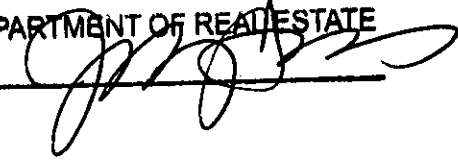


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**FILED**

NOV 17 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 )  
12 MAZLAT INC., formerly doing business as ) No. H- 37688 LA  
13 Help-U Financial and First Premier Capital Lending; )  
14 RICHARD SCOTT SLEPACK, individually and as ) ACCUSATION  
15 JOSE TORRES SIMON, )  
16 Respondents. )

17 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State  
18 of California, for cause of Accusation against MAZLAT INC., doing business as Help-U  
19 Financial and First Premier Capital Lending, RICHARD SCOTT SLEPACK, individually and as  
20 designated officer of Mazlat Inc., and JOSE TORRES SIMON , alleges as follows:

21 1.

22 The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real  
23 Estate Commissioner of the State of California, makes this Accusation.

24 2.

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

27 ///

License Status

A. MAZLAT INC. ("MAZLAT"). At all times mentioned, Respondent MAZLAT was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On November, 8, 2004, MAZLAT was originally licensed as a corporate real estate broker. Respondent MAZLAT was authorized to act by and through Respondent RICHARD SCOTT SLEPACK as MAZLAT's designated broker pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. MAZLAT's real estate broker license includes the 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.

C. HUF is a California corporation with Articles of Incorporation on file with the Secretary of State. On HUF's Statement of Information filed on January 22, 2008, Jose Simon Torres is listed as the agent for service of process as Jose Simon Torres and as a director and officer of HUF.

D. RICHARD SCOTT SLEPACK ("SLEPACK"). At all times mentioned, Respondent SLEPACK was licensed or had license rights issued by the Department as a mortgage loan broker. On June 20, 2002, SLEPACK became the designated officer of MAZLAT. SLEPACK is the President of MAZLAT.

E. JOSE TORRES SIMON ("SIMON"). At all times mentioned, Respondent SIMON was licensed or had license rights issued by the Department as a real estate salesperson. SIMON was first licensed by the Department on May 3, 2002. SIMON's license expired on May 2, 2010. The Department retains jurisdiction pursuant to Code Section 10103.

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1           Brokerage

2   4.

3                   At all times mentioned, in the City of Irvine, County of Orange, MAZLAT and  
4 SLEPACK acted as real estate brokers conducting licensed activities within the meaning of:

5                   A. Code Section 10131(d). Respondents engaged in activities with the public  
6 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on  
7 real property, wherein such loans were arranged, negotiated, processed and consummated on  
8 behalf of others for compensation or in expectation of compensation and for fees often collected  
9 in advance.

10                   B. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and  
11 offered to provide loss mitigation and loan modification services to economically distressed  
12 homeowners seeking adjustments to the terms and conditions of their home loans including, but  
13 not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or  
14 interest, extenuations, foreclosure prevention and short sales.

15   FIRST CAUSE OF ACCUSATION  
16   (Audit Examination)

17   5.

18                   On January 24, 2011, the Department completed an audit examination of the  
19 books and records of MAZLAT limited to the mortgage loan brokerage activities only, as  
20 described in Paragraph 4, which require a real estate license. The audit examination covered a  
21 period of time beginning on July 1, 2007 and ending on June 30, 2010. The audit examination  
22 revealed violations of the Code and the Regulations as set forth in the following paragraphs, and  
23 more fully discussed in Audit Report LA090274 and the exhibits and work papers attached to  
24 said audit report.

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26           ///

27           ///

1                   Trust Account

2   6.

3                   During the audit period, MAZLAT did not maintain a trust account for its  
4 mortgage loan activity. MAZLAT did maintain one trust account for its escrow activity; this  
5 trust account was closed in August 2008 and an audit of this escrow trust account was not  
6 performed.

7                   Audit Violations

8   7.

