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MARTHA J. ROSETT, Counsel (SBN 142072)  
Department of Real Estate  
320 West Fourth St. #350  
Los Angeles, CA 90013

**FILED**

DEC - 9 2011

DEPARTMENT OF REAL ESTATE  
BY: *Sumalee Valencia*

(213) 576-6982  
(213) 620-6430

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	No. H- 37723 LA
	)	
ALL COUNTIES REAL ESTATE, dba	)	<u>ACCUSATION</u>
Home Owners Unity, a corporate real	)	
estate broker; and FRANK TICAS,	)	
individually and as designated	)	
broker-officer of All Counties Real Estate,	)	
	)	
<u>Respondents.</u>	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner, for cause of Accusation against ALL COUNTIES REAL ESTATE, dba Home Owners Unity, a corporate real estate broker; and FRANK TICAS, individually and as designated broker-officer of All Counties Real Estate, is informed and alleges as follows:

1.

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

2.

Respondent ALL COUNTIES REAL ESTATE, dba Home Owners Unity ("ALL

1 COUNTIES ”), is a California corporation. At all times relevant herein, FRANK TICAS was and  
2 is the President of ALL COUNTIES.

3 3.

4 Respondent ALL COUNTIES is licensed by the Department of Real Estate  
5 (“Department”) as a corporate real estate broker. ALL COUNTIES was originally licensed by  
6 the Department on May 13, 2006. Respondent FRANK TICAS is, and at all times relevant  
7 herein was, the broker-officer designated pursuant to Business and Professions Code (“Code”)  
8 Section 10159.2 to be responsible for ensuring ALL COUNTIES’s compliance with the Real  
9 Estate Law.  
10

11 4.

12 Respondent FRANK TICAS (“TICAS”) is licensed by the Department as a real  
13 estate broker. TICAS was originally licensed by the Department as a broker on or about March  
14 3, 1992, and was licensed as a salesperson prior to that time. In addition to being the designated  
15 broker-officer of ALL COUNTIES, Respondent TICAS is currently the broker-officer of record  
16 for 1<sup>st</sup> Preferred Lenders Inc. He has previously served as the designated broker-officer for nine  
17 other real estate brokerage companies.  
18

19 5.

20 On or about April 25, 1995, in Department Case No. H-1769 SA, Respondent  
21 TICAS’ real estate broker license was revoked, with rights to a restricted license. On or about  
22 August 25, 1997, Respondent TICAS’ broker license was reinstated.  
23

24 6.

25 All further references to “Respondents” include the parties listed in Paragraphs 2  
26 through 4 above, as well as the officers, agents, affiliates and employees of the parties listed in  
27

1 Paragraphs 2 through 4.

2 7.

3 At all times relevant herein, Respondents engaged in the business of, acted in the  
4 capacity of, advertised or assumed to act as real estate brokers in the State of California within  
5 the meaning of Code Sections 10131(d) and 10131.2. Their activities included soliciting  
6 borrowers or lenders for and/or negotiating loans, collecting payments and/or performing  
7 services for borrowers or lenders in connection with loans secured by liens on real property.  
8 Their activities also included claiming, demanding, charging, receiving, collecting or contracting  
9 for the collection of advance fees within the meaning of Code Sections 10026 and 10085.  
10

11 FIRST CAUSE OF ACCUSATION

12 Audit No. LA100061

13 8.

14 On September 2, 2011, the Department completed an audit examination of  
15 Respondent ALL COUNTIES 's books and records pertaining to the mortgage lending activities  
16 described in Paragraph 7 above, covering a period from August 1, 2008 to August 1, 2010. The  
17 primary purpose of the examination was to determine Respondent ALL COUNTIES' and  
18 Respondent TICAS' compliance with the Real Estate Law. The examination, Audit No. LA  
19 100061, revealed violations of the Code and Title 10, Chapter 6 of the California Code of  
20 Regulations ("Regulations"), as set forth below, and as more specifically set forth in the Audit  
21 Report and Exhibits attached thereto.  
22

23 9.

