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FILED

FEB 27 2012

DEPARTMENT OF REAL ESTATE
BY: James B. Olson

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-37210 LA
)	
AMERICAN MIDDLE CLASS MORTGAGE)	
& REAL ESTATE INC,)	
BERTRAM JOSEPH THOMAS,)	
individually, and as designated)	
officer of American Middle)	
Class Mortgage & Real Estate)	
Inc and <u>MARTY MEHDI FADAEI,</u>)	
)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On January 24, 2012, a Decision was rendered in the above-entitled matter. The Decision was to become effective on February 16, 2012 and was stayed by separate Order to February 27, 2011.

On February 8, 2012, Respondent petitioned for reconsideration of the Decision of January 24, 2012.

I have given consideration to the petition of Respondent. I find no good cause to reconsider the Decision of January 24, 2012, and reconsideration is hereby denied.

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IT-IS SO ORDERED 2/24/12

Barbara J. Bigby,
Acting Real Estate Commissioner

Barbara J. Bigby

*Sueto
Jury*

FILED

FEB 14 2012

DEPARTMENT OF REAL ESTATE
BY: *James B. Olson*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-37210 LA
)
AMERICAN MIDDLE CLASS MORTGAGE &)
REAL ESTATE INC, BERTRAM JOSEPH)
THOMAS, individually, and as)
designated officer of American)
Middle Class Mortgage & Real)
Estate Inc and MARTY MEHDI FADAEI,)
)
Respondents.)

ORDER STAYING EFFECTIVE DATE

On January 24, 2012, a Decision was rendered in the above-titled matter to become effective February 16, 2012.

IT IS HEREBY ORDERED that the effective date of the Decision of January 24, 2012 is stayed for a period of 10 days to consider Respondent's petition for reconsideration.

The Decision of January 24, 2012 shall become effective at 12 o'clock noon on February 27, 2012.

IT IS SO ORDERED this 14th day of February, 2012.

BARBARA J. BIGBY
Acting Real Estate Commissioner

Barbara J. Bigby

SACTO
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FILED

JAN 27 2012

DEPARTMENT OF REAL ESTATE
BY: Guadalupe Hernandez

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-37210 LA
<u>AMERICAN MIDDLE CLASS MORTGAGE &</u>)	
<u>REAL ESTATE INC, BERTRAM JOSEPH</u>)	
THOMAS, individually, and as)	
designated officer of American)	
Middle Class Mortgage & Real)	
Estate Inc and <u>MARTY MEHDI</u>)	
<u>FADAEI,</u>)	
)	
)	
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 January 9, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On April 19, 2011, Robin Trujillo made the Accusation against AMERICAN MIDDLE CLASS MORTGAGE & REAL ESTATE INC ("AMCM"), BERTRAM JOSEPH THOMAS ("THOMAS") and MARTY MEHDI FADAEI ("FADAEI"), in her official capacity as a Deputy Real Estate Commissioner of the State of California. On April 26, 2011, the Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, return receipt requested, and by regular mail to the last known mailing addresses on file with the Department for AMCM, THOMAS and FADAEI. On May 5,

2011, THOMAS filed a Notice of Defense. THOMAS was duly notified of the hearing, which was scheduled for January 3 & January 4, 2011.

No Notice of Defense was filed by AMCM and FADAEI within the time prescribed by Section 11506 of the Government Code. On January 9, 2012, the defaults of AMCM and FADAEI were entered herein.

2.

AMCM is presently licensed and/or has license rights as a real estate corporation. It currently has no designated broker/officer.

3.

FADAEI is presently licensed and/or has licensed rights as a real estate salesperson. From January 28, 2008 to May 22, 2011, he was licensed with the Department as employed by AMCM. He is not currently licensed under any broker.

4.

Muhammad Mahmoodi Transaction

In or about June 2008, Muhammad Mahmoodi ("Mahmoodi") met with FADAEI, who requested an advance fee to negotiate a modification of Mahmoodi's loan for property located at 1836 Dewey Street, Hollywood, FL. On June 12, 2008, Mahmoodi submitted a \$1,200 check to AMCM as an advance fee for a loan modification. Neither FADAEI nor AMCM ever finalized a loan modification for Mahmoodi.

5.

