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DEPARTMENT OF REAL ESTATE
BY: [Signature]

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-37142 LA
12	INTERSTATE MORTGAGE ALLIANCE)	<u>A C C U S A T I O N</u>
13	CORPORATION; and ETHAN JAY RUCH,)	
14	as designated officer of)	
15	Interstate Mortgage Alliance)	
16	Corporation,)	
17	Respondents.)	

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against INTERSTATE MORTGAGE ALLIANCE CORPORATION and ETHAN JAY
20 RUCH, as designated officer of Interstate Mortgage Alliance
21 Corporation alleges as follows:

22 1.

23 The Complainant, Maria Suarez, makes this Accusation in
24 her official capacity.

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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.
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6 A. At all times mentioned, INTERSTATE MORTGAGE
7 ALLIANCE CORPORATION (IMAC) was licensed or had license rights
8 issued by the Department of Real Estate (Department) as a
9 corporate real estate broker. On March 1, 1988, IMAC was
10 originally licensed as a corporate real estate broker by and
11 through ETHAN JAY RUCH, as IMAC's designated officer.

12 B. At all times mentioned, ETHAN JAY RUCH (RUCH) was
13 licensed or had license rights issued by the Department as a real
14 estate broker. On February 28, 1986, RUCH was originally
15 licensed as a real estate broker.

16 C. At all times material herein, IMAC was licensed by
17 the Department as a corporate real estate broker by and through
18 RUCH, as the designated officer and broker responsible, pursuant
19 to Code Sections 10159.2 and 10211 of the Business and
20 Professions Code for supervising the activities requiring a real
21 estate license conducted on behalf IMAC by IMAC's officers,
22 agents and employees, including RUCH, as herein set forth.

23 D. IMAC is owned RUCH, IMAC's President.
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1 Brokerage

2 4.

3 At all times mentioned, in the City of Rancho Cucamonga,
4 County of Los Angeles, Respondents IMAC and RUCH engaged in the
5 business of, acted in the capacity of, advertised or assumed to
6 act as real estate brokers within the meaning of Code Section
7 10131(d). Respondent's engaged in activities with the public
8 wherein institutional and private hard money lenders and
9 borrowers were solicited for loans secured directly or
10 collaterally by liens on real property, wherein such loans were
11 arranged, negotiated, processed, consummated and services on
12 behalf of others for compensation or in expectation of
13 compensation and for fees often collected in advance.

14 FIRST CAUSE OF ACCUSATION
15 (Audit)

16 5.

17 On April 6, 2010, the Department completed an audit
18 examination of the books and records of IMAC pertaining to the
19 mortgage loan brokerage activities including loan servicing
20 described in Paragraph 4, that require a real estate license.
21 The audit examination covered a period of time beginning on
22 October 1, 2006 to September 30, 2009. The audit examination
23 revealed violations of the Code and the Regulations as set forth
24 in the following paragraphs, and more fully discussed in Audit
25 Report LA 090082 and the exhibits and work papers attached to
26 said audit report.

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1 Trust Account

2 6.

3 At all times mentioned, in connection with the
4 activities described in Paragraph 4, above, IMAC accepted or
5 received funds including funds in trust (hereinafter "trust
6 funds") from or on behalf of actual or prospective parties to
7 transactions handled by IMAC including institutional and private
8 lenders and borrowers. IMAC maintained one trust account:

9 "Interstate Mortgage Alliance Corp. dba Royalty Mortgage Co.
Escrow Trust Account Corp.

10 243140331"

11 Citizens Business Bank

12 Ontario, CA 91761

(T/A #1)

13 Violations of the Real Estate Law

14 7.

15 In the course of activities described in Paragraphs 4
16 and 6, above, and during the thirty-six (36) examination period
17 described in Paragraph 5, Respondents IMAC and RUCH, acted in
18 violation of the Code and the Regulations in that Respondents:

19 (a) Permitted, allowed or caused the disbursement of
20 trust funds from T/A #1, where the disbursement of funds reduced
21 the total of aggregate funds in T/A #1, to an amount which, on
22 September 30, 2009, the cutoff date of the audit examination, was
23 \$4,993.62, less than the existing aggregate trust fund liability
24 to every principal who was an owner of said funds, without first
25 obtaining the prior written consent of the owners of said funds,
26 in violation of Code Section 10145 and Regulation 2832.1. The
27 shortage was restored on January 26, 2010.

