

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

MAR 11 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)
12 ACCESS GROUP REALTY INC.)
13 doing business as Access)
14 Loss Mitigation and ALM;)
15 EDUARDO LORENZO LOPEZ,)
16 individually and as designated)
17 officer; and MOSHE YISROEL GRABER,)
18 individually and as former)
19 designated officer of)
20 Access Group Realty Inc.,)
21 Respondents.)

No. H-37133 LA

A C C U S A T I O N

20 The Complainant, Robin Trujillo, a Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against ACCESS GROUP REALTY INC. dba Access Loss Mitigation and
23 ALM; EDUARDO LORENZO LOPEZ, individually and as designated
24 officer and MOSHE YISROEL GRABER, individually and as former
25 designated officer of Access Group Realty Inc., alleges as
26 follows:
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1 1.

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

5 2.

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

9 3.

10 License History

11 A. ACCESS GROUP REALTY INC. ("AGRI"). At all times
12 mentioned, Respondent AGRI was licensed or had license rights
13 issued by the Department of Real Estate ("Department") as a real
14 estate broker. On April 17, 2008, AGRI was originally licensed
15 as a corporate real estate broker. At all times mentioned
16 herein, Respondent AGRI was authorized to act by and through
17 Respondent EDUARDO LORENZO LOPEZ and formerly through MOSHE
18 YISROEL GRABER as AGRI's brokers designated pursuant to Business
19 and Professions Code (hereinafter "Code") Sections 10159.2 and
20 10211 to be responsible for ensuring AGRI's compliance with the
21 Real Estate Law.

22 B. EDUARDO LORENZO LOPEZ. At all times mentioned,
23 Respondent EDUARDO LORENZO LOPEZ ("LOPEZ") was licensed or had
24 license rights issued by the Department as a real estate broker.
25 On August 23, 2006, LOPEZ was originally licensed as a real
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1 estate broker and on December 3, 2008, became the designated
2 officer of AGRI. LOPEZ is the corporate Secretary of AGRI.

3 C. MOSHE YISROEL GRABER. At all times mentioned,
4 Respondent MOSHE YISROEL GRABER ("GRABER") was licensed or had
5 license rights issued by the Department as a real estate broker.
6 On May 04, 2005, GRABER was originally licensed as a real estate
7 broker and on April 1, 2006, became the designated officer of
8 AGRI until his cancellation of December 3, 2008.

9 D. AGRI, LOPEZ and GRABER conducted activities by and
10 through Access Loss Mitigation and ALM requiring a real estate
11 license and an approved advance fee agreement from the Department
12 for negotiating loan modification and short sale operations.

13 Brokerage

14 4.

15 At all times mentioned, in the City of Van Nuys and
16 County of Los Angeles, Respondents AGRI, LOPEZ and GRABER, acted
17 as real estate brokers conducting licensed activities within the
18 meaning of Code Sections 10131(d) and 10131.2, dba Access Loss
19 Mitigation and ALM. Respondents, pursuant to Code Section
20 10131(d), engaged in the business of:

21 A. Mortgage Loan Brokerage: Respondents engaged in
22 activities with the public wherein lenders and borrowers were
23 solicited for loans secured directly or collaterally by liens on
24 real property, wherein such loans were arranged, negotiated,
25 processed and consummated on behalf of others for compensation or
26 in expectation of compensation and for fees often collected in
27 advance.

1 B. Loan Modification Brokerage. Respondents solicited
 2 and offered to provide loan modification services to economically
 3 distressed homeowners seeking adjustments of the terms of their
 4 home loans including, but not limited to, repayment plans,
 5 forbearance, partial claims, and principal/interest, foreclosure
 6 prevention and short sales; and

7 C. Advance Fee Brokerage. In addition, Respondents
 8 demanded, charged and collected advance fees including "up front
 9 fees" for processing loan modifications and for negotiating with
 10 lenders. AGRI and LOPEZ processed the following loan
 11 modifications within the audit period between July 28, 2008 and
 12 July 31, 2009, collecting \$569,842.22 in advance fees from
 13 homeowners, as tabled below, exclusive of forty-six (46)
 14 California Short Sales:

17 Loan Modifications	California	Completed	Incomplete
18 California	130	24	106
19 Other States	282	72	210
20 Total	412	96	316

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SECOND CAUSE OF ACCUSATION

(Audit)

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On October 29, 2009, the Department completed an audit examination of the books and records of AGRI pertaining to the mortgage loan, loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on April 17, 2008 and July 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 080317 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, AGRI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including homeowner-borrowers and lenders for mortgage loans handled by AGRI. Thereafter AGRI made deposits and or disbursements of such trust funds including but not limited to advance fees for loan modifications. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by AGRI in the eight (8) trust, bank and online accounts as follows:

