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FILED
APR 26 2019
DEPT. OF REAL ESTATE
By *Angrid Danner*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

EASTERN MORTGAGE COMPANY

and

JOHN R. SHAIKIN, individually
and as designated officer of
Eastern Mortgage Company,

Respondents.

No. H-41351 LA

ACCUSATION

The Complainant, Chika Sunquist, a Supervising Special Investigator of the State of California, for cause of Accusation against EASTERN MORTGAGE COMPANY and JOHN R. SHAIKIN, alleges as follows:

1.

The Complainant, Chika Sunquist, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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2.

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

DEPARTMENT OF REAL ESTATE LICENSE HISTORY

3.

JOHN R. SHAIKIN

A. Respondent JOHN R. SHAIKIN ("SHAIKIN") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker ("REB"), California Department of Real Estate ("DRE" or "Department") license ID 01143939.

B. SHAIKIN was originally licensed by the DRE as a real estate salesperson ("RES") on or about August 18, 1992, and as a REB on or about October 31, 1995.

C. On or about February 9, 2015, in DRE Case No. H-38312 LA (Accusation H-38312 LA, filed August 1, 2012), SHAIKIN's REB license was suspended for ninety (90) days (stayed for two years) pursuant to Code Sections 10177(d), 10177(g) and 10177(h) for violation of Code Sections 10145; 10232.4/10232.5; 10236.4(b); 10233(a)/10238(k); 10233(b); 10233(e); and 10159.2 and Regulations 2831; 2831.1; 2831.2; 2832.1; and 2725.

D. SHAIKIN is the designated officer ("D.O.") of record for EASTERN MORTGAGE COMPANY until his officer expiration date of January 5, 2023.

G. SHAIKIN's DRE license will expire on October 30, 2019.

4.

EASTERN MORTGAGE COMPANY

A. Respondent EASTERN MORTGAGE COMPANY ("EMC") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB (corporation), DRE license ID 00656355.

B. EMC was originally licensed by the DRE on or about December 4, 1978.

1 C. On or about February 9, 2015, in DRE Case No. H-38312 LA (Accusation H-
2 38312 LA, filed August 1, 2012), EMC's REB license was suspended for ninety (90) days
3 (stayed for two years) pursuant to Code Sections 10177(d) and 10177(g) for violation of Code
4 Sections 10145; 10232.4/10232.5; 10236.4(6); 10233(a)/10238(k); 10233(b); and 10233(c) and
5 Regulations 2831; 2831.1; 2831.2; 2832.1.

6 D. SHAIKIN is the designated officer ("D.O.") of record for EMC until his officer
7 expiration date of January 5, 2023.

8 E. EMC's DRE license will expire on January 5, 2023.

9 **APPLICABLE SECTIONS OF THE REAL ESTATE LAW**

10 **Trust Fund Handling --**

11 **Code Section 10145 and Regulations 2831, 2831.1, 2831.2, and 2832.1**

12 5.

13 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

14 "(a)(1): A real estate broker who accepts funds belonging to others in connection
15 with a transaction subject to this part shall deposit all those funds that are not immediately placed
16 into a neutral escrow depository or into the hands of the broker's principal, into a trust fund
17 account maintained by the broker in a bank or recognized depository in this state. All funds
18 deposited by the broker in a trust account shall be maintained there until disbursed by the broker
19 in accordance with instructions from the person entitled to the funds.

20 (2) Withdrawals may be made from a trust fund account of an individual broker
21 only upon the signature of that broker, or in the case of a corporate broker, only upon the
22 signature of an officer through whom the corporation is licensed pursuant to Section 10158 or
23 10211, or one, or more, of the following persons if specifically authorized in writing by the
24 individual broker or officer:

25 (A) A real estate salesperson licensed to the broker.

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(B) Another broker acting pursuant to a written agreement with the individual broker that conforms to the requirements of this part and any regulations promulgated pursuant to this part.

(C) An unlicensed employee of the individual broker, if the broker has fidelity bond coverage equal to at least the maximum amount of the trust funds to which the unlicensed employee has access at any time. For purposes of this section, bonds providing coverage may be written with a deductible of up to 5 percent of the coverage amount. For bonds with a deductible, the employing broker shall have evidence of financial responsibility that is sufficient to protect members of the public against a loss subject to the deductible amount.

