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FILED

OCT 23 2012

DEPARTMENT OF REAL ESTATE
BY: *R. Mendenhall*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H- 38492 LA
12	EQUITY WEST FINANCIAL, INC.;)	<u>A C C U S A T I O N</u>
13	and SHARON CONCEPCION,)	
14	individually and as designated)	
15	officer of Equity West)	
16	Financial, Inc.,)	
	Respondents.)	

17
18 The Complainant, Maria Suarez, a Deputy Real Estate
19 Commissioner of the State of California, acting in her official
20 capacity, for cause of Accusation against EQUITY WEST FINANCIAL,
21 INC. ("EQUITY WEST") and SHARON CONCEPCION ("CONCEPCION"),
22 individually and as designated officer of Equity West Financial,
23 Inc., is informed and alleges as follows:

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27 ///

1 1.

2 The Complainant, Maria Suarez, acting in her official
3 capacity as Deputy Real Estate Commissioner of the State of
4 California, makes this Accusation.

5 2.

6 All references to the "Code" are to the California
7 Business and Professions Code, and all references to
8 "Regulations" are to Title 10, Chapter 6, California Code of
9 Regulations unless otherwise specified.

10 3.

11 A. EQUITY WEST FINANCIAL, INC.: At all times
12 mentioned, Respondent EQUITY WEST was licensed or had license
13 rights issued by the Department of Real Estate ("Department") as
14 a real estate broker (license number 01421284). On March 10,
15 2004, EQUITY WEST was originally licensed as a corporate real
16 estate broker by and through CONCEPCION. EQUITY WEST's
17 corporate real estate broker license expired on March 9, 2012.
18 The Department of Real Estate retains jurisdiction over the
19 license pursuant to California Business and Professions Code
20 Section 10103.

21 B. SHARON CONCEPCION: At all times mentioned,
22 Respondent CONCEPCION was licensed or had license rights issued
23 by the Department as a real estate broker (license number
24 01708031). On February 21, 2006, CONCEPCION was originally
25 licensed as a real estate broker. CONCEPCION's real estate
26 broker license expired on February 20, 2010. The Department of
27

1 Real Estate retains jurisdiction over the license pursuant to
2 California Business and Professions Code Section 10103.

3 4.

4 At all times mentioned, in the City of Covina, County
5 of Los Angeles, EQUITY WEST and CONCEPCION engaged in the
6 business of real estate brokers conducting licensed activities
7 within the meaning of Code Sections 10131(d) and 10131.2.

8 EQUITY WEST and CONCEPCION engaged in operating a mortgage loan
9 brokerage and an advanced fee and loan modification service
10 brokerage. For compensation or in expectation of compensation
11 and for fees often collected in advance, Respondents contacted
12 lenders on behalf of distressed homeowners seeking modification
13 or forbearance of the terms of their home loans.

14
15 FIRST CAUSE OF ACCUSATION

16 (Trust Fund Audit)

17 5.

18 On May 26, 2010, the Department completed an audit
19 examination of the books and records of EQUITY WEST limited to
20 determine whether EQUITY WEST handled and accounted for trust
21 funds and conducted its real estate activities in accordance
22 with the Real Estate Law and Regulations. The audit examination
23 covered a period of time beginning on January 1, 2007 and ended
24 on December 31, 2009. The audit examination revealed violations
25 of the Code and the Regulations set forth in the following
26 paragraphs, and more fully discussed in Audit Reports LA090024,
27

1 LA090173 and the exhibits and work papers attached to said audit
2 reports.

3

4 Bank Account and Trust Accounts

5

6.

6

At all times mentioned, in connection with the
7 activities described in Paragraph 4, above, EQUITY WEST accepted
8 or received funds including funds in trust ("trust funds") from
9 or on behalf of actual or prospective parties involved in
10 mortgage loan transactions including borrowers and lenders
11 handled by EQUITY WEST and thereafter made deposits and or
12 disbursements of such funds. From time to time herein
13 mentioned, during the audit period, said trust funds were
14 deposited and/or maintained by EQUITY in the bank account as
15 follows:

16

"Equity West Financial, Inc.
Escrow Division General Account"
*****8702

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Union Bank of California
P.O. Box 512380
Los Angeles, CA 90051-0380

(B/A #1)

19

20

"Equity West Financial, Inc.
Trust Account"
*****8410

21

22

Citibank
P.O. Box 26892
San Francisco, CA 94126-6892

(T/A #1)

23

24

"Equity West Financial, Inc.
Escrow Division Trust Account"
*****8710

25

26

Union Bank of California
Laguna Hills 069
P.O. Box 512380
Los Angeles, CA 90051-0380

(T/A #2)

27

1 "Equity West Financial, Inc.
Escrow Division Trust Account (VEIT)"
2 *****7610
Mellon 1st Business Bank
3 601 West Fifth Street
4 Los Angeles, CA 90071 (T/A #3)

5 7.

6 In the course of activities described in Paragraphs 4
7 and 6, above, and during the examination period in Paragraph 5,
8 Respondents EQUITY WEST and CONCEPCION, acted in violation of
9 the Code and the Regulations as set forth below:

10 (a) (1) Failed to disburse from T/A #1 broker funds
11 totaling \$1,742.50, in violation of Code Section 10145 and
12 10176(e) and Regulation 2835.

13 (a) (2) Permitted, allowed, or caused the disbursement
14 of trust funds from the general operating account B/A #1 where
15 the disbursement of funds reduced the total of aggregate funds
16 in escrow trust account, to an amount which, on December 31,
17 2009, was \$10,535.00, less than the existing aggregate trust
18 fund liability to every principal who was an owner of said
19 funds, without first obtaining the prior written consent of the
20 owners of said funds, in violation of Code Section 10145 and
21 Regulations 2832.1. The shortage is due to unearned fees from
22 loan modifications activities.

