

FILED

MAY 10 2011

DEPARTMENT OF REAL ESTATE
BY: [Signature]

STATE OF CALIFORNIA

* * *

No. H-36596 LA
L-2010050637

STIPULATION
AND
AGREEMENT

Respondents,

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

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

9 3. Respondents timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notice of
13 Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notice of Defense they thereby waive their right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in their defense the right to cross-examine
20 witnesses.
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22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondents choose not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
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1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation is made for the purpose of
6 reaching an agreed disposition of this proceeding and is
7 expressly limited to this proceeding and any other proceeding or
8 case in which the Department of Real Estate ("Department"), the
9 state or federal government, or any agency of this state, another
10 state or federal government is involved, and otherwise shall not
11 be admissible in any other criminal or civil proceedings.

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

5 8. Respondents understand that by agreeing to this
6 Stipulation, Respondents agree to pay, pursuant to Business and
7 Professions Code Section 10148, the cost of the audits. The
8 amount of said cost for the audit is \$ 9,423.50 for Audit Reports
9 LA 080257 and LA 080279 (Presidential Capital Investment Inc.).
10 Respondents shall not be charged for the audit of LA 080249.

11 DETERMINATION OF ISSUES

12 By reason of the foregoing, it is stipulated and agreed
13 that the following determination of issues shall be made:
14

15 I.

16 The conduct of PRESIDENTIAL CAPITAL INVESTMENT INC. and
17 JERRY GANG CHEN, as described in Paragraph 4, above, are in
18 violation of Sections 10145, 10146, 10176(a), 10176(e), 10176(g),
19 of the Business and Professions Code ("Code") and Sections 2731,
20 2831, 2831.1, 2832.1, 2832(d), 2832(e), 2840, 2848, 2950(d),
21 2950(f), 2950(g), 2950(i) and 2951 of Title 10, Chapter 6 of the
22 California Code of Regulations ("Regulations") and is a basis for
23 discipline of Respondent's licenses and license rights as a
24 violation of the Real Estate Law pursuant to Code Sections
25 10177(d), 10176(a), 10176(e), 10176(g) and 10177(g).

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II.

The conduct, acts or omissions of JERRY GANG CHEN, as described in Paragraph 4, above, are in violation of Code Section 10159.2 and is a basis for discipline of Respondent's license and license rights as violation of the Real Estate Law pursuant to Code Sections 10177(h), 10177(d) and 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All real estate license and license rights of Respondent PRESIDENTIAL CAPITAL INVESTMENT INC. under the Real Estate Law are revoked.

II.

The real estate broker license of Respondent JERRY GANG CHEN under the Real Estate Law is revoked;
provided, however, a restricted real estate salesperson license shall be issued to Respondent, pursuant to Section 10156.5 of the Business and Professions Code, if Respondent:

A. As a condition prior to the issuance of any restricted licensee herein, Respondent shall first provide evidence satisfactory to the Commissioner that the trust fund deficit set forth in the Accusation with respect to the broker escrow audit, Audit Report LA 080279, in the amount of \$25,457.39, has been cured, including the identification of the source of funds used to cure the deficit.

1 Makes application therefor and pays to the Department
2 of Real Estate the appropriate fee for the restricted license
3 within ninety (90) days from the effective date of this Decision.

4 The restricted license issued to Respondent shall be subject to
5 all of the provisions of Section 10156.7 of the Code and the
6 following limitations, conditions and restrictions imposed under
7 authority of Section 10156.6 of that Code.

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

13 2. The restricted license issued to Respondent may
14 be suspended prior to hearing by Order of the Real Estate
15 Commissioner on evidence satisfactory to the Commissioner that
16 Respondent has violated provisions of the California Real Estate
17 Law, the Subdivided Lands Law, Regulations of the Real Estate
18 Commissioner or conditions attaching to the restricted license.

