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MAY 24 2012

DEPARTMENT OF REAL ESTATE
BY: *Maribel Valenzuela*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-37434 LA
)	2011090565
)	
HOME RETENTION AND FINANCIAL)	
PROGRAMS INC, dba J L Richman and)	<u>FIRST AMENDED</u>
Associates Co, WINSTON CHI,)	<u>ACCUSATION</u>
JONATHAN ARNO and MICHAEL JEFFREY)	
SIMPSON, individually, and as)	
designated officers of Home)	
Retention and Financial Programs)	
Inc, LLOYDS INVESTMENT INC, and)	
HAMID REZA LAVASSANI, individually,)	
and as designated officer of Lloyds)	
Investment Inc and ERNESTO GALINATO)	
CARDENAS,)	
)	
Respondents.)	

22 This Accusation amends paragraphs 11 and 28 of the
23 Accusation filed on August 9, 2011, as they pertain to
24 Respondent ERNEST GALINATO CARDENAS. The Complainant, Maria
25 Suarez, a Deputy Real Estate Commissioner of the State of
26 California, for cause of Accusation against HOME RETENTION AND
27 FINANCIAL PROGRAMS INC, WINSTON CHI, JONATHAN ARNO and MICHAEL

1 JEFFREY SIMPSON, individually, and as designated officers of
2 Home Retention and Financial Programs Inc, LLOYDS INVESTMENT
3 INC, and HAMID REZA LAVASSANI, individually, and as designated
4 officer of Lloyds Investment Inc and ERNESTO GALINATO CARDENAS
5 is informed and alleges as follows:

6 1.

7 The Complainant, Maria Suarez, a Deputy Real Estate
8 Commissioner of the State of California, makes this Accusation
9 in her official capacity.

10 2.

11 HOME RETENTION AND FINANCIAL PROGRAMS INC,
12 (hereinafter "HRFP") presently has license rights under the
13 Real Estate Law (Part 1 of Division 4 of the Business and
14 Professions Code, hereinafter "Code"), as a corporate real
15 estate broker. HRFP was initially licensed by the California
16 Department of Real Estate ("Department") on January 15, 2009.

17 3.

18 On March 17, 2009, "J L Richman and Associates Co"
19 was registered with the Department as a fictitious business
20 name for HRFP. At material times herein, HRFP used the
21 unlicensed fictitious business names "Richman & Associates",
22 "Richman & Associates, Inc", "Richman & Associates Lavco
23 Financial", "Richman & Associates and Ernesto G. Cardenas" and
24 "Home Retention Programs",

25 4.

26 WINSTON CHI (hereinafter "CHI") is presently licensed
27 and/or has license rights under the Real Estate Law, as a real

1 estate broker. He has been designated officer of HRFP from
2 November 2, 2009 to the present.

3 5.

4 JONATHAN ARNO (hereinafter "ARNO") is presently
5 licensed and/or has license rights under the Real Estate Law, as
6 a real estate broker. He was the designated officer of HRFP
7 from June 1, 2009 to November 2, 2009.

8 6.

9 MICHAEL JEFFREY SIMPSON (hereinafter "SIMPSON") is
10 presently licensed and/or has license rights under the Real
11 Estate Law, as a real estate broker. He was the designated
12 officer of HRFP from January 15, 2009 to June 1, 2009.

13 7.

14 Pursuant to Code Section 10159.2, Respondents CHI,
15 ARNO and SIMPSON were responsible for the supervision and
16 control of the activities conducted on behalf of Respondent HRFP
17 and by its officers and employees as necessary to secure full
18 compliance with the provisions of the Real Estate Law, including
19 the supervision of salespersons licensed to the corporation in
20 the performance of acts for which a real estate license is
21 required.

22 8.

23 LLOYDS INVESTMENT INC (hereinafter "LLOYDS")
24 presently has license rights under the Real Estate Law, as a
25 corporate real estate broker. LLOYDS was initially licensed by
26 the California Department of Real Estate ("Department") on June
27 13, 2006.

