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FILED

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DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-36474 LA

12 DIAMOND FUNDING CORPORATION;)
13 and BARAK VOLNER, individually)
and as designated officer of)
14 Diamond Funding Corporation; and)
ROBERT DOMENIC LONARDO,)

A C C U S A T I O N

15 Respondents.)

16
17 The Complainant, Robin Trujillo, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against DIAMOND FUNDING CORPORATION, BARAK VOLNER, individually
20 and as designated officer of Diamond Funding Corporation, and
21 ROBERT DOMENIC LONARDO aka Robert Leonardo, alleges as follows:

22 1.

23 The Complainant, Robin Trujillo, acting in her official
24 capacity as a Deputy Real Estate Commissioner of the State of
25 California, makes this Accusation against DIAMOND FUNDING
26 CORPORATION, BARAK VOLNER and ROBERT DOMENIC LONARDO.
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2.

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

3.

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6 License History

7 A. DIAMOND FUNDING CORPORATION ("DFC"). At all times
8 mentioned, Respondent DFC was licensed or had license rights
9 issued by the Department of Real Estate ("Department") as a real
10 estate broker. On November 15, 2007, DFC was originally licensed
11 as a corporate real estate broker. At all times mentioned
12 herein, Respondent DFC was authorized to act by and through
13 Respondent BARAK VOLNER as DFC's broker designated pursuant to
14 Business and Professions Code (hereinafter "Code") Sections
15 10159.2 and 10211 to be responsible for ensuring compliance with
16 the Real Estate Law.
17

18 B. BARAK VOLNER. At all times mentioned, Respondent
19 BARAK VOLNER ("VOLNER") was licensed or had license rights issued
20 by the Department as a real estate broker. On November 5, 2007,
21 VOLNER was originally licensed as a real estate broker and on
22 November 16, 2007, became the designated officer of DFC.

23 C. ROBERT DOMENIC LONARDO. At all times mentioned,
24 Respondent ROBERT DOMENIC LONARDO aka Robert Leonardo dba
25 Mitigation Online Consultants and Rob Lonardo Consulting and
26 Productions Inc. (LONARDO) was licensed or had license rights
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1 issued by the Department as a real estate salesperson. On
2 November 16, 2005, LONARDO was originally licensed as a real
3 estate salesperson. On May 17, 2007, LONARDO's salesperson
4 license was conditionally suspended pursuant to Code Section
5 10156.7. On November 15, 2009, LONARDO's salesperson license
6 expired. The Department retains jurisdiction over expired and
7 lapsed license rights pursuant to Code Section 10103.

8 D. BARAK VOLNER is the corporate President and Chief
9 Executive Officer of DFC. Sam Volner, an unlicensed person, is
10 the sole shareholder of DFC.

11 Brokerage

12 4.

13 At all times mentioned, in the City and County of Los
14 Angeles, DFC and VOLNER acted as real estate brokers conducting
15 licensed activities within the meaning of Code Sections 10131(d)
16 and 10131.2. DFC, VOLNER and LONARDO engaged in the business of:

17 A. A mortgage and loan brokerage engaging in
18 activities with the public wherein lenders and borrowers were
19 solicited for loans secured directly or collaterally by liens on
20 real property, wherein such loans were arranged, negotiated,
21 processed and consummated on behalf of others for compensation or
22 in expectation of compensation and for fees often collected in
23 advance as well as at the conclusion of transactions

24 B. A loan modification and an advance fee brokerage.
25 For compensation or in expectation of compensation and for fees
26
27

1 often collected in advance, Respondents contacted lenders' loss
2 mitigation departments on behalf of economically distressed
3 homeowner-borrowers seeking modification of the terms of their
4 home loans including, but not limited to, repayment plans,
5 forbearance, Deed-In-Lieu of Foreclosure, partial claims, and
6 reduction in principal or interest. DFC, VOLNER and LONARDO
7 handled the following loan modifications during the audit period:

Loan Modifications	Advance Fees Collected	Time Period 11-20-08 to 05-20-09
241	\$404,105.14	

13
14 FIRST CAUSE OF ACCUSATION
(Audit Examination)

15 5.