Amit Sinay Transaction

In or about December 2008, Amit Sinay ("Sinay") met with FADAEI, who requested an advance fee to negotiate a modification of Sinay's Property located at 19245 Bernetta Place, Tarzana, CA. On December 5, 2008, Sinay submitted a \$1,200 check to AMCM as an advance fee for a loan modification. Neither FADAEI nor AMCM ever finalized a loan modification for Sinay.

6.

Feridon Namdar Transaction

In or about May 2009, Feridon Namdar ("Namdar") met with FADA EI, who requested an advance fee to negotiate a modification of Namdar's property located at 9374 Twin Trails Drive #103, San Diego, CA. On May 3, 2009, Namdar entered into an "Agreement for Modification of Existing Loan" with "AMC Mortgage" in which Namdar agreed to pay AMCM \$3,500 in advance fees for loan modification services. Neither FADA EI nor AMCM ever finalized a loan modification for Namdar.

7.

Kamran Zarafshan Transaction

In or about October 2008, Kamran Zarafshan ("Zarafshan") met with FADA EI, who requested an advance fee to negotiate a modification of Zarafshan's Property located at 23415 Vanowen Street, Woodland Hills, CA. FADA EI received \$1,750 from Zarafshan as an advance fee. FADA EI never finalized a loan modification for Zarafshan. On October 29, 2009, in the Superior Court of California, County of Los Angeles, Northwest District, in Case No. 09V02963, a \$1,750 judgment for Zarafshan was awarded against FADA EI.

8.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(d) of the Business and Professions Code ("Code"), including soliciting borrowers and negotiating loans on real property.

9.

On February 8, 2011, the Department completed an audit examination of the books and records of AMCM pertaining to the activities described in Paragraph 8 which require a real estate license. The audit examination covered a period of time from January 1, 2008 to December 27, 2010. The audit examination revealed violations of the Code and Title 10, Chapter 6 California Code of Regulations ("Regulations") as set forth in

the following paragraphs, and as more fully discussed in Audit Report LA100112 and the exhibits and workpapers attached to said audit report.

10.

In the course of activities described in Paragraph 8 above and during the examination period described in Paragraph 9, Respondent AMCM acted in violation of the Code and the Regulations in that:

a) AMCM commingled advance fees collected as trust funds in its general bank account, in violation of Code Section 10176(e) and Regulation 2835.

(b) AMCM failed to keep a record of all trust funds received and disbursed, in violation of Code Section 10145 and Regulation 2831.

(c) AMCM did not maintain separate records for trust funds, nor did it maintain a reconciliation with records of all trust funds received and disbursed, in violation of Code Section 10145 and Regulation 2831.2.

(d) AMCM did not maintain a separate record for each beneficiary of trust funds in connection with loan modification activity, in violation of Code Section 10145 and Regulation 2831.1.

(e) AMCM did not deposit advance fees into a trust account, in violation of Code Section 10146.

(f) AMCM collected advance fees from borrowers in connection with loan modification transactions without submitting an advance fee agreement to the commissioner 10 days before its use, in violation of Code Section 10085 and Regulation 2970.

(g) AMCM collected advance fees from principals without maintaining and providing an accounting to the principals, in violation of Regulation 2972.

(h) AMCM moved its main office location without notifying the commissioner of the change in its place of business, in violation of Code Section 10162.

(i) AMCM did not retain original salesperson's licenses for inspection at its main business office, in violation of Code Section 10160 and Regulation 2753.

(j) AMCM engaged in the business of a real estate broker while not in good legal standing with the California Secretary of State, in violation Regulation 2742.

DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of FADAEI, as set forth above, are in violation of Code Sections 10085 and 10085.5, as well as Regulation 2970, providing cause for the suspension or revocation of the licenses and license rights of FADAEI pursuant to Code Sections 10085, 10177(d) and 10177(g).

2.

The conduct, acts and/or omissions of AMCM, as set forth above, are in violation of Code Sections 10085, 10085.5, 10145, 10146, 10160, 10162 and 10176(e), as well as Regulations 2742, 2753, 2831, 2831.1, 2831.2, 2835, 2970 and 2972 and provide cause for the suspension or revocation of the licenses and license rights of AMCM pursuant to Code Sections 10085, 10176(e), 10177(d) and 10177(g).

3.

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

ORDER

The license and license rights of AMERICAN MIDDLE CLASS MORTGAGE & REAL ESTATE INC and MARTY MEHDI FADAEI 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 FEB 16 2012.