1 9.

2 HAMID REZA LAVASSANI (hereinafter "LAVASSANI") is
3 presently licensed and/or has license rights under the Real
4 Estate Law, as a real estate broker. He has been the designated
5 officer of LLOYDS from June 13, 2006 through the present.

6 10.

7 Pursuant to Code Section 10159.2, LAVASANI is
8 responsible for the supervision and control of the activities
9 conducted on behalf of Respondent LLOYDS, and by its officers
10 and employees as necessary to secure full compliance with the
11 provisions of the Real Estate Law, including the supervision of
12 salespersons licensed to the corporation in the performance of
13 acts for which a real estate license is required.

14 11.

15 ERNESTO GALINATO CARDENAS (hereinafter "CARDENAS") is
16 presently licensed and/or has license rights under the Real
17 Estate Law, as a real estate broker. CARDENAS was first licensed
18 as a real estate broker on March 2, 2011. On January 8, 2009,
19 CARDENAS filed a Fictitious Business Name Statement for
20 "Mortgage Rescue Services" with the Sacramento County Clerk.

21 12.

22 At all times material herein, Respondents HRFP, CHI,
23 ARNO, SIMPSON and CARDENAS were engaged in the business of,
24 acted in the capacity of, advertised or assumed to act as real
25 estate brokers in the State of California, within the meaning
26 of Code Section 10131(d) and 10131.2, including negotiating
27 loans or performing services for borrowers and collecting or

1 contracting for the collection of an advance fee, within the
2 meaning of Code Section 10026.

3 FIRST CAUSE OF ACCUSATION

4 (Advance Fee Agreements)

5 13.

6 Martinez Transaction

7 On or about February 19, 2008, Zeferino Martinez
8 ("Martinez") entered into an agreement with "Richman &
9 Associates, Inc" in which Richman & Associates Inc agreed to
10 perform services for Martinez in connection with a loan secured
11 by real property in exchange for payment of \$1,900 in advance
12 fees.

13 14.

14 Jordan Transaction

15 On or about December 6, 2008, William and Shalonda
16 Jordan("the Jordans") entered into an agreement with "Richman &
17 Associates, Inc" in which Richman & Associates Inc agreed to
18 perform services for the Jordans in connection with a loan
19 secured by real property in exchange for payment of \$2,400 in
20 advance fees.

21 15.

22 Rodriguez Transaction

23 On or about November 25, 2008, Claudio and Maricela
24 Rodriguez("the Rodriguez's") entered into an agreement with
25 "Home Retention Programs by Richman & Associates, Inc" in which
26 Richman & Associates Inc agreed to perform services for the
27

1 Rodriguez's in connection with a loan secured by real property
2 in exchange for payment of \$1,900 in advance fees.

3 16.

4 Samadi Transactions

5 On or about December 17, 2008, Reza Samadi ("Samadi")
6 entered into an Advance Fee Agreement with LLOYDS in which
7 Samadi agreed that \$900 of his \$2,495 advance fee would be paid
8 to "Richman and Associates" for the performance of services in
9 connection with a loan secured by real property located at 6722
10 E. Eugie Terrace, Scottsdale, AZ.

11 17.

12 On or about January 30, 2009, Samadi entered into an
13 Advance Fee Agreement with LLOYDS in which Samadi agreed that
14 \$900 of his \$2,495 advance fee would be paid to "Richman and
15 Associates" for the performance of services in connection with
16 a loan secured by real property located at 6640 E. Eugie
17 Terrace, Scottsdale, AZ.

18 18.

19 Bayatoni Transaction

20 On or about January 30, 2009, Alireza Bayatoni
21 ("Bayatoni") entered into an Advance Fee Agreement with LLOYDS
22 in which Bayatoni agreed that \$900 of his \$3,995 advance fee
23 would be paid to "Richman and Associates" for the performance
24 of services in connection with a loan secured by real property
25 located at 6067 Terrier Court, San Jose, CA.

