

1 ELLIOTT MACLENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

FEB 14 2012

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 DIRECT MORTGAGE FUNDERS INC.; and,) No. H- 37877 LA
14 BENJAMIN MAHJOUBI, individually and as)
15 designated officer of Direct Mortgage Funders Inc;)
16 and DAVID KASHANI,) ACCUSATION
17)
18 Respondents.)

16 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
17 of California, for cause of Accusation against DIRECT MORTGAGE FUNDERS INC.;
18 BENJAMIN MAHJOUBI, individually and as designated officer of Direct Mortgage Funders
19 Inc., and DAVID KASHANI alleges as follows:

20 1.

21 The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real
22 Estate Commissioner of the State of California, makes this Accusation.

23 2.

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

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1 3.

2 License Status

3 A. DIRECT MORTGAGE FUNDERS INC. ("DMFI"). At all times mentioned,
4 Respondent DMFI was licensed or had license rights issued by the Department of Real Estate
5 (Department) as a real estate broker. On June 5, 2008, DMFI was originally licensed as a
6 corporate real estate broker. Respondent DMFI is authorized to act by and through Respondent
7 BENJAMIN MAHJOUBI as DMFI's designated broker pursuant to Business and Professions
8 Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring
9 compliance with the Real Estate Law.

10 B. BENJAMIN MAHJOUBI ("MAHJOUBI"). At all times mentioned,
11 Respondent MAHJOUBI was licensed or had license rights issued by the Department as a real
12 estate salesperson. On February 22, 2008, MAHJOUBI was originally licensed as a real estate
13 broker. Since its inception on June 5, 2008, MAHJOUBI became the designated officer of
14 DMFI.

15 C. DAVID KASHANI ("KASHANI "). At all times mentioned, Respondent
16 KASHANI was licensed or had license rights issued by the Department as a real estate
17 salesperson. On May 11, 2009, KASHANI was originally licensed as a real estate salesperson
18 and employed by DMFI from July 8, 2009 to December 30, 2009.

19 D. MAHJOUBI is DMFI's president.

20 Brokerage

21 4.

22 At all times mentioned, in the City of Encino, County of Los Angeles, DMFI and
23 MAHJOUBI acted as real estate brokers conducting licensed activities within the meaning of:

24 A. Code Section 10131(a). Respondents engaged in the business of, acted in the
25 capacity of, advertised or assumed to act as a real estate broker, including the solicitation for
26 listings of and the negotiation of the sale of real property as the agent of others.

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1 B. Code Section 10131(d). Respondents engaged in activities with the public
2 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on
3 real property, wherein such loans were arranged, negotiated, processed and consummated on
4 behalf of others for compensation or in expectation of compensation and for fees often collected
5 in advance.

6 C. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and
7 offered to provide loss mitigation and loan modification services to economically distressed
8 homeowners seeking adjustments to the terms and conditions of their home loans including, but
9 not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or
10 interest, extenuations, foreclosure prevention and short sales.

11 D. Code Section 10132. KASHANI, at all times mentioned herein was employed
12 by DMFI as a real estate salesperson.

13 FIRST CAUSE OF ACCUSATION
14 (Audit Examination)

15 5.

16 On February 3, 2011, the Department completed an audit examination of the
17 books and records of DMFI limited to the residential resale and mortgage loan brokerage/loan
18 modification activities only, as described in Paragraph 4, which require a real estate license. The
19 audit examination covered a period of time beginning on January 1, 2009 and ending on June 30,
20 2010. The audit examination revealed violations of the Code and the Regulations as set forth in
21 the following paragraphs, and more fully discussed in Audit Report LA 090260 and the exhibits
22 and work papers attached to said audit report.

23 Trust Account

24 6.

25 During the audit period, DMFI did not maintain a trust account for advance fees
26 collected for loan modifications services.

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1 (f) Failed to maintain an accurate and complete control record in chronological
2 order for each beneficiary or transaction, thereby failing to account for advance fees collected for
3 loan modification services, in violation of Code Section 10145 and Regulation 2831.

4 (g) Failed to maintain a separate record for each beneficiary or transaction,
5 thereby failing to account for all advance fees collected for loan modification services, in
6 violation of Code Section 10145 and Regulation 2831.1.

7 (h) Failed to perform a monthly reconciliation of the balance of all separate
8 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all
9 trust funds received and disbursed by the bank accounts that contain trust funds for advance fees
10 collected for loan modification services, in violation of Code Section 10145 and Regulation
11 2831.2.

12 (i) Failed to retain all records of DMFI's activity during the audit period requiring
13 a real estate broker license, including but not limited to loan modification files for Marie.S. M.,
14 Jose O.S. and the bank deposit slips for payment of loan modifications for ten (10) borrower-
15 applicants, in violation of Code Section 10148.

16 (j) MAHJOUBI failed to exercise reasonable control and supervision over the
17 activity of DMFI to secure full compliance with the Real Estate Law, in violation of Code
18 Sections 10159.2, 10177(h) and Regulation 2725.
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1 FIFTH CAUSE OF ACCUSATION
2 (Supervision and Compliance)

3 16.

4 The overall conduct of Respondent MAHJOUBI constitutes a failure on said
5 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable
6 supervision and control over the licensed activities of DMFI as required by Code Section
7 10159.2 and Regulation 2725, and to keep DMFI in compliance with the Real Estate Law, with
8 specific regard to advance fees collected for loan modification services, and is cause for
9 discipline of the real estate license and license rights of Respondent pursuant to the provisions of
10 Code Sections 10177(d), 10177(g) and 10177(h).

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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 the license and license rights of Respondents DIRECT MORTGAGE FUNDERS
4 INC., BENJAMIN MAHJOUBI, under the Real Estate Law (Part 1 of Division 4 of the Business
5 and Professions Code) and for such other and further relief as may be proper under other
6 applicable provisions of law including but not limited to restitution of advanced fees paid for
7 unearned and unrefunded loan modifications/short sales pursuant to Government Code Section
8 11519; for costs of audit pursuant to Code Section 10148; for costs of investigation and
9 enforcement in this matter in an amount to be determined at Hearing and paid within six (6)
10 months of the effective date of the Decision and Order. Payments may be made in equal monthly
11 installments beginning thirty (30) days from the effective date of the Decision and Order. Failure
12 to submit to the Department each payment of cost recovery shall automatically terminate the stay
13 of the order and Respondent's real estate license shall be suspended effective thirty (30) days
14 from the due date of the delinquent payment without further notice or hearing.
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18 Dated at Los Angeles, California

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20 this 2 day of February, 2012 
21 Deputy Real Estate Commissioner
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23

24 cc: Direct Mortgage Funders Inc.
25 c/o Benjamin Mahjoubi D.O.
26 Robin Trujillo
27 Sacto
Enforcement Audits - Lisa Kwong