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1 Department of Real Estate
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982
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6
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FILED

JUN 23 2011

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 EQUITY DIRECT MORTGAGE CORPORATION,)
15 doing business as Equity One)
16 Mortgage and Equity One of)
17 California; PAUL CRAIG WARNER,)
18 individually and as designated)
19 officer of Equity Direct Mortgage)
20 Corporation; and THEODORE)
21 MICHAEL BRODERICK,)
22 Respondents.)
23)
24)
25)
26)
27)

No. H-36404 LA

STIPULATION
AND
AGREEMENT

20 It is hereby stipulated by and between Respondents
21 EQUITY DIRECT MORTGAGE CORPORATION and PAUL CRAIG WARNER,
22 individually and as designated officer of Equity Direct Mortgage
23 Corporation (sometimes collectively referred to as
24 "Respondents"), represented by Allan Calomino, Esq., and the
25 Complainant, acting by and through Elliott Mac Lennan, Counsel
26 for the Department of Real Estate, as follows for the purpose of
27

1 settling and disposing of the Accusation filed on January 5,
2 2010, in this matter:

3 1. All issues which were to be contested and all
4 evidence which was to be presented by Complainant and Respondents
5 at a formal hearing on the Accusation, which hearing was to be
6 held in accordance with the provisions of the Administrative
7 Procedure Act ("APA"), shall instead and in place thereof be
8 submitted solely on the basis of the provisions of this
9 Stipulation and Agreement ("Stipulation").

10 2. Respondents have received, read and understand the
11 Statement to Respondent, the Discovery Provisions of the APA and
12 the Accusation filed by the Department of Real Estate in this
13 proceeding.

14 3. Respondents filed a Notice of Defense pursuant to
15 Section 11506 of the Government Code for the purpose of
16 requesting a hearing on the allegations in the Accusation.
17 Respondents hereby freely and voluntarily withdraw said Notice of
18 Defense. Respondents acknowledge that they understand that by
19 withdrawing said Notice of Defense they thereby waive their right
20 to require the Commissioner to prove the allegations in the
21 Accusation at a contested hearing held in accordance with the
22 provisions of the APA and that they will waive other rights
23 afforded to them in connection with the hearing such as the right
24 to present evidence in their defense the right to cross-examine
25 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation is made for the purpose of
11 reaching an agreed disposition of this proceeding and is
12 expressly limited to this proceeding and any other proceeding or
13 case in which the Department of Real Estate ("Department"), or
14 another licensing agency of this state, another state or if the
15 federal government is involved, and otherwise shall not be
16 admissible in any other criminal or civil proceeding.

17 6. It is understood by the parties that the Real
18 Estate Commissioner may adopt this Stipulation as his Decision in
19 this matter thereby imposing the penalty and sanctions on
20 Respondents' real estate licenses and license rights as set forth
21 in the below "Order". In the event that the Commissioner in his
22 discretion does not adopt the Stipulation, the Stipulation shall
23 be void and of no effect and Respondents shall retain the right
24 to a hearing and proceeding on the Accusation under the
25 provisions of the APA and shall not be bound by any stipulation
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or waiver made herein.

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2 7. The Order or any subsequent Order of the Real
3 Estate Commissioner made pursuant to this Stipulation shall not
4 constitute an estoppel, merger or bar to any further
5 administrative or civil proceedings by the Department of Real
6 Estate with respect to any matters which were not specifically
7 alleged to be causes for accusation in this proceeding.

8 8. Respondents understand that by agreeing to this
9 Stipulation, Respondents agree to pay, pursuant to Business and
10 Professions Code Section 10148, the cost of the audit which led
11 to this disciplinary action. The amount of said cost is 4,232.70.

12 9. Respondents have received, read, and understand the
13 "Notice Concerning Costs of Subsequent Audit." Respondents
14 further understand that by agreeing to this Stipulation, the
15 findings set forth below in the Determination of Issues become
16 final, and the Commissioner may charge Respondents for the cost
17 of any subsequent audit conducted pursuant to Business and
18 Professions Code Section 10148 to determine if the violations
19 have been corrected. The maximum cost of the subsequent audit
20 will not exceed \$4,232.70.

