he never met or spoke with respondent LaPeter.

25. Respondent Robinson has been a real estate licensee for approximately 18 years. At hearing, respondent Robinson explained that he was contacted by respondent F. Moreno, who requested that Lopez be pre-qualified for the purchase of the Vine Street property. Respondent Robinson asserts that, two days later, he was contacted by respondent F. Moreno about pre-qualifying a purchaser named Barrajas for the Victoria Avenue property. Respondent Robinson asserts that Lopez met with Matt Baldini, the loan processor who worked under respondent Robinson at respondent Royalcourt Mortgage, in order to obtain the information needed for the loan application. Respondent Robinson nevertheless acknowledges that the loan applications show that he was the interviewer of the loan applicant. Respondent Robinson asserts that he observed Lopez looking at the loan applications and believed that Lopez read them. According to respondent Robinson, Lopez supplied the work history and salary information contained on the loan applications, initially stated he was going to be a non-owner occupier and that the money for the loans would not be borrowed. Respondent Robinson asserts that Lopez's salary information was verified by phone. He did not obtain a written verification of the employment and salary information. Respondent Robinson asserts that it is the lender who verifies the employment. Respondent Robinson contends that the occupancy arrangements for the Victoria Avenue property changed toward the end of the transaction, after the loan application had been submitted. Respondent Robinson admits that it was an oversight for him not to amend the loan application to correct the occupancy information. He claims he left a phone message for a loan representative, who did not return his phone call.

26. Respondent Robinson denies that he gave any funds to Lopez for Lopez to deposit at his credit union. Respondent Robinson contends that he met Lopez at Lopez's credit union in order to obtain a cashier's check and a Verification of Deposit required for the closing of the loan transactions.² Respondent Robinson contends that he was not aware of any side deals concerning the properties. Respondent Robinson's assertions were not supported by independent evidence. He did not, for example, provide any written verifications of the work history or salary information contained on the loan applications. Matt Baldini, the loan processor, did not testify at the hearing.

27. Respondent M. Moreno testified that she has been a licensed real estate salesperson since 2005 but that she has never worked as a realtor. Respondent M. Moreno is married to respondent F. Moreno. In 2004, respondent M. Moreno processed loans for a broker. She currently works for J.P. Morgan Chase Bank as a loan officer. She has worked in the banking industry for three years. Respondent M. Moreno denies that there was a partnership between Lopez, Nieto, and her and her husband. She also denies that she and her husband supplied money to Lopez to purchase the properties. Respondent M. Moreno provided a convoluted explanation about a check being issued on the Vine Street property

² The Verification of Deposit document, dated March 24, 2006, shows that Lopez's current account balance was \$21,384.41 but that his average account balance for the previous two months was \$4,130.78. The information contained in the Verification of Deposit supports Lopez's assertion that the funds for the purchase transaction were borrowed.

that had to do with money owed to her mother. Respondent M. Moreno did not have any dealings with respondent LaPeter. Respondent M. Moreno's assertions were not supported by independent evidence, and were not credited.

28. Respondent F. Moreno and respondent Angelica Nieto did not testify at the hearing and therefore did not refute Lopez's account of the transactions. F. Moreno was the real estate salesperson for both the seller and the buyer on the Vine Street property transaction. He represented the buyer on the Victoria Avenue real estate transaction.

29. Respondent LaPeter has held a broker license for 28 years. Before obtaining the broker license, he was a real estate salesperson. Respondent LaPeter has been an active real estate licensee for approximately 36 years. At one time, respondent LaPeter operated 10 offices with approximately 600 agents working under him. He was the owner of respondent Royalcourt Mortgage, which he closed after he became aware of the allegations in this case. He currently operates only one real estate office, Courtside Financial, Inc., a Century 21 franchisee, with approximately 190 people working under him. Respondent LaPeter is involved in the California Association of Realtors, where he holds the designation of Honorary Director for Life. He is active in the Big Brothers organization and supports Children's Hospital of Orange County.