24 During the examination period, Respondent ALL COUNTIES, acting by and  
25 through TICAS as its designated broker officer, performed loan modification services for  
26  
27

1 borrowers and submitted loan modification packages to lenders. Respondent ALL COUNTIES  
2 performed approximately seventy-nine loan modification transactions, and collected  
3 approximately \$176,645.00 of advance fees during the audit period. Respondents did not  
4 maintain a trust account for receipt of trust funds in the form of advance fees collected for loan  
5 modification services. Rather, Respondents deposited and/or disbursed funds, including trust  
6 funds, into and/or from the following general business accounts:

7 Bank Account 1 (B/A 1): Account number xxxxx-8163 ("B/A 1"), named, "All  
8 Counties Real Estate Inc., dba Home Owners Unity Foundation," was maintained at Citibank  
9 N.A., P.O. Box 26892, San Francisco, CA 94126-6892. This account was maintained for the  
10 receipt and disbursement of general business funds and for trust funds in the form of advance  
11 fees received in connection with ALL COUNTIES's loan modification business. Respondent  
12 TICAS was the only signatory on the account, and only one signature was required. B/A 1 was  
13 not identified as a trust account.  
14

15 Bank Account 2 (B/A 2): Account number xxxxx-8205 ("B/A 2"), named, "All  
16 Counties Real Estate Inc.," was also maintained at Citibank. This account was also maintained  
17 for the receipt and disbursement of general business funds and for trust funds in the form of  
18 advance fees received in connection with ALL COUNTIES' loan modification business.  
19 Respondent TICAS was the only signatory on this account, and only one signature was required.  
20 B/A 2 was not identified as a trust account.  
21

22 10.  
23

24 In the course of activities described in Paragraph 9 above, and during the  
25 examination period described in Paragraph 8, Respondents acted in violation of the Code and the  
26 Regulations in that:  
27

1 a) Respondents placed trust funds, in the form of advance fees, into a general  
2 bank account and did not maintain a trust account for the advance fees, in violation of Code  
3 Sections 10145 and 10146 and Regulation 2832.

4 b) Respondents collected advance fees from borrowers pursuant to an agreement  
5 which was not authorized by the Department, and prior to receiving a "No Objection Letter"  
6 from the Department on June 24, 2009, in violation of Code Section 10085 and Regulation 2970.  
7

8 c) Respondents received advance fees from borrowers for loan modification  
9 services without maintaining and providing an accounting content indicating a description of  
10 services to be rendered, identity of the trust account into which trust funds would be deposited,  
11 and details of how the funds were to be disbursed. This was in violation of Code Section 10146  
12 and Regulation 2972.

13 d) Respondents collected trust funds, in the form of advance fees, on behalf of  
14 borrowers, which trust funds were deposited into general accounts, and commingled with general  
15 funds. Between August 1, 2008 and August 1, 2010, ALL COUNTIES collected advance fees  
16 totaling approximately \$176,645.00 from borrowers, which funds were deposited into B/A 1  
17 and/or B/A 2, accounts not designated as trust accounts, and commingled the trust funds with  
18 ALL COUNTIES' general funds. This was in violation of Code Sections 10145, 10176(e) and  
19 Regulation 2832.  
20

21 e) Respondents failed to retain the license certificate of salespersons Majeed  
22 Mokhtari, Miguel Prado and Dora Villegas at the main business office, and the license  
23 certificates for these salespersons were not made available during the audit, in violation of Code  
24 Section 10160 and regulation 2753.  
25

26 f) Respondents failed to maintain accurate and complete control records for the  
27

1 trust funds received and disbursed for the loan modification services during the audit period.

2 The general ledger maintained was incomplete because it did not contain the borrowers' names,  
3 or the name of from whom trust funds were received, and did not indicate the deposit date. This  
4 was in violation of Code Section 10145 and Regulation 2831.

5 g) Respondents failed to maintain separate records for each beneficiary or  
6 transaction for trust funds received and disbursed in connection with loan modification services,  
7 in violation of Code Section 10145 and Regulation 2831.1.

8 h) Respondents failed to maintain a monthly reconciliation of the columnar  
9 records to the separate records, in violation of Code Section 10145 and Regulation 2831.2.

10 i) Respondent ALL COUNTIES used an unlicensed business name of Home  
11 Owners Unity Foundation when it was not the holder of a license bearing the fictitious name, in  
12 violation of Code Section 10159.5 and Regulation 2731.

13 j) Respondents failed to maintain and retain all required books and records of  
14 their real estate activities conducted during the audit period, and did not provide same to the  
15 Department during the audit examination. For example, Respondents failed to maintain trust  
16 fund records and bank records related to its loan modification activities, and also failed to  
17 provide for inspection by the auditor bank deposit slips and complete and accurate conversation  
18 logs for some of the loan modification customers. This was in violation of Code Section 10148  
19 and Regulation 2842.5.

20 k) Respondent TICAS did not exercise adequate supervision over the activities of  
21 ALL COUNTIES to ensure compliance with the Real Estate Laws, in violation of Code Sections  
22 10159.2 and 10177(h), and Regulation 2725.

