

**FILED**  
JAN 13 2010  
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of )  
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 )  
 JOHN L. LETT, SR., )  
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 )  
 Respondent. )  
\_\_\_\_\_

No. H-35940 LA  
OAH #2009061292

DECISION

The Proposed Decision dated November 30, 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 February 2, 2010.

IT IS SO ORDERED 1-5-09

JEFF DAVIS  
Real Estate Commissioner

*[Handwritten signature]*  
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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

JOHN L. LETT, SR.,

Respondent.

Case No. H-35940 LA

OAH No. L2009061292

**PROPOSED DECISION**

Administrative Law Judge, Michael A. Scarlett, Office of Administrative Hearings, State of California, heard this matter on October 30, 2009, in Los Angeles, California.

James Peel and Cheryl D. Keily, Staff Counsel, represented Maria Suarez, Deputy Real Estate Commissioner of the State of California (Complainant).

Arthur D. Hodge, Attorney at Law, represented John L. Lett, Sr. (Respondent) who was not present but testified telephonically at hearing.

Oral and documentary evidence was received and the matter was submitted for decision on October 30, 2009.

**FACTUAL FINDINGS**

The Administrative Law Judge makes the following Factual Findings:

1. On May 8, 2009, Complainant filed the Accusation against Respondent in her official capacity as a Deputy Real Estate Commissioner of the State of California. On June 3, 2009, Respondent filed a Notice of Defense with the Department of Real Estate (Department), and this hearing ensued.

2. April 1, 2003, Respondent was licensed as a real estate broker, license number B01025060. Respondent operated under two DBAs: "A Lending Company" and A Real Estate Company." Respondent's broker license is due to expire on July 4, 2013, unless renewed by the Department.

3. The Department's Accusation against Respondent alleges that he employed two persons, Juan Barrera and Maurizio Arnaiz, who were not licensed as real estate brokers or salespersons, to solicit and negotiate loans on real property for one borrower, Mauricio Rincon. Respondent admitted that he employed Barrera and Arnaiz, but contends that

neither employee engaged in sales or solicitation of real property on his or his companies' behalf. According to Respondent, the employees merely acted as translators or interpreters for Spanish speaking clients of Respondent.

4. Neither Juan Barrera nor Maurizio Arnaiz was licensed as a real estate salesperson or broker at any time relevant to the allegations in the Department's Accusation against Respondent.

5. On May 11, 2006, Mauricio Rincon (Rincon) refinanced his home located at 10303 Amboy Avenue, Pacoima, California 91331, by submitting a loan application through Respondent's real estate company located at 10200 Sepulveda Blvd., in Mission Hills, California. Respondent submitted the Rincon loan application to Emerald Mortgage Corporation, a wholesale brokerage firm who financed the loan for Respondent. Rincon's refinance loan was a "pay-option" Adjustable Rate Mortgage and Respondent submitted the loan to Emerald Mortgage because he believed the company had a "very competitive price" for these types of loans. Respondent was paid a loan origination fee by Emerald Mortgage for submitting Rincon's loan for funding.

6. Mauricio Rincon's first contact with Respondent's real estate company was through a meeting at Rincon's home with Juan Barrera. Barrera came to Rincon's home unannounced and offered to help Rincon refinance his home. Barrera told Rincon about several different refinancing programs that were available. Rincon and his wife met with Barrera at this initial meeting. Barrera explained the different loan programs to Rincon and his wife and recommended a specific refinance program he believed was best for the Rincons. Barrera explained to Rincon how an Adjustable Rate Mortgage worked and discussed how his payments would change during the life of the loan. Respondent was not present at the initial meeting at which Barrera presented loan program options to the Rincons.

7. Mauricio Rincon later met with Barrera and Maurizio Arnaiz at Respondent's Mission Hills office to sign the loan documents. Rincon again did not meet with Respondent on this occasion. He only met with Barrera and Arnaiz who explained the loan documents and finalized the loan documents for signature. Barrera also told Rincon that he was a licensed real estate salesperson during this meeting.

8. Rincon did not fully understand the terms and conditions of the loan refinance agreement he initiated with Respondent's real estate business. Rincon testified that he was not aware that the payments would increase after one or two years and that once the payments increased he was required to pay a pre-payment penalty before he could refinance into another loan. Rincon filed a consumer complaint and a civil law suit against Respondent, Emerald Mortgage Corporation, Barrera, and Arnaiz seeking recovery of losses and damages as a result of the loan refinance with Respondent and Emerald Mortgage. In 2008, Rincon settled the lawsuit with the parties and was able to refinance his home into a fixed rate mortgage with another lender.

9. Respondent admitted that he never met Mauricio Rincon while the loan to refinance Rincon's home was being processed. He did not meet Rincon until they appeared at a deposition in the subsequent civil litigation. Respondent also did not establish that any other licensed salesperson or broker working for Respondent assisted the Rincons in processing the loan application that Respondent's company ultimately submitted to Emerald Mortgage Corporation for funding on behalf of the Rincons. Consequently, Respondent's testimony that Barriera and Arnaiz's roles in processing the Rincon loan application were merely as translators or interpreters is not credible.