Evidence of financial responsibility shall include one or more of the following:

(i) Separate fidelity bond coverage adequate to cover the amount of the fidelity bond deductible.

(ii) A cash deposit held in a separate account, apart from other funds of the broker, the broker's employees, or the broker's principals, in a bank or recognized depository in this state adequate to cover the amount of the fidelity bond deductible and held exclusively and solely for the purpose of paying the fidelity bond deductible amount.

(iii) Any other evidence of financial responsibility approved by the commissioner.

(3) An arrangement under which a person enumerated in subparagraph (A), (B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker

1 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
2 responsibility or liability as provided by law in handling trust funds in the broker's custody.
3

4 (4)(b) A real estate broker acting as a principal pursuant to Section 10131.1¹
5 shall place all funds received from others for the purchase of real property sales contracts or
6 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
7 depository unless delivery of the contract or notes is made simultaneously with the receipt of the
8 purchase funds.
9

10 (4)(g) The broker shall maintain a separate record of the receipt and disposition of
11 all funds described in subdivisions (a) and (b), including any interest earned on the funds...
12

13 6.

14 Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained:*

15 "(a) Every broker shall keep a record of all trust funds received, including
16 uncashed checks held pursuant to instructions of his or her principal. This record, including
17 records maintained under an automated data processing system, shall set forth in chronological
18 sequence the following information in columnar form:

- 19 (1) Date trust funds received.
- 20 (2) From whom trust funds received.
- 21 (3) Amount received.
- 22 (4) With respect to funds deposited in an account, date of said deposit.
- 23 (5) With respect to trust funds previously deposited to an account, check
24 number and date of related disbursement.

25 ¹Code Section 10131.1 states, "(a) A real estate broker within the meaning of this part is also a person who engages as
26 a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property
27 sales contracts or promissory notes secured directly or collaterally by liens on real property..."

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(6) With respect to trust funds not deposited in an account, identity of other depository and date funds were forwarded.

(7) Daily balance of said account.

(b) For each bank account which contains trust funds, a record of all trust funds received and disbursed shall be maintained in accordance with subdivision (a) or (c).

(c) Maintenance of journals of account cash receipts and disbursements, or similar records, or automated data processing systems, including computer systems and electronic storage and manipulation of information and documents, in accordance with generally accepted accounting principles, shall constitute compliance with subdivision (a) provided that such journals, records, or systems contain the elements required by subdivision (a) and that such elements are maintained in a format that will readily enable tracing and reconciliation in accordance with Section 2831.2.

(d) Nothing in this section shall be construed to permit a violation of Section 10145 of the Code.

(e) A broker is not required to keep records pursuant to this section of checks which are written by a principal, given to the broker and made payable to third parties for the provision of services, including but not limited to escrow, credit and appraisal services, when the total amount of such checks for any transaction from that principal does not exceed \$1,000. Upon request of the Department or the maker of such checks, a broker shall account for the receipt and distribution of such checks. A broker shall retain for three years copies of receipts issued or obtained in connection with the receipt and distribution of such checks."

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Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*

Transaction:

"(a) A broker shall keep a separate record for each beneficiary or transaction, accounting for all funds which have been deposited to the broker's trust bank account and interest, if any, earned on the funds on deposit. The record shall include information sufficient to identify the transaction and the parties to the transaction. Each record shall set forth in chronological sequence the following information in columnar form:

- (1) Date of deposit.
- (2) Amount of deposit.
- (3) Date of each related disbursement.
- (4) Check number of each related disbursement.
- (5) Amount of each related disbursement.
- (6) If applicable, dates and amounts of interest earned and credited to the account.
- (7) Balance after posting transactions on any date.

(b) Maintenance of trust ledgers of separate beneficiaries or transactions, or similar records, or automated data processing systems, including computer systems and electronic storage and manipulation of information and documents, in accordance with generally accepted accounting principles will constitute compliance with subdivision (a), provided that such ledgers, records, or systems contain the elements required by subdivision (a) and that such elements are maintained in a format that will readily enable tracing and reconciliation in accordance with Section 2831.2."

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Pursuant to Regulation 2831.2 Trust Account Reconciliation:

"The balance of all separate beneficiary or transaction records maintained pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds received and disbursed required by Section 2831, at least once a month, except in those months when the bank account did not have any activities. A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions."