19 3. Respondent shall not be eligible to apply for the
20 issuance of an unrestricted real estate license nor for the
21 removal of any of the conditions, limitations or restrictions of
22 a restricted license until two (2) years has elapsed from the
23 effective date of the issuance of the restricted license.

24 4. Respondent shall submit with any application for
25 license under an employing broker, or any application for
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1 transfer to a new employing broker, a statement signed by the
2 prospective employing real estate broker on a form approved by
3 the Department of Real Estate which shall certify:

4 (a) That the employing broker has read the
5 Decision of the Commissioner which granted
6 the right to a restricted license; and

7 (b) That the employing broker will exercise
8 close supervision over the performance by the
9 restricted licensee relating to activities
10 for which a real estate license is required.

11 5. Respondent shall within six (6) months from the
12 date of issuance of the restricted license, take and pass the
13 Professional Responsibility Examination administered by the
14 Department including the payment of the appropriate examination
15 fee. If Respondent fails to satisfy this condition, the
16 Commissioner may order suspension of Respondent's license until
17 Respondent passes the examination.

18 6. Respondent shall, within nine (9) months from the
19 date of issuance of the restricted license, present evidence
20 satisfactory to the Real Estate Commissioner that Respondent has,
21 since the most recent issuance of an original or renewal real
22 estate license, taken and successfully completed the continuing
23 education requirements of Article 2.5 of Chapter 3 of the Real
24 Estate Law for renewal of a real estate license. If Respondent
25 fails to satisfy this condition, the Commissioner may order the
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1 suspension of the restricted license until Respondent presents
2 such evidence. The Commissioner shall afford Respondent the
3 opportunity for a hearing pursuant to the Administrative
4 Procedure Act to present such evidence.

5 III.


6 Pursuant to Section 10148 of the Business and
7 Professions Code, Respondent JERRY GANG CHEN shall pay the
8 Commissioner's reasonable cost for (a) the audit(s), Audit
9 Reports LA 080257 and LA 080279 (Presidential Capital Investment
10 Inc.). Respondent shall not be charged for the audit of LA
11 080249. The cost of the audit which led to this disciplinary
12 action is \$9,423.50. In calculating the amount of the
13 Commissioner's reasonable cost, the Commissioner may use the
14 estimated average hourly salary for all persons performing audits
15 of real estate brokers, and shall include an allocation for
16 travel time to and from the auditor's place of work.

17 Respondent shall pay such cost within 60 days of
18 receiving an invoice from the Commissioner detailing the
19 activities performed during the audit and the amount of time
20 spent performing those activities.

21 The Commissioner may suspend any license of Respondent
22 pending a hearing held in accordance with Section 11500, et seq.,
23 of the Government Code, if payment is not timely made as provided
24 for herein, or as provided for in a subsequent agreement between
25 the Respondent and the Commissioner. The suspension shall remain
26 in effect until payment is made in full or until Respondent
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1 enters into an agreement satisfactory to the Commissioner to
2 provide for payment, or until a decision providing otherwise is
3 adopted following a hearing held pursuant to this condition.

4
5 DATED: 10-26-10


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

7 * * *

8 EXECUTION OF THE STIPULATION

9 We have read the Stipulation. Its terms are understood
10 by us and are agreeable and acceptable to us. We understand that
11 we are waiving rights given to us by the California
12 Administrative Procedure Act (including but not limited to
13 Sections 11506, 11508, 11509 and 11513 of the Government Code),
14 and we willingly, intelligently and voluntarily waive those
15 rights, including the right of requiring the Commissioner to
16 prove the allegations in the Accusation at a hearing at which we
17 would have the right to cross-examine witnesses against us and to
18 present evidence in defense and mitigation of the charges.

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MAILING AND FACSIMILE

Respondent(s). (1) shall mail the original signed signature page of the Stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Additionally, Respondent shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan.

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondent agrees, acknowledges and understands that by electronically sending to the Department a facsimile copy of Respondent's actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondent as if the Department had received the original signed stipulation.