30. Respondent LaPeter credibly testified that he did not place the loans on the Vine Street and Victoria Avenue properties. Respondent Robinson was his only active loan representative at respondent Royalcourt Mortgage. Respondent LaPeter acknowledges that he reviewed the loan file on the Victoria Avenue property. He contends that Barrajas was the purchaser at the time he reviewed the file. If he had seen that the same buyer was listed as an owner-occupier on two transactions, respondent LaPeter contends he would have stopped the loans. Respondent LaPeter spoke with respondent Robinson when he learned of the allegations in this matter. He informed respondent Robinson, who he viewed as an excellent employee, that he would not continue working with him. Respondent LaPeter voluntarily surrendered his license for respondent Royalcourt Mortgage, filed papers discontinuing respondent Robinson's employment, closing the corporation, and abandoning it. Respondent LaPeter took immediate corrective action when he learned of the Department's allegations.

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend respondent Royalcourt Mortgage, Inc.'s, respondent Joseph Wiley Robinson's, respondent Angelica Nieto's, respondent Margaret Garcia Moreno's, and respondent Fred Moreno's real estate licenses, pursuant to Business and Professions Code sections 10176, subdivisions (a) and (i), and 10177, subdivisions (f), (g), and (j), as set forth in factual finding numbers 1-30, and legal conclusion numbers 4-11.

2. Cause exists to revoke or suspend respondent Michael La Peter's real estate licenses, pursuant to Business and Professions Code section 10177, subdivisions (g) and (h), as set forth in factual finding numbers 1-30, and legal conclusion numbers 5-11.

3. Complainant failed to establish that cause exists to revoke or suspend respondent Michael La Peter's real estate license under Business and Professions Code sections 10176 or 10177, subdivision (f) and (j), as set forth in factual finding number 1-30, and legal conclusion number 4-11, since it was not established that respondent LaPeter participated in any dishonest dealings.

4. Business and Professions Code section 10176 states in pertinent part:

The commissioner may . . . temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

(a) Making any substantial misrepresentation.

[¶] . . . [¶]

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

5. Business and Professions Code section 10177, states in pertinent part:

The commissioner may suspend or revoke the license of a real estate licensee . . . who . . . has done any of the following:

[¶] . . . [¶]

(d) Willfully disregarded or violated the Real Estate Law

[¶] . . . [¶]

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

[¶] . . . [¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

6. The evidence established that respondents Nieto, M. Moreno, F. Moreno and Robinson were guilty of making substantial misrepresentations, which conduct constituted fraud, dishonest dealing, gross negligence, or incompetence in connection with the loan transactions on the Vine Street and Victoria Avenue properties. Respondents asserted that Lopez should not be believed. The following arguments were made on the issue of Lopez's credibility:

a. Respondents Robinson, LaPeter and Royalcourt Mortgage argued that Lopez's testimony about depositing borrowed funds should not be believed because the Internal Revenue Service would have been notified had a deposit in an amount over \$10,000 been made into Lopez's credit union account. No evidence was presented, however, from anyone at the credit union on whether or not notification was made to the Internal Revenue Service. Respondent LaPeter's brief on the issue indicates that the bank is required to sign the form, not the depositor. Lopez's testimony that he did not sign a form, when it was the bank that would have been required to sign the Internal Revenue Service form, is not a basis for impeaching Lopez's credibility. Further, Lopez's testimony that money was deposited into his account was supported by documentary evidence. The Verification of Deposit form showed that Lopez's account balance had in fact increased by approximately \$17,000 from the average account balance of the previous two months.

b. Respondent Robinson argued that Lopez's testimony concerning respondent Robinson's delivery of the funds to Lopez when they met at Lopez's credit union is not credible because respondent Robinson would lose money if he conducted his business by giving people funds. Lopez, however, never testified that respondent Robinson gave him Robinson's money. He merely stated that respondent Robinson delivered the money. Respondent Robinson's argument does not impeach Lopez's credibility on this point.

c. Respondent LaPeter argued that Lopez's choice to testify through an interpreter adversely reflected on his credibility. The evidence did not establish who determined that an interpreter be used. Lopez never denied that he speaks English. A decision to have a witness testify in his or her native language does not reflect a lack of credibility on the part of the witness.

