ELLIOTT MAC LENNAN, SBN 66674 FILED Department of Real Estate 2 320 West 4th Street, Ste. 350 Los Angeles, California 90013-1105 3 DEC 23 2011 Telephone: (213) 576-6911 (direct) DEPARTMENT OF REAL ESTATE (213) 576-6982 (office) -or-5 8 BEFORE THE DEPARTMENT OF REAL ESTATE STATE OF CALIFORNIA 10 11 In the Matter of the Accusation of) No. H- 37765 LA 12 WEST COAST CAPITAL FUNDING GROUP; and STEVEN PAUL BEYROOTY, individually ACCUSATION 13 doing business as Great American Mortgage and Great American Realty, and as former designated 14 officer of West Coast Capital Funding Group, 15 16 Respondents. 17 18 19 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State 20 of California, for cause of Accusation against WEST COAST CAPITAL FUNDING GROUP, 21 and STEVEN PAUL BEYROOTY, individually doing business as Great American Mortgage 22 and Great American Realty, and as former designated officer of West Coast Capital Funding 23 Group, alleges as follows: 24 25 The Complainant, Maria Suarez, acting in his official capacity as a Deputy Real 26 Estate Commissioner of the State of California, makes this Accusation.

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

License History

3.

A. At all times mentioned, WEST COAST CAPITAL FUNDING GROUP ("WCCFG") was licensed or had license rights issued by the Department of Real Estate ("Department") as a corporate real estate broker by and through real estate broker STEVEN PAUL BEYROOTY ("BEYROOTY"). WCCFG was originally licensed on April 10, 2009. On September 1, 2010, WCCFG became Non Broker Affiliated upon the cancellation of BEYROOTY's tenure as designated officer.

- B. At all times mentioned, BEYROOTY was originally licensed as a real estate broker on May 16, 1986. On September 1, 2010, BEYROOTY cancelled his tenure as designated officer of WCCFG.
- C. At all times material herein, WCCFG was licensed by the Department as a corporate real estate broker by and through BEYROOTY, as designated officer and broker responsible, pursuant to Code Sections 10211 and 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf said corporation's officers, agents and employees, including BEYROOTY.

Brokerage

4.

At all times mentioned, in the City of Corona, County of Riverside and City of Newport Beach, County of Orange, WCCFG and BEYROOTY engaged in the business of real estate brokers conducting licensed activities within the meaning of:

24.

A. Code Sections 10131(a) and 10131(d). Respondent BEYROOTY, in his individual capacity, engaged in the business of, acted in the capacity of, advertised or assumed to act as a residential real estate broker and mortgage loan broker under the dbas of Great American Mortgage and Great American Realty.

B. Code Sections 10131(d) and 10131.2. Respondent WCCFG engaged in operating a mortgage loan brokerage and an advanced fee and loan modification service brokerage. For compensation or in expectation of compensation and for fees often collected in advance.

Respondent WCCFG advertised, solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, reduction in principal or interest, loss mitigation, foreclosure prevention and short sales.

FIRST CAUSE OF ACCUSATION

(Audit Examination of West Coast Capital Funding Group)

· 5.

On November 1, 2010, the Department completed an audit examination of the books and records of WCCFG pertaining to the mortgage loan brokerage including advance fee and loan modifications activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on September 8, 2008 to July 31, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report SD 100007 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, WCCFG did not maintain a trust account.

7. 2 In the course of activities described in Paragraph 4, herein above, and during the 3 audit examination period described in Paragraph 5, Respondent WCCFG, acted in violation of 4 5 the Code and the Regulations in that Respondent: (a) Failed to display WCCFG's license number on the on the Mortgage Loan 6 7 Disclosure Statement for borrower Santivanez, in violation of Code Section 10236.4. (b) After notice and subpoena on September 15, 2010, WCCFG failed to provide 8 proof of retention of all records of WCCFG's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148. 10 Discipline Statutes - West Coast Capital Funding Group 11 12 The conduct of Respondent WCCFG described in Paragraph 7, above, violated 13 the Code and the Regulations as set forth below: 14 **PARAGRAPH** PROVISIONS VIOLATED 15 16 Code Section 10236.4 7(a) 17 18 Code Section 10148 (WCCFG) 7(b) 19 The foregoing violations constitute cause for discipline of the real estate license and license 20 rights of WCCFG, under the provisions of Code Sections 10177(d) and/or 10177(g). 21 22 23 24 25 26

Audit Violations - West Coast Capital Funding Group

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SECOND CAUSE OF ACCUSATION
(Audit Examination of Steven Paul Beyrooty)

9.