DATED: 10/25/10


PRESIDENTIAL CAPITAL INVESTMENT
INC.

BY: JERRY GANG CHEN, President and
CEO of Presidential Capital
Investment Inc., Respondent

DATED: 10/25/10


JERRY GANG CHEN, Respondent

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IT IS SO ORDERED

JEFF DAVIS
Real Estate Commissioner

1 Estate Commi

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

APR 19 2010

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)

No. H-36596 LA

13 PRESIDENTIAL CAPITAL INVESTMENT INC.;)
14 and JERRY GANG CHEN, individually)
15 and as designated officer of)
16 Presidential Capital Investment Inc.,)

A C C U S A T I O N

Respondents.)

17 The Complainant, Robin Trujillo, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN,
20 individually and as designated officer of Presidential Capital
21 Investment Inc., alleges as follows:

22 1.

23 The Complainant, Robin Trujillo, acting in her official
24 capacity as a Deputy Real Estate Commissioner of the State of
25 California, makes this Accusation against PRESIDENTIAL CAPITAL
26 INVESTMENT INC. (PCII) and JERRY GANG CHEN (CHEN).
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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

A. At all times mentioned, PCII and CHEN were licensed or had license rights issued by the Department of Real Estate (Department) as real estate brokers.

B. At all times material herein, PCII was licensed by the Department as a corporate real estate broker by and through CHEN, pursuant to Code Sections 10211 and 10159.2 for supervising the activities requiring a real estate license conducted on behalf PCII.

C. CHEN is the sole shareholder of PCII.

BROKERAGE

PRESIDENTIAL CAPITAL INVESTMENT INC.

4.

At all times mentioned, in the City of Rowland Heights, County of Los Angeles, PCII and CHEN acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents PCII and CHEN engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

1 B. Code Section 10131(d). Respondents PCII and CHEN
2 operated a mortgage and loan brokerage engaging in activities
3 with the public wherein lenders and borrowers were solicited for
4 loans secured directly or collaterally by liens on real property,
5 wherein such loans were arranged, negotiated, processed and
6 consummated on behalf of others for compensation or in
7 expectation of compensation and for fees often collected in
8 advance as well as at the conclusion of transactions; and

9 C. Respondents PCII and CHEN engaged in loan
10 negotiation and modification service activities. For
11 compensation or in expectation of compensation and for fees often
12 collected in advance, Respondents advertised to solicit
13 economically distressed homeowners seeking favorable modification
14 of the terms of their home loans, offered loan negotiation and
15 modification services including forbearance agreements, principal
16 and interest reduction, foreclosure abatement, loan
17 restructuring, and/or short sale services.

18 D. In addition, PCII conducted broker-controlled
19 escrows through its escrow division under the exemption set forth
20 in California Financial Code Section 17006(a)(4) for real estate
21 brokers performing escrows incidental to a real estate
22 transaction where the broker is a party and where the broker is
23 performing acts for which a real estate license is required.

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FIRST CAUSE OF ACTION

MORTGAGE LOAN AUDIT

5.

On May 21, 2009, the Department completed an audit examination of the books and records of PCII pertaining to the mortgage loan activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on February 01, 2008 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080257 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

6.

No trust account was kept during the audit period.

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2 MORTGAGE LOAN AUDIT
3 VIOLATIONS OF THE REAL ESTATE LAW

4 7.

5 In the course of activities described in Paragraph 4
6 above, and during the examination period described in Paragraph
7 5, Respondents PCII and CHEN, acted in violation of the Code and
8 the Regulations in that Respondents:

9 (a)(1) Advertised to solicit economically distressed
10 home owners offering stop foreclosure assistance and loan
11 modification services. Respondents sought to collect advance
12 fees for these services.

13 (a)(2) Respondents advertisements in the Chinese
14 language newspaper "Word Journal" are misleading through the
15 omission of necessary information to make CHEN's representations
16 to the home owners not misleading in the context in which they
17 are used.

