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4	Telephone: (213) 576-6911 (direct) -or- (213) 576-6982 (office)
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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) ACCUSATION
13 .	doing business as Palmas Realty.www.sellyourhomefor2percent.com,
14	and www.vendasucasapor2porciento.com;) and DAVID H. CASSFORD,
15	as designated officer of
16	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
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23	www.vendasucasapor2porciento.com; and DAVID H. CASSFORD, as
24	designated officer of Mexibanc Mortgage Corporation, alleges as
25	follows:
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1. 1 The Complainant, Robin Trujillo, acting in her official 2 capacity as a Deputy Real Estate Commissioner of the State of 3 California, makes this Accusation. 4 2. 5 All references to the "Code" are to the California 6 Business and Professions Code and all references to "Regulations" 7 are to Title 10, Chapter 6, California Code of Regulations. 8 License 9 3. 10 At all times mentioned, MMC was licensed or had license 11 rights issued by the Department of Real Estate (Department) as a 12 corporate real estate broker by and through real estate broker 13 DAVID H. CASSFORD (CASSFORD). MMC was originally licensed as a 14 corporate real estate broker on March 18, 1994, by and through 15 CASSFORD as designated officer. CASSFORD was licensed as 16 designated officer of MMC on September 8, 2003. MMC is owned by 17 Sandra Barrera, a non-licensee who is MMC's President. 18 19 Brokerage 4. 20 At all times mentioned, in the Rancho Cucamonga, County 21 of Los Angeles, Respondents MMC and CASSFORD engaged in the 22 business of real estate brokers conducting licensed activities 23 within the meaning of: 24 Code Section 10131(d). Respondents engaged in 25 Α. activities with the public wherein lenders and borrowers were 26 solicited for loans secured directly or collaterally by liens on 27

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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.

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

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FIRST CAUSE OF ACTION

(Audit of Mexibanc Mortgage Inc.)

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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. 25 111 26 /// 27

Bank and Trust Accounts

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3	At all times mentioned, in connection with the	
4	activities described in Paragraph 4, above, MMC accepted or	
5	received funds including funds in trust (hereinafter "trust	
6	funds") from or on behalf of actual or prospective parties,	
7	including economically distressed homeowner-borrowers for advance	
8	fees and loan modifications handled by MMC and for mortgage	
9	loans. Thereafter MMC made deposits and or disbursements of such	
10	trust funds. From time to time herein mentioned during the audit	
11	period, said trust funds were deposited and/or maintained by MMC	
12	in these bank accounts as MMC did not maintain a trust accounts	
13	during the audit period:	ĺ
14	"Mexibanc Mortgage Corporation	ļ
15	Account No. 243138167	
16	Citizens Business Bank Ontario, California	
17	(G/A #1 - MMC's general business account is not a trust account)	
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Violations

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In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents MMC and CASSFORD, acted in violation of the Code and the Regulations in that Respondents:

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7 (a) Mixed and commingled trust funds with MMC's general funds by depositing trust funds in the form of collected advance fees solicited from homeowner-borrowers including but not limited to Antonio Sebastian Hinojosa (Hinojosa) for loan modification services into G/A #1, in violation of Code Sections 10 10145, 10176(e) and Regulation 2832; and

(b) Failed to maintain an and accurate and complete
control record in chronological order for each homeownerborrower, including Hinojosa, for loan modifications and for each
party to a mortgage loan transaction, thereby failing to account
for all advance fees collected in connection with mortgage loan
brokerage and loan modification services, in violation of Code
Section 10145 and Regulation 2831.

(c) Failed to maintain a separate record for each
homeowner-borrower, including Hinojosa, thereby failing to
account for all advance fees collected for loan modification
services and for mortgage loan brokerage, in violation of Code
Section 10145 and Regulation 2831.1.

(d) Collected advance fees in the form of consultation
 and documentation fees within the meaning of Code Section 10026
 from homeowner-borrowers seeking loan modification services

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wherein MMC failed to provide homeowner-borrower Hinojosa, a
pre-approved advance fee agreement from the Department, in
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 Rizo, respective MMC's marketing manager and unlicensed 12 13 salesperson, as loan agents providing loss mitigation consultation and documentation services who CASSFORD knew were 14 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 performing acts for which a real estate license is required, 17 including soliciting homeowner-borrowers M. Valenzuela, D. Gamara 18 and G. Sanchez, in violation of Code Section 10137. 19

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

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

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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.

(h) Failed to display MMC's license number and the
respective loan agents negotiating the mortgage loans on the
Mortgage Loan Disclosure Statements for borrowers R. Guzman, G.
Valencia, E. Perez, R. Montalvo, A. Contreras, J. Arreola, and O.
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.

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

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

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1	Disciplinary Statutes	
3	The conduct of D	
4		espondents MMC and CASSFORD described
5	set forth below:	lated the Code and the Regulations as
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7	PARAGRAPH	PROVISIONS VIOLATED
, 8	7(a)	Code Soctions 10145 and 10176 (a)
9	/ (a)	Code Sections 10145 and 10176(e) and 2832
10		
11		
12	7 (b)	Code Sections 10145 and Regulation
13		2831
14		
15	7 (c)	Code Section 10145 and Regulation
16		2831.1
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18		
19	7 (d)	Code Section 10085 and Regulation
20		2970
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22	7(e)	Code Section 10146 and Regulation
23		2972
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26	7(f)	Code Section 10137
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Code Sections 10240 and 7(g) Regulation 2840 7(h) Code Section 10236.4(b) Code Sections 10160 and 7(i) Regulation 2753 Regulation 2726 7(j) Code Section 10159.5 and Regulation 7(k) The foregoing violations constitutes cause for discipline of the real estate license and license rights of MMC and CASSFORD, as aforesaid, under the provisions of Code Sections 10176(e), 10177(d) and/or 10177(g) for negligence.

