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**FILED**

DEC 30 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 )  
13 CAL VISTA HOME LOANS INC.; )  
14 doing business as Cal Vista Mortgage )  
15 Company, and MARY ANNE RADER )  
16 individually and as designated )  
17 officer of Cal Vista Home Loans Inc., )  
Respondents. )

No. H- 37773 LA

ACCUSATION

18 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State  
19 of California, Department of Real Estate ("Department") for cause of Accusation against CAL  
20 VISTA MORTGAGE COMPANY ("CVHL") and MARY ANNE RADER ("RADER"),  
21 individually and as designated officer of Cal Vista Home Loans Inc. (collectively  
22 "Respondents"), is informed and alleges as follows:  
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24 1.

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

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2.

From October 22, 1992, through the present, Respondent CVHL has been licensed as a real estate corporation. At all times relevant herein, CVHL was acting by and through Respondent RADER as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. CVHLI is owned equally by Ira Jay Rader, real estate salesperson and president and by Mary Ann Rader, broker herein, vice-president and corporate secretary.

3.

Respondent RADER was originally licensed as a real estate October 22, 1992 and has been the designated officer of CVHL since its original licensure.

4.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment, include RADER

FIRST CAUSE OF ACCUSATION

(Audit)

5.

At all times mentioned, in the City of Encino, County of Los Angeles, State of California, Respondent CVHL acted as a corporate real estate broker and conducted licensed activities within the meaning of:

A. Code Section 10131(d). Respondent engaged in a Mortgage and Loan Brokerage including conducting activities with the public wherein institutional and private hard money lenders and borrowers were solicited for loans secured directly or collaterally by liens on

1 real property, wherein such loans were arranged, negotiated, processed, consummated and  
2 services on behalf of others for compensation or in expectation of compensation and for fees  
3 often collected in advance; and

4 B. In addition, CVHL conducted broker-controlled, in-house escrows through its  
5 escrow division, "CVHL Escrow", under the exemption set forth in California Financial Code  
6 Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate  
7 transaction where the broker is a party and where the broker is performing acts for which a real  
8 estate license is required.

9 C. CVHL negotiated, escrowed and serviced mortgage loans on behalf of private  
10 lenders for compensation. CVHL negotiated, escrowed and closed six (6) loan transactions for  
11 forty-nine (49) investors in the past twelve (12) months. In addition, CVHL was servicing thirty-  
12 nine (39) notes of which thirty-seven (37) were fractionalized notes. Approximately  
13 \$2,452,000.00 in trust funds was handled through the servicing trust account and \$1,460,000.00  
14 through the two escrow trust accounts during the past twelve months.

15 Audit

16 6.

17 On June 15, 2011, the Department completed an audit examination of the books  
18 and records of Respondent CVHL pertaining to the mortgage loan broker and broker escrow  
19 activities described in Paragraph 5, which require a real estate license. The audit examination  
20 covered a period of time beginning on January 1, 2009 and ending on December 31, 2010. The  
21 audit examination revealed violations of the Code and the Title 10, Chapter 6, California Code of  
22 Regulations ("Regulations") set forth in the following paragraphs, and more fully set forth in  
23 Audit Report LA 100134 and LA 100255, and the exhibits and work papers attached thereto.

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2 Trust Accounts

3 7.

4 At all times mentioned, in connection with the activities described in Paragraph 6,  
5 above, CVHL accepted or received funds including funds in trust ("trust funds") from or on  
6 behalf of actual or prospective parties to transactions including buyers, sellers, lenders and  
7 borrowers handled by CVHL and its in-house escrow division and thereafter made deposits and  
8 or disbursements of such funds. From time to time herein mentioned, during the audit period,  
9 said trust funds were deposited and/or maintained by CVHL in the bank accounts as follows.

10 CVHL maintained a trust account for its escrow division only and not for its mortgage loan  
11 brokerage activities:

12 "Cal Vista Home Loans Inc. dba Cal Vista Mortgage Company;

13 Loan Service Payment Trust ("T/A 1")

14 XXXXXX4964"

15 Commerica Bank

16 Sherman Oaks, California

17 (Loan Servicing Trust Account)

18 "Cal Vista Home Loans Inc. dba Cal Vista Mortgage Company;

19 Loan Service Payment Trust ("T/A 2")

20 XXXXXX4542"

21 Commerica Bank

22 Sherman Oaks, California

23 (EscrowTrust Account)

24 "Cal Vista Home Loans Inc. dba Cal Vista Mortgage Company;

25 Loan Service Payment Trust ("T/A 3")

26 XXXXXX9499"

Manufactures Bank

Encino, California

(Escrow Trust Account)

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2 Violations of the Real Estate Law

3 8.

4 In the course of activities described in Paragraphs 5 and 7, above, and during the  
5 examination period, described in Paragraph 6, Respondents CVHL and RADER, acted in  
6 violation of the Code and the Regulations in that Respondents:

7 (a) Engaged in self-dealing by her ownership of 11667 Chandler Blvd., North  
8 Hollywood, California, wherein the 2nd Deed of Trust was and is funded by a multi-lender loan  
9 to lender-purchasers and secured by a trust deed on said real property. RADER, as owner and  
10 broker, is thus engaged in prohibited self-dealing, in violation of Code Section 10238(e).