7. Lopez's credibility, however, is not integral in establishing the culpability of respondents Robinson and F. Moreno in this case. There is no dispute that respondent Robinson, by the time of the closing of the Victoria Avenue loan transaction, knew that Lopez could not be the primary occupant of both the Vine Street and Victoria Avenue properties. Respondent Robinson also knew that Lopez had already submitted a loan application on the Vine Street property when the Victoria Avenue loan transaction was processed. He nevertheless allowed the loan transactions to close without amending the loan applications to notify the lenders of the true facts concerning occupancy and Lopez's

purchase of the Vine Street property, a known liability that would have impacted the Victoria Avenue loan. Respondent Robinson argues that the Verification of Deposit document, which shows funds in Lopez's account, supports respondent Robinson's contention that he did not meet with Lopez to give him funds. The Verification of Deposit document, however, shows that Lopez did not have sufficient funds in his account to close either property transaction during the two months before the document was filled out. The document therefore supports Lopez's assertion that the funds to close the property transactions were borrowed. Respondent Robinson should have been alerted to this possibility based on his review of the deposit verification document. The facts against respondent Robinson, when viewed together, lead to the conclusion that he was somehow involved in the dishonest dealings. Even if one credits respondent Robinson's assertion that he was not responsible for false statements in the loan applications, respondent Robinson's handling of the transactions is still a serious concern. It was undisputed that F. Moreno was the real estate agent involved in the transactions. Lopez's testimony about his "partnership" with Nieto, M. Moreno, and F. Moreno is credited. It was supported by the testimony of respondent M. Moreno, who indicated that there was a money transaction between Lopez and her family. Lopez's testimony about wanting to invest in a women's shelter was believable.

8. Complainant failed to establish that respondent LaPeter knowingly participated in any wrongdoing. Complainant proved that respondent LaPeter failed to adequately supervise the Vine Street and Victoria Avenue loan transactions. Respondent LaPeter, however, took immediate corrective action when he became aware of the allegations in this case by severing respondent Robinson's employment and discontinuing the corporate activities of respondent Royalcourt Mortgage.

9. The objective of a disciplinary proceeding is to protect the public, the licensed profession or occupation, maintain integrity, high standards, and preserve public confidence in real estate professionals. (*Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Clerici v. Dept. of Motor Vehicles* (1990) 224 Cal.App.3d 1016, 1030-1031.)

10. The qualities of honesty, truthfulness, integrity, and good reputation are fundamental to a real estate licensee's occupation. (*Golde v. Fox* (1979) 98 Cal.App.3d 167, at pp. 176-177.) The evidence failed to establish that, as real estate licensees, respondents Robinson, Nieto, M. Moreno, and F. Moreno retain such qualities. The evidence did not support a conclusion that the public would be sufficiently protected if the Department allowed these respondents to retain their real estate licenses. Respondents' conduct was so intrinsically linked to their work within the real estate industry, and violated the necessary core qualities of honesty, truthfulness, and integrity, that even if respondents Robinson, Nieto, M. Moreno and F. Moreno were issued restricted real estate licenses, there would remain a significant concern as to whether the public would be protected from their potential dishonest acts. Revocation is therefore appropriate.

11. Taking into consideration the violations established by the evidence, it is appropriate to restrict respondent LaPeter's real estate broker license in order to assure the public's protection. Revocation would be too severe an outcome for respondent LaPeter

under the facts established in this case. A reasonable period of restriction shall allow the Department to appropriately monitor respondent LaPeter's broker activities to ensure that respondent LaPeter conducts any supervisory activities in accordance with the law. As respondent Royalcourt Mortgage appears to have surrendered its license and failed to represent its interests in this proceeding, given the legal conclusions reached herein, it is appropriate to revoke its corporate broker license in order to protect the public.

ORDER

1. All licenses and licensing rights of respondents Royalcourt Mortgage, Inc., Joseph Wiley Robinson, Angelica Nieto, Margaret Garcia Moreno, and Fred Moreno under the Real Estate Law are revoked.

