

FILED

OCT -8 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
<u>1ST INVESTMENTS INC.;</u>)	
and BRENDA PATRICIA SOLANO)	No. H-37854 LA
individually and as designated)	
officer of 1st Investments Inc.,)	
)	
Respondents.)	
)	
)	
)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on September 10, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent 1ST INVESTMENTS INC.'s, express admissions; (2) affidavits; and (3) Department Audit Reports LA 100039 (1ST INVESTMENTS INC.) (5) Complainant/Companion files and (6) other evidence.

FACTUAL FINDINGS

1.

On December 12, 2011, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, to Respondent's last known mailing addresses on file with the Department on February 9, 2012 and February 17, 2012, respectively by certified mail and by regular mail. On September 10, 2012, Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent 1ST INVESTMENTS INC.'s default was entered herein.

2.

From May 8, 2009, through the present, Respondent 1ST INVESTMENTS has been licensed as a real estate corporation. At all times relevant herein, 1ST INVESTMENTS was acting by and through Respondent SOLANO 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. On May 24, 2010, 1ST INVESTMENTS became Non Broker Affiliated by the cancellation of SOLANO's tenure as designated officer.

3.

Respondent SOLANO was originally licensed as a real estate salesperson from February 28, 1996. From October 10, 2000 through the present, Respondent SOLANO has been licensed as a real estate broker. SOLANO has been the designated officer of 1ST INVESTMENTS since its original licensure. On May 24, 2010, SOLANO cancelled his tenure as designated officer.

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.

Table: Designated Officer Tenure

Designated Officer	Tenure
Brenda Solano	May 8, 2009 to January 1, 2010
Alex Martinez	January 26, 2010 to April 5, 2010
Brenda Solano	April 5, 2010 to May 24, 2010

FIRST CAUSE OF ACCUSATION

(Audit)

5.

At all times mentioned, in the State of California, Respondent 1ST INVESTMENTS acted as a corporate real estate broker and conducted licensed activities within the meaning of:

A. Code Section 10131(a) wherein 1ST INVESTMENTS and SOLANO engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others; and

B. Code Section 10131.2. LOP/LOB Program (Lease with Option to Purchase/Lease with Option to Buy). Respondents 1ST INVESTMENTS and SOLANO advertised, solicited and offered to promote the sale of real property via Respondent's 1ST INVESTMENTS "LOP/LOB Program". Prospective home buyers were solicited and would be offered a residence to purchase within ninety (90) days of payment of said advance fee, in the form of a "Finders Fee", for services to be rendered.

Audit Examination

6.

On June 14, 2011, the Department completed an audit examination of the books and records of Respondent 1ST INVESTMENTS pertaining to the real estate activities described in Finding 5, which require a real estate license. The audit examination covered a period of time beginning on February 1, 2009 to August 31, 2009. The audit examination revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations ("Regulations") as alleged in the following paragraphs, and more fully set forth in Audit Report LA 100039 and the exhibits and work papers attached thereto.

BANK ACCOUNTS

7.

At all times mentioned, in connection with the activities described in Finding 6, above, 1st Investments accepted or received funds including funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions including prospective home buyers handled by 1ST INVESTMENTS and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, during the audit period and thereafter, said trust funds were deposited and/or maintained by 1ST INVESTMENTS in the bank account described below. 1ST INVESTMENTS did not maintain a trust fund during the audit period.

“1st Investments Inc. XXXXXX1277”

East West Bank

Ontario, CA 91761

(General operating account)

(“B/A 1”)

Violations of the Real Estate Law

8.

In the course of activities described in Finding 5, above, and during the examination period, described in Finding 6, Respondent 1ST INVESTMENTS acted in violation of the Code and the Regulations in which Respondent 1ST INVESTMENTS:

(a) Permitted, allowed or caused the disbursement of trust funds from B/A 1, 1ST INVESTMENTS' general operating account, where the disbursement of funds reduced the total of aggregate funds in B/A 1, to an amount which, on August 31, 2009, was at a minimum accountability of \$94,146.33, less than the existing aggregate trust fund accountability of 1ST INVESTMENTS to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145(a) and Regulation 2832.1. The shortage was caused by unauthorized disbursements from B/A 1.

(b) B/A 1 was not in the name of the broker as trustee at a bank or other financial institution, nor designated as a trust account, in violation of Code Section 10145 of the Code and Regulation 2832(a).

(c) Failed to maintain a control record in the form of a columnar record in chronological order of all “Trust Funds Received, Not Placed Broker’s Trust Account”, in violation of Code Section 10145 and Regulation 2831.

(d) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all advance fees collected for aforementioned LOP/LOB Program, in violation of Code Section 10145 and Regulation 2831.1.

(e) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by B/A 1, in violation of Code Section 10145 and Regulation 2831.2.

(f) (1) Allowed Victor Rosales Jr., Chief Financial Officer and Mazen Al Zaubi, Chief Executive Officer of 1ST INVESTMENTS, to be a signatories on B/A 1, when they was not licensed by the Department in any capacity nor were they covered by a fidelity bond, in violation of Code Section 10145 and Regulation 2834(a);

(f) (2) SOLANO was not a signatory on B/A 1, in violation of Code Section 10145 and Regulation 2834(b).

(g) Mixed and commingled trust funds and personal funds by depositing advance fees collected for 1ST INVESTMENTS' LOP/LOB Programs into B/A 1, in violation of Code Sections 10145 and 10176(e) and Regulation 2835.