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27 ///

Borja Transactions

On March 7, 2009, Reynaldo and Cristina Borja ("the Borjas") signed two authorizations for Mortgage Rescue Services and "Richman & Associates, Inc" to represent the Borjas in negotiating modifications of their loans for homes located at 1152 Fountain Grass Drive in Patterson, CA and 3016 Stevens Lane in San Jose, CA. On March 7, 2009 and March 10, 2009, the Borjas issued \$2,800 checks to Mortgage Rescue Services as advance fees for loan modification services. Among the terms of the advance fee agreement supplied by Mortgage Rescue Services was a statement that \$2,000 of each \$2,800 advance fee payment would be paid to HRFP.

Dandoy Transaction

On or about February 8, 2009, Alfred & Virginia Dandoy ("the Dandoy's") entered into an Advance Fee Agreement with Mortgage Rescue Services in which the Dandoys agreed that \$2,000 of their \$2,800 advance fee would be paid to HRFP "dba Richman and Assoc." for the performance of services in connection with a loan secured by real property located at 836 W. Provance Avenue, Santa Maria, CA.

Wheat Transaction

On or about January 22, 2009, Scott Wheat ("Wheat") entered into an advance fee agreement with US Equity Solutions, LLC, in which Wheat agreed that \$1,095 of his \$2,850 advance

1 fee would be paid to "Richman and Associates" for the
2 performance of services in connection with a loan secured by
3 real property located at 31 Bellinger Court, Reistertown, MD.

4 22.

5 Neither "Richman & Associates, Inc" nor "Richman &
6 Associates" have ever been licensed by the Department as
7 fictitious business names for HRFPP, in violation of Code
8 Section 10159.5 and Title 10, Chapter 6, California Code of
9 Regulations ("Regulation") 2731. This provides cause for the
10 suspension or revocation of the license and license of HRFPP,
11 pursuant to Code Sections 10177(d) and/or 10177(g).

12 23.

13 The agreements described in Paragraphs 13 through 21
14 above constitute advance fee agreements within the meaning of
15 Code Section 10026. None of these advance fee agreements were
16 approved for use by the Real Estate Commissioner, in violation
17 of Code Sections 10085 and 10085.5, as well as Section 2970 of
18 Title 10, California Code of Regulations ("Regulations").

19 24.

20 The advance fee agreements described in paragraphs 13
21 through 16 above occurred before HRFPP was licensed as a real
22 estate broker. Therefore, the advance fee agreement described
23 in paragraphs 13 through 16 violated Code Sections 10131.2 and
24 10130, providing cause for the suspension or revocation of the
25 license and license of HRFPP, pursuant to Code Sections 10177(d)
26 and/or 10177(g).

27 ///

1 25.

2 As violations of Code Section 10085 and 10085.5, the
3 advance fee agreement described in paragraph 17 through 21
4 provide cause for suspension or revocation of the license and
5 license of HRFP and SIMPSON, pursuant to Code Sections 10177(d)
6 and/or 10177(g).

7 26.

8 As violations of Code Section 10085 and 10085.5, the
9 advance fee agreement described in paragraphs 16 through 18
10 provide cause for suspension or revocation of the license and
11 license of LLOYDS and LAVASSANI, pursuant to Code Sections
12 10177(d) and/or 10177(g).

13 27.

14 "Mortgage Rescue Services" has never been licensed by
15 the Department as fictitious business name for CARDENAS, in
16 violation of Code Section 10159.5 and Regulation 2731. This
17 provides cause for the suspension or revocation of the license
18 and license of CARDENAS, pursuant to Code Sections 10177(d)
19 and/or 10177(g).

20 28.

21 Pursuant to Code Section 10131(d), the activities
22 described in paragraphs 19 and 20 above require a real estate
23 broker license. CARDENAS collected advance fees for services
24 provided to borrowers in connection with loans approximately
25 two years before he obtained a real estate broker license.
26 This is in violation of Code Sections 10085.5 and 10130 and
27 provides cause for suspension or revocation of the license and

1 license of CARDENAS, pursuant to Code Sections 10177(d) and/or
2 10177(g).

