

**FILED**

JUL 22 2011

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
 )  
R & S MORTGAGE INC.; and )  
EDWARD LULET, individually )  
and as designated officer of )  
R & S Mortgage Inc., )  
 )  
Respondents, )  
 )  
\_\_\_\_\_ )

No. H-36600 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on June 23, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent R & S MORTGAGE INC.'s and EDWARD LULET's express admissions; (2) affidavits; and (3) other evidence.

FACTUAL FINDINGS

1.

On March 30, 2010, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The

Accusation, Statement to Respondents R & S MORTGAGE INC. and EDWARD LULET. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, to Respondents' last known mailing addresses on file with the Department on April 20, 2010.

2.

On June 13, 2011, Respondents R & S MORTGAGE INC. and EDWARD LULET failed to appear at the notice hearing. Respondents R & S MORTGAGE INC.'s ("RSMI") and EDWARD LULET'S ("LULET") default was entered herein.

3.

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.

#### License History

4.

A. At all times mentioned, R & S MORTGAGE INC. ("RSMI") was licensed or had license rights issued by the Department of Real Estate ("Department") as a corporate real estate broker. On January 9, 2004, RSMI was originally licensed as a real estate broker.

B. At all times mentioned, EDWARD LULET ("LULET") was licensed or had license rights issued by the Department as a restricted real estate broker. On February 28, 2000, LULET was originally licensed as a real estate broker. At all times mentioned, LULET was licensed as the designated officer for RSMI. On August 13, 2008, LULET's designated officer license was canceled.

C. At all times material herein, RSMI was licensed by the Department as a corporate real estate broker by and through LULET, as the designated officer and broker responsible, pursuant to Code Sections 10159.2 and 10211 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf RSMI of by RSMI's officers, agents and employees, including LULET.

Brokerage

5.

At all times mentioned, in the City of Upland, County of Los Angeles, RSMI and LULET acted as real estate brokers and conducted licensed activities including but not necessarily limited to:

Code Section 10131(d). RSMI and LULET operated a mortgage and loan brokerage and engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

Audit

6.

On October 31, 2008, the Department attempted to conduct an audit examination of the books and records of RSMI pertaining to the activities described in Finding 4 that require a real estate license. The audit examination covered a period of time beginning on August 1, 2005 to August 12, 2008. 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 080011 and the exhibits and work papers attached to said audit report.

Trust Account

7.

It is unknown if a trust account was maintained during the audit period due to lack of records provided.

Violations Of The Real Estate Law

8.

In the course of activities described in Findings 4 and 5, above, Respondents RSMI and LULET, acted in violation of the Code and the Regulations in that Respondents:

(a) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241 before borrowers Suarez, Mercurio Ratiff and Azzinaro became obligated to perform under the terms of their respective

loans, in violation of Code Section 10240 and Regulation 2840.

(b) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241.2 as qualified by Code Section 10241(j) before borrowers Suarez, Mercurio Ratiff and Azzinaro became obligated to perform under the terms of their respective loans where RSMI informed said borrowers that the HUD-1 Closing Statement, Deed or Trust, Note and/or Balloon Rider that RSMI was the lender in for their loans, in violation of Code Sections 10240, 10241.2 and Regulations 2840 and 2840.1.

(c) After RSMI's corporate status was suspended by the California Franchise Tax Board, RSMI continued to conduct operations until August 12, 2010, while not registered with the California Secretary of State, in violations of Code Section 10177(f) and Regulation 2742(c).

(d) After notice and subpoena, failed to retain all records of RSMI's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148.

9.

The overall conduct of Respondents RSMI and LULET constitutes negligence. This conduct and violation is cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

10.

The overall conduct of Respondent LULET 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 RSMI as required by Code Section 10159.2 and Regulation 2725, and to keep RSMI in compliance with the Real Estate Law, with specific regard to trust fund handling, advance fee handling with respect to conducting loan modification services for homeowners, and is cause for the suspension or revocation of the real estate license and license rights of LULET pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondents R & S MORTGAGE INC. and EDWARD LULET, as described in Findings 8 and 9, herein above, are in violation of Code Sections 10148, 10240 and 10241.2 and Regulations 2742(c), 2840 and 2840.1 and is cause for disciplinary action pursuant to Code Sections 10177(d), 10177(f) and 10177(g).