1 (b) Made sixty-three (63) unauthorized disbursements
2 totaling \$340,963.85, by Teri Kite, IMAC's former controller, by
3 depositing trust funds from T/A #1 into IMAC's general operating
4 account and into to other accounts in between June 9, 2007
5 through October 6, 2008, reducing the amount in IMAC's general
6 account to an amount less than the amount of the trust funds
7 deposited, constituting conversion, in violation of Code Sections
8 10145 and 10176(i).

9 (c) Failed to disburse from T/A #1 broker's escrow fees
10 totaling \$194,798.84, within twenty-five days of deposit, in
11 violation of Code Sections 10145 and 10176(e) and Regulation
12 2835.

13 (d) Permitted Joan Ruch, wife of RUCH, and a real
14 estate salesperson, not licensed to IMAC, to be a signatory on
15 T/A #1, into which were deposited trust funds, in violation of
16 Code Section 10145 and Regulation 2834.

17 (e) Failed to place appraisal and credit report fees
18 collected from borrowers into a trust account in the name of the
19 broker as trustee at a bank or other financial institution, in
20 violation of Code Sections 10145 and 10176(e) Regulation 2832(a).
21 Credit report and appraisal fees were errantly deposited into
22 IMAC's general operating account.

23 (f) Failed to maintain a control record in the form of
24 a columnar record in chronological order of all trust funds
25 received, deposited and disbursed by T/A #1, in violation of Code
26 Section 10145 and Regulation 2831.

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1 (g) Failed to maintain an accurate and complete
2 separate record for each beneficiary or transaction, thereby
3 failing to account for all trust funds received, deposited and
4 disbursed from T/A #1, in violation of Code Section 10145 and
5 Regulation 2831.1.

6 (h) Failed to notify the Department or provide the
7 Department with timely or accurate Quarterly and Annual Trust
8 Fund Status Reports, after meeting the criteria as a threshold
9 broker for 2007 and 2008, as described in Code Section 10232(e)
10 for collecting loan servicing payments on behalf of owners of
11 promissory notes secured directly or collaterally by liens on
12 real property, in excess of \$250,000, in a successive twelve
13 month period, pursuant to Code Section 10232(a)(2), yet IMAC
14 failed to provide the Department with timely or accurate
15 Quarterly and Annual Trust Fund Status Reports, in violation of
16 Code Section 10232(e) and Regulation 2846.5. IMAC collected
17 \$374,096.95 in its loan servicing activity, in January through
18 February 2007, and \$272,446.00 in 2008, without providing the
19 required Threshold Notification.

20 (i) Failed to file reports for multi-lender loan
21 servicing payments collected from March 31, 2004 to date, in
22 violation of Code Section 10238(k)(3). Failed to file required
23 Quarterly Multi-Lender Reports for 2007 and 2008, where the loan
24 servicing payments IMAC collected in the aggregate exceeded
25 \$125,000, within 30 days of the end of each quarter, in violation
26 of Code Section 10238(k)(3),
27

1 (j) Failed to submit a notice to the Department, to
2 wit, a Multi-Lender Transaction Notice, within thirty (30) days
3 of making or arranging IMAC's first multi-lender notes secured
4 directly by an interest in the same real property. IMAC made or
5 arranged his first multi-lender loan on February 12, 2007, for
6 transactions hereof yet failed to notify the Department thereof,
7 in violation of Code Section 10238(a).

8 (k) Negotiated a construction loan (RM 07-025) yet
9 IMAC failed to use an independent neutral third-party escrow
10 holder for all deposits and disbursements, in violation of
11 Section 10238(h)(4)(A) and (B). The construction loan amount
12 was \$210,000 yet was only funded for \$194,539.30.

13 (l) Failed to a record trust deed or assignment
14 naming the lenders as beneficiaries for sales of a multi-
15 lender loan to lender-purchasers, secured by a trust deed on
16 real property, within ten (10) working days after receipt of
17 funds from the lenders, in violation of Code Sections 10234(a)
18 and 10238(g). IMAC recorded itself on the deed of trust as
19 beneficiary with the County Recorder's office, instead of the
20 actual owners when IMAC was not a one-hundred percent (100%)
21 owner, for single lender loan transaction #RM 07-007 assigned
22 February 4, 2010 and multi-lender loan transactions #RM07-017
23 assigned February 26, 2008, and RM-025 assigned February 4,
24 2010.