9.

Pursuant to Regulation 2832.1 Trust Fund Handling for Multiple Beneficiaries:

"The written consent of every principal who is an owner of the funds in the account shall be obtained by a real estate broker prior to each disbursement if such a disbursement will reduce the balance of funds in the account to an amount less than the existing aggregate trust fund liability of the broker to all owners of the funds."

10.

Claim of Exemption From Securities Qualification --

Code Section 10238

Pursuant to Code Section 10238(k):

"The notes or interests shall be sold subject to a written agreement that obligates a licensed real estate broker, or a person exempted from the licensing requirement for real estate brokers under this chapter, to act as agent for the purchasers or lenders to service the note or notes and deed of trust, including the receipt and transmission of payments and the institution of foreclosure proceedings in the event of a default. A copy of this servicing agreement shall be delivered to each purchaser. The broker shall offer to the lender or purchasers the services of the

1 broker or one or more affiliates of the broker, or both, as servicing agent for each transaction
2 conducted pursuant to this article. The agreement shall require all of the following:

3 (1)(A) That payments received on the note or notes be deposited
4 immediately to a trust account maintained in accordance with this section
5 and with the provisions for trust accounts of licensed real estate brokers
6 contained in Section 10145 and Article 15 (commencing with Section
7 2830.1) of Chapter 6 of Title 10 of the California Code of Regulations.

8 (B) That payments deposited pursuant to subparagraph (A) shall not be
9 commingled with the assets of the servicing agent or used for any
10 transaction other than the transaction for which the funds are received.

11 (2) That payments received on the note or notes shall be transmitted to the
12 purchasers or lenders pro rata according to their respective interests within
13 25 days after receipt thereof by the agent. If the source for the payment is
14 not the maker of the note, the agent shall inform the purchasers or lenders
15 in writing of the source for payment. A broker or servicing agent who
16 transmits to the purchaser or lenders the broker's or servicing agent's own
17 funds to cover payments due from the borrower but unpaid as a result of a
18 dishonored check may recover the amount of the advances from the trust
19 fund when the past due payment is received. However, this article does not
20 authorize the broker, servicing agent, or any other person to issue or to
21 engage in any practice constituting, any guarantee or to engage in the
22 practice of advancing payments on behalf of the borrower.

23 (3) If the broker or person who is or becomes the servicing agent for notes
24 or interests sold pursuant to this article upon which the payments due
25 during any period of three consecutive months in the aggregate exceed one
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hundred twenty-five thousand dollars (125,000) or the number of persons entitled to the payments exceeds 120, the trust account or accounts of that broker or affiliate shall be inspected by an independent certified public accountant at no less than three-month intervals during the time the volume is maintained. Within 30 days after the close of the period for which the review is made, the report of the accountant shall be forwarded as provided in paragraph (c) of subdivision (j). If the broker is required to file an annual report pursuant to subdivision (c) or pursuant to Section 10232.2, the quarterly report pursuant to this subdivision need not be filed for the last quarter of the year for which the annual report is made. For the purposes of this subdivision, an affiliate of a broker is any person controlled by, controlling, or under common control with the broker.

(4) Unless the servicing agent will receive notice pursuant to Section 2924b of the Civil Code, the servicing agent shall file a written request for notice of default upon any prior encumbrances and promptly notify the purchasers or lenders of any default on the prior encumbrances or on the note or notes subject to the servicing agreement.

(5) The servicing agent shall promptly forward copies of the following to each purchaser or lender:

(A) Any notice of trustee sale filed on behalf of the purchasers or lenders.

(B) Any request for reconveyance of the deed of trust received on behalf of the purchasers or lenders."

Authorization Required to Service Promissory Note--

Code Section 10233

Pursuant to Code Section 10233:

"A real estate licensee who undertakes to service a promissory note secured directly or collaterally by a lien on real property or a real property sales contract shall comply with each of the following requirements:

(b) The licensee shall provide the lender or the owner of the note or contract with at least the following accountings: (1) An accounting of the unpaid principal balance at the end of each year. (2) An accounting of collections and disbursements received and made during each year. (3) Each accounting required under this subdivision shall identify the person who holds the original note or contract and the deed of trust evidencing and securing the debt or obligation for which the accounting has been provided..."