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1 Access Group Realty Inc. Trust Account
Account Number: 03941-19574
2 Bank of America
Encino, CA 91436
3 T/A #1 (Advance Fee depository for Loan Modifications)
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5 Access Group Realty Inc. Access Loss Mitigation, ALM
6 Account Number: 03948-19566
Bank of America
7 Encino, CA 91436
B/A #1 (General Operating Account also used for Advance Fee
8 depository for Loan Modifications)
9
10 Access Loss Mitigation, LLC
Account Number: 03942-75589
11 Bank of America
Encino, CA 91436
12 B/A #2 (General Operating Account also used for Advance Fee
13 depository for Loan Modifications)
14
15 Access Loss Mitigation, LLC
Account Number: 03947-18888
16 Bank of America
Encino, CA 91436
17 B/A #3 (General Operating Account also used for Advance Fee
18 depository for Loan Modifications)
19
20 Nota Berger
PayPall Inc - Nota Berger Account (PPI-NB)
21 Account Number: PMW327F4ZNK7J (Payer ID)
Bank of America
22 Encino, CA 91436
PPI-NB (Credit Card Online Account used for Advance Fee
23 payment for Loan Modifications)
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1 Access Loss Mitigation Account
Account Number: 200781415
2 Global Client Solutions, LLC (Service Provider)
9820 East 41st, Suite 400, Tulsa, OK 74146
3 GCS-ALM (Website Online Account used for Advance Fee
4 payment for Loan Modifications)

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6 Access Group Realty Inc. Payroll Account
Account Number: 03946-19567
7 Bank of America
Encino, CA 91436
8 ALM-Payroll (Access Group Realty Inc.'s Payroll account
also used for and commingled with Advance Fee depository
9 for Loan Modifications)

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11 Access Loss Mitigation, LLC Payroll Account
Account Number: 03949-75590
12 Bank of America
13 Encino, CA 91436
14 ALM-Payroll (ALM's Payroll account also used for and
commingled with Advance Fee depository for Loan
15 Modifications)

16 Audit Violations

17 7.

18 In the course of activities described in Paragraphs 4
19 and 6, above, and during the audit examination period described
20 in Paragraph 5, Respondents AGRI, LOPEZ and GRABER acted in
21 violation of the Code and the Regulations in which Respondents:

22 (a) (1) (LOPEZ). Permitted, allowed or caused the
23 disbursement of trust funds from the accounts below where the
24 disbursement of said funds reduced the total of aggregate funds
25 as set forth below, to an amount which, on July 31, 2009, was at
26 minimum as noted below, less than the existing aggregate trust
27 fund liability of LOPEZ to every principal who was an owner of

1 said funds, without first obtaining the prior written consent of
2 the owners of said funds, in violation of Code Section 10145 and
3 Regulation 2832.1.

<u>ACCOUNT</u>	<u>AMOUNT OF DEFICIT</u>
T/A #1	\$ 3,287.84
B/A #1 - B/A #3 (combined)	<u>\$23,275.08</u>
Total Combined Deficits	\$26,562.92

9 (a) (2) (GRABER). Permitted, allowed or caused the
10 disbursement of trust funds from the accounts below where the
11 disbursement of said funds reduced the total of aggregate funds
12 as set forth below, to an amount which, on April 17, 2008 to
13 December 2, 2008, was at minimum as noted below, less than the
14 existing aggregate trust fund liability of GRABER to every
15 principal who was an owner of said funds, without first obtaining
16 the prior written consent of the owners of said funds, in
17 violation of Code Section 10145 and Regulation 2832.1.

<u>ACCOUNT</u>	<u>AMOUNT OF DEFICIT</u>
B/A #2, B/A #3, PPI-NB, GCS-ALM	\$36,924.08

21 (b) (LOPEZ/GRABER). Collected advance fees loan
22 modification transactions within the meaning of Code Section
23 10026 between the period of July 28, 2008 to April 2, 2009, from
24 homeowners seeking loan modification services wherein AGRI failed
25 to provide said homeowners a pre-approved advance fee agreement
26 from the Department, in violation of Code Section 10085 and
27

1 Regulation 2970. The Department issued a No Objection Letter
2 approving AGRI's loan modification agreement on April 3, 2009

3 (c) (LOPEZ/GRABER). Commingled trust funds and personal
4 funds by depositing trust funds in the form of advance fees
5 collected from homeowners for loan modifications into AGRI's
6 general operating accounts, B/A #2 and B/A #2, instead of
7 depositing trust funds into a properly designated trust account,
8 in violation of Code Sections 10145, 10176(e) and Regulation
9 2832(a).

10 (d) (LOPEZ/GRABER). With reference to the lack of an
11 advance fee agreement, AGRI failed to provide a complete
12 description of services to be rendered provided to each
13 homeowner-borrower in 10 point type font and failed to provide an
14 allocation and disbursement of the amount collected as the
15 advance fee, in violation of Code Section 10146 and Regulation
16 2972.