18 (a)(3) Solicited homeowners for the Hope for Homeowners
19 governmental mortgage loan program sponsored by the United States
20 Department of Federal Housing Administration (FHA) which was
21 still waiting FHA approval.

22 (a)(4) Respondents' Word Journal advertisements for
23 loan modification services which presupposed the payment of
24 advance fees were not submitted to the Department in advance.
25 Nor did CHEN first obtain approval from the Department for CHEN's
26 usage of a Loan Modification and Advance Fee agreement.
27

1 (a) (5) Respondents course of conduct described herein
2 above, to wit, Respondents advertised, solicited and conducted
3 licensed acts including stop foreclosure and loan modification
4 services claiming advance fees are in violation of statutory Code
5 and the Regulations now set forth:

6 (i) Code Section 10176(a). Substantial
7 misrepresentations made by advertising representations made to
8 economically distressed homeowners via Word Journal.

9 (ii) Code Section 10235 and Regulation 2848.
10 Respondents Word Journal advertisements were false, misleading or
11 deceptive.

12 (iii) Code Section 10146. Respondents by claiming
13 and/or collecting advance fees yet failed to establish a real
14 estate broke trust account for the collection and deposit of
15 advance fees.

16 (iv) Code Section 10085 and Regulation 2970.
17 Respondents failed to submit to the Commissioner not less than
18 ten calendar days before publication or other use, all materials
19 to be used in advertising, promoting, soliciting and negotiating
20 an agreement calling for the payment of an advance fee including
21 the form of advance fee agreement proposed for use.

22 (v) Code Section 10146 and Regulation 2972.
23 Respondents failed to provide a complete description of the loan
24 modification services to be rendered to the aforesaid homeowners
25 in 10 point type font including an allocation and disbursement of
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the amount collected as advance fees.

(vi) Code Section 10145 and Regulation 2831.

Respondents failed to maintain a control record in the form of a columnar record in chronological order of all trust funds received, not placed in a broker's trust account, including advance fees.

(vii) Code Section 10145 and Regulation 2831.1.

Respondents failed to maintain a separate record for each homeowner-beneficiary of loan modification services, thereby failing to account for all trust funds in the form of advance fees collected.

(viii) Code Section 10145 and Regulation 2831.2.

Respondents failed to perform a monthly reconciliation of the balance of all separate beneficiaries of loan modification services loan modification transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds collected.

(b) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Tian Li, Rui Xu, Ray Wu/Zeng, Roberto Machorro, Ren Zhang, Yeh Mei Chen, Christine Zhang, Xia Zhang and An Ning Song, in violation of Code Section 10240.

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1 (c) Permitted and/or caused the disbursement of trust
2 funds to credit report companies on the representation that these
3 amounts were needed to pay for credit report fees, which payments
4 exceeded the actual costs of these services. Respondents PCII
5 and CHEN received undisclosed compensation by not disclosing
6 these "mark-ups" to borrower-beneficiaries Tian Li, Rui Xu, Ray
7 Wu/Zeng, Roberto Machorro, Ren Zhang, Yeh Mei Chen and Christine
8 Zhang of said trust funds, did not obtain their consent to these
9 "mark-ups". Respondents retained the difference between the
10 amounts paid and the actual costs of the services, in violation
11 of Code Sections 10145 and 10176(g).

12 (d) Mixed and commingled trust funds and personal funds
13 by depositing appraisal and credit report fees received from
14 escrow into PCII's general operating account and issuing checks
15 from said account to the appraisers or credit companies after the
16 escrow checks were deposited, in violation of Code Section 10145
17 and 10176(e) and Regulations 2832(a) and 2832(d).