(h) Converted trust funds by paying of 1ST INVESTMENTS' operating expenses, personal expenses and payroll transactions that were disbursed from B/A1, during the audit period from B/A 1, in violation of Code Sections 10145 and 10176(i), as tabled below,

Table: Converted Home Buyers Trust Funds

<u>Check</u>			<u>Disbursed</u>	
<u>Number</u>	<u>Date</u>	<u>Reference</u>	<u>Amount</u>	<u>Bank Account</u>
10639	6/5/09	Cash / ok by Victor	\$ 8,000.00	xxxx1277
10626	6/8/09	Christina Rolando / pay	\$ 275.03	xxxx1277
10689	6/10/09	East West Bank	\$ 20,006.00	xxxx1277
10766	6/30/09	Luis A Trejo	\$ 500.00	xxxx1277
10681	6/22/09	MGR Services	\$ 5,387.20	xxxx1277
10637	6/8/09	Salem Abbady	\$ 2,000.00	xxxx1277
10791	6/30/09	Victor Rosales Jr.	\$ 1,000.00	xxxx1277
10873	7/17/09	Victor Rosales Sr.	\$ 700.00	xxxx1277
1460	7/17/09	Wisam Zoubi	\$ 2,000.00	xxxx1277
10991	7/31/09	Yasin El Turkey	\$ 2,000.00	xxxx1277
1583	8/11/09	Salem Abbady	\$ 500.00	xxxx1277
1584	8/11/09	Wisam Zoubi	\$ 1,000.00	xxxx1277
Total			\$43,368.03	

(i) Collected advance fees within the meaning of Section 10026 of the Code between, including 'Finders Fees' from prospective home purchasers by and through 1ST INVESTMENTS' LOP/LOB Program. 1ST INVESTMENTS and SOLANO failed to provide to the prospective purchasers a pre-approved advance fee agreement by the Department. The failure of 1ST INVESTMENTS and SOLANO to submit an advance fee agreement to the Department ten days prior to its use in violation of Code Section 10085 and Regulation 2970.

(j) Failed to establish and maintain a trust account at a bank or other recognized financial institution in the name of the broker for deposit of advance fees collected by 1ST INVESTMENTS, in violation of Code Section 10146, for the aforesaid prospective purchasers.

(k) With reference to the lack of an advance fee agreement, 1ST INVESTMENTS failed to provide a complete description of services to be rendered provided to each prospective purchaser; 10 point type font; and, an allocation and disbursement of the amount collected as the advance fee, in violation of Code Section 10146 and Regulation 2972.

(l) Employed and/or compensated Victor Rosales Jr. and Manez Al Zoubi, as sales agents for the LOP/LOB Program, who were not licensed by the Department as real estate salespersons or brokers employed by a real estate broker, for performing acts for which a real estate license is required, including soliciting, negotiating and signing LOP/LOB agreements, in violation of Code Section 10137.

(m) 1ST INVESTMENTS, whose corporate real estate broker license was issued on May 8, 2009, performed acts before said licensure, to wit, between February 2009 and May 7, 2009, for which a real estate license is required, including soliciting for prospective home purchasers, negotiating and executing LOP/LOB agreements with consumers, prior to obtaining a license from the Department, in violation of Code Section 10130.

(n) Failed to notify the Department of 1ST INVESTMENTS' main office address and to maintain its current address on file with the Department, in violation of Code Section 10162 and Regulation 2715.

(o) After notice and subpoena on March 11, 2011, failed to retain all records of 1ST Investments' activity during the audit period requiring a real estate broker license, in violation of Code Section 10148.

DETERMINATION OF ISSUES

1.

The conduct, acts and omissions of Respondent 1ST INVESTMENTS INC. as described in Finding 7, are in violation of Code Sections 10085, 10130, 10137, 10145, 10146, 10148, 10162, 10176(e), and 10176(i) and Regulations 2715, 2832.1, 2832(a), 2831, 2831.1, 2831.2, 2834, 2835, 2970 and 2972 and are cause for disciplinary action pursuant to Code Sections 10130, 10137, 10176(e), 10176(i), and 10177(d).

2.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

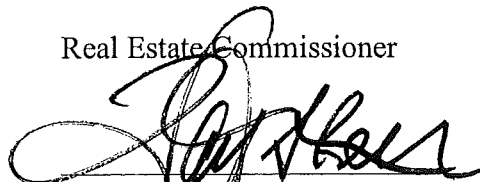
ORDER

The real estate license and license rights of Respondent 1ST INVESTMENTS INC., under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on October 29, 2012

DATED: 9/27/2012, 2012

Real Estate Commissioner



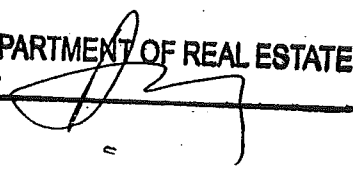
By WAYNE S. BELL
Chief Counsel

FILED

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2 Los Angeles, California 90013-1105

SEP 10 2012

3 (213) 576-6982

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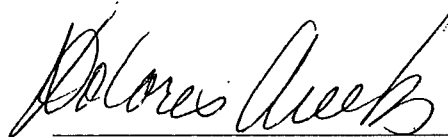
16 DEFAULT ORDER

17 Respondent 1ST INVESTMENTS INC. having failed to file a Notice of
18 Defense within the time required by Section 11506 of the Government Code is now in
19 default. It is, therefore, ordered that a default be entered on the record in this matter.

21 IT IS SO ORDERED

September 10, 2012.

Real Estate Commissioner



By: DOLORES WEEKS
Regional Manager