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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
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3 that the following determination of issues shall be made:

I.

4
5 The conduct of EQUITY DIRECT MORTGAGE CORPORATION as
6 described in Paragraph 4, above, is in violation of Sections
7 10085, 10145, 10146, 10160 and 10240 of the Business and
8 Professions Code ("Code") and Sections 2752, 2753, 2831, 2831.1,
9 2840, 2970 and 2972 of Title 10, Chapter 6 of the California Code
10 of Regulations ("Regulations") and is a basis for discipline of
11 Respondent's license and license rights as a violation of the
12 Real Estate Law pursuant to Code Section 10177(d) and 10177(g).
13

II.

14 The conduct of PAUL CRAIG WARNER, as described in
15 Paragraph 4, above, constitutes a failure to keep EQUITY DIRECT
16 MORTGAGE CORPORATION in compliance with the Real Estate Law
17 during the time that he was the officer designated by a corporate
18 broker licensee in violation of Code Section 10159.2 of the
19 Business and Professions Code, and is a basis for discipline of
20 Respondent's license and license rights as a violation of the
21 Real Estate Law pursuant to Code Section 10177(h).
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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent EQUITY DIRECT MORTGAGE CORPORATION under the Real Estate Law are
revoked.

II.

The real estate broker license of Respondent PAUL CRAIG WARNER, under the Real Estate Law is revoked; provided, however,
a restricted real estate broker license shall be issued to said Respondent, pursuant to Section 10156.5 of the Business and Professions Code if Respondent:

(A) Make application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the from the effective date of this Decision.

(B) Respondent shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the

1 date of issuance of the restricted license.

2 C. Respondent shall, prior to and as a condition of
3 the issuance of the restricted license, submit proof satisfactory
4 to the Commissioner that restitution to the California
5 homeowners-borrowers set forth below in Paragraph 6. has been
6 paid or other satisfied.

7 The restricted license issued to Respondent shall be
8 subject to all of the provisions of Section 10156.7 of the
9 Business and Professions Code and to the followings limitations,
10 conditions and restrictions imposed under authority of Code
11 Section 10156.6.

12 1. The restricted license issued to Respondent may be
13 suspended prior to hearing by Order of the Real Estate
14 Commissioner in the event of Respondent's conviction or plea of
15 nolo contendere to a crime which is substantially related to a
16 Respondent's fitness or capacity as a real estate licensee.

17 2. The restricted license issued to Respondent may
18 be suspended prior to hearing by Order of the Real Estate
19 Commissioner on evidence satisfactory to the Commissioner that
20 Respondent has violated provisions of the California Real Estate
21 Law, the Subdivided Lands Law, Regulations of the Real Estate
22 Commissioner or conditions attaching to the restricted license.

23 3. Respondent shall not be eligible to apply for the
24 issuance of an unrestricted real estate license nor for the
25 removal of any of the conditions, limitations or restrictions of
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1 a restricted license until two (2) years have elapsed from the
2 date of issuance of the restricted license.

3 4. Respondent shall within six (6) months from the
4 date of issuance of the restricted license, take and pass the
5 Professional Responsibility Examination administered by the
6 Department including the payment of the appropriate examination
7 fee. If Respondent fails to satisfy this condition, the
8 Commissioner may order suspension of the restricted license until
9 respondent passes the examination.

10 5. Respondent shall, within nine (9) months from the
11 effective date of this Decision, present evidence satisfactory to
12 the Real Estate Commissioner that Respondent has, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license. If Respondent fails to
17 satisfy this condition, the Commissioner may order the suspension
18 of the restricted license until Respondent presents such
19 evidence. The Commissioner shall afford Respondent the
20 opportunity for a hearing pursuant to the Administrative
21 Procedure Act to present such evidence.
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6. California Homeowners Restitution

