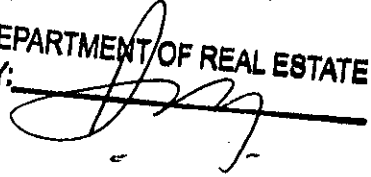


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2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

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

FILED

JAN 26 2011

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-37038 LA
)	
12 MEXIBANC MORTGAGE CORPORATION)	<u>ACCUSATION</u>
13 doing business as Palmas)	
14 Realty.www.sellyourhomefor2percent.com,)	
15 and www.vendasucasapor2porciento.com;)	
16 and DAVID H. CASSFORD,)	
17 as designated officer of)	
Mexibanc Mortgage Corporation,)	
)	
Respondents.)	

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against MEXIBANC MORTGAGE CORPORATION dba
21 Realty.www.sellyourhomefor2percent.com and
22 www.vendasucasapor2porciento.com; and DAVID H. CASSFORD, as
23 designated officer of Mexibanc Mortgage Corporation, alleges as
24 follows:

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1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation.

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.

License

3.

At all times mentioned, MMC was licensed or had license rights issued by the Department of Real Estate (Department) as a corporate real estate broker by and through real estate broker DAVID H. CASSFORD (CASSFORD). MMC was originally licensed as a corporate real estate broker on March 18, 1994, by and through CASSFORD as designated officer. CASSFORD was licensed as designated officer of MMC on September 8, 2003. MMC is owned by Sandra Barrera, a non-licensee who is MMC's President.

Brokerage

4.

At all times mentioned, in the Rancho Cucamonga, County of Los Angeles, Respondents MMC and CASSFORD engaged in the business of real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(d). Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on

1 real property, wherein such loans were arranged, negotiated,
2 processed and consummated on behalf of others for compensation or
3 in expectation of compensation and for fees often collected in
4 advance.

5 B. Code Section 10131(d) and 10131.2. Respondents
6 advertised, solicited and offered to provide loan modification
7 services to economically distressed homeowners seeking
8 adjustments to the terms and conditions of their home loans
9 including, but not limited to, repayment plans, forbearance
10 plans, partial claims, and reduction in principal or interest,
11 extenuations, foreclosure prevention and short sales.

12 FIRST CAUSE OF ACTION

13 (Audit of Mexibanc Mortgage Inc.)

14 5.

15 On January 14, 2010, the Department completed an audit
16 examination of the books and records of MMC pertaining to the
17 mortgage loan brokerage including its consultation, documentation
18 and loan modification services described in Paragraph 4, above,
19 which require a real estate license. The audit examination
20 covered a period of time beginning on November 1, 2007 to
21 September 30, 2009. The audit examination revealed violations of
22 the Code and the Regulations as set forth in the following
23 paragraphs, and more fully discussed in Audit Report LA 090054
24 and the exhibits and work papers attached to said audit report.

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1 wherein MMC failed to provide homeowner-borrower Hinojosa, a
2 pre-approved advance fee agreement from the Department, in
3 violation of Code Section 10085 and Regulation 2970.

4 (e) With reference to the lack of an advance fee
5 agreement, MMC and CASSFORD, failed to provide a complete
6 description of services to be rendered provided to each
7 homeowner-borrower, including Hinojosa, in 10 point type font
8 and, an allocation and disbursement of the amount collected as
9 the advance fee for each loan modification, in violation of Code
10 Section 10146 and Regulation 2972.

11 (f) Employed and compensated Javier Palma and Cristina
12 Rizo, respective MMC's marketing manager and unlicensed
13 salesperson, as loan agents providing loss mitigation
14 consultation and documentation services who CASSFORD knew were
15 not licensed by the Department as a real estate broker or as a
16 real estate salesperson employed by a real estate broker, for
17 performing acts for which a real estate license is required,
18 including soliciting homeowner-borrowers M. Valenzuela, D. Gamara
19 and G. Sanchez, in violation of Code Section 10137.

20 (g) (1) Failed to retain a true and complete copy of a
21 Department of Real Estate approved Mortgage Loan Disclosure
22 Statement signed by the broker for borrower set forth below, in
23 violation of Code Section 10240 and Regulation 2840, including
24 omitting to disclose the commissions and fees "Paid to Broker";
25 and

26 (g) (2) Failed to disclose yield spread premiums from
27 lenders on the approved Mortgage Loan Disclosure Statement for

1 the borrowers R. Guzman, G. Valencia, E. Perez, R. Montalvo, A.
2 Contreras, J. Arreola, and O. Corral, in violation of Code
3 Section 10240 and Regulation 2840.