DATED: 1/24/12

BARBARA J. BIGBY
Acting Real Estate Commissioner



FILED

1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, CA 90013

JAN - 9 2012

DEPARTMENT OF REAL ESTATE

BY: James B. Olson

3 (213) 576-6982
4

5 BEFORE THE DEPARTMENT OF REAL ESTATE

6 STATE OF CALIFORNIA

7 * * * *

8 In the Matter of the Accusation of)
9)
10 AMERICAN MIDDLE CLASS MORTGAGE &)
11 REAL ESTATE INC, BERTRAM JOSEPH)
12 THOMAS, individually, and as)
13 designated officer of American)
14 Middle Class Mortgage & Real)
15 Estate Inc and MARTY MEHDI)
16 FADAEI,)
17 Respondents.)

No. H-37210 LA

DEFAULT ORDER

18 Respondents AMERICAN MIDDLE CLASS MORTGAGE & REAL
19 ESTATE INC and MARTY MEHDI FADAEI, having failed to file a
20 Notice of Defense within the time required by Section 11506
21 of the Government Code, are now in default. It is,
22 therefore, ordered that a default be entered on the record
23 in this matter.

24 IT IS SO ORDERED JANUARY 9, 2012

25 BARBARA J. BIGBY
26 Acting Real Estate Commissioner

27 By: Phillip Ihde
PHILLIP IHDE
Regional Manager

SACTO
Flag

FILED

1 Department of Real Estate
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105

JAN 26 2012

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: Quinn A. Nelson

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 AMERICAN MIDDLE CLASS MORTGAGE &)
14 REAL ESTATE INC; and BERTRAM)
15 JOSEPH THOMAS, individually and as)
16 designated officer of American)
Middle Class Mortgage & Real)
Estate Inc and MARTY MEHDI FADAEI,)
Respondents.)

No. H-37210 LA
L-2011051200

STIPULATION
AND
AGREEMENT

17
18 It is hereby stipulated by and between Respondent
19 BERTRAM JOSEPH THOMAS, represented by Frank M. Buda, Esq. and the
20 Complainant, acting by and through James A. Demus, Counsel for
21 the Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation ("Accusation") filed on
23 April 26, 2011, in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondent timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondent hereby freely and voluntarily withdraws said Notice of
13 Defense. Respondent acknowledges that he understands that by
14 withdrawing said Notice of Defense he thereby waives the right to
15 require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that he will waive other rights
18 afforded to him in connection with the hearing such as the right
19 to present evidence in his defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondent chooses not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
27

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation is made for the purpose of
6 reaching an agreed disposition of this proceeding and is
7 expressly limited to this proceeding and any other proceeding or
8 case in which the Department of Real Estate ("Department"), the
9 state or federal government, or any agency of this state, another
10 state or federal government is a party.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt this Stipulation as her Decision in
13 this matter thereby imposing the penalty and sanctions on
14 Respondent's real estate license and license rights as set forth
15 in the "Order" herein below. In the event that the Commissioner
16 in her discretion does not adopt the Stipulation, it shall be
17 void and of no effect and Respondent shall retain the right to a
18 hearing and proceeding on the Accusation under the provisions of
19 the APA and shall not be bound by any stipulation or waiver made
20 herein.
21

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any matters which were not specifically
27

1 alleged to be causes for Accusation in this proceeding but do
2 constitute a bar, estoppel and merger as to any allegations
3 actually contained in the Accusation against Respondent herein.

4 8. Respondent understands that by agreeing to this
5 Stipulation, Respondent agrees to pay, pursuant to Business and
6 Professions Code Section 10148, the cost of the audit which led
7 to this disciplinary action. The cost of said audit was \$1,728.

8 9. Respondent has received, read, and understands the
9 "Notice Concerning Costs of Subsequent Audit." Respondent
10 further understands that by agreeing to this Stipulation, the
11 findings set forth below in the Determination of Issues become
12 final, and the Commissioner may charge Respondent for the cost of
13 any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations
15 have been corrected.
16

17 DETERMINATION OF ISSUES

18 By reason of the foregoing, it is stipulated and agreed
19 that the following determination of issues shall be made:

20 The conduct of BERTRAM JOSEPH THOMAS as described in
21 Paragraph 4 above, is in violation of Business and Professions
22 Code ("Code") Sections 10145, 10160 and 10162 and provides a
23 basis for discipline of Respondent's license and license rights
24 as violations of the Real Estate law pursuant to Code Section
25 10177(d).