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The conduct, acts and/or omissions of Respondent ALL COUNTIES and TICAS, as described in Paragraph 16, above, violated the Code and Regulations in the following ways:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10 (a)	Code Sections 10145 and 10146; Regulation 2832.
10(b)	Code Section 10085; Regulation 2970.
10(c)	Code Section 10146; Regulation 2972.
10(d)	Code Sections 10145 and 10176(e); Regulation 2832.
10 (e)	Code Section 10160; Regulation 2753.
10(f)	Code Section 10145; Regulation 2831.
10(g)	Code Section 10145; Regulation 2831.1.
10(h)	Code Section 10145; Regulation 2831.2.
10(i)	Code Sections 10159.5; Regulation 2731
10(j)	10148 and 2842.5.
10(k)	Code Sections 10159.2 and 10177(h); Regulation 2725

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondents ALL COUNTIES and TICAS under the provisions of Code Sections 10145, 10146, 10148, 10177(d), 10176(e), 10176(i), 10177(g), 10177(j), and/or 10085.

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12.

1  
2 The violations set forth above constitute cause for the suspension or revocation of  
3 Respondent TICAS's real estate license and/or license rights, as the broker-officer of Respondent  
4 ALL COUNTIES, for failing to supervise the activities of the corporation, in violation of Code  
5 Sections 10159.2, in conjunction with 10177(h), 10177(d) and/or 10177(g).

6 SECOND CAUSE OF ACCUSATION:

7 (Advance Fee Violations and Unlicensed Activity)

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9 13.

10 Complainant incorporates by this reference into this separate Second Cause of  
11 Accusation the allegations contained above in the preamble and First Cause of Accusation above  
12 in Paragraphs 1 through 12.

13  
14 14.

15 Beginning on or before January 25, 2009, Respondent ALL COUNTIES, as  
16 Home Owners Unity, solicited borrowers and offered to provide loan modification services in  
17 exchange for payment of advance fees.

18 Homeowner Ana Frausto

19  
20 15.

21 On or about January 25, 2009, Respondent ALL COUNTIES, through unlicensed  
22 agent Fabian V. Bautista, entered into a "Distressed Relief Service Agreement" with homeowner  
23 and borrower Ana Frausto ("Frausto"). Pursuant to this agreement, ALL COUNTIES promised  
24 to negotiate with lenders on Ms. Frausto's behalf to modify the terms of loans secured by her  
25 home in Santa Clara, California. The written agreement, which called for payment of advance  
26 fees, was not submitted to the Department for review prior to use. Respondent ALL  
27



1 COUNTIES also had Frausto sign a document entitled, "Limited Scope Retainer Agreement,"  
2 which purported to be an agreement with The Law Offices of J.J. Kim. Ms. Fausto never met  
3 with, spoke to or received services from any attorney associated with Respondents' offices or  
4 from the Law Offices of J.J. Kim.

5 16.

6 On January 25, 2009, Ms. Frausto paid Respondent ALL COUNTIES \$1,500.00  
7 which was deposited into Respondents' account ending in the numbers 8205<sup>1</sup>. Ms. Frausto paid  
8 Respondent ALL COUNTIES two additional payments of \$1,500.00 each. On April 30, 2009,  
9 Ms. Frausto notified Respondent ALL COUNTIES in writing of cancellation of the contract. As  
10 of that time, no services had been rendered or accounted for. Ms. Frausto requested a full  
11 refund. ALL COUNTIES refused to refund her money and did not provide her with an  
12 accounting of their services.  
13

14 17.

15 Ms. Frausto brought a small claims court action against Respondents in Orange  
16 County Superior Court in attempts to recover money she paid them for loan modification  
17 services. She and Respondents entered into a Stipulation for Entry of Judgment in the Orange  
18 County Superior Court pursuant to which Respondents were ordered to pay Ms. Fausto  
19 \$1,000.00 in two installments of \$500.00 each. Respondents made one payment of \$500.00, then  
20 failed to make any further payment.  
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<sup>1</sup> This account is referred to as "B/A 2" in Paragraph 9 above of the First Cause of Accusation.

Homeowner Hugo Rosas Armengol

18.

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2  
3 On or before February 13, 2009, Respondent ALL COUNTIES, by and through  
4 unlicensed agents Fabian V. Bautista ("Bautista") and Jennifer Rivera ("Rivera"), offered to  
5 provide homeowner and borrower Hugo Rosas Armengol ("Armengol") assistance in negotiating  
6 with lenders to modify the terms of loan secured by his home in Santa Clara, California. Mr.  
7 Armengol paid Respondent ALL COUNTIES a total of \$2,500.00 in two payments. As of May  
8 29, 2009, Respondents had not performed any services and refused to respond to Mr.  
9 Armengol's requests for a refund.  
10

19.