4 (h) Failed to display MMC's license number and the
5 respective loan agents negotiating the mortgage loans on the
6 Mortgage Loan Disclosure Statements for borrowers R. Guzman, G.
7 Valencia, E. Perez, R. Montalvo, A. Contreras, J. Arreola, and O.
8 Corral, in violation of Code Section 10236.4(b).

9 (i) Failed to retain the salesperson license
10 certificate for Elizabeth Gonzales, in violation of Code Section
11 10160 and Regulation 2753.

12 (j) Failed to maintain a signed broker salesperson
13 agreement with MMC's salespersons, including but not limited to
14 Elizabeth Gonzales, Juan Garcia, Miguel angel Ruiz, in violation
15 of Regulation 2726.

16 (k) Used the fictitious name of "Mexibanc Mortgage", to
17 conduct licensed activities including a loan modification and
18 advanced fee brokerage and mortgage loan brokerage services,
19 without first obtaining from the Department a license bearing
20 said fictitious business name, in violation of Code Section
21 10159.5 and Regulation 2731.

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1 Specific Allegations

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3 Respondents MMC and CASSFORD offered to homeowners
4 seeking downward adjustments or payment extenuations to their
5 home mortgages. Respondents collected advanced fees from said
6 homeowner-borrowers without possessing a pre-approved advance fee
7 agreement from the Department. Selectively thereafter,
8 Respondents obtained or failed to obtain the loan modification
9 services to the Homeowners tabled below:

10
11 Table: Consulting, Documentation and Loan Modification Services

12
13

Homeowner	Date	Service	Advance Fee
Sebastian Hinojosa	12-15-07	Consult/Modify	\$1,499
Jesus Perez	10-25-07	Modification	\$990
Manuel Valenzuela	09-18-08	Consult/Modify	\$2,000
Nicolas Alba	05-23-09	Consult/Modify	unknown
Lisbeth Contreras	07-14-09	Consult/Modify	\$2,300

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22 Loan Modification Violations and Disciplinary Statutes

23 12.

24 The conduct of Respondents MMC and CASSFORD violated
25 the Code and the Regulations as set forth below with respect to
26 the tabled homeowner-borrowers:
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13.

13(a) Code Section 10176(a) for misrepresentation.

13(b) Code Section 10085 and Regulation 2970.

For collecting advance fees in the form of consultation, documentation, loss mitigation/loan modification fees without a pre-approved advance fee agreement from the Department.

13(c) Code Section 10146 and Regulation 2972 for failing to provide a complete description of services to be rendered provided to each tabled homeowner, in 10 point type font and, an allocation and disbursement of the amount collected as the advance fee for each service requiring a real estate service.

13(d) Code Section 10177(d) for violation of the Real Estate Law.

13(e) Code Section 10177(g) for negligence.

Negligence

14.

The overall conduct of Respondents MMC and CASSFORD constitutes negligence or incompetence. 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).

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THIRD CAUSE OF ACCUSATION

(Breach of Fiduciary Duty)

15.

The overall conduct of Respondents MMC and CASSFORD constitutes a breach of fiduciary duty. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to the provisions of Code Sections 10176(i) and/or 10177(g).

FOURTH CAUSE OF ACCUSATION

(Failure to Supervise)

16.

The overall conduct of Respondent CASSFORD 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 MMC, as required by Code Sections 10159.2 and 10211, and to keep MMC in compliance with the Real Estate Law, with specific regard to loan modifications services and advance fee handling, requiring a real estate license and is cause for the suspension or revocation of the real estate license and license rights of CASSFORD pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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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 the license and license rights of Respondents
5 MEXIBANC MORTGAGE CORPORATION and DAVID H. CASSFORD, under the
6 Real Estate Law (Part 1 of vision 4 of the Business and
7 Professions Code) and for such other and further relief as may be
8 proper under other applicable provisions of law including
9 restitution of advanced fees paid for unearned loan
10 modifications, and for costs of audit.

11 Dated at Los Angeles, California

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13 this 13 day of January 2011. Robin Trujillo
14 Deputy Real Estate Commissioner

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23 cc: Mexibanc Mortgage Corporation
24 c/o David H. Cassford D.O.
25 Robin Trujillo
26 Sacto
27 Enforcement - Abegail Buslon
Audits - Chona Picayo