26 ///

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent BERTRAM JOSEPH THOMAS under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that thirty (30) days of said suspension, shall be stayed for two (2) years upon the following terms and conditions:

A.

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made, after hearing or upon stipulation that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

B.

If Respondent petitions, an additional 30 days shall be stayed upon condition that:

1 1. Respondent pays a monetary penalty pursuant to
2 Section 10175.2 of the Code at the rate of \$50 for each day of
3 the suspension for a total monetary penalty of \$1,500.

4 2. Said payment shall be in the form of a cashier's
5 check or certified check made payable to the Recovery Account of
6 the Real Estate Fund. Said check must be received by the
7 Department prior to the effective date of the Decision in this
8 matter.

9 3. No further cause for disciplinary action against
10 the real estate license of Respondent occurs within two years
11 from the effective date of the Decision in this matter.

12 4. If Respondent fails to pay the monetary penalty in
13 accordance with the terms and conditions of the Decision, the
14 Commissioner may, without a hearing, order the immediate
15 execution of all or any part of the stayed suspension in which
16 event the Respondent shall not be entitled to any repayment nor
17 credit, prorated or otherwise, for money paid to the Department
18 under the terms of this Decision.

19 5. If Respondent pays the monetary penalty and if no
20 further cause for disciplinary action against the real estate
21 license of Respondent occurs within two years from the effective
22 date of the Decision, the stay hereby granted shall become
23 permanent.
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II.

Pursuant to Section 10148 of the Business and

Professions Code, Respondent shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and b) a subsequent audit to determine if Respondent has corrected the trust fund violations found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel costs, including mileage, time to and from the auditor's place of work and per diem. Respondent shall pay such costs within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may, in his discretion, vacate and set aside the stay order, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The vacation and the set aside of the stay shall remain in effect until payment is made in full, or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment.

III

Respondent BERTRAM JOSEPH THOMAS shall within six (6) months from the effective date of the Decision herein, take and

1 pass the Professional Responsibility Examination administered by
2 the Department including the payment of the appropriate
3 examination fee. If Respondent BERTRAM JOSEPH THOMAS fails to
4 satisfy this condition, the Commissioner may order suspension of
5 Respondent BERTRAM JOSEPH THOMAS's license until Respondent
6 passes the examination.

7 IV

8 All licenses and licensing rights of Respondent
9 BERTRAM JOSEPH THOMAS are indefinitely suspended unless or until
10 Respondent provides proof satisfactory to the Commissioner, of
11 having taken and successfully completed the continuing education
12 course on trust fund accounting and handling specified in
13 paragraph (3) of subdivision (a) of Section 10170.5 of the
14 Business and Professions Code. Proof of satisfaction of this
15 requirement includes evidence that respondent has successfully
16 completed the trust fund account and handling continuing
17 education course within 120 days prior to the effective date of
18 the Decision in this matter.
19

20
21
22 DATED: 12/29/11

James A. Demus
23 JAMES A. DEMUS, Counsel for
the Department of Real Estate

24 EXECUTION OF THE STIPULATION

25 I have read the Stipulation and discussed it with my
26 counsel. Its terms are understood by me and are agreeable and
27

1 acceptable to me. I understand that I am waiving rights given to
 2 me by the California Administrative Procedure Act (including but
 3 not limited to Sections 11506, 11508, 11509 and 11513 of the
 4 Government Code), and I willingly, intelligently and voluntarily
 5 waive those rights, including the right of requiring the
 6 Commissioner to prove the allegations in the Accusation at a
 7 hearing at which I would have the right to cross-examine
 8 witnesses against me and to present evidence in defense and
 9 mitigation of the charges.