11  
12 Mr. Armengol brought a small claims court action against Respondents in Orange  
13 County Superior Court in attempts to recover money he paid for loan modification services. Mr.  
14 Armengol and Respondents entered into a Stipulation for Entry of Judgment in the Orange  
15 County Superior Court pursuant to which Respondents were ordered to pay Mr. Armengol  
16 \$1,000.00 in two installments of \$500.00 each. Respondents made one payment of \$500.00, then  
17 failed to make any further payment.  
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Homeowner Peter Camacho

20.

21 On or before December 31, 2008, Respondents ALL COUNTIES and TICAS  
22 offered to provide homeowner and borrower Peter Camacho ("Camacho") assistance in  
23 negotiating with lenders to modify the terms of loan secured by his home in Riverside,  
24 California. Mr. Camacho paid Respondent ALL COUNTIES a total of \$2,500.00 in two  
25  
26  
27

1 payments. Respondents did not perform any services and refused to respond to Mr. Camacho's  
2 requests for a refund.

3 21.

4 Between on or before January 25, 2009 and on or after May 29, 2009, ALL  
5 COUNTIES utilized various unlicensed agents to collect advance fees from borrowers in  
6 distress.

7 22.

8 At the time that Bautista and Rivera, as agents of ALL COUNTIES, solicited  
9 borrowers for loan modification services and collected advance fees, neither Bautista nor Rivera  
10 was licensed by the Department in any capacity and neither was legally permitted to conduct  
11 activities requiring a real estate license as an employee of ALL COUNTIES .  
12

13 23.

14 At the time that ALL COUNTIES and TICAS collected advance fees from  
15 borrowers between December 31, 2008 and June 23, 2009, Respondents had not submitted an  
16 advance fee agreement to the Department. They had not received a "No Objection" letter from  
17 the Department indicating approval of a written agreement to use in collecting advance fees. It  
18 was not until June 24, 2009, that the Department issued a No Objection letter to Respondents.  
19

20 24.

21 The conduct of Respondents in collecting advance fees from borrowers pursuant  
22 to an agreement which was not authorized by the Department, and prior to receiving a "No  
23 Objection Letter" from the Department, constitutes grounds to revoke or suspend Respondent  
24 ALL COUNTIES' and Respondent TICAS' licenses and license rights pursuant to Code Sections  
25 10085, 10177(g), 10177(d) and/or 10176(i), in conjunction with Regulation Regulation 2970.  
26  
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25.

1  
2 The conduct, acts and/or omissions of Respondent ALL COUNTIES and  
3 Respondent TICAS in compensating and utilizing agents and affiliates who were not licensed to  
4 conduct real estate activities, as set forth above, constitutes grounds to revoke or suspend ALL  
5 COUNTIES' and TICAS' licenses and license rights pursuant to Code Sections 10137, 10177(g),  
6 10176(i) and/or 10177(j).  
7

26.

8  
9 The conduct, acts and/or omissions of Respondent TICAS, as the designated  
10 broker officer of ALL COUNTIES, in failing to exercise adequate supervision of the activities of  
11 ALL COUNTIES to ensure compliance with the real estate law, constitutes grounds to revoke or  
12 suspend TICAS' real estate broker license and license rights pursuant to Code Sections 10159.2  
13 and 10177(h), in conjunction with Regulation 2725.  
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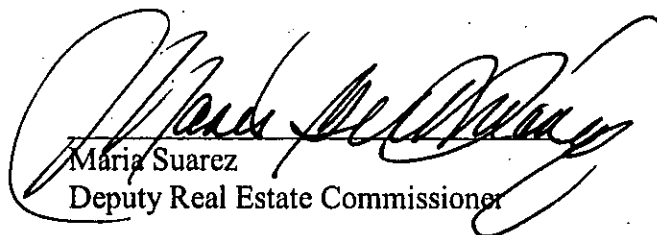
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all licenses and/or license rights of Respondents ALL COUNTIES REAL  
4 ESTATE and FRANK TICAS, under the Real Estate Law and for such other and further relief as  
5 may be proper under other applicable provisions of law.

6 Dated at Los Angeles, California

7  
8 this 2nd day of December, 2011.

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12 Maria Suarez  
13 Deputy Real Estate Commissioner  
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19  
20  
21

22 cc: All Counties Real Estate  
23 Frank Ticas  
24 Maria Suarez  
25 Sacto.  
26 Audits  
27