

**FILED**

OCT -2 2012

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: *R. Theodor*

\* \* \* \*

In the Matter of the Accusation of )  
 ) No. H-38214 LA  
OPCIONES MORTGAGE; )  
REMAX EMPIRE, INC.; )  
 and RUBEN A. DIAZ )  
 individually and as )  
 designated officer of )  
 Opciones Mortgage )  
 and Remax Empire, Inc.; )  
 and HECTOR A. VASQUEZ, )  
 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 21, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1. On May 4, 2012, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

On September 21, 2012, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents OPCIONES MORTGAGE, REMAX EMPIRE, INC. and RUBEN A. DIAZ's default was entered herein.

2. OPCIONES MORTGAGE, REMAX EMPIRE, INC. and RUBEN A. DIAZ (hereinafter referred to as "Respondents") are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code").

3. At all times herein mentioned, Respondents OPCIONES MORTGAGE and REMAX EMPIRE, INC. were licensed as a corporate real estate broker with Respondent RUBEN A. DIAZ as their designated officer.

#### FIRST CAUSE OF ACTION

4. Respondents OPCIONES MORTGAGE and REMAX EMPIRE, INC. violated Title 10, Chapter 6, California Code of Regulations (hereinafter "Regulations"), Section 2742(c) by engaging in activities requiring a real estate broker license after being suspended by the California Franchise Tax Board.

#### SECOND CAUSE OF ACTION

6229 Albany St., Huntington Park

5. On or about July 11, 2009, for or in expectation of compensation, Respondents OPCIONES MORTGAGE and RUBEN A. DIAZ and Ernesto A. Diaz solicited and negotiated a re-finance loan and loan modification on real property located at 6229 Albany St., Huntington Park, California for borrowers Heriberto L., Estela L. and Dionisio L.

6. Respondents OPCIONES MORTGAGE and RUBEN A. DIAZ violated Code Section 10137 by employing Ernesto A. Diaz to perform activities requiring a real estate license as defined by Code Sections 10131(d) and 10131.2 while he was not licensed as a real estate salesperson.

7. Respondents OPCIONES MORTGAGE and RUBEN A. DIAZ violated Code Sections 10145 and 10146 and Regulation 2832 by collecting advance fees from the borrowers and not depositing the fees into a real estate broker trust account.

8. Respondents OPCIONES MORTGAGE and RUBEN A. DIAZ misappropriated the funds they received from the borrowers without the knowledge or permission of the borrowers.

#### THIRD CAUSE OF ACTION

2733 Monterey Road, Los Angeles

9. On or about January 21, 2010, for or in expectation of compensation, Respondents REMAX EMPIRE, INC. and RUBEN A. DIAZ solicited and negotiated a re-finance loan and loan modification on real property located at 2733 Monterey Road, Los Angeles, California for borrower Olga R.

10. Respondents OPCIONES MORTGAGE and REMAX EMPIRE, INC. violated Code section 10085 and Regulation 2970 by failing to provide advance fee material/agreements to be used to the Commissioner for review and approval ten days prior to there use.

FOURTH CAUSE OF ACCUSATION

11. Respondent DIAZ failed to supervise Respondents OPCIONES MORTGAGE and REMAX EMPIRE, INC.

DETERMINATION OF ISSUES

1. First Cause. Cause for disciplinary action against Respondents OPCIONES MORTGAGE and REMAX EMPIRE, INC. exists pursuant to Code Sections 10177(d) and 10177(g) for violation of section 2742(c) of the Regulations.

2. Second Cause. Cause for disciplinary action against OPCIONES MORTGAGE and RUBEN A. DIAZ exists pursuant to Code Sections 10137, 10177(d), 10177(g) and 10176(i) for violation of Code Sections 10137, 10145, 10146, and Regulation 2832.

3. Third Cause. Cause for disciplinary action against Respondents OPCIONES MORTGAGE, REMAX EMPIRE, INC., and RUBEN A. DIAZ exists pursuant to Code Sections 10176(i), 10177(d), and 10177(g) for violation of Code section 10085 and Regulation 2970 in first and second Cause of Action.

4. Fourth Cause. Cause for disciplinary action against Respondent RUBEN A. DIAZ exists pursuant to Code sections 10159.2, 10177(d) and 10177(h).

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

ORDER

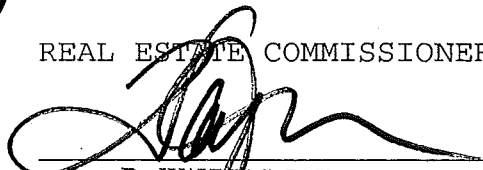
All licenses and license rights of Respondents OPCIONES MORTGAGE, REMAX EMPIRE, INC. and RUBEN A. DIAZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon  
OCT 22 2012.

DATED: \_\_\_\_\_

9/28/2012

REAL ESTATE COMMISSIONER

  
By WAYNE S. BELL  
Chief Counsel

1 Department of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, California 90013-1105  
4 (213) 576-6982

**FILED**

SEP 21 2012

DEPARTMENT OF REAL ESTATE

BY: *R. Medeiros*

6 BEFORE THE DEPARTMENT OF REAL ESTATE

7 STATE OF CALIFORNIA

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10 OPCIONES MORTGAGE; )

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12 and RUBEN A. DIAZ )

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15 Opciones Mortgage )

16 and Remax Empire, Inc.; )

17 and HECTOR A. VASQUEZ, )

18 Respondents. )

DEFAULT ORDER

19 Respondents, OPCIONES MORTGAGE, REMAX EMPIRE, INC.,  
20 and RUBEN A. DIAZ, having failed to file a Notice of Defense  
21 within the time required by Section 11506 of the Government  
22 Code, are now in default. It is, therefore, ordered that a  
23 default be entered on the record in this matter.

24 IT IS SO ORDERED

*September 4, 2012*

25 REAL ESTATE COMMISSIONER

26 BY:

*Dolores Weeks*

27 DOLORES WEEKS

Regional Manager