17 (e) (LOPEZ/GRABER). Bank accounts B/A #3, PPINB, GCS-
18 ALM were not in the name of the broker as trustee at a bank or
19 other financial institution, nor designated as trust accounts, in
20 violation of Code Section 10145 and Regulation 2832(a).

21 (f) (LOPEZ/GRABER). Converted trust funds and personal
22 funds by depositing trust funds in the form of advance fees
23 collected from homeowners for loan modifications into AGRI's
24 general operating accounts, B/A #1 and B/A #2, instead of
25 depositing trust funds into a properly designated trust account,
26 and paying AGRI's payroll and operating expenses therefrom.
27 Additionally, the balance of the B/A #1 and B/A #2 were reduced

1 to less than the amount of trust funds deposited there into,
2 constituting conversion, violation of Code Sections 10145 and
3 10176(i).

4 (g) (LOPEZ/GRABER). Failed to maintain a control
5 record in bank accounts B/A #1 - B/A #3, PPINB and GCS-ALM for
6 each beneficiary or transaction, thereby failing to account for
7 all trust funds in the form of advance fees collected from
8 homeowner-borrower applicants for loan modifications, deposited
9 and disbursed, in violation of Code Section 10145 and Regulation
10 2831.

11 (h) (LOPEZ/GRABER). Failed to maintain a separate
12 record in bank accounts B/A #1 - B/A #3, PPINB and GCS-ALM for
13 each beneficiary or transaction, thereby failing to account for
14 all trust funds in the form of advance fees collected from
15 homeowner-borrower applicants for loan modifications, deposited
16 and disbursed, in violation of Code Section 10145 and Regulation
17 2831.

18 (i) (LOPEZ/GRABER). Failed to perform a monthly
19 reconciliation of the balance of all separate beneficiary or
20 transaction records maintained pursuant to Regulation 2831.1 with
21 the record of all trust funds received and disbursed by the all
22 other trust and bank accounts into which advance fees were
23 deposited, in violation of Code Section 10145 and Regulation
24 2831.2.
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3 Disciplinary Statutes and Regulations

4 8.

5 The conduct of Respondents AGRI, LOPEZ and GRABER, as
6 alleged and described in Paragraph 7, above, violated the Code
7 and the Regulations as set forth below:

8	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9		
10	7(a)	Code Section 10145 and Regulation
11		2832.1
12		
13	7(b)	Code Section 10085 and Regulation
14		2970
15		
16		
17	7(c)	Code Sections 10145 and 10176(e)
18		and Regulation 2832(a)
19		
20		
21	7(d)	Code Section 10146 and Regulation
22		2972
23		
24	7(e)	Code Section 10145 and Regulation
25		2832(a)
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7(f) Code Sections 10145 and 10176(i)

7(g) Code Sections 10145 and Regulation
2831

7(h) Code Section 10145 and Regulation
2831.1

7(i) Code Section 10145 and Regulation
2831.2

7(j) Code Sections 10145 and Regulation
2834

7(k) Code Sections 10159.5 and
Regulation 2731

7(l) Code Section 10161.8 and Regulation
2752

7(m) Code Section 10159.2, 10177(h) and
2725 (Lopez and Graber)

1 The foregoing violations constitute cause for the suspension or
2 revocation of the real estate license and license rights of
3 Respondents ACCESS GROUP REALTY INC., EDUARDO LORENZO LOPEZ and
4 MOSHE YISROEL GRABER under the provisions of Code Sections
5 10176(e), 10176(i), 10177(d) and/or 10177(g).

6 SECOND CAUSE OF ACCUSATION
7 (Negligence)

8 9.

9 The overall conduct of Respondents EDUARDO LORENZO
10 LOPEZ and MOSHE YISROEL GRABER constitutes negligence. This
11 conduct and violation are cause for the suspension or revocation
12 of the real estate license and license rights of said Respondents
13 pursuant to the provisions of Code Section 10177(g).

14 THIRD CAUSE OF ACCUSATION
15 (Fiduciary Duty)

16 10.

17 The overall conduct of Respondents EDUARDO LORENZO
18 LOPEZ and MOSHE YISROEL GRABER constitutes a breach of fiduciary
19 duty with respect to the said Respondent's real estate consumers
20 and clientele including homeowners seeking to adjust the terms of
21 their home loans or negotiate short sales. This conduct and
22 violation is cause for discipline of the real estate license and
23 license rights of Respondents EDUARDO LORENZO LOPEZ and MOSHE
24 YISROEL GRABER pursuant to Code Section 10176(i) and/or 10177(g).

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FOURTH CAUSE OF ACCUSATION
(Supervision and Compliance)

11.

The overall conduct of Respondents EDUARDO LORENZO LOPEZ and MOSHE YISROEL GRABER constitutes a failure on Respondents' part, as officers designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of AGRI as required by Code Sections 10159.2 and 10211 and Regulation 2725, and to keep AGRI 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 mortgage loan transactions and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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