


BEFORE THE DEPARTMENT OF REAL ESTATE SEP 02 2011

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE  
BY: 

\* \* \*

In the Matter of the Accusation of )  
 ) NO. H-37159 LA  
KOSMIK MORTGAGE GROUP INC., )  
doing business as Kosmik Realty) )  
and MIKHAIL KOSACHEVICH, ) )  
individually and as designated ) )  
officer of Kosmik Mortgage ) )  
Group Inc., ) )  
 ) )  
Respondents. ) )  
 ) )

## 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 August 3, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

## FINDINGS OF FACT

## I

On March 18, 2011, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified

mail, to Respondent's last known mailing address on file with the Department on March 23, 2011. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by regular mail, to Respondent's last known mailing address on file with the Department on March 28, 2011.

On August 3, 2011, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government code, Respondent's default was entered herein.

## II

KOSMIK MORTGAGE GROUP INC. is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate corporation.

## III

MIKHAIL KOSACHEVICH is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate broker. KOSACHEVICH was the designated officer for KOSMIK MORTGAGE GROUP INC. until February 4, 2011

## IV

### (Criminal Conviction)

On or about February 1, 2010, in the United States District Court, Central District of California, Respondent KOSACHEVICH was convicted of violating 18 U.S.C. Sections 371 (conspiracy to commit mail fraud) and 1956(a)(1)(A) (money laundering), both felonies.

## V

The evidence established that the crime of which Respondent was convicted is substantially related to the qualifications, functions and duties of a real estate licensee.

## VI

### (Advance Fee Violation)

Respondents engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for

the collection of advance fees, within the meaning of Code Section 10026.

#### VII

Respondents collected the advance fees pursuant to the provisions of a written agreement which constitutes an advance fee agreement within the meaning of Code Section 10085.

#### VIII

Respondents failed to submit the written agreement to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

#### IX

(Unauthorized Fictitious Business Name)

Respondent used the fictitious business name "Kosmik Capital Management" for activities requiring the issuance of a real estate license without filing an application for the use of such name with the Department, in violation of Code Section 10159.5 and Regulations 2731(a).

### DETERMINATION OF ISSUES

#### I

Cause for disciplinary action against Respondent KOSMIK MORTGAGE GROUP INC exists pursuant to Business and Professions Code Sections 10085, 10159.5, 10177(d), 10177(g), and Regulations 2731 and 2970.

#### II

Cause for disciplinary action against Respondent MIKHAIL KOSACHEVICH exists pursuant to Business and Professions Code Sections 490, 10085, 10159.2, 10159.5, 10177(b), 10177(d), 10177(g), and Regulations 2731 and 2970.

#### III

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

ORDER

The licenses and license rights of Respondent KOSMIK MORTGAGE GROUP INC. and MIKHAIL KOSACHEVICH 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  
SEP 22 2011.

DATED: \_\_\_\_\_

8/26/11

BARBARA J. BIGBY  
Acting Real Estate Commissioner

A handwritten signature in cursive script, appearing to read "Barbara J. Bigby", is written over a horizontal line.

1 Department of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, California 90013-1105  
4 (213) 576-6982

FILED

AUG 03 2011

DEPARTMENT OF REAL ESTATE

BY: 

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \* \*

10  
11 In the Matter of the Accusation of )  
12 KOSMIK MORTGAGE GROUP INC., doing ) NO. H-37159 LA  
13 business as Kosmik Realty, ) DEFAULT ORDER  
14 and MIKHAIL KOSACHEVICH, individually )  
15 and as designated officer of Kosmik )  
16 Mortgage Group Inc., )  
Respondents. )

17 Respondents, KOSMIK MORTGAGE GROUP INC. and MIKHAIL  
18 KOSACHEVICH, having failed to file a Notice of Defense within  
19 the time required by Section 11506 of the Government Code, are  
20 now in default. It is, therefore, ordered that a default be  
21 entered on the record in this matter.