1	SECOND CAUSE OF ACCUSATION
2	(Consulting, Documentation, and Loan Modification Services)
3	9.
4	At all times mentioned herein, Respondents MMC and
5	CASSFORD engaged in the business of a loan modification and
6	advance fee brokerage, within the definition of Code Sections
7	10131(d) and 10131.2.
8	General Allegations
. 9	10.
10	From December 2007 and continuing thereafter to date,
11	MMC and CASSFORD, by means of media and radio station
12	advertising, offered public seminars on Loan Modification
13	Services including consultation and documentation. Respondents
14	solicited for the seminars economically distressed homeowners
15	facing foreclosure and eviction from their homes. Respondents
16	offered loss mitigation/loan modification, consulting and
17	documentation services via a "Agreement for Consulting Services"
18	and a Spanish version entitled "Acuerdo de Servicios de
19	Aseoramineto" for MMC's Spanish speaking clientele. For these
20	services Respondent MMC charged and collected advance fees by and
21	through Eduardo Ruiz, after January 14, 2009 and other licensed
22	and unlicensed loss mitigation agents including but not limited
23	to Sandra Barerra, Javier Palma and Cristina Rizo.
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1	Specific Alleg	ations			
2			11.		
3	Responden	ts MMC an	d CASSFORD offe	red to homeowne:	rs
4	seeking downward ad	justments	or payment ext	enuations to the	eir
5	home mortgages. Re	spondents	collected adva	nced fees from :	said
6	homeowner-borrowers without possessing a pre-approved advance fee			nce fee	
7	agreement from the Department. Selectively thereafter,				
8	Respondents obtained or failed to obtain the loan modification			tion	
9	services to the Homeowners tabled below:				
10					
11	Table: Consulting	, Document	ation and Loan	Modification Se	rvices
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13					
14	Homeowner	Date	Service	Advance Fee	
15	Sebastian Hinojosa	12-15-07	Consult/Modify	\$1,499	
16	Jesus Perez	10-25-07	Modification	\$990	
17	Manuel Valenzuela	09-18-08	Consult/Modify	\$2,000	
18	Nicolas Alba	05-23-09	Consult/Modify	unknown	
19	Lisbeth Contreras	07-14-09	Consult/Modify	\$2,300	
20					
21					
22	Loan Modificat	ion Viola	tions and Disci	plinary Statute:	<u>s</u>
23			12.		
24 25	The condu	ct of Res	pondents MMC an	d CASSFORD viola	ated
25 26	the Code and the Regulations as set forth below with respect to			st to	
20 27	the tabled homeowner-borrowers:				
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1	13.	
2	13(a) Code Section 10176(a) for misrepresentation.	
3	13(b) Code Section 10085 and Regulation 2970.	
4	For collecting advance fees in the form of consultation,	
5	documentation, loss mitigation/loan modification fees without a	
6	pre-approved advance fee agreement from the Department.	
7	13(c) Code Section 10146 and Regulation 2972 for	
8	failing to provide a complete description of services to be	ļ
9	rendered provided to each tabled homeowner, in 10 point type font	
10	and, an allocation and disbursement of the amount collected as	
11	the advance fee for each service requiring a real estate service.	
12	13(d) Code Section 10177(d) for violation of the Real	
13	Estate Law.	
14	13(e) Code Section 10177(g) for negligence.	
15		
16	Negligence	
17	14.	
18	The overall conduct of Respondents MMC and CASSFORD	
19	constitutes negligence or incompetence. This conduct and	
20	violation is cause for the suspension or revocation of the real	
21	estate license and license rights of said Respondents pursuant to	
22	the provisions of Code Section 10177(g).	
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. 1	THIRD CAUSE OF ACCUSATION
2	(Breach of Fiduciary Duty)
3	15.
4	The overall conduct of Respondents MMC and CASSFORD
5	constitutes a breach of fiduciary duty. This conduct and
6	violation are cause for the suspension or revocation of the real
7	estate license and license rights of said Respondents pursuant to
8	the provisions of Code Sections 10176(i) and/or 10177(g).
9	FOURTH CAUSE OF ACCUSATION
10	(Failure to Supervise)
11	16.
12	The overall conduct of Respondent CASSFORD constitutes
13	a failure on Respondent's part, as officer designated by a
14	corporate broker licensee, to exercise the reasonable supervision
15	and control over the licensed activities of MMC, as required by
16	Code Sections 10159.2 and 10211, and to keep MMC in compliance
17	with the Real Estate Law, with specific regard to loan
18	modifications services and advance fee handling, requiring a real
19	estate license and is cause for the suspension or revocation of
20	the real estate license and license rights of CASSFORD pursuant
21	to the provisions of Code Sections 10177(d), 10177(g) and
22	10177(h).
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WHEREFORE, Complainant prays that a hearing be 1 conducted on the allegations of this Accusation and that upon 2 3 proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents 4 MEXIBANC MORTGAGE CORPORATION and DAVID H. CASSFORD, under the 5 Real Estate Law (Part 1 of vision 4 of the Business and 6 Professions Code) and for such other and further relief as may be 7 proper under other applicable provisions of law including 8 restitution of advanced fees paid for unearned loan 9 modifications, and for costs of audit. 10 Dated at Los Angeles, California 11 12 this 13 day of January 2011. 13 Deputy Real Estate Commi 14 15 16 17 18 19 20 21 22 23 Mexibanc Mortgage Corporation cc: c/o David H. Cassford D.O. 24 Robin Trujillo Sacto 25 Enforcement - Abegail Buslon 26 Audits - Chona Picayo 27 - 14 -