Responsibility of Corporate Officer in Charge -- Code Section 10159.2 and Regulation 2725

Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

"(a) The officer designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of salespersons licensed to the corporation, in the performance of acts for which a real estate license is required.

(b) A corporate broker licensee that has procured additional licenses in accordance with Section 10158 through officers other than the officer designated pursuant to Section 10211

1 may, by appropriate resolution of its board of directors, assign supervisory responsibility over
2 salespersons licensed to the corporation to its broker-officers.

3 (c) A certified copy of any resolution of the board of directors assigning
4 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
5 with the Real Estate Commissioner within five days after the adoption or modification thereof.”
6

7 13.

8 Pursuant to Regulation 2725 *Broker Supervision*:

9 “A broker shall exercise reasonable supervision over the activities of his or her
10 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
11 rules, procedures and systems to review, oversee, inspect and manage:

12 (a) Transactions requiring a real estate license.

13 (b) Documents which may have a material effect upon the rights or obligations of
14 a party to the transaction.

15 (c) Filing, storage and maintenance of such documents.

16 (d) The handling of trust funds.

17 (e) Advertising of any service for which a license is required.

18 (f) Familiarizing salespersons with the requirements of federal and state laws
19 relating to the prohibition of discrimination.

20 (g) Regular and consistent reports of licensed activities of salespersons.

21 The form and extent of such policies, rules, procedures and systems shall take into
22 consideration the number of salespersons employed and the number and location of branch
23 offices.

24 A broker shall establish a system for monitoring compliance with such policies,
25 rules, procedures and systems. A broker may use the services of brokers and salespersons to
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1 assist in administering the provisions of this section so long as the broker does not relinquish
2 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

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4 14.

5 **Further Grounds for Disciplinary Action – Code Section 10177**

6 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the
7 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the
8 issuance of a license to an applicant, who has done any of the following:

9
10 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
11 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
12 regulations of the commissioner for the administration and enforcement of the Real Estate Law
13 and Chapter 1 (commencing with Section 11000) of Part 2.”

14
15 (g) Demonstrated negligence or incompetence in performing an act for which he
16 or she is required to hold a license...”

17 **DRE AUDIT LA160168: EASTERN MORTGAGE COMPANY**

18 **(MORTGAGE LOAN ORIGINATION ACTIVITIES)**

19 15.

20 On November 30, 2017, the DRE completed its audit examinations of the books
21 and records of Respondent EMC pertaining to its mortgage loan origination activities
22 (LA160168) described in Paragraph 16, below, which require a real estate license. The audit
23 examination covered a period of time beginning on May 1, 2016 and ending on May 31, 2017
24 (“audit examination period” or “audit period”), and was performed during the period March 22,
25 2017 through July 31, 2017 (“audit field work period”). The final report of November 30, 2017
26 revealed violations of the Code and the Regulations as set forth in the following paragraphs, and
27

1 more fully discussed in the Audit Report for LA160168.

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3 16.

4 Business Activities

5 A. At all times mentioned in Los Angeles County, California, Respondent EMC
6 acted as a REB, and engaged in mortgage loan activities, servicing private investors' loans on
7 behalf of private lenders for compensation. According to D.O. SHAIKIN, EMC serviced
8 approximately seventy (70) loans for approximately forty (40) private investors during the twelve
9 (12) months leading into the DRE's audit. EMC presently reports as a threshold broker and as a
10 multi-lender threshold to the DRE. According to D.O. SHAIKIN, by the time of the audit period,
11 EMC ceased to provide mortgage loan origination or broker escrow services.

12 17.

13 Trust Account for Mortgage Loan Activities

14 According to SHAIKIN, EMC maintained one (1) Pacific Western Bank account
15 #####9460 ("TA 1") to handle trust funds relating to its mortgage loan activities. According to
16 an examination of TA 1 bank statements, approximately \$2.5 million in trust funds was handled
17 through this account during the audit period.

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1 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

2 18.

3 In the course of activities as described in Paragraph 16, and during the audit
4 examination period described in Paragraph 15, Respondent EMC violated the Code and the
5 Regulations, as described below:

6 19.