22  
23 IT IS SO ORDERED August 3, 2011

24 BARBARA J. BIGBY  
25 Acting Real Estate Commissioner

26 

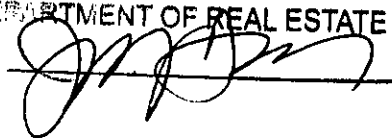
27 By: DOLORES WEEKS  
Regional Manager

1 JULIE L. TO, SBN 219482  
2 Department of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6916 (direct)  
6 -or- (213) 576-6982 (office)

**FILED**

MAR 23 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- 37159 LA
	)	
12 KOSMIK MORTGAGE GROUP INC., doing	)	<u>A C C U S A T I O N</u>
13 business as Kosmik Realty,	)	
14 and MIKHAIL KOSACHEVICH, individually	)	
15 and as designated officer of	)	
16 Kosmik Mortgage Group Inc.,	)	
	)	
Respondents.	)	

17  
18 The Complainant, Maria Suarez, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of Accusation  
20 against KOSMIK MORTGAGE GROUP INC. ("KMG"), doing business as  
21 Kosmik Realty and MIKHAIL KOSACHEVICH, a.k.a. Mike Kosachevich  
22 ("KOSACHEVICH"), as designated officer of Kosmik Mortgage Group  
23 Inc., alleges as follows:

24 1.

25 The Complainant, Maria Suarez, acting in her official  
26 capacity as a Deputy Real Estate Commissioner of the State of  
27

1 California, makes this Accusation against KMG and KOSACHEVICH.

2 2.

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

6 Licensing

7 3.

8 At all times mentioned, KMG was licensed or had license  
9 rights issued by the Department of Real Estate ("Department") as  
10 a real estate corporation by and through real estate broker  
11 KOSACHEVICH. KMG was originally licensed as a real estate  
12 corporation on February 5, 2007. KOSACHEVICH was licensed as  
13 designated officer of KOSMIK until February 4, 2011. KMG was a  
14 registered corporation incorporated under the laws of the State  
15 of California and is presently suspended. KMG has a Fictitious  
16 Business Name filing with the Clerk-Recorder of Orange County,  
17 State of California.

18 4.

19 At all times mentioned, Kosmik Capital Management, LLC  
20 ("KCM") was not licensed by the Department of Real Estate  
21 ("Department") as a real estate corporation. KCM is a  
22 registered limited liability company incorporated under the laws  
23 of the State of California with Articles of Organization filed on  
24 or about October 29, 2007 with the Secretary of State;  
25 Presidential Services Incorporated is listed as the agent for  
26 service of process. The Statement of Information for KCM filed  
27

1 with the Secretary of State on or about December 14, 2007 lists  
2 KOSACHEVICH as the Agent for Service of Process.

3  
4 5.

5 At all times mentioned, KOSACHEVICH was licensed or had  
6 license rights issued by the Department of Real Estate  
7 ("Department") as a real estate broker. KOSACHEVICH was  
8 originally licensed as a real estate broker on November 3, 2008.  
9 KOSACHEVICH was the designated officer for KMG until February 4,  
10 2011 and for for REOMI Inc. until May 24, 2010.

11  
12 6.

13 All further references to respondents herein include  
14 Respondents KMG and KOSACHEVICH, and also include officers,  
15 directors, employees, agents and real estate licensees employed  
16 by or associated with KMG and KOSACHEVICH, and who at all times  
17 herein mentioned were engaged in the furtherance of the business  
18 or operations of Respondents KMG and KOSACHVICH, and who were  
19 acting within the course and scope of their authority and  
20 employment.

21  
22 7.

23 At all times relevant herein Respondent KOSACHEVICH, as  
24 the officer designated by Respondent KMG pursuant to Section  
25 10211 of the Code, was responsible for the supervision and  
26 control of the activities conducted on behalf of Respondent KMG  
27 by its officers and employees as necessary to secure full

1 compliance with the Real Estate Law as set forth in Section  
2 10159.2 of the Code.

3 8.

4 Respondent KOSACHEVICH ordered, caused, authorized or  
5 participated in the conduct of Respondent KMG as is alleged in  
6 this Accusation.

7 FIRST CAUSE FOR DISCIPLINE

8 (CRIMINAL CONVICTION)

9 9.

10 On or about February 1, 2010, in the United States  
11 District Court, Central District of California, in Case No.  
12 SACR09-00118-DOC, Respondent KOSACHEVICH was convicted of  
13 violating 18 U.S.C. Sections 371 (conspiracy to commit mail  
14 fraud) and 1956(a)(1)(A) (money laundering), both felonies.  
15 Respondent KOSACHEVICH was sentenced to 33 months in prison,  
16 three years of supervised release, and ordered to pay special  
17 assessments and restitution to be determined and ordered to  
18 truthfully and timely file and pay taxes owed for the years of  
19 conviction and community supervision.

20 10.

21 This conviction, by its facts and circumstances, bears  
22 a substantial relationship under Section 2910, Title 10, Chapter  
23 6, California Code of Regulations to the qualifications,  
24 functions or duties of a real estate licensee.

