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**FILED**

DEC 07 2011

1 JAMES R. PEEL, Counsel (SBN 47055)  
2 Department of Real Estate  
3 320 West Fourth Street, Suite 350  
4 Los Angeles, CA 90013-1105

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

5 Telephone: (213) 576-6982  
6 -or- (213) 576-6913 (Direct)  
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H- 37719 LA

12 ) A C C U S A T I O N  
13 )

13 COLONIAL REALTY GROUP, INC.; )  
14 and KENNETH MOORE MC FARLAND )  
15 individually and as )  
16 designated officer of )  
17 Colonial Realty Group, Inc., )

16 Respondents, )  
17 )

18  
19 The Complainant, Joseph Aiu, a Deputy Real Estate

20 Commissioner of the State of California, for cause of accusation  
21 against COLONIAL REALTY GROUP, INC., and KENNETH MOORE MC FARLAND  
22 individually and as designated officer of Colonial Realty Group,  
23 Inc., alleges as follows:  
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1           1. The Complainant, Joseph Aiu, acting in his official  
2 capacity as a Deputy Real Estate Commissioner of the State of  
3 California, makes this Accusation against COLONIAL REALTY GROUP,  
4 INC., and KENNETH MOORE MC FARLAND.

5           2. COLONIAL REALTY GROUP, INC., and KENNETH MOORE MC  
6 FARLAND individually and as designated officers of Colonial  
7 Realty Group, Inc. (hereinafter referred to as "Respondents") are  
8 presently licensed and/or have license rights under the Real  
9 Estate Law (Part 1 of Division 4 of the Business and Professions  
10 Code, hereinafter Code).

11           3. At all times herein mentioned, Respondents COLONIAL  
12 REALTY GROUP, INC., and KENNETH MOORE MC FARLAND were licensed as  
13 a real estate broker. Respondent KENNETH MOORE MC FARLAND was  
14 the designated officer and pursuant to Code Section 10159.2 was  
15 responsible for the supervision and control of the activities  
16 conducted on behalf of the corporation by its officers and  
17 employees as necessary to secure full compliance with the  
18 provisions of the real estate law including supervision of  
19 salespersons licensed to the corporation in the performance of  
20 acts for which a real estate license is required.

21           4. At all times material herein, Respondents engaged  
22 in the business of, acted in the capacity of, advertised or  
23 assumed to act as a real estate broker in the State of California  
24 within the meaning of Sections 10131(a) and (d) of the Code  
25 including soliciting buyers and sellers, negotiating the sale of  
26 real property, and negotiating loans on real property.

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1 Respondents performed broker escrows in connection with their  
2 brokerage activities.

3           5. On or about January 14, 2011, the Department  
4 completed an examination of Respondent COLONIAL REALTY GROUP,  
5 INC.'s books and records, pertaining to the activities described  
6 in Paragraph 4 above, covering a period from March 16, 2010,  
7 through October 31, 2010, which examination revealed violations  
8 of the Code and of Title 10, Chapter 6, California Code of  
9 Regulations (hereinafter Regulations) as set forth below.

10           6. The examination described in Paragraph 5, above,  
11 determined that, in connection with the activities described in  
12 Paragraph 4 above, Respondent COLONIAL REALTY GROUP, INC.  
13 accepted or received funds, including funds in trust (hereinafter  
14 "trust funds") from or on behalf of principals, and thereafter  
15 made deposit or disbursement of such funds.

16           7. In the course of activities described in Paragraphs  
17 4 through 6 and during the examination period described in  
18 Paragraph 5, Respondents COLONIAL REALTY GROUP, INC., and KENNETH  
19 MOORE MC FARLAND acted in violation of the Code and the  
20 Regulations as follows, and as more specifically set forth in  
21 Audit Report Nos. SD 100025, SD 100026 and SD 1000027 and related  
22 exhibits:

23           a. Violated Code Section 10145 and Regulation 2835 by  
24 maintaining more than \$200 of its funds in the escrow trust  
25 account and kept some of its escrow fees and commissions in the  
26 escrow trust account for more than 25 days.

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1           b. Violated Code Section 10145 and Regulation 2831.2  
2 in that the monthly reconciliations for the escrow operation were  
3 inaccurate.

4           c. Violated Code Section 10177(f) and 10177(j) by  
5 acting as the escrow holder in which it was not a party to the  
6 transaction in 12 out of 21 transactions examined.

7           d. Violated Code Section 10159.5 and Regulation 2731  
8 by conducting real estate sales and escrow activities using  
9 unlicensed fictitious business names Golden Key Escrow and  
10 Colonial Realty Group.

11           e. Violated Code Section 10140.6 and Regulation 2773  
12 by failing to disclose broker license identification number on  
13 solicitation materials intended to be the first point of contact  
14 with consumers such as business card.

15           f. Violated Regulation 2726 by failing to maintain the  
16 broker-salesperson agreement with each salesperson.

17           g. Violated Code Section 10160 and Regulation 2753 by  
18 failing to maintain the original license certificate for each  
19 salesperson at its main business office.

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21           8. The conduct, acts and/or omissions of Respondents  
22 COLONIAL REALTY GROUP, INC., and KENNETH MOORE MC FARLAND, as  
23 alleged above, subjects their real estate licenses and license  
24 rights to suspension or revocation pursuant to Sections  
25 10176(e), 10177(d), and/or 10177(f), 10177(g) and 10177(j) of the  
26 Code.  
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FAILURE TO SUPERVISE

9. The conduct, acts and/or omissions of Respondent KENNETH MOORE MC FARLAND, in failing to ensure full compliance with the Real Estate Law is in violation of Code Section 10159.2 and subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d), 10177(g), and/or 10177(h) of the Code.

SECOND CAUSE OF ACCUSATION

10. Complainant incorporates by reference Paragraphs 1 and 2 above.

11. At all times herein, Respondent KENNETH MOORE MC FARLAND was licensed as a real estate broker.

12. On or about December 2, 2008, for or in expectation of compensation, Respondent solicited and negotiated a re-finance loan and loan modification on real property located at 1061 Boulder Place, Oceanside, California, for borrower Gene Ho.

13. Respondent violated Code Section 10145(a) and Regulation 2832 by collecting advance fees from the borrower and not depositing the fees into a real estate broker trust account.

14. Respondent misappropriated the funds he received from the borrower without the knowledge or permission of the borrower.

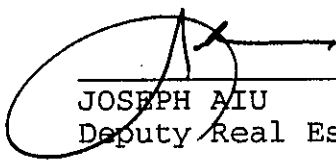
15. Respondent violated Code Section 10085 and Regulation 2970 by failing to provide advance fee material/agreements to be used to the Commissioner for review and approval ten days prior to there use.

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16. The conduct of Respondent, as alleged above, subjects his real estate license and license rights to suspension or revocation pursuant to Section 10176(i) of the Business and Professions Code, and Sections 10177(d) and/or 10177(g) for violation of Code Sections 10085 and 10145, and Regulations 2832 and 2970.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents COLONIAL REALTY GROUP, INC., and KENNETH MOORE MC FARLAND individually and as designated officer of Colonial Realty Group, Inc. under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California  
this 20 day of October, 2011.

  
JOSEPH AIU  
Deputy Real Estate Commissioner

cc: Colonial Realty Group, Inc.  
Kenneth Moore Mc Farland  
Joseph Aiu  
Sacto.