Homeowner/Borrower	Address	Advanced Fees Paid
Glenda Orr	4025 Darwin Av., Bakersfield	\$2,921.60
D. & J. Kennemer	8294 Kane Dr., La Mesa	\$2,995.00
Ann Hughes	761 Atchison St., Colton	\$2,995.00
Michael/Timothy Whitman	1051 W. Legion Rd., Brawley	\$3,495.00
Esmeralda Cruz	670 Kenington Cir. Los Banos	\$3,500.00
Kevin Bates	4228 Ave., Cypress	\$1,500.00
Luis Molina	14514 Jaguar, Mission Hills	\$2,995.00
Peter Wright	4163 Longridge, Sherman Oaks	\$5,000.00
Donnell Washington	761 Atchison St., Colton	\$2,995.00
Total Advance Fees Collected		\$28,396.60

(1) Respondent PAUL CRAIG WARNER shall deliver or mail the restitution payments, if any, by certified mail, return receipt requested, to the borrowers' last address on file with or known to Respondent.

(2) If any of the payments are returned by the Post Office marked "unable to deliver," Respondent shall employ a locator service (that may include or be limited to the Internet or other database retrieval search) to try and locate the

1 aforesaid borrowers. Repayments shall then be made to the
2 addresses recommended by the locator service.

3 (3) If unable to effect repayment after using a locator
4 service, Respondent shall provide reasonable proof satisfactory
5 to the Commissioner of his efforts to comply with the provisions
6 of this Paragraph.

7 (4) If the Commissioner determines that proof to be
8 unsatisfactory, he shall so advise Respondent, and indicate what
9 additional reasonable efforts should be made to make repayment to
10 the borrowers.

11 (5) If Respondent fails to satisfy this condition, the
12 Commissioner may order suspension of Respondent's restricted
13 license until Respondent effects compliance herein.

14 III.


15 Pursuant to Section 10148 of the Business and
16 Professions Code, Respondents EQUITY DIRECT MORTGAGE CORPORATION
17 and PAUL CRAIG WARNER shall pay the Commissioner's reasonable
18 cost for (a) the audits which led to this disciplinary action and
19 (b) a subsequent audit to determine if Respondents are now in
20 compliance with the Real Estate Law. The cost of the audit which
21 led to this disciplinary action is \$4,232.70. In calculating the
22 amount of the Commissioner's reasonable cost, the Commissioner
23 may use the estimated average hourly salary for all persons
24 performing audits of real estate brokers, and shall include an
25 allocation for travel time to and from the auditor's place of
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1 work. Said amount for the prior and subsequent audits shall not
2 exceed \$8,465.40.

3 Respondents EQUITY DIRECT MORTGAGE CORPORATION and PAUL
4 CRAIG WARNER, or either of them, shall pay such cost within 60
5 days of receiving an invoice from the Commissioner detailing the
6 activities performed during the audit and the amount of time
7 spent performing those activities.

8 The Commissioner may suspend the license of Respondent
9 PAUL CRAIG WARNER pending a hearing held in accordance with
10 Section 11500, et seq., of the Government Code, if payment is not
11 timely made as provided for herein, or as provided for in a
12 subsequent agreement between the Respondent PAUL CRAIG WARNER and
13 the Commissioner. The suspension shall remain in effect until
14 payment is made in full or until a Respondent PAUL CRAIG WARNER
15 enters into an agreement satisfactory to the Commissioner to
16 provide for payment, or until a decision providing otherwise is
17 adopted following a hearing held pursuant to this condition.
18

19
20 DATED: 2-14-11


ELLIOTT MAC LENNAN, Counsel for
Department of Real Estate

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2 EXECUTION OF THE STIPULATION

3 We have read the Stipulation, and have discussed it
4 with our counsel. Its terms are understood by us and are
5 agreeable and acceptable to us. We understand that we are
6 waiving rights given to us by the California Administrative
7 Procedure Act (including but not limited to Sections 11506,
8 11508, 11509 and 11513 of the Government Code), and we willingly,
9 intelligently and voluntarily waive those rights, including the
10 right of requiring the Commissioner to prove the allegations in
11 the Accusation at a hearing at which we would have the right to
12 cross-examine witnesses against us and to present evidence in
13 defense and mitigation of the charges.
14