2.

The conduct, acts and/or omissions of Respondent EDWARD LULET, as described in Finding 10, herein above, is in violation of Code Section 10159.2 and Regulation 2725 and is cause for disciplinary action pursuant to Code Sections 10177(h), 10177(d) and 10177(g).

3.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

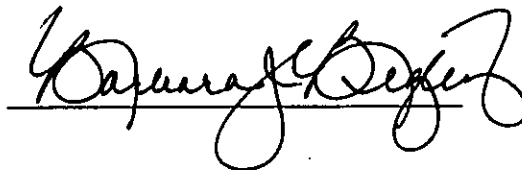
ORDER

The real estate broker license and license rights of Respondent R & S MORTGAGE INC. and EDWARD LULET, under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on August 11, 2011

DATED: 7/12, 2011

BARBARA J. BIGBY  
Acting Real Estate Commissioner



1 Department of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105  
3 (213) 576-6982  
4  
5  
6  
7

**FILED**

JUN 23 2011

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-36600 LA

12 R & S MORTGAGE INC.; and )  
13 EDWARD LULET, individually )  
and as designated officer of )  
14 R & S Mortgage Inc., )

15 Respondents, )

16 DEFAULT ORDER

17 Respondents R & S MORTGAGE INC. and EDWARD LULET,  
18 individually and as designated officer of R & S Mortgage Inc.,  
19 failed to appear at a duly scheduled Hearing on June 13, 2011,  
20 after notice, are now in default. It is, therefore, ordered that  
21 a default be entered on the record in this matter.

22 IT IS SO ORDERED

*June 23, 2011*  
BARBARA J. BIGBY  
Acting Real Estate Commissioner

*Dolores Weeks*

25 By: DOLORES WEEKS  
26 Regional Manager  
27

Sacto

**FILED**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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

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

APR 20 2010

DEPARTMENT OF REAL ESTATE  
BY: [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H- 36600 LA
R & S MORTGAGE INC.; and	)	<u>A C C U S A T I O N</u>
EDWARD LULET, individually	)	
and as designated officer of	)	
R & S Mortgage Inc.,	)	
	)	
Respondents.	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against R & S MORTGAGE INC. and EDWARD LULET, individually and as designated officer of R & S Mortgage Inc., alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against R & S MORTGAGE INC. and EDWARD LULET.

2.

1 All references to the "Code" are to the California  
2 Business and Professions Code and all references to "Regulations"  
3 are to Title 10, Chapter 6, California Code of Regulations.  
4

5 License History

6 3.

7 A. At all times mentioned, R & S MORTGAGE INC.  
8 ("RSMI") was licensed or had license rights issued by the  
9 Department of Real Estate ("Department") as a corporate real  
10 estate broker. On January 9, 2004, RSMI was originally licensed  
11 as a real estate broker.

12 B. At all times mentioned, EDWARD LULET ("LULET") was  
13 licensed or had license rights issued by the Department as a  
14 restricted real estate broker. On February 28, 2000, LULET was  
15 originally licensed as a real estate broker. At all times  
16 mentioned, LULET was licensed as the designated officer for RSMI.  
17 On August 13, 2008, LULET's designated officer license was  
18 canceled.  
19

20 C. At all times material herein, RSMI was licensed by  
21 the Department as a corporate real estate broker by and through  
22 LULET, as the designated officer and broker responsible, pursuant  
23 to Code Sections 10159.2 and 10211 of the Business and  
24 Professions Code for supervising the activities requiring a real  
25 estate license conducted on behalf RSMI of by RSMI's officers,  
26 agents and employees, including LULET.  
27



Brokerage

4.

At all times mentioned, in the City of Upland, County of Los Angeles, RSMI and LULET acted as real estate brokers and conducted licensed activities including but not necessarily limited to:

Code Section 10131(d). RSMI and LULET operated a mortgage and loan brokerage and engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

Audit

5.

