

FILED
MAR - 4 2009
DEPARTMENT OF REAL ESTATE

By James B. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
AS MORTGAGE CORP., and) No. H-35393 LA
CARLOS FREDERICO GUZMAN,)
Individually and as designated)
Broker-officer of)
AS Mortgage Corp.,)
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 January 14, 2009, 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 or about October 20, 2008, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent CARLOS FREDERICO GUZMAN at his last known mailing address on file with the Department at 305 W. Olive Ave. #4, Redlands, CA 92373, and returned by the post office marked, "Unclaimed," and "Notify Sender of New Address, 22000 W. Wilson St. SPC 14, Banning, CA 92220-3952." On November 20, 2008, The Accusation

and related documents set forth above were mailed to Respondent at the address in Banning provided by the post office. This package was returned to the Department marked, "Unclaimed." No Notice of Defense has been received from Respondent CARLOS FREDERICO GUZMAN.

On January 14, 2009, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent GUZMAN's default was entered herein.

2.

On or about October 20, 2008, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent AS MORTGAGE CORP at its last known mailing address on file with the Department at 9415 Sunglow Ct, Rancho Cucamonga, CA 91730. This mailing was signed for. No Notice of Defense has been received from Respondent AS MORTGAGE CORP.

On January 14, 2009, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent AS MORTGAGE CORP's default was entered herein.

3.

Respondent AS MORTGAGE CORP (hereinafter "AS MORTGAGE") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a corporate real estate broker. Respondent AS MORTGAGE has been licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker since on or about January 27, 2005.

4.

Respondent AS MORTGAGE is a California corporation. AS MORTGAGE was first incorporated in this state on or about October 22, 2004. At all times relevant herein, Maria I. Urbina is and was the President and Chairman of AS MORTGAGE. Maria I. Urbina is not now and has never been licensed by the Department as a real estate licensee.

5.

From on or about January 27, 2005, and continuing through on or about August 27, 2007, Respondent AS MORTGAGE was authorized to act by and through Respondent CARLOS FREDERICO GUZMAN as the designated officer and broker responsible, pursuant to the provisions of Code Section 10159.2 for the supervision and control of the activities conducted on behalf of AS MORTGAGE by AS MORTGAGE's officers and employees. Beginning on or about October 4, 2007, and continuing to the present, Respondent AS MORTGAGE was, and is currently, authorized to act by and through John Valladolid as its designated broker-officer.

6.

Respondent CARLOS FREDERICO GUZMAN (hereinafter "GUZMAN"), is licensed under the Code as a restricted salesperson. Beginning on or about January 4, 1973 and continuing through on or about August 27, 2007, Respondent GUZMAN was licensed as a real estate broker. Between on or about January 27, 2005 and August 27, 2007, Respondent GUZMAN was the broker-officer designated pursuant to Business and Professions Code Section 10159.2 to be responsible for the supervision and control of the activities conducted on behalf of AS MORTGAGE by AS MORTGAGE's officers and employees.

7.

Effective on or about August 27, 2007, pursuant to the Commissioner's Order in Department Case No. H-32732 LA, Respondent GUZMAN's real estate broker license was revoked, and a restricted salesperson license was issued.

8.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Code Section 10131(d), for another or others in expectation of compensation. Said activity included representing borrowers and lenders of loans secured by real property, and performing loan servicing and escrow activities in relation to those loans pursuant to the exemption set forth in Financial Code Section 17006(a)(4).

9.

During the period between June 1, 2005 and June 30, 2007, in connection with the aforesaid real estate mortgage loan activities, Respondents accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of actual and prospective lenders and borrowers on loans secured by real property, and made deposits and/or disbursements of such funds. In connection with the mortgage loan brokering activities, Respondents did not maintain a trust account during the audit period.

10.