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1 (m) Failed to deliver a Lender Purchaser Disclosure
2 Statement containing all the information required by Code Section
3 10232.5 to various private lenders making hard money loans before
4 these lenders became obligated to make the loans before the
5 receipt by, or on behalf of, the broker of any funds from that
6 respective lender for these multi-lender mortgage loans, with
7 respect to investors George Henderson, Mike Green, Hector Soto,
8 Maxine Wade, Larry Senn, Steven Rheuban, Ronald Bragin, in
9 violation of Code Section 10232.4.

10 (n) RUCH failed to exercise adequate supervision over
11 IMAC's activities requiring a real estate license to ensure
12 compliance the Real Estate Laws and Regulations and had no system
13 in place for regularly monitoring IMAC's compliance with the Real
14 Estate Law, in particular, IMAC's trust fund handling, threshold
15 reporting, multi-lender regulatory compliance, and IMAC's loan
16 servicing activities, in violation of Code Sections 10159.2,
17 10177(h) and Regulation 2725.

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1 Disciplinary Statutes and Regulations

2 8.

3 The conduct of Respondents IMAC and RUCH, as alleged
4 and described in Paragraph 7, above, violated the Code and the
5 Regulations as set forth below:

6 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7	
8 7(a)	Code Section 10145 and Regulation 9 2832.1
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11 7(b)	Code Sections 10145 and 10176(i)
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14 7(c)	Code Sections 10145 and 10176(e) 15 and Regulation 2835
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18 7(d)	Code Section 10145 and Regulation 19 2834
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21 7(e)	Code Sections 10145 and 10176(e) 22 and Regulation 2832(a)
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25 7(f)	Code Section 10145 and Regulation 26 2831
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7 (g)

Code Section 10145 and Regulation
2831.1

7 (h)

Code Section 10232 (e)

7 (i)

Code Section 10238 (k) (3)

7 (j)

Code Section 10238 (a)

7 (k)

Code Section 10238 (h) (4) (A) and (B)

7 (l)

Code Sections 10234 (a) and 10238 (g)

7 (m)

Code Section 10232.4

7 (n)

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

1 The violations constitute cause for discipline of the real estate
2 license and license rights of IMAC and RUCH under the provisions
3 of Code Sections 10176(e), 10176(i), 10177(d) and/or 10177(g).

4 Negligence

5 9.

6 The overall conduct of Respondents IMAC and RUCH
7 constitutes negligence and is cause for discipline of the real
8 estate license and license rights of said Respondents pursuant to
9 Code Section 10177(g).

10 Fiduciary Duty

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12 The overall conduct of Respondents IMAC and RUCH
13 constitutes a breach of fiduciary duty with respect to the said
14 Respondent's real estate consumers and clientele including
15 lenders and borrowers. This conduct and violation are cause for
16 discipline of the real estate license and license rights of
17 Respondents IMAC and RUCH pursuant to Code Section 10176(i)
18 and/or 10177(g).

19 SECOND CAUSE OF ACCUSATION
20 (Broker Supervision)

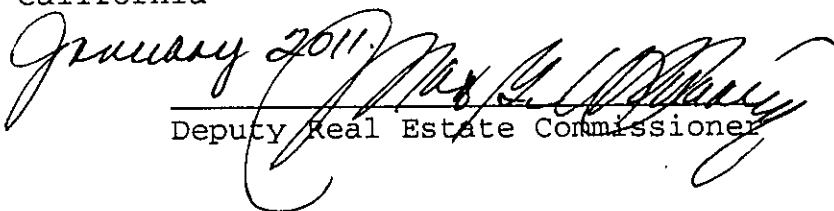
21 11.

22 The overall conduct of Respondent RUCH constitutes a
23 failure on his part, as officer designated by a corporate broker
24 licensee, to exercise the reasonable supervision and control over
25 the licensed activities of IMAC as required by Code Section
26 10159.2. This conduct is cause for discipline of the real estate
27 license and license rights of RUCH pursuant to the provisions of

1 Code Sections 10177(h), 10177(g) and 10177(d).

2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against the license and license rights of Respondents
6 INTERSTATE MORTGAGE ALLIANCE CORPORATION and ETHAN JAY RUCH,
7 under the Real Estate Law (Part 1 of Division 4 of the Business
8 and Professions Code) and for such other and further relief as
9 may be proper under other applicable provisions of law including
10 restitution and cost of audit.

11 Dated at Los Angeles, California

12 this *10th day of January 2011*
13 
14 Deputy Real Estate Commissioner

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cc: Interstate Mortgage Alliance Corporation
c/o Ethan Jay Ruch D.O.
Maria Suarez
Enforcement - Eleazar Galano
Sacto
Audits - Lisa Kwong