10 Respondent can signify acceptance and approval of the
 11 terms and conditions of this Stipulation by faxing a copy of its
 12 signature page, as actually signed by Respondent, to the
 13 Department at the following telephone/fax number: James A. Demus
 14 at (213) 576-6917. Respondent agrees, acknowledges and
 15 understands that by electronically sending to the Department a
 16 fax copy of Respondent's actual signature as it appears on the
 17 Stipulation that receipt of the faxed copy by the Department
 18 shall be as binding on Respondent as if the Department had
 19 received the original signed Stipulation.
 20

21
 22 DATED: 12/29/2011

B. Thomas
 23 BERTRAM JOSEPH THOMAS, Respondent

24
 25 DATED: 12-29-11

Frank Buda
 26 FRANK M. BUDA
 27 Attorney for Respondent

1 acceptable to me. I understand that I am waiving rights given to
2 me by the California Administrative Procedure Act (including but
3 not limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and voluntarily
5 waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusation at a
7 hearing at which I would have the right to cross-examine
8 witnesses against me and to present evidence in defense and
9 mitigation of the charges.

10 Respondent can signify acceptance and approval of the
11 terms and conditions of this Stipulation by faxing a copy of its
12 signature page, as actually signed by Respondent, to the
13 Department at the following telephone/fax number: James A. Demus
14 at (213) 576-6917. Respondent agrees, acknowledges and
15 understands that by electronically sending to the Department a
16 fax copy of Respondent's actual signature as it appears on the
17 Stipulation that receipt of the faxed copy by the Department
18 shall be as binding on Respondent as if the Department had
19 received the original signed Stipulation.
20

21
22
23 DATED: _____

BERTRAM JOSEPH THOMAS, Respondent

24
25
26 DATED: _____

FRANK M. BUDA
Attorney for Respondent

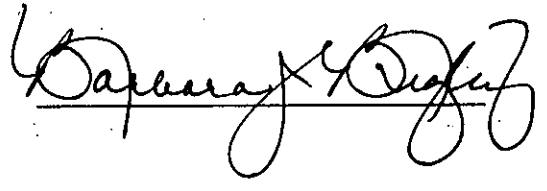
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent BERTRAM JOSEPH THOMAS and
shall become effective at 12 o'clock noon on
FEB 15 2012,

IT IS SO ORDERED 1/19/12,

BARBARA J. BIGBY
Acting Real Estate Commissioner



FILED

APR 26 2011

DEPARTMENT OF REAL ESTATE
BY: *Quadrone/Kalene*

1 JAMES DEMUS, Counsel (SBN 225005)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5
6
7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6910 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-37210-LA
12)	
13	AMERICAN MIDDLE CLASS MORTGAGE)	<u>ACCUSATION</u>
14	& REAL ESTATE INC,)	
15	BERTRAM JOSEPH THOMAS,)	
16	individually, and as designated)	
17	officer of American Middle)	
18	Class Mortgage & Real Estate)	
19	Inc and MARTY MEHDI FADAEI,)	
20)	
21	Respondents.)	

22 The Complainant, Robin Trujillo, a Deputy Real Estate
23 Commissioner of the State of California, for cause of accusation
24 against AMERICAN MIDDLE CLASS MORTGAGE & REAL ESTATE INC, BERTRAM
25 JOSEPH THOMAS, individually and as designated officer of American
26 Middle Class Mortgage & Real Estate Inc and MARTY MEHDI FADAEI,
27 alleges as follows:

1.

28 The Complainant, Robin Trujillo, acting in her official
29 capacity as a Deputy Real Estate Commissioner of the State of

1 California, makes this Accusation against AMERICAN MIDDLE CLASS
2 MORTGAGE & REAL ESTATE INC ("AMCM"), BERTRAM JOSEPH
3 ("JOSEPH") THOMAS and MARTY MEHDI FADAEI ("FADAEI").

4 2.

5
6 AMCM is presently licensed and/or has license rights
7 under the Real Estate Law (Part 1 of Division 4 of the Business
8 and Professions Code, hereinafter "Code") as a real estate
9 corporation. It was first licensed as a corporation on September
10 7, 1995. AMCM also has the fictitious business name "AMC
11 Mortgage" licensed with the California Department of Real Estate
12 ("Department").

13 3.

14
15 BERTRAM is presently licensed and/or has license
16 rights under the Real Estate Law as a real estate broker.
17 BERTRAM has been the designated officer of AMCM since December
18 8, 2003.

19 4.

20 Pursuant to Code Section 10159.2, Respondent BERTRAM
21 was responsible for the supervision and control of the activities
22 conducted on behalf of Respondent AMCM and by its officers and
23 employees as necessary to secure full compliance with the
24 provisions of the Real Estate Law, including the supervision of
25 salespersons licensed to the corporation in the performance of
26 acts for which a real estate license is required.