15 MAILING AND FACSIMILE

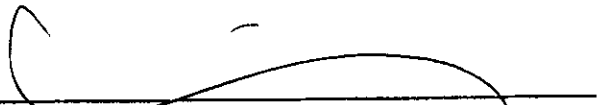
16 Respondents (1) shall mail the original signed
17 signature page of the stipulation herein to Elliott Mac Lennan:
18 Attention: Legal Section, Department of Real Estate, 320 W.
19 Fourth St., Suite 350, Los Angeles, California 90013-1105.
20 Respondents shall also (2) facsimile a copy of signed signature
21 page, to the Department at the following telephone/fax number:
22 (213) 576-6917, Attention: Elliott Mac Lennan.
23

24 A facsimile constitutes acceptance and approval of the
25 terms and conditions of this stipulation. Respondents agree,
26 acknowledge and understand that by electronically sending to the
27 Department a facsimile copy of Respondents' actual signature as

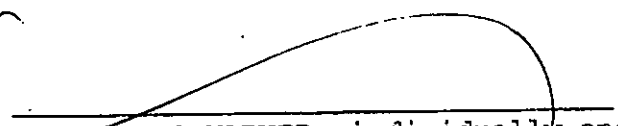
1 it appears on the stipulation that receipt of the facsimile copy
2 by the Department shall be as binding on Respondents as if the
3 Department had received the original signed stipulation.
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DATED: 4/22/11


EQUITY DIRECT MORTGAGE CORPORATION,
BY: PAUL CRAIG WARNER,
Respondent

DATED: 4/22/11


PAUL CRAIG WARNER, individually and
as designated officer of Equity
Direct Mortgage Corporation,
Respondent

DATED: 4/24/2011


ALLAN CALOMINO, ESQ.,
Attorney for Respondents
Approved as to form

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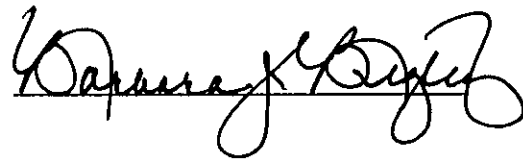
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents EQUITY DIRECT MORTGAGE
CORPORATION and PAUL CRAIG WARNER, individually and as designated
officer of Equity Direct Mortgage Corporation and shall become
effective at 12 o'clock noon on July 22, 2011.

IT IS SO ORDERED 6/6, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



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FILED

JUN 23 2011

DEPARTMENT OF REAL ESTATE
BY: 

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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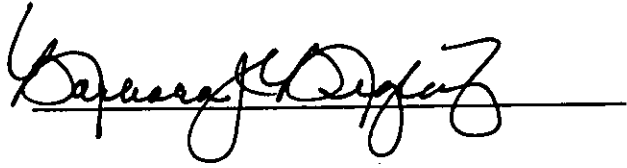
In the Matter of the Accusation of)	
)	No. H-36404 LA
EQUITY DIRECT MORTGAGE CORPORATION,)	
doing business as Equity One)	
Mortgage and Equity One of)	
California; PAUL CRAIG WARNER,)	
individually and as designated)	
officer of Equity Direct Mortgage)	
Corporation; and <u>THEODORE</u>)	
<u>MICHAEL BRODERICK,</u>)	
)	
Respondents.)	
)	
)	

DISMISSAL

The Accusation filed against THEODORE MICHAEL BRODERICK on January 5, 2010, is dismissed.

IT IS SO ORDERED this 6th day of June, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

JAN 5 2010

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)

12 EQUITY DIRECT MORTGAGE CORPORATION,)
13 doing business as Equity One)
14 Mortgage and Equity One of)
15 California; PAUL CRAIG WARNER,)
16 individually and as designated)
17 officer of Equity Direct Mortgage)
18 Corporation; and THEODORE)
19 MICHAEL BRODERICK,)

No. H- 36404 LA

A C C U S A T I O N

20 Respondents.)

21 The Complainant, Maria Suarez, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against EQUITY DIRECT MORTGAGE CORPORATION dba Equity One
24 Mortgage and Equity One of California, PAUL CRAIG WARNER,
25 individually and as designated officer of Equity Direct Mortgage
26 Corporation, and THEODORE MICHAEL BRODERICK, alleges as follows:

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1.

1 The Complainant, Maria Suarez, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against EQUITY DIRECT MORTGAGE
4 CORPORATION, PAUL CRAIG WARNER and THEODORE MICHAEL BRODERICK.
5

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

3.