7 **Trust Fund Handling For Multiple Beneficiaries**

8 **(Code Section 10145 and Regulation 2832.1)**

9 TA I had a minimum shortage of <\$1,343.00> as of February 28, 2017, caused by
10 minimum negative investor account balances of <\$1,025.00> and minimum unreimbursed bank
11 charges of <\$318.00> as of February 28, 2017. The minimum negative investor account
12 balances were as follows:

13 Investor	Balance as of 2/28/17
14 Andreani	<\$.03>
15 Bagno	<\$ 408.27>
16 Spivak	<\$ 512.50>
17 Cutler	<\$ 104.17>
18 Ross	<\$.03>
19	
Total:	<1,025.00>

20 EMC provided no evidence that the trust fund owners had provided EMC written consent to
21 allow EMC to reduce the balance of the funds in TA I to an amount less than the existing
22 aggregate trust funds liabilities, in violation of Code Section 10145 and Regulation 2832.1.

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Trust Fund Records To Be Maintained
(Code Section 10145 and Regulation 2831)

A. The columnar records maintained for all the receipts and disbursements (control records) of trust funds in connection with EMC's servicing activity for TA 1 were inaccurate and incomplete and did not reflect accurate trust funds received dates, disbursement dates, or running daily balances, in violation of Code Section 10145 and Regulation 2831.

B. An example of an inaccurate trust fund received date is as follows:

<u>Borrower</u>	<u>Amount</u>	<u>Date per Control Record</u>	<u>Lump Sum Deposit per Bank</u>	<u>Date Deposited per Bank</u>
G. Sanchez	\$30,535.00	(not dated)	\$36,835.00	3/23/16

C. Some examples of inaccurate disbursement dates are as follows:

<u>Borrower</u>	<u>Check No.</u>	<u>Check Amount</u>	<u>Date per Control Record</u>	<u>Date per Check</u>	<u>Date Cleared Bank</u>
M. Murwanes	45144	\$ 5,000.00	2/12/16	2/11/16	3/1/16
G. Sanchez	45293	\$ 25,287.50	(not dated)	3/23/16	3/29/16
G. Sanchez	45294	\$ 5,247.50	(not dated)	3/23/16	3/31/16
G. Johnson	46382	\$ 500.00	1/26/17	1/27/17	
Total:		\$ 36,035.00			

Separate Record For Each Beneficiary or Transaction
(Code Section 10145 and Regulation 2831.1)

A. EMC failed to maintain complete and accurate separate records for each beneficiary or transactions for all trust fund receipts and disbursements in connection with its servicing activity for TA 1 during the audit period, in violation of Code Section 10145 and

1 Regulation 2831.1. Separate records were created during the audit examination; the DRE's
2 auditor reconstructed the separate records for each beneficiary.

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4 22.

5 Trust Account Reconciliation

6 (Code Section 10145 and Regulation 2831.2)

7 During the audit period, BMC did not maintain a complete and accurate monthly
8 reconciliation comparing the balance of all beneficiary or transaction records (separate records)
9 to the balance of the records of trust funds received and disbursed for TA 1, in violation of Code
10 Section 10145 and Regulation 2831.2.

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Authorization Required to Serve Promissory Note(Code Section 10238(k))

EMC maintained master servicing agreements with lenders/investors dated between July 10, 1992 to October 2, 2007. However, EMC did not have the required written authorization from the lender/purchaser or the owner of the note or contract to service the promissory note. EMC did not offer to the lenders or purchasers the services of EMC as servicing agent for each transaction (loan) conducts, in violation of Code Section 10238.

Examples of lenders/purchasers or owners of notes in which EMC did not have the required written authorization to service promissory notes include:

Borrower	Property	Investor	Dated
D. Hodge & M. Hodge	West 92 nd Street, LA (Loan Amount: \$350,000)	A. Spivak for Congregation Mogen David \$300,000	2/1/99
		Polycorp Trust Company Custodian FBO Stuart \$50,000	N/A
B. Faltaq	Grider & Hamilton Subdivision	A. Spivak for Congregation Mogen David	2/1/99
		B. Bagno	6/29/93
B. G. Rydell	Long Valley Rd., Santa Ynez, CA (Loan Amount: \$325,000)	D. & B. Beckman	7/10/92
		D. & A. Kirschen \$210,000	10/2/07
		M. Kirschen	N/A
		S. Kirschen	N/A
		M. & S. Potash \$15,000	10/2/07
		Worfield Family Trust \$100,000	10/2/07
Thunderbird Production Inc. & Aston Wilshire Partners LLC	Broadway St., Los Angeles, CA (Loan Amount: \$1,355,000)	F. & P. Telf \$500,000	N/A
		E. & P. Kashani \$400,000	N/A
		C. & F. Fried \$335,000	N/A
		D. Baum \$150,000	N/A
		D. Plaskin \$80,000	N/A
		B. & H. Davoren \$50,000	N/A
		Dayco Funding Corporation-B. Shaikin \$35,000	N/A