18 (e) Failed to maintain an accurate and complete control
19 record for each beneficiary or transaction, thereby failing to
20 account for all trust funds collected along with real estate
21 commissions and fees earned at the close of escrow from the
22 lender, in violation of Code Section 10145 and Regulation 2831.
23 PCII and CHEN did not maintain a columnar for appraisal and/or
24 credit report fees.
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(f) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds collected along with real estate commissions and fees earned at the close of escrow from the lender, in violation of Code Section 10145 and Regulation 2831.1. PCII and CHEN did not maintain a columnar for appraisal and/or credit report fees.

(g) Used the fictitious name "Presidential Capital Investment" to conduct licensed activities, without holding a license bearing the fictitious business name in violation of Code Section 10159.5 and Regulation 2731.

MORTGAGE LOAN AUDIT

DISCIPLINARY STATUTES AND REGULATIONS

8.

The conduct of Respondents PCII and CHEN described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

7(a)

Code Sections 10085, 10176(a),
10146, 10235 and Regulations 2831,
2831.1, 2831.2, 2848, 2970, 2972

7(b)

Code Section 10240 and Regulation
2840

7(c)

Code Section 10145 and 10176(g)

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The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of PCII and CHEN, under the provisions of Code Sections 10176(a), 10176(e), 10176(g), 10177(d) and/or 10177(g).

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SECOND CAUSE OF ACTION

BROKER ESCROW AUDIT

9.

On August 28, 2009, the Department completed an audit examination of the books and records of PCII pertaining to the activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on February 01, 2008 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080279 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

10.

At all times mentioned, in connection with the activities described in Paragraph 4, above, PCII accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties including borrowers and lenders, for sales and loan refinance transactions brokered and escrowed in-house by PCII and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by PCII in the bank listed below as follows:

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1 "Presidential Capital Investment Inc.

2 Account No. 00-81723686"

3 East West Bank

4 18458 Colima Road

5 Rowland Heights, CA 91748

(escrow trust account)

6 BROKER ESCROW AUDIT

7 VIOLATIONS OF THE REAL ESTATE LAW

8 11.

9 In the course of activities described in Paragraphs 4
10 and 10, above, and during the examination period described in
11 Paragraph 9, Respondents PCII and CHEN, acted in violation of the
12 Code and the Regulations in that Respondents:

13 (a) Permitted, allowed or caused the disbursement of
14 trust funds from the escrow trust account, where the disbursement
15 of funds reduced the total of aggregate funds in escrow trust
16 account, to an amount which, on March 31, 2009, was \$25,457.39,
17 less than the existing aggregate trust fund liability of PCII to
18 every principal who was an owner of said funds, without first
19 obtaining the prior written consent of the owners of said funds,
20 in violation of Code Section 10145 and/or 10177(g) and
21 Regulations 2832.1, 2950(g) and 2951.

22 (b) Withdrew or paid out \$19,475.16 in escrow monies
23 and trust funds from the escrow trust account without the prior
24 written consent of every principal or party paying the monies
25 into the escrow account between the period from February 25, 2008
26 and November 12, 2008. The unauthorized withdrawals from the
27 escrow trust account were payable to PCII's general operating

1 account, in violation of Code Sections 10145 and 10176(e) and
2 Regulations 2950(d), 2950(g) and 2951.

3 (c) Failed to maintain an accurate and complete control
4 record for each beneficiary or transaction, thereby failing to
5 account for all trust funds received, deposited and disbursed by
6 the escrow trust account, in violation of Code Section 10145 and
7 Regulations 2831, 2950(d) and 2951.

8 (d) Failed to maintain an accurate and complete
9 separate record for each beneficiary or transaction, thereby
10 failing to account for all trust funds received, deposited and
11 disbursed by the escrow trust account, in violation of Code
12 Section 10145 and Regulations 2831.1, 2950(d) and 2951.

13 (e) While acting in the capacity of an escrow holder in
14 mortgage loan refinance transactions for borrowers R. Zhang,
15 Y. Zhang, Z. Chen, R. Xu and V. Sohrab, failed to place trust
16 funds, accepted on behalf of another into the hands of the owner
17 of the funds, a neutral escrow depository or into a trust fund
18 account in the name of the broker at a bank or other financial
19 institution not later than the next business day following
20 receipt of the funds by the broker or by the broker or broker's
21 salesperson, in violation of Code Section 10145 and Regulations
22 2832(e), 2950(f) and 2951.