27 5.

1 FADAEI is presently licensed and/or has license rights
2 under the Real Estate Law as a real estate salesperson. FADAEI
3 has been licensed with the Department as employed by AMCM since
4 January 28, 2008.

5 6.

6 At all times material herein, Respondents engaged in
7 the business of, acted in the capacity of, advertised or assumed
8 to act as a real estate broker in the State of California, within
9 the meaning of Section 10131(d) of the Code, including soliciting
10 borrowers and negotiating loans on real property.

11 FIRST CAUSE OF ACCUSATION

12 (Advance Fee Violations)

13 7.

14 Muhammad Mahmoodi Transaction

15 In or about June 2008, Muhammad Mahmoodi ("Mahmoodi")
16 met with FADAEI, who requested an advance fee to negotiate a
17 modification of Mahmoodi's loan for property located at 1836
18 Dewey Street, Hollywood, FL. On June 12, 2008, Mahmoodi
19 submitted a \$1,200 check to AMCM as an advance fee for a loan
20 modification. Neither FADAEI nor AMCM ever finalized a loan
21 modification for Mahmoodi.

22 8.

23 Amit Sinay Transaction

24 In or about December 2008, Amit Sinay ("Sinay") met
25 with FADAEI, who requested an advance fee to negotiate a
26 modification of Sinay's Property located at 19245 Bernetta Place,
27 Tarzana, CA. On December 5, 2008, Sinay submitted a \$1,200 check

1 to AMCM as an advance fee for a loan modification. Neither
2 FADA EI nor AMCM ever finalized a loan modification for Sinay.

3 9.

4 Feridon Namdar Transaction

5 In or about May 2009, Feridon Namdar ("Namdar") met with
6 FADA EI, who requested an advance fee to negotiate a modification
7 of Namdar's property located at 9374 Twin Trails Drive #103, San
8 Diego, CA. On May 3, 2009, Namdar entered into an "Agreement for
9 Modification of Existing Loan" with "AMC Mortgage" in which
10 Namdar agreed to pay AMCM \$3,500 in advance fees for loan
11 modification services. Neither FADA EI nor AMCM ever finalized a
12 loan modification for Namdar.

13 10.

14 Kamran Zarafshan Transaction

15 In or about October 2008, Kamran Zarafshan
16 ("Zarafshan") met with FADA EI, who requested an advance fee to
17 negotiate a modification of Zarafshan's Property located at 23415
18 Vanowen Street, Woodland Hills, CA. FADA EI received \$1,750 from
19 Zarafshan as an advance fee. FADA EI never finalized a loan
20 modification for Zarafshan. On October 29, 2009, in the
21 Superior Court of California, County of Los Angeles, Northwest
22 District, in Case No. 09V02963, a \$1,750 judgment for Zarafshan
23 was awarded against FADA EI.

24 11.

25 The agreements made by AMCM and FADA EI, as described in
26 Paragraphs 7 through 10 above, constitute advance fee agreements
27 within the meaning of Code Section 10026. AMCM and FADA EI failed

1 to submit the advance fee agreements, described in paragraphs 7
2 through 10 above, to the Commissioner ten days before using them,
3 in violation of Code Sections 10085 and 10085.5, as well as
4 Section 2970 of Title 10, California Code of Regulations
5 ("Regulations"). This provides cause for the suspension or
6 revocation of the licenses and license rights of Respondents AMCM
7 and FADAEI pursuant to Code Sections 10085, 10177(d) and/or
8 10177(g).

9 SECOND CAUSE OF ACCUSATION

10 (AUDIT INVESTIGATION)

11 12.

12 On February 8, 2011, the Department completed an audit
13 examination of the books and records of AMCM pertaining to the
14 activities described in Paragraph 6 which require a real estate
15 license. The audit examination covered a period of time from
16 January 1, 2008 to December 27, 2010. The audit examination
17 revealed violations of the Code and the Regulations as set forth
18 in the following paragraphs, and as more fully discussed in Audit
19 Report LA100112 and the exhibits and workpapers attached to said
20 audit report.

21 TRUST ACCOUNT

22 13.