25 ///

26 ///

11.

The crime of which Respondent was convicted constitutes cause under Sections 490 and 10177(b) of the Code for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

SECOND CAUSE OF ACCUSATION

(Advance Fee Violation)

12.

At all times mentioned, in Costa Mesa, in Orange County, California, Respondents engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026, including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property:

a. On or about June 2008, John L. received a telephone call from Thomas Meadows, who represented that he was a loan officer with Kosmik Realty/KMG, located at 600 Anton Boulevard, 11<sup>th</sup> Floor, Costa Mesa, California, 92626. Meadows indicated to John L. that he could assist with modification of John L.'s home loan. Meadows instructed John L. to: complete a series of documents to build a case against Downey Savings; stop making mortgage payments to Downey Savings; and provide a credit card number to be charged when the loan modification process was complete. John L. discovered on his next billing statement of

1 July 2008 that his credit card had been charged \$4,995.00 by  
2 Kosmik Capital Management of Costa Mesa, California. The advance  
3 fee was collected pursuant to an agreement pertaining to loan  
4 solicitation, negotiation, and modification services to be  
5 provided by KMG with respect to a loan secured by the real  
6 property located at 201 Rick Heinrich Circle, Sacramento,  
7 California 95835. By the time of John L.'s last contact with KMG  
8 in January 2009, neither a refund was sent, nor a loan  
9 modification completed.

10 13.

11 Respondents collected the advance fees described in  
12 Paragraph 12, above, pursuant to the provisions of a written  
13 agreement which constitutes an advance fee agreement within the  
14 meaning of Code Section 10085.

15 14.

16 Respondents failed to submit the written agreement  
17 referred to in Paragraphs 12 and 13, above, to the Commissioner  
18 ten days before using it in violation of Code Section 10085 and  
19 Section 2970, Title 10, Chapter 6, Code of Regulations  
20 ("Regulations").

21 15.

22 The conduct, acts and/or omissions of Respondents, as  
23 set forth above, are cause for the suspension or revocation of  
24 the licenses and license rights of Respondents pursuant to Code  
25 Sections 10085, 10177(d) and/or 10177(g).

26 ///

27 ///

1                                    THIRD CAUSE OF ACCUSATION  
2                                    (Failure to Supervise)

3                                    16.

4                                    Complainant incorporates by reference the allegations  
5 set forth in Paragraphs 12 through 15, above.

6                                    17.

7                                    The conduct, acts and/or omissions of Respondent  
8 KOSACHEVICH in failing to exercise reasonable supervision over  
9 the activities of Respondent KMG, as more fully set forth above,  
10 are cause for the suspension or revocation of the licenses and  
11 license rights of Respondent KOSACHEVICH pursuant to Code  
12 sections 10177(d), (g) and/or (h) for violation of Code section  
13 10159.2.

14                                    FOURTH CAUSE OF ACCUSATION  
15                                    (Use of Unauthorized Fictitious Business Name)

16                                    18.

17                                    Complainant hereby incorporates by reference the  
18 allegations set forth in Paragraphs 12 through 17, above.

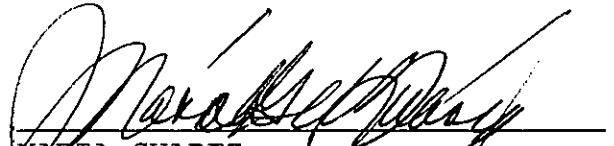
19                                    19.

20                                    At a time within the last three years Respondent used a  
21 fictitious business name, "Kosmik Capital Management," for  
22 activities requiring the issuance of a real estate license  
23 without filing an application for the use of such name with the  
24 Department of Real Estate ("Department") as required by the  
25 provisions of Code Section 10159.5 and Section 2731(a) of Title  
26 10, Chapter 6, California Code of Regulations ("Regulations").  
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 all the licenses and license rights of Respondents  
5 KOSMIK MORTGAGE GROUP, INC. and MIKHAIL KOSACHEVICH, 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, if any.

11 Dated at Los Angeles, California

12 this 18th day of March, 2011.

13  
14  
15   
16 MARIA SUAREZ  
17 Deputy Real Estate Commissioner  
18  
19  
20  
21  
22  
23  
24

25 cc: KOSMIK MORTGAGE GROUP, INC.  
26 MIKHAIL KOSACHEVICH  
27 Maria Suarez  
Sacto