3 SECOND CAUSE FOR ACCUSATION

4 (Audit Investigation)

5 29.

6 On May 2, 2011, the Department completed an audit
7 examination of the books and records of HRFP pertaining to the
8 activities described in Paragraph 12 which require a real
9 estate license. The audit examination covered a period of time
10 from April 1, 2008 to February 28, 2011. The audit examination
11 revealed violations of the Code and the Regulations as set
12 forth in the following paragraphs, and as more fully discussed
13 in Audit Report LA 100070 and the exhibits and workpapers
14 attached to said audit report.

15 VIOLATIONS OF THE REAL ESTATE LAW

16 30.

17 In the course of activities described in Paragraph 12
18 above and during the examination period described in Paragraph
19 29, Respondent HRFP acted in violation of the Code and the
20 Regulations in that:

21 (a) There was a shortage of \$41,037.03 in one of
22 HRFP's bank accounts as of February 28, 2011, due to
23 unauthorized disbursements, in violation of Code Section 10145
24 and Regulation 2832.1.

25 (b) HRFP did not place trust funds received into a
26 trust account which named the broker as a trustee within three
27

1 (3) business days of receipt of the funds by the broker, in
2 violation of Code Section 10145 and Regulation 2832(a).

3 (c) HRFP did not maintain accurate records of all
4 trust funds received and disbursed for each account into which
5 trust funds were deposited. Records provided did not have
6 accurate deposit dates and client's names were not identified,
7 in violation of Code Section 10145 and Regulation 2831.

8 (d) HRFP did not maintain separate records for all of
9 its receipts and disbursements of trust funds in connection
10 with loan modification activity, in violation of Code Section
11 10145 and Regulation 2831.1.

12 (e) HRFP did not maintain a monthly reconciliation
13 of all the separate records to the records of all trust funds
14 received and disbursed, in violation of Code Section 10145 and
15 Regulation 2831.2.

16 (f) HRFP deposited advance fees from borrowers into
17 general business accounts, where they were commingled with
18 HRFP's funds. It also appears that HRFP did not maintain a
19 trust account, in violation of Code Sections 10145(a) and
20 10176(e) and Regulation 2835.

21 (g) HRFP deposited advance fees from borrowers into
22 the same business account from which HRFP's operating expenses
23 and payroll transactions were disbursed, in violation of Code
24 Section 10145.

25 (h) HRFP collected advance fees from borrowers and
26 deposited them into a business account which was not in the
27

1 broker's name and not designated as a trust account, in
2 violation of Code Section 10146.

3 (i) HRFP collected advance fees without maintaining
4 an accounting for borrowers, showing the services rendered,
5 into which trust account the funds were deposited and detail of
6 how the funds were disbursed, in violation of Regulation 2972.

7 (j) HRFP collected advance fees for loan
8 modifications after October 11, 2009, in violation of Code
9 Sections 10085, 10085.6 and Regulation 2970.

10 (k) HRFP used the unlicensed fictitious business
11 names "Home Retention Programs", "Richman & Associates Lavco
12 Financial and "Richman & Associates and Ernesto G. Cardenas",
13 in violation of Code Section 10159.5 and Regulation 2731.

14 (l) HRFP employed and compensated individuals who
15 were not licensed by the Department to perform activities
16 requiring a real estate license, in violation of Code Section
17 10137.

18 (m) HRFP failed to retain all records requested in a
19 subpoena duces tecum served on February 2, 2011, in violation
20 of Code Section 10148.

21 (n) HRFP did not notify the Department of a change
22 in its main office address by the next business day following
23 the change, in violation of Code Section 10162 and Regulation
24 2715.

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31.