23 During the audit period AMCM did not maintain a trust
24 account.

25 ///

26 ///

27

1 VIOLATIONS OF THE REAL ESTATE LAW

2 14.

3 In the course of activities described in Paragraph 6
4 above and during the examination period described in Paragraph
5 12, Respondents AMCM and BERTRAM acted in violation of the Code
6 and the Regulations in that:

7 (a) AMCM commingled advance fees collected as trust
8 funds in its general bank account, in violation of Code Section
9 10176(e) and Regulation 2835.

10 (b) AMCM failed to keep a record of all trust funds
11 received and disbursed, in violation of Code Section 10145 and
12 Regulation 2831.

13 (c) AMCM did not maintain separate records for trust
14 funds, nor did it maintain a reconciliation with records of all
15 trust funds received and disbursed, in violation of Code Section
16 10145 and Regulation 2831.2.

17 (d) AMCM did not maintain a separate record for each
18 beneficiary of trust funds in connection with loan modification
19 activity, in violation of Code Section 10145 and Regulation
20 2831.1.

21 (e) AMCM did not deposit advance fees into a trust
22 account, in violation of Code Section 10146.

23 (f) AMCM collected advance fees from borrowers in
24 connection with loan modification transactions without submitting
25 an advance fee agreement to the commissioner 10 days before its
26 use, in violation of Code Section 10085 and Regulation 2970.
27

1 (g) AMCM collected advance fees from principals
2 without maintaining and providing an accounting to the
3 principals, in violation of Regulation 2792.

4 (h) AMCM moved its main office location without
5 notifying the commissioner of the change in its place of
6 business, in violation of Code Section 10162.

7 (i) AMCM did not retain original salesperson's
8 licenses for inspection at its main business office, in violation
9 of Code Section 10160 and Regulation 2753.

10 (j) AMCM engaged in the business of a real estate
11 broker while not in good legal standing with the California
12 Secretary of State, in violation Regulation 2742.

13 15.

14 The conduct of Respondents AMCM and BERTRAM, described
15 in Paragraph 11, above, violated the Code and the Regulations as
16 set forth below:

17	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
18	14(a)	Code Section 10176(e) and
19		Regulation 2835
20	14(b)	Code Section 10145 and Regulation
21		2831
22	14(c)	Code Section 10145 and Regulation
23		2831.2
24	14(d)	Code Section 10145 and Regulation
25		2831.1.
26	14(e)	Code Section 10146
27		

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- 14(f) Code Section 10085 and Regulation 2970
- 14(g) Regulation 2792
- 14(h) Code Section 10162
- 14(i) Code Section 10160 and Regulation 2753
- 14(j) Regulation 2742

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of AMCM and BERTRAM, under the provisions of Code Sections 10085, 10176(e), 10177(d) and/or 10177(g).

NEGLIGENCE

16.

The overall conduct of Respondents AMCM and BERTRAM constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

SUPERVISION AND COMPLIANCE

17.

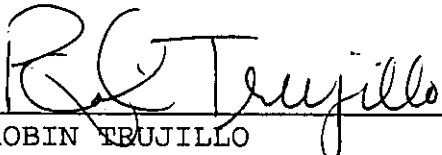
The overall conduct of Respondent BERTRAM constituted a failure on his part, as a former officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of AMCM as required by Code Section 10159.2, and to keep AMCM in compliance with the Real

1 Estate Law, and is cause for the suspension or revocation of the
2 real estate license and license rights of JOSEPH pursuant to the
3 provisions of Code Sections 10177(d), 10177(g) and 10177(h).

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and license rights of Respondents
8 AMERICAN MIDDLE CLASS MORTGAGE & REAL ESTATE INC, THOMAS BERTRAM
9 JOSEPH and MARTY MEHDI FADAEI under the Real Estate Law (Part 1
10 of Division 4 of the Business and Professions Code) and for such
11 other and further relief as may be proper under other applicable
12 provisions of law.

13 Dated at Los Angeles, California

14 this 19 day of April, 2011.

15
16
17 
18 ROBIN TRUJILLO
19 Deputy Real Estate Commissioner

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23
24 cc: AMERICAN MIDDLE CLASS MORTGAGE & REAL ESTATE
25 THOMAS BERTRAM JOSEPH
26 MARTY MEHDI FADAEI
27 Robin Trujillo
Sacto.
OAH