9                   In the course of activities described in Paragraph 4, above, and during the audit  
10 examination period described in Paragraph 5, Respondents MAZLAT, SLEPACK, and SIMON  
11 acted in violation of the Code and the Regulations in which Respondents:

12   (a) Failed to maintain an accurate and complete control record in chronological  
13 order for each beneficiary or transaction, thereby failing to account for all (1) credit report fees  
14 and appraisal fees collected at the close of escrow and (2) advance fees collected for loan  
15 modification services, in violation of Code Section 10145 and Regulation 2831. Examples  
16 include credit report and appraisal fees received from borrowers Becerra and Lee/Barcelona;

17   (b) Failed to maintain a separate record for each beneficiary or transaction,  
18 thereby failing to account for all advance fees collected for loan modification services, in  
19 violation of Code Section 10145 and Regulation 2831.1. Examples include credit report and  
20 appraisal fees received from borrowers Becerra and Lee/Barcelona;

21   (c) Mixed and commingled trust funds and MAZALAT's funds by depositing  
22 credit report and appraisal fees into MAZLAT's general account. MAZLAT deposited \$2,839.78  
23 in credit report and appraisal fees into its general account, in violation of Code Sections 10145,  
24 10176(e), 10176(i) and Regulations 2832 and 2835. Examples include credit report and  
25 appraisal fees received from borrowers Becerra and Lee/Barcelona;

1 (d) Received undisclosed compensation by overcharging clients for credit report  
2 and appraisal fees, in violation of Code Section 10176(g). Examples include credit report and  
3 appraisal fees received from borrowers Malik, Baig, Guillen and Botello;

4  
5 (e)(1) Failed to retain a true and correct copy of Department of Real Estate  
6 approved California Mortgage Loan Disclosure Statements signed by the broker for borrowers  
7 Malik, Botello, Mika and Castro, in violation of Code Section 10240 and Regulation 2840; and

8 (e)(2) Failed to disclose rebates from lenders on the approved Mortgage Loan  
9 Disclosure Statement for borrowers Malik, Botello, Mika and Castro, in violation of Code  
10 Section 10241 and Regulation 2840.1;

11  
12 (f) Failed to display the MAZLAT's license number and the licensees' license  
13 number on MMI's Mortgage Loan Disclosure Statements for borrowers Botello, Mika, Castro  
14 and Johnson, in violation of Code Section 10236.4(b);

15  
16 (g) Failed to retain copies of invoices, cancelled checks related to credit report and  
17 appraisal fees, loan modification logs, loan modification transactions, loan modification  
18 agreements, hardship letters, modification payment forms, copies of "No Objection Letters"  
19 issued by the Department, and accounting records for the three year period beginning July 1,  
20 2007 through June 30, 2010, in violation of Code Section 10148; and

21  
22  
23 (h) Respondent SLEPACK, as designated officer of MAZLAT, failed to exercise  
24 reasonable control and supervision over the activities conducted on behalf of MAZLAT by its  
25 employees and/or licensees as necessary to secure full compliance with the real estate laws, in  
26 violation of Code Section 10159.2 and Regulation 2725.

27 ///

1                    Discipline Statues and Regulations

2    8.

3                    The conduct of Respondents MAZLAT and SLEPACK, described in Paragraph 7,  
4 above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10145 and Regulation 2831
7(b)	Code Section 10145 and Regulation 2831.1
7(c)	Code Sections 10145, 10176(e), 10176(i) and Regulation 2832
7(d)	Code Section 10176(g)
7(e)(1), (e)(2)	Code Sections 10240, 10241 and Regulations 2840 and 2840.1
7(f)	Code Section 10236.4(b)
7(g)	Code Section 10148
7(h)	Code Section 10159.2 and Regulation 2725 (SLEPACK only)

20 The foregoing violations constitute cause for discipline of the real estate license and license  
21 rights of Respondents MAZLAT and SLEPACK, as the case may be, under the provisions of  
22 Code Sections 10176(e), 10176(g), 10176(i), 10177(d) and/or 10177(g), and as to SLEPACK  
23 only, 10177(h).

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SECOND CAUSE OF ACCUSATION  
(Loan Modification Services)

9.

At all times mentioned herein, Respondents MAZLAT, SLEPACK, and SIMON engaged in the business of loan modification services and an advance fee brokerage and sales activities requiring a real estate license to operate, within the definitions of Code Sections 10131(d) and 10131.2

General Allegations

10.

During the audit period and continuing thereafter to date, MAZLAT, SELPACK, and SIMON solicited economically distressed homeowners facing foreclosure and eviction from their homes, offered financial consulting, loss mitigation and loan modification services, charged, claimed and collected advance fees for services not rendered, for fees not refunded and for loan modifications not obtained.