On or about September 4, 2007, the Department completed its examination of Respondent AS MORTGAGE's books and records pertaining to the real estate activities described in Paragraph 8 above, covering a period from approximately June 1, 2005 to June 30, 2007. The primary purpose of the examination was to determine Respondent's compliance with the Real Estate Law. The examination, Audit No. LA 060310, revealed violations of the Code, and of Title 10, Chapter 6, California Code of Regulations (hereinafter "Regulations"), as set forth below and as more specifically set forth in the Audit Report and Exhibits attached thereto.

11.

In the course of activities described in Paragraphs 8 and 9 above, and during the examination period described in Paragraph 10, Respondents acted in violation of the Code and the Regulations in that:

a) In at least five of the transactions sampled during the audit, Respondents collected trust funds in the form of credit report fees from escrow companies on behalf of the borrowers and deposited such funds into the general account, then made payments to the service providers from the general account. Examples include:

<u>Borrower</u>	<u>Fees Rec'd</u>	<u>Date of Dep. Into Respondents' acct.</u>	<u>Date Pd.</u>
Riehn	\$ 36.00	10/13/05	10/20/06
Calzada	\$ 18.00	5/2/06	5/8/06
Newell	\$ 350.00	8/16/06	8/28/06

Ortiz	\$ 13.00	10/16/06	11/14/06
Carrillo	\$ 13.00	1/25/06	2/08/06

Commingling of trust funds with general funds was in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

b) Respondents did not maintain a columnar record for the credit report fees that were collected from the escrow companies, in violation of Code Section 10145 and Regulation 2831.

c) Respondents did not maintain a separate record for each loan transaction for the credit report fees that were collected from the escrow companies, in violation of Code Section 10145 and Regulation 2831.1.

d) Respondents did not maintain copies of DRE approved Mortgage Loan Disclosure Statements (MLDS) as signed by the borrowers and broker in some of the examined loan transactions to show that said statements were prepared and provided to the borrowers within three (3) business days after the borrowers signed their loan applications. (Examples include the Calzada, Newell, Ortiz and Carrillo files.) In addition, Respondents did not disclose yield spread premiums (rebates) received from the lenders in at least one sampled loan transaction, the Newell transaction. Failure to disclose rebates paid by lenders and to provide and retain copies of properly signed MLDS forms in transaction files is in violation of Code Section 10240(a) and Regulation 2840.

e) Respondents allowed unlicensed individuals to perform activities requiring a real estate license in expectation of compensation. Martin Urbina, the husband of Maria Urbina, performed activities requiring a real estate license, such as serving a loan agent, and signing loan applications and MLDS forms. (Examples included the Riehn, Calzada, Ortiz and Carrillo transactions.) Unlicensed activity by an employee and employment of unlicensed individuals is grounds for discipline pursuant to Code Section 10137.

f) Respondent GUZMAN failed to exercise reasonable supervision over the mortgage loan activity of AS MORTGAGE,

and did not have a policy in place to ensure that all the loan agents were license by the DRE, in violation of Code Section 10159.2 and Regulation 2725.

Determination of Issues

1.

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

2.

The conduct, acts and/or omissions of Respondents AS MORTGAGE and GUZMAN, as described in Paragraph 11 above, violated the Code and Regulations in the following ways:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11(a)	Code Sections <u>10145</u> and <u>10176(e)</u> ; and Regulation <u>2832</u> .
11(b)	Code Section 10145 and Regulation <u>2831</u> .
11(c)	Code Section 10145 and Regulation <u>2831.1</u> .
11(d)	Code Section <u>10240(a)</u> and Regulation <u>2840</u> .
11(e)	Code Section <u>10137</u> .
11(f)	Code Section <u>10159.2</u> and Regulation <u>2725</u> .

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent AS MORTGAGE and Respondent GUZMAN under the provisions of Code Sections 10177(d), 10137, 10176(e) and 10177(g).

3.

The violations set forth above constitute cause for the suspension or revocation of Respondent GUZMAN's real estate license and/or license rights, as the broker-officer of

Respondent AS MORTGAGE, for failing to supervise the activities of the corporation, in violation of Code Sections 10159.2, in conjunction with 10177(h), 10177(d) and 10177(g).

