

FILED

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DEPARTMENT OF REAL ESTATE
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-38744 LA

FIRST REAL ESTATE GROUP INC
and VICTOR MANUEL BARAJAS JR,
individually, and as former
designated officer of First Real
Estate Group Inc,

A C C U S A T I O N

Respondents.

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against FIRST REAL ESTATE GROUP INC and VICTOR MANUEL BARAJAS JR,
individually, and as former designated officer of First Real
Estate Group Inc alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official
capacity as a Deputy Real Estate Commissioner of the State of

1 California, makes this Accusation against FIRST REAL ESTATE GROUP
2 INC and VICTOR MANUEL BARAJAS JR.

3 2.

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

7 LICENSE HISTORY

8 3.

9 A. At all times mentioned, FIRST REAL ESTATE GROUP INC
10 ("FREGI") was licensed and/or has license rights issued by the
11 Department of Real Estate ("Department") as a corporate real
12 estate broker. FREGI was originally licensed as a corporate real
13 estate broker on August 1, 2003.

14 B. At all times mentioned, VICTOR MANUEL BARAJAS
15 ("BARAJAS") was licensed and/or had license rights issued by the
16 Department as a real estate broker. BARAJAS was originally
17 licensed as a real estate broker on August 2, 2007.

18 C. From August 16, 2007 through August 18, 2010, FREGI
19 was licensed by the Department as a corporate real estate broker
20 by and through BARAJAS, as the designated officer and broker
21 responsible, pursuant to Code Section 10159.2, for supervising
22 the activities requiring a real estate license conducted on
23 behalf of FREGI, or by FREGI's officers, agents and employees.

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1 BROKERAGE

2 FIRST REAL ESTATE GROUP INC

3 4.

4 At all times mentioned, in the cities of Santa Ana and
5 Anaheim, County of Orange, FREGI and BARAJAS acted as real estate
6 brokers, conducting licensed activities within the meaning of
7 Code Section 10131(d): soliciting borrowers or lenders,
8 negotiating loans, collecting payments or performing services for
9 borrowers, in connections with loans secured by real property.

10 AUDIT

11 FIRST REAL ESTATE GROUP INC

12 5.

13 On March 25, 2011, the Department completed an audit
14 examination of the books and records of FREGI pertaining to the
15 activities described in Paragraph 4 which require a real estate
16 license. The audit examination covered a period of time from
17 August 1, 2007 to July 31, 2010. The audit examination revealed
18 violations of the Code and the Regulations as set forth in the
19 following paragraphs, and as more fully discussed in Audit Report
20 LA100030 and the exhibits and workpapers attached to said audit
21 report.

22 VIOLATIONS OF THE REAL ESTATE LAW

23 6.

24 In the course of activities described in Paragraph 4
25 above and during the examination period described in Paragraph 5,
26 Respondents FREGI and BARAJAS acted in violation of the Code and
27 the Regulations in that:

1 (a) FREGI received credit report fees through the
2 close of escrow but failed to maintain a record of trust funds
3 received and disbursed, in violation of Code Section 10145 and
4 Regulation 2831.

5 (b) FREGI received credit report fees through the close
6 of escrow, but failed to maintain separate records of trust funds
7 received and disbursed, in violation of Code Section 10145 and
8 Regulation 2831.1.

9 (c) FREGI commingled credit report and appraisal fees
10 in its general bank account and did not deposit these fees in a
11 trust account, in violation of Code Sections 10176(e) and 10145
12 and Regulation 2832.

13 (d) The Mortgage Loan Disclosure Statements (MLDS)
14 found in FREGI's loan files were not complete. FREGI did not
15 disclose to borrowers in writing that they received yield spread
16 premiums from lenders as additional compensation. Also, approved
17 MLDS were not found in three (3) of the seven (7) loan files
18 examined. Finally, the Good Faith Estimates used by FREGI did
19 not satisfy the requirements of Code Section 10240(c). These
20 constituted violations of Code Sections 10240(a) and 10240(c) and
21 Regulation 2840.

22 (e) The license numbers of FREGI and its loan agents
23 were not included, or a wrong license number was disclosed, on
24 the MLDS, in violation of Code Section 10236.4.