Authorization Required to Serve Promissory Note - Accounting

(Code Section 10233(b))

EMC did not provide the accountings of the unpaid principal balance at the end of each year and/or the accounting of collections and disbursement received and made during each year to the lender or the owner of the note or contract, in violation of Code Section 10233(b).

Examples of said failure to provide the accountings include:

<u>Property</u>	<u>Investor</u>	<u>Accounting</u>
West 92 nd Street, LA (Loan Amount: \$350,000)	A. Spivak for Congregation Mogen David \$300,000	Not provided
	Polycorp Trust Company Custodian. FEO Stuart \$50,000	Not provided
Grider & Hamilton Subdivision:	A. Spivak for Congregation Mogen David	Not provided
	B. Bagno	Not provided
	D. & B. Beckman	Not provided
Long Valley Rd., Santa Ynez, CA (Loan Amount: \$325,000)	D. & A. Kirschen \$210,000	Not provided
	M. Kirschen.	Not provided
	S. Kirschen	Not provided
	M. & S. Potash \$15,000	Not provided
	Warfield Family Trust \$100,000	Not provided
Broadway Str., Los Angeles, CA (Loan Amount: \$1,555,000)	F. & P. Tell \$500,000	Not provided
	E. & P. Kashani \$400,000	Not provided
	C. & F. Fried \$335,000	Not provided
	D. Baum \$150,000	Not provided
	D. Plutkin \$80,000	Not provided
	B. & H. Davoren \$50,000	Not provided
	Dayco Funding Corporation B. Shalkin \$35,000	Not provided

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Responsibility of Corporate Officer in Charge/Broker Supervision

(Code Sections 10159.2 and 10177(h) and Regulation 2725)

During the audit period, D.O. SHAIKIN failed to exercise adequate supervision and control over EMC's mortgage loan servicing activities conducted by its employees. D.O. SHAIKIN failed to establish policies, rules, procedures, and systems to review, oversee, inspect and manage transactions requiring a real estate license and the handling of trust funds to secure full compliance with the Real Estate Laws and the Real Estate Commissioner's Regulations, in violation of Code Sections 10159.2 and 10177(h) and Regulation 2725. D.O. SHAIKIN failed to maintain accurate control records, separate records, and failed to maintain trust account reconciliations for EMC's loan servicing activities during the audit period. D.O. SHAIKIN allowed EMC to reduce the balance of the funds in the trust account (TA 1) to an amount less than the existing aggregate trust fund liabilities.

Additional Violations of the Real Estate Law

The overall conduct of Respondents EASTERN MORTGAGE COMPANY and JOHN R. SHAIKIN is violative of the Real Estate Law and constitutes cause for the suspension or revocation of both of their real estate licenses and license rights under the provisions of Code Section 10177(g) for negligence and Code Section 10177(d) for willful disregard of the Real Estate Law.

COSTS

Investigation and Enforcement Costs


Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner

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

4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
5 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
6 action against the licenses and license rights of Respondents EASTERN MORTGAGE
7 COMPANY and JOHN R. SHAIKIN under the Real Estate Law (Part 1 of vision 4 of the
8 Business and Professions Code), for the cost of investigation and enforcement as permitted by
9 law, and for such other and further relief as may be proper under other provisions of law, and for
10 costs of audit.

11 Dated at Sacramento, California

12 this 24th day of April, 2019.

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15 Chika Sunquist
16 Supervising Special Investigator
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22 cc: EASTERN MORTGAGE COMPANY
23 JOHN R. SHAIKIN
24 Enforcement - R. Malekian, C. Sunquist
25 Audits - A. Hartonian, D. Cheng, J. Lin
26 Sacto.
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