ORDERS

1.

All licenses and license rights of Respondent AS MORTGAGE CORP under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

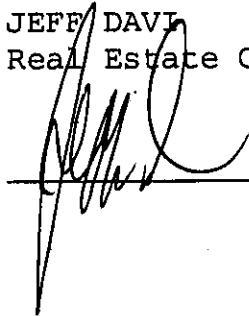
2.

All licenses and license rights of Respondent CARLOS FREDERICO GUZMAN 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 on MAR 24 2009.

DATED: 2/26/09

JEFF DAVIS
Real Estate Commissioner



1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, CA 90013

4 (213) 576-6982

FILED
JAN 27 2009
DEPARTMENT OF REAL ESTATE

James B. Dixon

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	NO. H-35393 LA
12	AS MORTGAGE CORP., and)	<u>DEFAULT ORDER</u>
13	CARLOS FREDERICO GUZMAN,)	
14	individually and as designated)	
15	broker-officer of AS Mortgage)	
16	Corp.,)	
	Respondents.)	

17
18 Respondents AS MORTGAGE CORP., and CARLOS FREDERICO
19 GUZMAN having failed to file a Notice of Defense within the
20 time required by Section 11506 of the Government Code, are
21 now in default. It is, therefore, ordered that a default be
22 entered on the record in this matter.

23 IT IS SO ORDERED

January 27, 2008

24 JEFF DAVI

25 Real Estate Commissioner

26 By:

Dolores Weeks

27 DOLORES WEEKS

Regional Manager

*Sachs
Mac*

FILED
OCT 20 2008
DEPARTMENT OF REAL ESTATE

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St., #350
4 Los Angeles, CA 90013

Lawrence B. Allen

4 (213) 576-6982
5 (213) 620-6430 (direct)

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H-35393 LA
12)
13 AS MORTGAGE CORP, and) A C C U S A T I O N
14 CARLOS FREDERICO GUZMAN, individually)
15 and as designated broker-officer of)
AS Mortgage Corp.,)
Respondents.)

16 The Complainant, Robin Trujillo, a Deputy Real Estate
17 Commissioner, for cause of Accusation against AS MORTGAGE CORP,
18 formerly dba 5 Star Enterprises, and CARLOS FREDERICO GUZMAN,
19 individually and as designated broker-officer of AS Mortgage
20 Corp., is informed and alleges as follows:

21 1.

22
23 The Complainant, Robin Trujillo, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation in
25 her official capacity.

26 ///

2.

1 Respondent AS MORTGAGE CORP (hereinafter "AS
2 MORTGAGE"), is presently licensed and at all times relevant
3 herein was licensed under the Real Estate Law, Part 1 of Division
4 4 of the California Business and Professions Code (hereinafter
5 "Code") as a corporate real estate broker. Respondent AS
6 MORTGAGE has been licensed by the Department of Real Estate of
7 the State of California (hereinafter "Department") as a corporate
8 real estate broker since on or about January 27, 2005.
9

3.

10 Respondent AS MORTGAGE is a California Corporation. AS
11 MORTGAGE was first incorporated in this state on or about
12 October 22, 2004. At all times relevant herein, Maria I. Urbina
13 is and was the President and Chairman of AS MORTGAGE. Maria I.
14 Urbina is not now and has never been licensed by the Department
15 of Real Estate as a real estate licensee.
16
17

4.

18 From on or about January 27, 2005, and continuing
19 through on or about August 27, 2007, Respondent AS MORTGAGE was
20 authorized to act by and through Respondent CARLOS FREDERICO
21 GUZMAN as the designated officer and broker responsible, pursuant
22 to the provisions of Code Section 10159.2 for the supervision and
23 control of the activities conducted on behalf of AS MORTGAGE by
24 AS MORTGAGE's officers and employees. Beginning on or about
25 October 4, 2007, and continuing to the present, Respondent AS
26
27

1 MORTGAGE was, and is currently, authorized to act by and through
2 John Valladolid as its designated broker-officer.

3 5.