23 (b) Commingled trust funds by depositing advance fees
24 collected from borrowers in connection with loan modification
25 transactions into EQUITY WEST's general operating account B/A
26 #1, in violation of Code Sections 10145 and 10176(e) and
27 Regulation 2832.

1 (c) Failed to maintain a control record in the form
2 of a columnar record in chronological order of all "Trust Funds
3 Received, Not Placed Broker's Trust Account" for T/A 1, in
4 violation of Code Section 10145 and Regulations 2831, 2950(d),
5 and 2951.

6 (d) Failed to maintain an accurate and complete
7 separate record for each beneficiary or transaction, thereby
8 failing to account for all trust funds received, deposited, and
9 disbursed in connection with loan modification transactions, in
10 violation of Code Section 10145 and Regulation 2831.1.

11 (e) Permitted Susan Concepcion and Christian
12 Concepcion, unlicensed and unbonded persons, to be authorized
13 signatories on the trust accounts T/A #1 and T/A #2, in
14 violation of Code Section 10145 and Regulation 2834.

15 (f) Collected advance fees within the meaning of Code
16 Section 10026 from homeowners seeking loan modification services
17 wherein EQUITY WEST failed to provide homeowners Sarah R., Ralph
18 T., Maureen E., Consuelo O, Elizabeth and Renato P., and Roberto
19 and Editha F., with a pre-approved advance fee agreement from
20 the Department in the form of a no objection letter, in
21 violation of Code Section 10085 and Regulation 2970.

22 (g) Failed to deposit collected advance fees for loan
23 modification services into a trust account, in violation of Code
24 Section 10146.

25 (h) With reference to a lack of an advanced fee
26 agreement, EQUITY WEST failed to provide a description of
27 services and an accounting content to homeowners, Sarah R.,

1 Ralph T., Maureen E., Consuelo O., Elizabeth and Renato P.,
2 Roberto and Editha F., and Eutimeo and Rachel B., showing the
3 services to be rendered, into which trust account the funds were
4 deposited, and details of how the funds were disbursed, in
5 violation of Code Section 10146 and Regulation 2972.

6 (i) Failed to disclose yield spread premiums received
7 from lenders on the approved Mortgage Loan Disclosure Statement
8 for borrowers, Cleophas and Mary R., Ovidio G., Joey G., and
9 Ronnie Valeuzuela, in violation of Code Section 10240 and
10 Regulation 2840.

11 (j) Failed to disclose EQUITY WEST's real estate
12 broker license number on the Mortgage Loan Disclosure Statement
13 to borrowers, Cleophas and Mary R., Ovidio G., Edgardo and Ana
14 C, and Grace and Michael G., in violation of Code Section
15 10236.4.

16 (k) Closed EQUITY WEST's business and mailing address
17 at 1033 East Imperial Highway, Suite E-9, Brea, California in
18 June 2009, and changed the address to 15220 Central Avenue,
19 Suite B, Chino, California in February 2009 without notification
20 to the Department, in violation of Code Section 10162 and
21 Regulation 2715.

22 8.

23 The conduct of Respondents EQUITY WEST and CONCEPCION,
24 described in Paragraph 7, above, violated the Code and the
25 Regulations as set forth below:

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1	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
2	7(a)	Code Section 10145 and 10176(e) and
3		Regulations 2832.1 and 2835
4	7(b)	Code Sections 10145 and 10176(e) and
5		Regulation 2832
6	7(c)	Code Sections 10145 and Regulations 2831,
7		2950(d), and 2951
8	7(d)	Code Section 10145 and Regulation 2831.1
9	7(e)	Code Section 10145 and Regulation 2834
10	7(f)	Code Section 10085 and Regulation 2970
11	7(g)	Code Section 10146
12	7(h)	Code Section 10146 and Regulation 2972
13	7(i)	Code Section 10240 and Regulation 2840
14	7(j)	Code Section 10236.4
15	7(k)	Code Section 10162 and Regulation 2715
16	The foregoing violations constitute cause for discipline of the	
17	real estate license and license rights of EQUITY WEST and	
18	CONCEPCION under the provisions of Code Sections 10177(d) and/or	
19	10177(g).	

SECOND CAUSE OF ACCUSATION

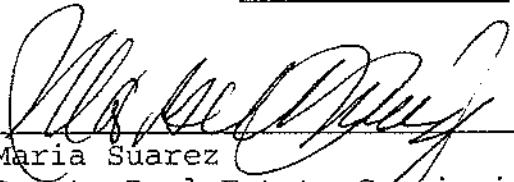
(Negligence)

9.

The overall conduct of Respondents EQUITY WEST and CONCEPCION 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).

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of EQUITY WEST
5 FINANCIAL, INC. and SHARON CONCEPCION, individually and as
6 designated officer of Equity West Financial, Inc., under the
7 Real Estate Law (Part 1 of Division 4 of the California Business
8 and Professions Code), for the cost of investigation and
9 enforcement pursuant to California Business and Professions Code
10 Section 10106 and as permitted by law, and for such other and
11 further relief as may be proper under other applicable
12 provisions of law, including costs of audit pursuant to Code
13 Section 10148.

14 Dated at Los Angeles, California: 5 October, 2012.

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17 _____
18 Maria Suarez
19 Deputy Real Estate Commissioner
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23
24

25 cc: Equity West Financial, Inc.
26 c/o Sharon Concepcion
27 Maria Suarez
Sacto
Enforcement
Audits - Lisa Kwong