11 (b) Permitted and/or caused the disbursement of trust funds to credit report  
12 companies on the representation that these amounts were needed to pay for credit report fees,  
13 which payments exceeded the actual costs of these services. Respondents neither disclosed these  
14 "mark-ups" to borrower-beneficiaries Hyland, Bederian, BAP Developers LLC, Salaqui  
15 Properties LLC, Morales and Francia of said trust funds, nor obtained their consent to these  
16 "mark-ups". In the Hyland, Salaqui Properties LLC, Morales and Francia transactions, credit  
17 reports were not ordered although these borrowers were charged yet Respondents retained the  
18 difference totaling \$415.48, between the amounts paid and the actual costs of the services, in  
19 violation of Code Sections 10176(a), 10176(g) and 10176(i).

20 (c) Mixed and commingled trust funds and personal funds by depositing and credit  
21 report fees and/or Federal Express carrier costs, received from escrow into CVHL's general  
22 operating account and issuing checks from said account to the appraisers or credit companies  
23 after the escrow checks were deposited, in violation of Code Sections 10145 and 10176(e) and  
24 Regulation 2832.

25 (d) Mortgage Loan Brokerage Trust Account: Credit Report Fees and Carrier/Fed  
26 -Ex fees. Failed to maintain a control record in the form of a columnar record in chronological

1 order of all trust funds received, deposited and disbursed from T/A 1, in violation of Code  
2 Section 10145 and Regulation 2831.

3  
4 (e) Escrow Trust Accounts. Failed to maintain a separate record for each  
5 beneficiary or transaction for T/A 2 and T/A 3, in violation of Code Section 10145 and  
6 Regulation 2831.1.

7 (f) Failed to record a trust deed or assignment naming the lenders as beneficiaries  
8 for sales of a multi-lender loan for borrowers Salaqui Properties LLC, Francia, Hyland, BAP  
9 Developers LLC, and Bederian to lender-purchasers, secured by a trust deed on real property,  
10 within ten (10) working days after receipt of funds from the lenders, in violation of Code  
11 Sections 10234(a). RADER recorded the loans for borrowers Salaqui Properties LLC, Francia,  
12 Hyland, BAP Developers LLC, and Bederian, in the name of "Cal Vista Home Loans Inc.",  
13 whom was not an investor, as beneficiary, with the County Recorder's office, instead of the  
14 above-named actual owners. Simultaneously, however, Respondent RADER recorded  
15 assignments of deeds of trust for the aforesaid actually owners, in violation of Code Section  
16 10234(a)

17 (g)(1) Failed to disclose to borrowers on the Mortgage Loan Disclosure Statement  
18 escrow fees to be charged to the borrowers for third party escrow services and carrier charges  
19 (Federal Express), in violation of Code Section 10240, 10241 and Regulations 2840 and 2840.1;  
20 and

21 (g)(2) Failed to provide and/or maintain a Mortgage Loan Disclosure Statement  
22 containing all the information required by Code Section 10241(c) before borrowers Hyland, BAP  
23 Developers LLC, and Bederian, within three (3) days of receipt or before said borrowers became  
24 obligated to perform under the terms of their respective loans, the earlier thereof, in violation of  
25 Code Section 10240 and Regulations 2840 and 2840.1.  
26

1 (h) Received undisclosed compensation by means of an earning credit agreement  
2 with Commercia Bank. The earnings credit was based on and calculated by trust fund activity in  
3 T/A 1 (loan servicing trust account) and T/A 2 (escrow trust account. Bank service charges were  
4 deducted from the earning credit accrued on said trust accounts thus reducing CVHL's cost of  
5 doing business. The earnings credit arrangement was not disclosed by CVHL or RADER to the  
6 beneficiaries of either trust account, in violation of Code Sections 10176(a) and 10176(g).

7  
8 (i) Failed to disclose in writing to all parties of CVHL's financial interest and  
9 ownership of CVHL's escrow division, in violation of Code Sections 10145 and 10176(g) and  
10 Regulation 2950(h).

11 9.

12 The conduct of Respondents CVHL and RADER, described in Paragraph 8,  
13 above, violated the Code and the Regulations as set forth below:

| <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u>                    |
|------------------|-----------------------------------------------|
| 14 8(a)          | Code Section 10238(a)                         |
| 15 8(b)          | Code Sections 10176(a), 10176(g) and 10176(i) |
| 16 8(c)          | Code Sections 10145 and 10176(e) and 2832     |
| 17 8(d)          | Code Section 10145 and Regulation 2831        |
| 18 8(e)          | Code Section 10145 and Regulation 2831.1      |

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- 8(f) Code Section 10234(a)
- 8(g) Code Sections 10240 and 10241 and Regulations 2840 and 2840.1
- 8(h) Code Sections 10176(a) and 10176(g)
- 8(i) Code Sections 10145 and 10176(g) and Regulation 2950(h)

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondents CVHL and RADER under the provisions of Code Sections 10176(a), 10176(e), 10176(g), 10176(i), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

(Negligence)

10.

The overall conduct of Respondents CVHL and RADER 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).


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2 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
3 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and/or license rights of Respondents CAL VISTA HOME LOANS  
5 INC. and MARY ANNE RADER, individually and as designated officer of Cal Vista Home  
6 Loans Inc., under the Real Estate Law (Part 1 of Division 4 of the California Business and  
7 Professions Code) and for such other and further relief as may be proper under other applicable  
8 provisions of law, including but not limited to, restitution where applicable and costs of audit.

9 Dated at Los Angeles, California.

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11 this 28th day of December, 2011.

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14 MARIA SUAREZ  
15 Deputy Real Estate Commissioner  
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23 cc: Cal Vista Home Loans Inc.  
24 Mary Anne Rader  
25 Maria Suarez  
26 Audits - Manijeh Khazrai  
Sacto