2. All licenses and licensing rights of respondent James Michael La Peter (LaPeter) under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent LaPeter pursuant to Section 10156.5 of the Business and Professions Code if respondent LaPeter makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent LaPeter shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The restricted license issued to respondent LaPeter may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent LaPeter's conviction or plea of nolo contendere to a crime which is substantially related to respondent LaPeter's fitness or capacity as a real estate licensee.

b. The restricted license issued to respondent LaPeter may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent LaPeter has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

c. Respondent LaPeter shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

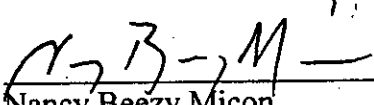
d. Respondent LaPeter shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent LaPeter has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent LaPeter fails to satisfy this condition, the Commissioner may order the suspension of the restricted license

not adopted

until respondent LaPeter presents such evidence. The Commissioner shall afford respondent LaPeter the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: December 14, 2009

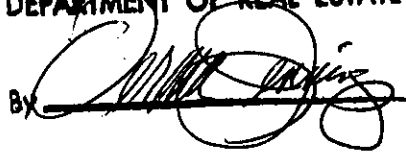
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Nancy Beezy Micon
Administrative Law Judge
Office of Administrative Hearings

SACD
Flay

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2 Department of Real Estate
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FILED
MAR 26 2009
DEPARTMENT OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-35808 LA
12)
13) A C C U S A T I O N
14)
15) ROYALCOURT MORTGAGE, INC.,)
16) and JAMES MICHAEL LA PETER,)
17) individually and as)
18) designated officer of)
19) the corporation,)
20) JOSEPH WILEY ROBINSON,)
21) ANGELICA NIETO,)
22) MARGARET GARCIA MORENO,)
23) and FRED MORENO,)
24) Respondents.)

21 The Complainant, Robin L. Trujillo, a Deputy Real
22 Estate Commissioner of the State of California, for cause of
23 accusation against ROYALCOURT MORTGAGE, INC. and JAMES MICHAEL LA
24 PETER, individually and as designated officer of the corporation,
25 JOSEPH WILEY ROBINSON, ANGELICA NIETO, MARGARET GARCIA MORENO,
26 and FRED MORENO, alleges as follows:
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I

The Complainant, Robin L. Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against ROYALCOURT MORTGAGE, INC. and JAMES MICHAEL LA PETER, JOSEPH WILEY ROBINSON, ANGELICA NIETO, MARGARET GARCIA MORENO, and FRED MORENO.

II

ROYALCOURT MORTGAGE, INC. and JAMES MICHAEL LA PETER, individually and as designated officer of the corporation, JOSEPH WILEY ROBINSON, ANGELICA NIETO, MARGARET GARCIA MORENO, and FRED MORENO (hereinafter referred to as "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, hereinafter Code).

III

At all times herein mentioned, Respondents were licensed by the Department of Real Estate as a real estate broker or salesperson or had renewal rights thereto.

IV

Respondent ROYALCOURT MORTGAGE, INC. was previously disciplined in case No. H-33975 LA. Respondent JAMES MICHAEL LA PETER was previously disciplined in case Nos. H-26009 LA, H-29444 LA, and H-33975 LA.

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V

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2 Respondent ROYALCOURT MORTGAGE, INC. was originally
3 licensed as a real estate broker on February 24, 2003. Pursuant
4 to Code Section 10159.2, Respondent JAMES MICHAEL LA PETER is
5 responsible for the supervision and control of the activities
6 conducted on behalf of the corporation by its officers and
7 employees as necessary to secure full compliance with the
8 provisions of the real estate law including the supervision of
9 salespersons licensed to the corporation in the performance of
10 acts for which a real estate license is required.

11 VI

12 At all times material herein, Respondent ROYALCOURT
13 MORTGAGE, INC. engaged in the business of, acted in the capacity
14 of, advertised or assumed to act as a real estate broker in the
15 State of California within the meaning of Section 10131(d) of the
16 Code including soliciting borrowers and lenders and negotiating
17 loans on real property.

