

FILED

APR 26 2011

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 37226 LA

12 AFT MORTGAGE & REALTY INC.; and)
13 RAJAEI YACOUB ABU-ATA)
14 individually and as designated)
15 officer of AFT Mortgage &)
16 Realty Inc.,)

A C C U S A T I O N

17 Respondents.)
18)
19)

20 The Complainant, Robin Trujillo, a Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against AFT MORTGAGE & REALTY INC., RAJAEI YACOUB ABU-ATA
23 individually and as designated officer of AFT Mortgage & Realty
24 Inc., is informed and alleges as follows:

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1.

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

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 or to the California Financial Code.

3.

Respondent AFT MORTGAGE & REALTY INC. ("AFT") is licensed by the Department of Real Estate ("Department") as a corporate real estate broker. Respondent AFT was originally licensed as a corporate real estate broker on or about September 27, 2006, with Respondent RAJAEI YACOUB ABU-ATA ("ABU-ATA") as its designated officer until May 31, 2007. AFT's corporate real estate broker license expired on September 27, 2010. Pursuant to Code Section 10201, AFT has a two-year right of renewal. Pursuant to Code Section 10103, the Department of Real Estate retains jurisdiction.

4.

Respondent ABU-ATA is licensed by the Department as a real estate broker. Respondent ABU-ATA was originally licensed as a real estate salesperson on July 18, 1990, and as a real estate broker on May 10, 2004.

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1 5.

2 At all times mentioned, in the City of Pico Rivera,
3 County of Los Angeles, Respondents engaged in the business of,
4 acted in the capacity of, advertised, or assumed to act as a real
5 estate brokers within the meaning of Code Section 10131(d),
6 including the solicitation for listings of and the negotiation of
7 the purchase and sale of real property as the agent of others.
8 Their activities also included soliciting borrowers or lenders
9 for and/or negotiating loans, collecting payments and/or
10 performing services for borrowers or lenders in connection with
11 loans secured by liens on real property.

12 6.

13 On September 30, 2009, the Department completed an
14 audit examination of the books and records of AFT pertaining to
15 the real estate sales activities described in paragraph 5, above.
16 The audit examination covered the period of time from July 1,
17 2006 to May 31, 2007. The primary purpose of the examination was
18 to determine Respondents' compliance with the Real Estate Law.
19 The audit examination revealed numerous violations of the Code
20 and the Regulations as set forth in the following paragraphs, and
21 more fully discussed in Audit Report LA 080323 and the exhibits
22 and work papers attached to said audit report.

23 7.

24 At all times herein relevant, in connection with the
25 activities described in Paragraph 5, above, AFT accepted or
26 received funds, and funds in trust (hereinafter "trust funds")
27 including, but not limited to, earnest money deposits, appraisal

1 fees, and credit report fees. Thereafter, AFT made deposits and
2 or disbursements of such trust funds. From time to time herein
3 mentioned during the audit period, said trust funds were
4 deposited and/or maintained by AFT in its general business bank
5 accounts as AFT did not maintain a trust account during the audit
6 period.

7 8.

8 With respect to the licensed activities referred to in
9 Paragraph 5, and the audit examination including the exhibits and
10 work papers referenced in Paragraph 6, it is alleged that
11 Respondents:

12 (a) Failed to retain a true and complete copy of a
13 Department of Real Estate approved Mortgage Loan Disclosure
14 Statement signed by the broker and borrower, and failed to
15 disclose to the borrower the yield spread premium, lender
16 rebates, DRE license number, and all fees paid to the broker in
17 connection with mortgage loan brokerage activity, all in
18 violation of Code Sections 10240 and 10236.4 and Regulation 2840;

19 (b) As to Respondent AFT, conducted real estate
20 activities, and collected compensation for such activities, prior
21 to being issued a real estate license by the Department, in
22 violation of Code Section 10130.

23 (c) Used the fictitious business names "A.F.T.
24 Mortgage Service," "A.F.T. Mortgage Realty," and "American
25 Financial Team" to conduct real estate activities without
26 obtaining a license from the Department to conduct real estate
27 activities under those fictitious business names, in violation of

1 Code Section 10159.5 and Regulation 2731.

2 (d) As to AFT, failed to timely notify the Department
3 of the employment of one (1) new real estate salesperson, in
4 violation of Code Section 10161.8 and Regulation 2752.

5 (e) Failed to place appraisal and credit report fees
6 collected from borrowers into a trust account at the close of
7 escrow in the name of the broker as trustee at a bank or other
8 financial institution, in violation of Code Section 10145 and
9 Regulation 2832.

10 (f) Failed to maintain a columnar record of the
11 receipt and disbursement of trust funds, in violation of Code
12 Section 10145 and Regulations 2831.

13 (g) Failed to maintain a separate record for each
14 beneficiary of trust funds collected, in violation of Code
15 Section 10145 and Regulation 2831.1.

16 (h) Failed to retain records received in connection
17 with completed real estate transactions, in violation of Code
18 Section 10148.

19 (i) As to Respondent ABU-ATA, failed to exercise
20 adequate supervision over the activities of AFT to ensure
21 compliance with the Real Estate Laws, in violation of Code
22 Sections 10159.2 and 10177(h), and Regulation 2725.

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9.

The conduct of Respondents described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

8(a)

Code Sections 10240 and 10236.4
Regulation 2840

8(b)

Code Section 10130

8(c)

Code Section 10159.5 and
Regulation 2731

8(d)

Code Section 10161.8 and
Regulation 2752

8(e)

Code Section 10145 and
Regulation 2832

8(f)

Code Section 10145 and
Regulations 2831

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 AFT
5 MORTGAGE & REALTY INC., and RAJAEI YACOUB ABU-ATA individually
6 and as designated officer of AFT Mortgage & Realty Inc., under
7 the Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code) and for such other and further relief as may be
9 proper under other applicable provisions of law.

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11 Dated at Los Angeles, California: April 19, 2011.

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15 Robin Trujillo
16 Deputy Real Estate Commissioner
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24 cc: AFT Mortgage & Realty Inc.
25 Rajaei Yacoub Abu-Ata
26 Robin Trujillo
27 Sacto
Audits - Justin Park