On November 5, 2010, the Department completed an audit examination of the books and records of BEYROOTY pertaining to the residential real estate and mortgage loan brokerage activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2008 to August 31, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report SD 100016/SD 100017 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

10.

At all times mentioned, in connection with the activities described in Paragraph 4, above, BEYROOTY did not maintain a trust account.

Audit Violations - Steven Paul Beyrooty

11.

In the course of activities described in Paragraph 4, herein above, and during the audit examination period described in Paragraph 9, Respondent BEYROOTY, acted in violation of the Code and the Regulations in that Respondent:

- (a) Failed to maintain an and accurate and complete control record in chronological order for each beneficiary or transaction, thereby failing to account for all credit report fees and appraisal fees collected at the close of escrow, in violation of Code Section 10145 and Regulation 2831.
- (b) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all credit report fees and appraisal fees collected at the close of escrow, in violation of Code Section 10145 and Regulation 2831.1.

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(c) Mixed and commingled trust funds and personal funds by depositing trust 1 funds in the form of credit report fees and appraisal fees collected at the close of escrow from 2 lenders into BEYROOTY's general operating account, in violation of Code Sections 10145 and 3 10145 and Regulation 2832. (d) Failed to provide and/or maintain a statement in writing, to wit, a Good Faith 5 Estimate, which precedes the Mortgage Loan Disclosure Statement provided to borrowers, 6 containing all the information required by Code Section 10241(c) to borrowers J. Agamalian, D. 7 Arrrias, J. Andersen, J. San Filippo, J. Botoglou and J. Fall, before the borrowers became 8 obligated to perform under the terms of their respective loans, in violation of Code Section 10240(c), including failing to state in a clear and conspicuous manner on the Good Faith 10 Estimates that it: 11 (i) does not constitute a loan commitment; 12 (ii) did not disclose BEYROOTY's license number; 13 14 (iii) did not provide Truth-In Lending Disclosure Statements; and (iv) did not disclose yield spread premium rebates. 15 (e) Misrepresented that he held earnest money deposits from buyers J. Glickman, 16 M. Waggoner, A. Woode, S. Violette, J. Agamalian and G. Trimper, in violation of Code Section 17 18 10176(a). (f) Failed to disclose his license identification number on solicitation materials 19 intended to be the first point of contact with consumers including BEYROOTY's business card, 20 in violation of Code Section 10140.60 and Regulation 2773. 21 22 /// 23 $/\!/\!/$ 24 /// /// 25 26 $/\!/\!/$ 27 ///

Discipline Statutes - Steven Paul Beyrooty

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12.

The conduct of Respondent BEYROOTY described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	PROVISIONS VIOLATED	
11(a)	Code Section 10145 and Regulation 2831	
11(b)	Code Section 10145 and Regulation 2831.1	
11(c)	Code Section 10145 and Regulation 2832	
11(d)	Code Section 10240(c)	
11(e)	Code Section 10176(a)	
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The foregoing violations constitute cause for discipline of the real estate license and license rights of BEYROOTY, under the provisions of Code Sections 10177(d) and/or 10177(g).

THIRD CAUSE OF ACCUSATION (Negligence)

Code Section 10140.6 and Regulation 2773

13.

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

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FOURTH CAUSE OF ACCUSATION (Fiduciary Duty)

14.

The conduct, acts and omissions of Respondents WCCFG and BEYROOTY constitute a breach of fiduciary duty, owed to WCCFG' clients, of good faith, trust, confidence and candor, within the scope of their contractual relationship with prospective purchasers. Respondents unnecessarily exposed funds held in trust by WCCFG to taxing authorities including but not limited to the (1) Internal Revenue Service and Franchise Tax Board; and (2) exposed prospective purchasers' trust funds to their general creditors of said trust funds, in violation of Code Section 10177(g) and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

FIFTH CAUSE OF ACCUSATION (Supervision)

15.

The overall conduct of Respondent BEYROOTY constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of WCCFG, as required by Code Sections 10159.2 and 10211, and to keep WCCFG, and also to keep his own individual brokerage in compliance with the Real Estate Law, requiring a real estate license and is cause for discipline of the real estate license and license rights of BEYROOTY pursuant to the provisions of Code Sections 10177(h), 10177(d) and 10177(g).

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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 the license and license rights of Respondents WEST COAST CAPITAL FUNDING GROUP and STEVEN PAUL BEYROOTY, individually doing business as Great American Mortgage and Great American Realty, and as former designated officer of West Coast Capital Funding Group, under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including restitution and costs of audit.

Dated at Los Angeles, California

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West Coast Capital Funding Inc. Steven Paul Beyrooty Maria Suarez Sacto Audits – Zaky Wanis