10. Respondent is not currently involved in the real estate business and no longer operates an office using his real estate broker license.

11. Respondent has no prior history of misconduct or discipline by the Department, and the Department cites only one incident of misconduct in this Accusation. However, Respondent's failure to explain the circumstances surrounding the activities of his two unlicensed employees in the Rincon loan transaction raises legitimate cause for concern by the Department. Respondent provided no viable or credible explanation for the unlicensed activities of his two employees, choosing instead to assert that their duties only included language translation and interpretation.

### **LEGAL CONCLUSIONS**

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to suspend or revoke Respondent's real estate broker license pursuant to Business and Professions Code sections 10137, and 10177, subdivision (d), in that Respondent employed two unlicensed persons, Juan Barriera and Maurizio Arnaiz, to solicit and negotiate loans on real property, by reason of Factual Findings 3 through 9.

2. A board may suspend or revoke a license on the ground that the licensee has "[w]illfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2." (Bus. & Prof. Code § 10177, subd. (d).) "It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesman licensed under the broker employing or compensating him . . ." (Bus. & Prof. Code § 10137.) For any violation of Section 10137, the Commissioner "may temporarily suspend or permanently revoke the license of the real estate licensee. (Bus. & Prof. Code § 10137.)

3. The evidence established that two of Respondent's employees, Juan Barrera and Maurizio Arnaiz, met with Mauricio Rincon, following an initial unsolicited cold call to Rincon's home, and discussed details of several refinance programs, ultimately recommending a loan program to Rincon which he accepted. Neither Barrera nor Arnaiz were licensed as real estate salespersons or brokers. Respondent admittedly employed both of these persons and admits his company processed the real estate loan to refinance Rincon's home. Respondent also admitted he never met Mauricio Rincon during the time the loan application was being processed or when the Rincons signed the loan documents at his office in Mission Hills.


4. On these facts, it is found that Respondent employed Barrera and Arnaiz and facilitated the solicitation and negotiation of the Rincon loan for real property by these two unlicensed employees.

5. Because Respondent has not had any prior discipline or misconduct, and the Department's Accusation alleges just one instance of misconduct giving rise to discipline, an appropriate period of suspension of Respondent's license would be an adequate measure to protect the public from future harm. The evidence also established that Mauricio Rincon received just compensation for any losses sustained as a result of Respondent's conduct.

#### ORDER

All licenses and licensing rights of Respondent John L. Lett, Sr. (real estate broker license number B01025060) under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this decision.

DATED: November 30, 2009

  
MICHAEL E. SCARLETT  
Presiding Administrative Law Judge  
Office of Administrative Hearings

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2 Department of Real Estate  
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4 Los Angeles, California 90013-1105

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**FILED**

MAY - 8 2009

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

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8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of ) No. H- 35940 LA  
13 JOHN L. LETT, SR., ) A C C U S A T I O N  
14 Respondent. )  
\_\_\_\_\_ )

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16 The Complainant, Maria Suarez, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against JOHN L. LETT, SR., (hereinafter "Respondent"), is  
19 informed and alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation  
23 in her official capacity.

24 2.

25 Respondent is presently licensed and/or has license  
26 rights under the Real Estate Law (Part 1 of Division 4 of the  
27

1 Business and Professions Code, hereinafter "Code"), as a real  
2 estate broker.

3 3.

4 At all times material herein, Respondent engaged in  
5 the business of, acted in the capacity of, advertised or assumed  
6 to act as a real estate broker in the State of California,  
7 within the meaning of Section 10131(d) of the Code, including  
8 soliciting borrowers and lenders and negotiating loans on real  
9 property.

10 4.

11 In connection with Respondent's activities as a real  
12 estate broker, as described above, Respondent violated Section  
13 10137 of the Code by employing Juan Barriera and Maurizio  
14 Arnaiz, who were not licensed as a real estate broker or  
15 salesperson, to solicit and negotiate loans on real property for  
16 borrower Mauricio Rincon.

17 5.

18 The conduct, acts and/or omissions of Respondent JOHN  
19 L. LETT, SR., as alleged above, subject his real estate licenses  
20 and license rights to suspension or revocation pursuant to  
21 Sections 10137, 10177(d) and/or 10177(g) 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 the licenses and license rights of Respondent  
5 JOHN L. LETT, SR. under the Real Estate Law (Part 1 of Division  
6 4 of the Business and Professions Code), and for such other and  
7 further relief as may be proper under other applicable  
8 provisions of law.

9 Dated at Los Angeles, California

10 this 24th day of May, 2009.

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15 Maria Suarez  
16 Deputy Real Estate Commissioner  
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25 cc: JOHN L. LETT, SR.  
26 Maria Suarez  
27 Sacto.