16 On October 23, 2009, the Department completed an audit
17 examination of the books and records of DFC pertaining to the
18 mortgage loan brokerage, loan modification and advance fee
19 activities described in Paragraph 4, which require a real estate
20 license. The audit examination covered a period of time
21 beginning on November 16, 2006 to June 30, 2009. The audit
22 examination revealed violations of the Code and the Regulations
23 as set forth in the following paragraphs, and more fully
24 discussed in Audit Report LA 090005 and the exhibits and work
25 papers attached to said audit report.
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Bank and Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, DFC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including lenders, borrowers, homeowners for loan modifications handled by DFC. Thereafter DFC made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by DFC in the bank account as follows:

"Diamond Funding Corporation dba Loss Mitigation Consultants Bank
Account
Account No. 200041727560
Wachovia Bank
P.O. Box 563966
Charlotte NC 28256-3966 (B/A #1)

"Diamond Funding Corporation dba Loss Mitigation Consultants
Account No. 03118-74135
Bank of America
P.O. Box 37176
San Francisco, CA 94137

"Diamond Funding Corporation dba Loss Mitigation Consultants Bank
Account
Account No. 200043768255
Wachovia Bank
P.O. Box 563966
Charlotte NC 28256-3966 (B/A #3)

1 Audit Violations

2 7.

3 In the course of activities described in Paragraphs 4
4 and 6, above, and during the examination period described in
5 Paragraph 5, Respondents DFC, VOLNER and LONARDO acted in
6 violation of the Code and the Regulations in which Respondents:

7 (a) Permitted, allowed or caused the disbursement of
8 trust funds from the escrow trust account where the disbursement
9 of funds reduced the total of aggregate funds in B/A #2 and B/A
10 #3, to an amount which, on June 30, 2009, was \$190,009.96 to
11 Platinum Acceptance Corp., a California corporate real estate
12 broker, less than the existing aggregate trust fund liability to
13 every principal who was an owner of said funds, without first
14 obtaining the prior written consent of the owners of said funds,
15 in violation of Code Sections 10130 (LONARDO only), 10145,
16 10176(i) and 10177(g) and Regulation 2832.1. This combined
17 shortage of \$190,009.96 is due to the unauthorized transfer of
18 trust funds in the form of advance fees by DFC and VOLNER, at the
19 insistence of LONARDO.

20
21 (b) Failed to establish and maintain a trust account at
22 a bank or other recognized financial institution in the name of
23 the broker for deposit of advance fees collected by DFC, in
24 violation of Code Section 10146.

1 (c) Permitted LONARDO, an expired licensee and
2 unbonded person, to be a signatory on B/A #2, in violation of
3 Code Section 10145 and Regulation 2834.

4 (d) Failed to provide and/or maintain an approved
5 Mortgage Loan Disclosure Statement containing all the information
6 required by Code Section 10241 before borrowers Kelly/Aaron
7 Campbell, Mark/Sandra Boselo, Edward Culbertson, Cheryl/William
8 Northey, Edward Quiroga, and Joan Dominguez, became obligated to
9 perform under the terms of their respective loans, in violation
10 of Code Section 10240 and Regulations 2840 and 2840.1.

11 (e) Collected advance fees within the meaning of Code
12 Section 10026 from homeowner-borrowers seeking loan modification
13 services wherein DFC failed to provide homeowners with a pre-
14 approved advance fee agreement from the Department, in violation
15 of Code Section 10085 and Regulation 2970.

16
17 Discipline Statutes

8.

18 The conduct of Respondents DFC, VOLNER and LONARDO,
19 described in Paragraph 7, above, violated the Code and the
20 Regulations as set forth below:
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PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10130 (LONARDO only), 10145 and 10176(i) Regulation 2832.1
7(b)	Code Section 10146
7(c)	Code Section 10145 and Regulation 2834
7(d)	Code Section 10240 and Regulations 2840 and 2840.1
7(e)	Code Section 10085 and Regulation 2970

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents DFC and VOLNER under the provisions of Code Sections 10130, 10176(e), 10176(i), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Loan Modification Services)

9.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 8, above.