4 Respondent CARLOS FREDERICO GUZMAN (hereinafter
5 "GUZMAN"), is licensed under the Code as a restricted
6 salesperson. Beginning on or about January 4, 1973 and
7 continuing through on or about August 27, 2007, Respondent GUZMAN
8 was licensed as a real estate broker. Between on or about
9 January 27, 2005 and August 27, 2007, Respondent GUZMAN was the
10 broker-officer designated pursuant to Business and Professions
11 Code Section 10159.2 to be responsible for the supervision and
12 control of the activities conducted on behalf of AS MORTGAGE by
13 AS MORTGAGE's officers and employees.

14 6.

15 Effective on or about August 27, 2007, pursuant to the
16 Commissioner's Order in Department Case No. H-32732 LA,
17 Respondent GUZMAN's real estate broker license was revoked, and a
18 restricted salesperson license was issued.

19 7.

20 At all times material herein, Respondents engaged in
21 the business of, acted in the capacity of, advertised or assumed
22 to act as real estate brokers in the State of California within
23 the meaning of Code Section 10131(d), for another or others in
24 expectation of compensation. Said activity included representing
25 borrowers and lenders of loans secured by real property, and
26
27

1 performing loan servicing and escrow activities in relation to
2 those loans pursuant to the exemption set forth in Financial Code
3 Section 17006(a)(4).

4 8.

5 All further references to "Respondents" include the
6 individuals listed in Paragraphs 2 through 6 above as well as the
7 employees, agents and real estate licensees employed by or
8 associated with each Respondent, who at all times material herein
9 were engaged in the furtherance of the business or operations of
10 said parties and who were acting within the course and scope of
11 their authority, agency or employment.

12 FIRST CAUSE OF ACCUSATION

13 (Audit No. LA 060310)

14 9.

15 During the period between June 1, 2005 and
16 June 30, 2007, in connection with the aforesaid real estate
17 mortgage loan activities, Respondents accepted or received funds,
18 including funds in trust (hereinafter "trust funds") from or on
19 behalf of actual and prospective lenders and borrowers on loans
20 secured by real property, and made deposits and/or disbursements
21 of such funds. In connection with the mortgage loan brokering
22 activities, Respondents did not maintain a trust account during
23 the audit period.

24 ///

25 ///

10.

1 On or about September 4, 2007, the Department completed
2 its examination of Respondent AS MORTGAGE's books and records
3 pertaining to the real estate activities described in Paragraph 7
4 above, covering a period from approximately June 1, 2005 to
5 June 30, 2007. The primary purpose of the examination was to
6 determine Respondent's compliance with the Real Estate Law. The
7 examination, Audit No. LA 060310, revealed violations of the
8 Code, and of Title 10, Chapter 6, California Code of Regulations
9 (hereinafter "Regulations"), as set forth below and as more
10 specifically set forth in the Audit Report and Exhibits attached
11 thereto.
12

13 11.

14 In the course of activities described in Paragraphs 7
15 and 9 above, and during the examination period described in
16 Paragraph 10, Respondents acted in violation of the Code and the
17 Regulations in that:
18

19 a) In at least five of the transactions sampled
20 during the audit, Respondents collected trust funds in the form
21 of credit report fees from escrow companies on behalf of the
22 borrowers and deposited such funds into the general account, then
23 made payments to the service providers from the general account.

24 Examples include:

25 ///

26 ///

27

<u>Borrower</u>	<u>Fees Rec'd</u>	<u>Date of Dep. Into Respondents' acct.</u>	<u>Date Pd.</u>
Riehn	\$ 36.00	10/13/05	10/20/06
Calzada	\$ 18.00	5/2/06	5/8/06
Newell	\$ 350.00	8/16/06	8/28/06
Ortiz	\$ 13.00	10/16/06	11/14/06
Carrillo	\$ 13.00	1/25/06	2/08/06

Commingling of trust funds with general funds was in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

b) Respondents did not maintain a columnar record for the credit report fees that were collected from the escrow companies, in violation of Code Section 10145 and Regulation 2831.