On October 31, 2008, the Department attempted to conduct an audit examination of the books and records of RSMI pertaining to the activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on August 1, 2005 to August 12, 2008. 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 080011 and the exhibits and work papers attached to said audit report.

Trust Account

6.

It is unknown if a trust account was maintained during the audit period due to lack of records provided.

Violations Of The Real Estate Law

7.

In the course of activities described in Paragraphs 4 and 5, above, Respondents RSMI and LULET, acted in violation of the Code and the Regulations in that Respondents:

(a) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241 before borrowers Suarez, Mercurio Ratiff and Azzinaro became obligated to perform under the terms of their respective loans, in violation of Code Section 10240 and Regulation 2840.

(b) (a) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241.2 as qualified by Code Section 10241(j) before borrowers Suarez, Mercurio Ratiff and Azzinaro became obligated to perform under the terms of their respective loans where RSMI informed said borrowers that the HUD-1 Closing Statement, Deed or Trust, Note and/or Balloon Rider that RSMI was the lender in for their loans, in violation of Code Sections 10240, 10241.2 and Regulations 2840 and 2840.1.

1 (c) After RSMI's corporate status was suspended by the  
2 California Franchise Tax Board, RSMI continued to conduct  
3 operations until August 12, 2010, while not registered with the  
4 California Secretary of State, in violations of Code Section  
5 10177(f) and Regulation 2742(c).

6 (d) After notice and subpoena, failed to retain all  
7 records of RSMI's activity during the audit period requiring a  
8 real estate broker license, in violation of Code Section 10148.

9 Discipline

10 8.

11 The conduct of Respondents RSMI and LULET, described in  
12 Paragraph 7, above, violated the Code and the Regulations as set  
13 forth below:

14 <u>PARAGRAPH</u>	15 <u>PROVISIONS VIOLATED</u>
16 7(a)	Code Section 10240 and Regulation 17 2840
18 7(b)	Code Section 10240, 10241.2 and 19 Regulations 2840 and 2840.1
20 7(c)	Code Section 10177(f) and 21 Regulation 2742(c)
22 7(d)	Code Section 10148

1 The foregoing violation constitutes cause for discipline of the  
2 real estate license and license rights of RSMI and LULET under  
3 the provisions of Code Section 10148, 10177(d), 10177(f) and/or  
4 10177(g).

5 9.

6 The overall conduct of Respondents RSMI and LULET  
7 constitutes negligence. This conduct and violation are cause for  
8 discipline of the real estate license and license rights of said  
9 Respondents pursuant to Code Section 10177(g).

10 10.

11 The overall conduct of Respondents RSMI and LULET  
12 constitutes a breach of fiduciary duty to its real estate  
13 clientele. This conduct and violation are cause for discipline of  
14 the real estate license and license rights of Respondents RSMI  
15 and LULET pursuant to Code Section 10177(g).


16 11.

17 The overall conduct of Respondent LULET constitutes a  
18 failure on Respondent's part, as officer designated by a  
19 corporate broker licensee, to exercise the reasonable supervision  
20 and control over the licensed activities of RSMI as required by  
21 Code Section 10159.2, and to keep RSMI in compliance with the  
22 Real Estate Law, and is cause for the suspension or revocation of  
23 the real estate license and license rights of LULET pursuant to  
24 the provisions of Code Sections 10177(d), 10177(g) and/or  
25 10177(h).  
26  
27

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 the license and license rights of Respondents  
5 R & S MORTGAGE INC. and EDWARD LULET, individually and as  
6 designated officer of R & S Mortgage Inc. under the Real Estate  
7 Law (Part 1 of Division 4 of the Business and Professions Code)  
8 and for such other and further relief as may be proper under  
9 other applicable provisions of law.  
10

11 Dated at Los Angeles, California

12 this 30<sup>th</sup> day of March 2010.

13   
14 Deputy Real Estate Commissioner  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 cc: R & S Mortgage Inc.  
25 c/o Edward Lulet D.O.  
26 Maria Suarez  
Audits - Robert Brody  
Sacto  
27