The conduct of Respondent HRFPP, described in Paragraph 30, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
30(a)	Code Section 10145 and Regulation 2832.1
30(b)	Code Section 10145 and Regulation 2832(a)
30(c)	Code Section 10145 and Regulation 2831
30(d)	Code Section 10145 and Regulation 2831.1
30(e)	Code Section 10145 and Regulation 2831.2
30(f)	Code Sections 10145(a) and 10176(e) and Regulation 2835.
30(g)	Code Section 10145
30(h)	Code Section 10146
30(i)	Regulation 2972
30(j)	Code Sections 10085, 10085.6 and Regulation 2970
30(k)	Code Section 10159.5 and Regulation 2731

1 30(l) Code Section and 10137
2 30(m) Code Section 10148
3 30(n) Code Section 10162 and Regulation
4 2715

5
6 32.

7 The foregoing violations constitute cause for the
8 suspension or revocation of the real estate license and license
9 rights of HRFP under the provisions of Code Sections 10137,
10 10176(e), 10177(d) and/or 10177(g).

11 33.

12 The violations listed in paragraphs 30(a), (b), (c),
13 (d), (e), (f), (g), (j), (k), (l), (m) and (n) above constitute
14 cause for the suspension or revocation of the real estate
15 license and license rights of CHI under the provisions of Code
16 Sections 10137, 10176(e), 10177(d) and/or 10177(g).

17 34.

18 The violations listed in paragraphs 30(b) through
19 30(l) above constitute cause for the suspension or revocation
20 of the real estate license and license rights of ARNO under the
21 provisions of Code Sections 10137, 10176(e), 10177(d) and/or
22 10177(g).

23 35.

24 The violations listed in paragraphs 30(b) through
25 30(m) above constitute cause for the suspension or revocation
26 of the real estate license and license rights of SIMPSON under
27

1 the provisions of Code Sections 10137, 10176(e), 10177(d)
2 and/or 10177(g).

3 NEGLIGENCE

4 36.

5 The overall conduct of Respondents HRFP, CHI, ARNO
6 and SIMPSON constitutes negligence or incompetence. This
7 conduct and violation are cause for the suspension or
8 revocation of the real estate license and license rights of
9 said Respondents pursuant to Code Section 10177(g).

10 SUPERVISION AND COMPLIANCE

11 37.

12 The overall conduct of Respondents CHI, ARNO and
13 SIMPSON constituted a failure on their part, as officers
14 designated by a corporate broker licensee, to exercise
15 reasonable supervision and control over the licensed activities
16 of HRFP as required by Code Section 10159.2, and to keep HRFP
17 in compliance with the Real Estate Law, and is cause for the
18 suspension or revocation of the real estate license and license
19 rights of CHI, ARNO and SIMPSON pursuant to the provisions of
20 Code Sections 10177(d), 10177(g) and 10177(h).

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22 ///

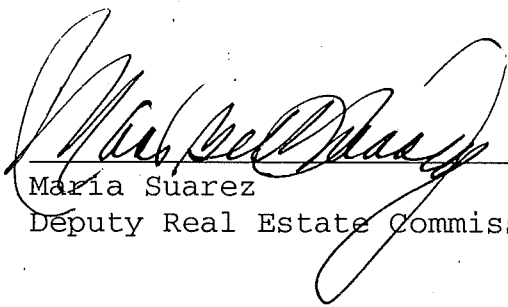
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondents HOME RETENTION AND FINANCIAL PROGRAMS INC,
6 WINSTON CHI, JONATHAN ARNO, MICHAEL JEFFREY SIMPSON LLOYDS
7 INVESTMENT INC, HAMID REZA LAVASSANI and ERNESTO GALINATO
8 CARDENAS under the Real Estate Law, and for such other and
9 further relief as may be proper under other applicable
10 provisions of law.

11 Dated at Los Angeles, California
12 this 22nd day of May, 2012

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16 Maria Suarez
17 Deputy Real Estate Commissioner
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25 cc: ERNESTO GALINATO CARDENAS
26 Maria Suarez
27 Sacto.