18 VII

19 Borrower Miguel Orozco Lopez purchased a property at
20 1171 W. Vine St., San Bernardino, California for \$285,000. The
21 loan closed on March 29, 2006 with People's Choice Home Loan,
22 Inc. financing the full \$270,750 debt in the form of a first
23 mortgage.

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VIII

Borrower purchased another property located at 188 N. Victoria Ave., San Jacinto, California for \$230,000. The loan closed on April 10, 2006 with Fremont Investment & Loan financing the full \$230,000 debt in the form of a first mortgage for \$184,000 and a second for \$46,000.

IX

Respondents ROYALCOURT MORTGAGE, INC., JAMES MICHAEL LA PETER, and JOSEPH WILEY ROBINSON acted as the mortgage broker and received a commission at closing for both loans.

X

Borrower represented to the lenders that the property would be his primary residence.

XI

The Loan Application for the Victoria Ave. property did not disclose the purchase of the Vine St. property despite the fact that Respondents ROYALCOURT MORTGAGE, INC., JAMES MICHAEL LA PETER, and JOSEPH WILEY ROBINSON brokered the loans. Therefore, Respondents failed to disclose a known liability.

XII

Based on the above, it can reasonably be determined that Respondents knew the Borrower closed on the loans under the premise that each property would be his primary residence.

XIII

Due to the higher risk related to investment properties the lenders would not have approved these loans on the original terms.

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XIV

Respondents JOSEPH WILEY ROBINSON, ANGLELICA NIETO, MARGARET GARCIA MORENO, and FRED MORENO arranged or caused the arrangement through the use of falsified documentation the transfer of both properties to the Borrower. In order to finalize the transactions, Respondents arranged through the use of falsified documentation for the Borrower to obtain the loans on both properties.

XV

The above two transactions were sham transactions undertaken by Respondents with the use of a dummy Borrower in that the Borrower was to receive a monetary sum for the use of his name.

XVI

In order to induce the Lenders to make the loans to the Borrower, Respondents caused falsified documentation to be submitted to the Lenders upon which the Lenders relied in making the loans. Such documentation included, among other things, the purchase agreements, loan applications, deeds of trust, tax returns, pay stubs and W-2s.

XVII

The Lenders relied upon the documentation they received from Respondents and agreed to make the loans to the Borrower. If the Lenders had known the true facts in this matter they would not have agreed to make the loans to the Borrower.

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XVIII

The Lenders have been damaged financially in this matter as Respondents have not made all required payments of principal and interest due the Lenders. Respondents defaulted on the loan payments due the Lenders and a foreclosure resulted from the default.

XIX

The conduct, acts and/or omissions of Respondents ROYALCOURT MORTGAGE, INC. and JAMES MICHAEL LA PETER, JOSEPH WILEY ROBINSON, ANGELICA NIETO, MARGARET GARCIA MORENO, and FRED MORENO, as alleged above, subject their real estate licenses and license rights to suspension or revocation pursuant to Sections 10176(a), 10176(i), 10177(f), 10177(g), and 10177(j) of the Code.

XX

The conduct, acts and/or omissions of Respondent JAMES MICHAEL LA PETER in failing to ensure full compliance with the Real Estate Law is in violation of Section 10159.2 of the Code and subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d), 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 license rights of Respondents
5 ROYALCOURT MORTGAGE, INC. and JAMES MICHAEL LA PETER, JOSEPH
6 WILEY ROBINSON, ANGELICA NIETO, MARGARET GARCIA MORENO, and FRED
7 MORENO under the Real Estate Law (Part 1 of Division 4 of the
8 Business and Professions Code) and for such other and further
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 25 day of March, 2009.

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14 ROBIN L. TRUJILLO
15 Deputy Real Estate Commissioner
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19 cc: RoyalCourt Mortgage, Inc.
20 James Michael La Peter
21 Joseph Wiley Robinson
22 Angelica Nieto
23 Margaret Garcia Moreno
24 Fred Moreno
25 Donald Eugene Caldwell
26 Robin L. Trujillo
27 Phil Ihde
Sacto.