24 (f) Failed to perform a monthly reconciliation of the
25 balance of all separate beneficiary or transaction records
26 maintained pursuant to Regulation 2831.1 with the record of all
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1 trust funds received and disbursed by the escrow trust account,
2 in violation of Code Section 10145 and Regulations 2831.2,
3 2950(d) and 2951.

4 (g) At the close of escrow, failed to render to each
5 principal of an escrow transaction a written statement setting
6 forth all receipts and disbursements together with the name of
7 the person to whom any such disbursement was made, in violation
8 of Code Sections 10145 and 10176(a) and Regulation 2950(i).

9 BROKER ESCROW AUDIT

10 DISCIPLINARY STATUTES AND REGULATIONS

11 12.

12 The conduct of Respondents PCII and CHEN described in
13 Paragraph 11, above, violated the Code and the Regulations as set
14 forth below:

15 PARAGRAPH

16 PROVISIONS VIOLATED

17 11(a)

18 Code Sections 10145 and/or 10177(g)
19 Regulations 2832.1, 2950(g) and
20 2951

21
22 11(b)

23 Code Sections 10145 and 10176(e)
24 and Regulations 2950(d), 2950(g)
25 and 2951
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THIRD CAUSE OF ACTION

MORTGAGE LOAN AUDIT - JERRY GANG CHEN

13.

On May 12, 2009, the Department completed an audit examination of the books and records of JERRY GANG CHEN pertaining to the mortgage loan activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on May 1, 2006 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080249 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

14.

No trust account was kept during the audit period.

MORTGAGE LOAN AUDIT - JERRY GANG CHEN

VIOLATIONS OF THE REAL ESTATE LAW

15.

In the course of activities described in Paragraph 4 above, and during the examination period described in Paragraph 13, Respondent CHEN, acted in violation of the Code and the Regulations in that CHEN:

(a)(1) CHEN, in his individual broker capacity doing business as as Presidential Capital Investment, advertised to solicit economically distressed home owners offering stop

1 foreclosure assistance and loan modification services. CHEN
2 sought to collect advance fees for these services.

3 (a)(2) CHEN's advertisements in the Chinese language
4 newspaper "Word Journal" are misleading through the omission of
5 necessary information to make CHEN's representations to the home
6 owners not misleading in the context in which they are used.

7 (a)(3) CHEN solicited homeowners for the Hope for
8 Homeowners governmental mortgage loan program sponsored by the
9 United States Department of Federal Housing Administration (FHA)
10 which was still waiting FHA approval.

11 (a)(4) CHEN's Word Journal advertisements for loan
12 modification services which presupposed the payment of advance
13 fees were not submitted to the Department in advance. Nor did
14 CHEN first obtain approval from the Department for CHEN's usage
15 of the advance fee agreement, including by not limited to
16 homeowner Dorcas Tang Chang for her residence located at 21270
17 Washington Avenue, in Diamond Bar, California.

18 (a)(5) CHEN advertised, solicited and conducted
19 licensed acts including stop foreclosure and loan modification
20 services claiming advance fees are in violation of statutory Code
21 and the Regulations now set forth:

22 (i) Code Section 10176(a). Substantial
23 misrepresentation via Word Journal advertising representations to
24 economically distressed homeowners.

25 (ii) Code Section 10235 and Regulation 2848. CHEN's
26 Word Journal advertisements were false, misleading or deceptive.
27

1 (iii) Code Section 10146. CHEN by claiming and
2 collecting advance fees, including but not limited to from
3 homeowner Dorcas Tang Chang, and by failing to establish and
4 deposit advance fees into a real estate broker trust account.