25 (f) FREGI did not retain the license certificates for
26 salespersons Lindy Michelle Laurin, Araceli Padilla, Linda H.
27

1 Gonzalez, Eloisa Rodriguez Mena and Eva P. Lara, in violation of
2 Code Section 10160 and Regulation 2753.

3 (g) FREGI conducted real estate activities using the
4 names "1st Mortgage Group", "First Mortgage" and "Golden Empire
5 Mortgage" when FREGI was not the holder of licenses bearing these
6 fictitious business names, in violation of Code Section 10159.5
7 and Regulation 2731.

8 (h) FREGI did not notify the Department of a change in
9 its main office address within the next business day following
10 the change, in violation of Code Section 10162 and Regulation
11 2715.

12 (i) FREGI failed to maintain records, which included
13 bank statements, reliable copies of invoices and cancelled checks
14 related to credit report and appraisal fees, in violation of Code
15 Section 10148.

16 7.

17 The conduct of Respondents FREGI and BARAJAS, as
18 described in Paragraph 6, above, violated the Code and the
19 Regulations as set forth below:

20	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
21	6(a)	Code Section 10145 and Regulation
22		2831
23	6(b)	Code Section 10145 and Regulation
24		2831.1
25	6(c)	Code Sections 10176(e) and 10145
26		and Regulation 2832
27		

1 6(d) Code Sections 10240(a) and 10240(c)
2 and Regulation 2840
3 6(e) Code Section 10236.4
4 6(f) Code Section 10160 and Regulation
5 2753
6 6(g) Code Section 10159.5 and Regulation
7 2731
8 6(h) Code Section 10162 and Regulation
9 2715
10 6(i) Code Section 10148

11 The foregoing violations constitute cause for the
12 suspension or revocation of the real estate license and license
13 rights of FREGI and BARAJAS, under the provisions of Code
14 Sections 10165, 10176(e), 10177(d) and/or 10177(g).

15 SUPERVISION AND COMPLIANCE

16 8.

17 The overall conduct of Respondents BARAJAS constituted
18 a failure on his part, as an officer designated by a corporate
19 broker licensee, to exercise reasonable supervision and control
20 over the licensed activities of FREGI as required by Code Section
21 10159.2, and to keep FREGI in compliance with the Real Estate
22 Law, and is cause for the suspension or revocation of the real
23 estate license and license rights of BARAJAS pursuant to the
24 provisions of Code Sections 10177(d), 10177(g) and 10177(h).

25 9.

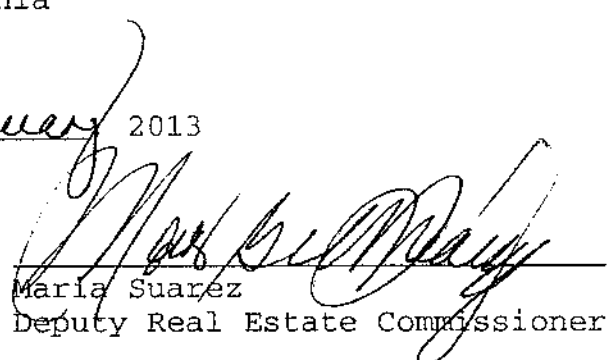
26 Code Section 10106, provides, in pertinent part, that
27 in any order issued in resolution of a disciplinary proceeding

1 before the Department, the Commissioner may request the
2 administrative law judge to direct a licensee found to have
3 committed a violation of this part to pay a sum not to exceed the
4 reasonable costs of the investigation and enforcement of the
5 case.

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against all licenses and license rights of Respondents
10 FIRST REAL ESTATE GROUP INC and VICTOR MANUEL BARAJAS JR,
11 individually, and as former designated officer of First Real
12 Estate Group Inc, under the Real Estate Law, that Complainant be
13 awarded its costs of investigation and prosecution of this case,
14 and for such other and further relief as may be proper under the
15 provisions of law.

16 Dated at Los Angeles, California

17
18 this 5th day of February 2013

19
20 
21 Maria Suarez
22 Deputy Real Estate Commissioner
23

24 cc: FIRST REAL ESTATE GROUP INC
25 VICTOR MANUEL BARAJAS, JR
26 Maria Suarez
27 Sacto
Audits