Specific Allegations

11.

Respondents MAZLAT, SELPACK, and SIMON 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.

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1 Table: Advance Fees Collected for Loan Modification Services - Audit Related

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<b>Complainant:</b>	<b>Contract Date</b>	<b>Advance Fee Paid</b>	<b>Loan Mod Status</b>	<b>Advance Fee Refund?</b>
Benjamin B.	01/21/09	\$ 500.00 to HUF/SIMON	Not obtained	None
Adrian L./Edith C.	12/01/08	\$ 4,000.00 to HUF/SIMON	Not obtained	None
Alicia R.	10/07/08	\$6,000.00 to FPCL	Not obtained	None
Victor A.	11/24/08	\$ 1,500.00 to FPCL	Not obtained	None
Antonio P.	11/02/08	\$ 1,500.00 to FPCL	Not obtained	None

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1 Table: Advance Fees Collected for Loan Modification Services - Not Audit Related

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Complainant:	Contract Date	Advance Fee Paid	Loan Mod Status	Advance Fee Refund?
Valerie Burks	12/05/08	\$ 900.00 to FPCL	Not obtained	None

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7

8 Loan Modification Violations and Disciplinary Statutes

9 12.

10 The conduct of Respondents MAZLAT, SELPACK, and SIMON violated the  
11 Code and the Regulations as set forth below.

12 13.

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

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

18 (c) Code Section 10177(d) for violation of the Real Estate Law, Code Section  
19 10085 and Regulation 2970.

20 (d) Code Section 10177(i) and/or 10177(j)) for fraud and/or dishonest dealing.

21 (e) Code Section 10177(g) for negligence.

22 (f) Code Section 10085 and Regulation 2970 for failure to submit the written  
23 agreements referred to in Paragraph 11 above, to the Commissioner ten days before using it.

24 (g) Code Section 10130 for performing and/or participating in loan modification,  
25 solicitation, and negotiation activities which require a real estate broker license under the  
26 provisions of Code Section 10131(d) and 10131.2 when Respondent SIMON was not licensed by  
27 the Department as a real estate broker nor employed as a real estate salesperson by the broker on

1 whose behalf the activities were performed

2 (h) Code Section 10146 and Regulation 2972 for failure to deposit advance fees  
3 collected into a trust account. (MAZLAT and SELPACK only.)

4 THIRD CAUSE OF ACCUSATION  
5 (Negligence)

6 14.

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

10 FOURTH CAUSE OF ACCUSATION  
11 (Fiduciary Duty)

12 15.

13 The conduct of Respondents MAZLAT, SELPACK, and SIMON constitute a  
14 breach of fiduciary duty, owed the homeowners of good faith, trust, confidence and candor, in  
15 violation of Code Sections 10176(i) and/or 10177(g) and constitutes cause for discipline of the  
16 real estate license and license rights of said Respondents pursuant to the provisions of Code  
17 Section 10177(g).

18 FIFTH CAUSE OF ACCUSATION  
19 (Supervision and Compliance)

20 16.

21 The overall conduct of Respondent SELPACK constitutes a failure on said  
22 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable  
23 supervision and control over the licensed activities of SELPACK, including its officers and  
24 employees, as required by Code Section 10159.2 and Regulation 2725, and to keep MAZLAT in  
25 compliance with the Real Estate Law, and is cause for discipline of the real estate license and  
26 license rights of Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and  
27 10177(h).

1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against the license and license rights of Respondents MAZLAT INC., RICHARD SCOTT  
4 SELPACK, and JOHN TORRES SIMON, under the Real Estate Law (Part 1 of Division 4 of the  
5 Business and Professions Code) and for such other and further relief as may be proper under  
6 other applicable provisions of law including restitution of advanced fees paid for unearned loan  
7 modifications.

8  
9 Dated at Los Angeles, California

10  
11 This 7 November, 2011

  
12 Maria Suarez  
13 Deputy Real Estate Commissioner

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22  
23 cc: Mazalat Inc..  
24 c/o Richard Scott Selpack, D.O  
25 John Torres Simon  
26 Maria Suarez  
27 Sacto  
Enforcement – Paul MimMack  
Audits – Isabel Beltran