5 (iv) Code Section 10085 and Regulation 2970. CHEN
6 failed to submit to the Commissioner not less than ten calendar
7 days before publication or other use, all materials to be used in
8 advertising, promoting, soliciting and negotiating an agreement
9 calling for the payment of an advance fee including the form of
10 advance fee agreement proposed for use.

11 (v) Code Section 10146 and Regulation 2972. CHEN
12 failed to provide a complete description of the loan modification
13 services to be rendered provided to the aforesaid homeowners in
14 10 point type font including an allocation and disbursement of
15 the amount collected as advance fees.

16 (vi) Code Section 10145 and Regulation 2831. CHEN
17 failed to maintain a control record in the form of a columnar
18 record in chronological order of all trust funds received, not
19 placed in a broker's trust account, including advance fees.
20

21 (vii) Code Section 10145 and Regulation 2831.1. CHEN
22 failed to maintain a separate record for each homeowner-
23 beneficiary of loan modification services, thereby failing to
24 account for all trust funds in the form of advance fees
25 collected; and

26 ///

(viii) Code Section 10145 and Regulation 2831.2. CHEN failed to perform a monthly reconciliation of the balance of all separate beneficiaries of loan modification services loan modification transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds collected.

(b) CHEN failed to disclose his Departmental license number on his Chinese language advertisements in Work Journal, in violation of Code Sections 10235.5 and 10236.4(b).

(c) Used the fictitious name "American Gold Bancorp" to conduct licensed activities, without holding a license bearing the fictitious business name in violation of Code Section 10159.5 and Regulation 2731.

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MORTGAGE LOAN AUDIT - JERRY GANG CHEN

DISCIPLINARY STATUTES AND REGULATIONS

16.

The conduct of Respondent CHEN described in Paragraph 15, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

15(a)

Code Sections 10085, 10176(a),
10235 and Regulations 2831, 2831.2,
2831.2, 2848, 2970, 2972

15(b)

Code Section 10235.5 and 10236.4(b)

15(c)

Code Section 10159.5 and Regulation
2731

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of CHEN, under the provisions of Code Sections 10176(a), 10176(g), 10177(d) and/or 10177(g).

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FOURTH CAUSE OF ACTION

NEGLIGENCE

17.

The overall conduct of Respondents PCII and CHEN constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents PCII and CHEN pursuant to Code Section 10177(g).

FIFTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

18.

The conduct, acts and omissions of Respondents PCII and CHEN constitute a breach of fiduciary duty with respect to the PCII and CHEN's real estate consumers and clientele and is cause for the suspension or revocation of the real estate license and license rights of Respondents PCII and CHEN pursuant to Code Section 10176(i).

SIXTH CAUSE OF ACTION

FAILURE TO SUPERVISE

19.

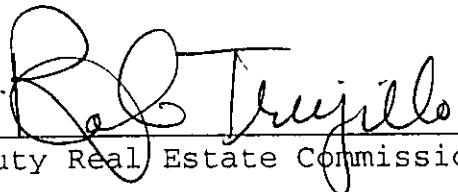
The overall conduct of Respondent CHEN constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of PCII in violation of Code Section 10159.2, and to keep PCII in compliance with the

1 Real Estate Law, and is cause for the suspension or revocation of
2 the real estate license and license rights of CHEN pursuant to
3 the provisions of Code Sections 10177(h), 10177(d) and/or
4 10177(g).

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against the license and license rights of Respondents
9 PRESIDENTIAL CAPITAL INVESTMENT INC. and JERRY GANG CHEN, under
10 the Real Estate Law (Part 1 of Division 4 of the Business and
11 Professions Code) and for such other and further relief as may be
12 proper under other applicable provisions of law.

13 Dated at Los Angeles, California

14 this 14 day of April 2010.

15 
16 Deputy Real Estate Commissioner
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23 cc: Presidential Capital Investment Inc.
24 c/o Jerry Gang Chen D.O.
25 Robin Trujillo
26 Sacto
27 Audits - Chona T. Soriano