FILED

JUL 27 2012

DEPARTMENT OF REAL ESTATE

BY:

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of MAZLAT INC., formerly doing Business as Help-U Financial and First Premier Capital Lending; RICHARD SCOTT SLEPACK, individually and as designated officer of Mazlat Inc.; and JOSE TORRES SIMON Respondents.	)	NO. H-37688 LA

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 June 1, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent JOSE TORRES SIMON's express admissions; (2) affidavits; and (3) Department Audit Report LA 090274, dated January 24, 2011 and (4) other evidence.

FACTUAL FINDINGS

1.

On November 7, 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 a Notice of

Defense was mailed to Respondent's address of record by certified mail on November 17, 2011 and by regular on November 30, 2011.

2.

On June 1, 2012, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent JOSE TORRES SIMON's default was entered herein.

3.

At all times mentioned, JOSE TORRES SIMON ("SIMON") was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate salesperson. On May 3, 2002, SIMON was originally licensed as a real estate salesperson. Respondent's real estate salesperson expired on or about May 2, 2010. Pursuant to Business and Professions Code ("Code") Section 10201 Respondent retained renewal rights until May 2, 2012. Pursuant to Code Section 10103 the Department retains jurisdiction. Respondent was employed by Mazlat Inc. between January 21, 2008 and June 2, 2009.

4.

At all times mentioned, in the City of Irvine, County of Orange, Respondents Mazlat and Slepack acted as real estate brokers and conducted licensed activities within the meaning of Section 10131(d) of the Code, with dbas Help-U Financial ("HUF") from February 28, 2008 to May 3, 2009 and First Premier Capital Lending ("FPCL") from October 4, 2007 to December 28, 2008. SIMON was employed by Mazlat from January 21, 2008 to June 2, 2009.

5.

Between October 2008 and January 2009, Respondent SIMON, representing himself as HUF and FPCL, offered loss mitigation and loan modification services to homeowner-applicants seeking downward adjustments to, or payment extenuations of their home mortgages. Respondents collected advanced fees from said homeowner-applicants without possessing a pre-approved advance fee agreement from the Department. Thereafter, Respondents failed to obtain the loan modification services to the borrowers, in violation of the Code and Title 10 of the California Code of Regulations ("Regulations") as set forth below:

(a) Code Section 10176(a) for substantial misrepresentation of loan modification services contracted for but not provided;

(b) Code Section 10176(b) for making false promises of a character likely to influence, persuade or induce the tabled homeowner-applicants to pay advance fees for loan modification services contracted and paid for but not provided;

(c) Code Section 10177(d) for violation of the Real Estate Law, Code Section 10085 and Regulation 2970;

(d) Code Section 10176(i) and/or 10177(j)) for fraud and/or dishonest dealing;

(e) Code Section 10177(g) for negligence;

(f) Code Section 10085 and Regulation 2970 for failure to submit the written agreements to the Commissioner ten days before using them; and

(g) Code Section 10130 for performing and/or participating in loan modification, solicitation, and negotiation activities which require a real estate broker license under the provisions of Code Section 10131(d) and 10131.2 when Respondent SIMON was not licensed by the Department as a real estate broker, and without the knowledge of the broker under which he was employed.

6.

The overall conduct of Respondent SIMON constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

DETERMINATION OF ISSUES

1.

The conduct of Respondent SIMON, as described herein above, is in violation of Code Sections 10085 and 10130 and Regulation 2970, and constitutes cause for discipline of the real estate license and license rights

of said Respondent pursuant to the provisions of Code Sections 10176(a), 10176(b), 10176(i), 10177(d), 10177(g), and 10177(j).

2.

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

ORDER

The real estate salesperson license and license rights of Respondent JOSE TORRES SIMON 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 AUG 16 2012, 2012.

DATED: July 13, 2012

Real Estate Commissioner

By WAYNE S. BELL
Chief Counsel

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

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BEFORE THE DEPARTMENT OF REAL ESTATE

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In the Matter of the Accusation of MAZLAT INC., formerly doing business as Help-U Financial and First Premier Capital Lending; RICHARD SCOTT SLEPACK, individually and as designated officer of Mazlat Inc.; and **JOSE TORRES SIMON**, Respondent(s).	NO. H-37688 LA DEFAULT ORDER

Respondent, JOSE TORRES SIMON, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED June 1, 2012.

Real Estate Commissioner

By: DOLORES WEEKS
Regional Manager