10.

At all times mentioned herein, Respondent LONARDO engaged in the business of a loan modification and advance fee brokerage, within the definition of Code Sections 10131.2 and 10131(d), as aforementioned in Paragraph 4.

General Allegations

11.

During 2008 and continuing thereafter to date, ROBERT DOMENIC LONARDO (LONARDO) dba Mitigation Online Consultants (MOC) solicited economically distressed homeowners facing foreclosure and eviction from their homes, offered loan modification services, charged and collected advance fees, but failed to render the promised services.

12.

Table: Loan Modification Transactions

Homeowner	Agent(s)	Entity(ies)	Advance Fee
Morton Cohen	Ray Newby	MOC	\$3,800
Ryan Barreras	Michelle Jurado Rob Caruso Brian Amoroso	MOC	\$3,000
Jeffrey Vrba	Ronald Navarette	MOC	\$4,000
Guadalupe Ramirez	Daniel Gonzalez Jason Rogland	MOC	\$6,000

13.

Loan Modification Violations

The conduct, acts and/or omissions of making false and/or misleading representations in order to induce reliance of distressed homeowner-borrowers, and in otherwise misleading borrowers into a loan modification scheme devised by LONARDO to

1 the detriment of the borrowers, as set forth in Paragraphs 9
2 through 12 above, constitutes grounds to discipline the license
3 and/or license rights of LONARDO pursuant to Code Sections:

4 a. 10176(a) for substantial misrepresentation with
5 respect to the aforementioned homeowners.

6 b. 10176(b) for making false promises of a character
7 likely to influence, persuade, entice or induce the forenamed
8 homeowners.

9 c. 10176(i) for conversion of trust funds received by
10 LONARDO, directly or indirectly, from the forenamed homeowners.

11 d. 10177(d) for willful disregard of, violation of the
12 Real Estate Law.

13 e. 10177(g) for negligence or incompetence.

14 f. 10137 for employing and/or compensating unlicensed
15 loan modification agents.

16 g. 10176(a)/10177(g) for misrepresenting the offering
17 of the loan modification scheme devised by LONARDO dba Mitigation
18 Online Consultants.

19 h. 10137 and 10176(i) and/or 10177(g) for fraud and
20 dishonest dealing in employing unlicensed persons as loss
21 mitigation agents, to solicit advance fees without an advance fee
22 agreement, in connection with loan modification services provided
23 to the forenamed economically distressed homeowners.

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Negligence

14.

The overall conduct, acts or omissions of Respondents
DIAMOND FUNDING CORPORATION, BARAK VOLNER and ROBERT DOMENIC
LONARDO constitutes negligence and is cause for the suspension or
revocation of the real estate license and license rights of said
Respondents pursuant to the provisions of Code Section 10177(g).

Supervision and Compliance

15.

The overall conduct, acts or omissions of Respondent
BARAK VOLNER constitutes a failure on Respondent's part, as
officer designated by a corporate broker licensee, to exercise
the reasonable supervision and control over the licensed
activities of DFC as required by Code Section 10159.2 and
Regulation 2725, and to keep DFC in compliance with the Real
Estate Law, and is cause for discipline of the real estate
license and license rights of Respondent pursuant to the
provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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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 Respondents
5 DIAMOND FUNDING CORPORATION, BARAK VOLNER and ROBERT DOMENIC
6 LONARDO, under the Real Estate Law (Part 1 of vision 4 of the
7 Business and Professions Code) and for such other and further
8 relief as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 24 day of February 2010.


11 Deputy Real Estate Commissioner

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23 cc: Diamond Funding Corporation
24 c/o Barak Volner D.O.
25 Robert Domenic Lonardo
26 Robin Trujillo
27 Sacto
Tiffany D. Williams
Audits - Godswill Keraoru