c) Respondents did not maintain a separate record for each loan transaction for the credit report fees that were collected from the escrow companies, in violation of Code Section 10145 and Regulation 2831.1.

d) Respondents did not maintain copies of DRE approved Mortgage Loan Disclosure Statements (MLDS) as signed by the borrowers and broker in some of the examined loan transactions to show that said statements were prepared and provided to the borrowers within three (3) business days after the borrowers signed their loan applications. (Examples include the Calzada, Newell, Ortiz and Carrillo files.) In addition, Respondents did not disclose yield spread premiums (rebates) received from the

1 lenders in at least one sampled loan transaction, the Newell
2 transaction. Failure to disclose rebates paid by lenders and to
3 provide and retain copies of properly signed MLDS forms in
4 transaction files is in violation of Code Section 10240(a) and
5 Regulation 2840.

6 e) Respondents allowed unlicensed individuals to
7 perform activities requiring a real estate license in expectation
8 of compensation. Martin Urbina, the husband of Maria Urbina,
9 performed activities requiring a real estate license, such as
10 serving a loan agent, and signing loan applications and MLDS
11 forms. (Examples included the Riehn, Calzada, Ortiz and Carrillo
12 transactions.) Unlicensed activity by an employee and employment
13 of unlicensed individuals is grounds for discipline pursuant to
14 Code Section 10137.

15 f) Respondent GUZMAN failed to exercise reasonable
16 supervision over the mortgage loan activity of AS MORTGAGE, and
17 did not have a policy in place to ensure that all the loan agents
18 were license by the DRE, in violation of Code Section 10159.2 and
19 Regulation 2725.
20

21 12.

22 The conduct, acts and/or omissions of Respondents AS
23 MORTGAGE and GUZMAN, as described in Paragraph 10, above,
24 violated the Code and Regulations in the following ways:

25 - PARAGRAPH

PROVISIONS VIOLATED

26 11(a)

Code Sections 10145 and
27 10176(e); and Regulation 2832.

- 1 11(b) Code Section 10145 and Regulation 2831.
- 2
- 3 11(c) Code Section 10145 and Regulation 2831.1.
- 4
- 5 11(d) Code Section 10240(a) and Regulation 2840.
- 6
- 7 11(e) Code Section 10137.
- 8
- 9 11(f) Code Section 10159.2 and Regulation 2725.

10 The foregoing violations constitute cause for the
 11 suspension or revocation of the real estate licenses and license
 12 rights of Respondent AS MORTGAGE and Respondent GUZMAN under the
 13 provisions of Code Sections 10177(d), 10137, 10176(e) and
 14 10177(g).

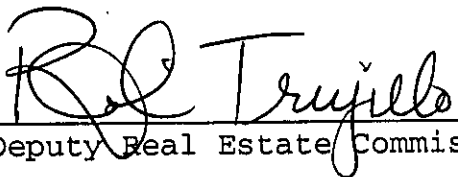
15 13.

16 The violations set forth above constitute cause for the
 17 suspension or revocation of Respondent GUZMAN's real estate
 18 license and/or license rights, as the broker-officer of
 19 Respondent AS MORTGAGE, for failing to supervise the activities
 20 of the corporation, in violation of Code Sections 10159.2, in
 21 conjunction with 10177(h), 10177(d) and 10177(g).

22 ///
 23 ///
 24 ///
 25 ///
 26 ///
 27 ///
 ///

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 all licenses and/or license rights of Respondent
5 AS MORTGAGE CORP. and Respondent CARLOS FREDERICO GUZMAN under
6 the Real Estate Law and for such other and further relief as may
7 be proper under applicable provisions of law.

8 Dated at Los Angeles, California
9 this 10 day of October, 2008.

11
12 
13 Deputy Real Estate Commissioner
14
15
16
17
18
19
20
21
22
23

24 cc: AS Mortgage Corp
25 Carlos Frederico Guzman
26 Sacto.
27 Robin Trujillo
L.A. Audits (Kwong)