11 License History

12 a. EQUITY DIRECT MORTGAGE CORPORATION ("EDMC"). At all
13 times mentioned, Respondent EDMC was licensed or had license
14 rights issued by the Department of Real Estate ("Department") as
15 a real estate broker. On December 6, 1995, EDMC was originally
16 licensed as a corporate real estate broker. Respondent EDMC was
17 authorized to act by and through Respondent PAUL CRAIG WARNER as
18 EDMC's broker designated pursuant to Business and Professions
19 Code (hereinafter "Code") Sections 10159.2 and 10211 to be
20 responsible for ensuring EDMC's compliance with the Real Estate
21 Law.
22

23 b. PAUL CRAIG WARNER ("WARNER"). At all times
24 mentioned, Respondent WARNER was licensed or had license rights
25 issued by the Department as a real estate broker. On May 14,
26 1995, WARNER was originally licensed as a real estate broker.
27

1 c. THEODORE MICHAEL BRODERICK ("BRODERICK"). At all
2 times mentioned, Respondent BRODERICK was licensed or had license
3 rights issued by the Department as a real estate salesperson. On
4 March 7, 1988, BRODERICK was originally licensed as a real estate
5 salesperson. At all times mentioned, BRODERICK was employed by
6 EDMC.

7 d. EDMC, WARNER and BRODERICK conduct activities
8 including loan modification activities requiring a real estate
9 license and an approved advance fee agreement from the
10 Department.

11 e. At all times herein mentioned, EDMC is and was a
12 California corporation. Respondent WARNER is the President and
13 Secretary of EDMC; BRODERICK is EDMC's Treasurer. At all times
14 relevant herein, Respondents WARNER and BRODERICK owned or
15 controlled EDMC's stock equally. Equity One Mortgage and Equity
16 One are fictitious business names of EDMC.

17 Brokerage

18 4.

19 At all times mentioned, in the City of Mission Viejo
20 and County of Orange, Respondents EDMC, WARNER and BRODERICK
21 acted as real estate brokers conducting licensed activities
22 within the meaning of Code Sections 10131(d) and 10131.2. EDMC,
23 WARNER and BRODERICK engaged in the business of a mortgage loan
24 brokerage and a loan modification brokerage collecting advance
25 fees.
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1 Respondents EDMC, WARNER and BRODERICK advertised,
2 solicited and offered to provide loss mitigation and loan
3 modification services to economically distressed homeowners
4 seeking adjustments to the terms and conditions of their home
5 loans including, but not limited to, repayment plans, forbearance
6 plans, partial claims, reduction in principal or interest,
7 foreclosure prevention and short sales.

8 EDMC processed the following loan modifications during the
9 audit period set forth below

Total Loan Modifications	Advanced Fees per Loan Modification	Completed Loan Modifications	Advance Fees Collected
160	\$1,500 to \$5,000	unknown	unknown

16
17 FIRST CAUSE OF ACCUSATION
18 (Audit Examination)

19 5.

20 On August 27, 2009, the Department completed an audit
21 examination of the books and records of EDMC pertaining to the
22 mortgage loan but principally loan modification and advance fee
23 activities described in Paragraph 4, which require a real estate
24 license. The examination covered a period of time beginning on
25 July 1, 2006 to May 21, 2009. The examination revealed
26 violations of the Code and the Regulations as set forth in the
27 following paragraphs, and more fully discussed in Audit Report LA

080295 and the exhibits and work papers attached thereto.

Trust Account

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, EDMC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers who paid advance fees to EDMC and WARNER for loan modifications handled by EDMC. Thereafter EDMC made deposits and or disbursements of such trust funds. From time to time during the audit period, said trust funds were deposited and/or maintained by EDMC in the trust account:

"Equity Direct Mortgage Corporation Trust Account
Account No. 09922-66453
Bank of America
Mission Viejo, CA 92691-3537

(T/A #1 - used for deposit of advance fees collected from homeowners for loan modifications)

Audit Violations

7.

In the course of activities described in Paragraphs 4 and 6, and during the examination period described in Paragraph 5, Respondents EDMC, WARNER and BRODERICK acted in violation of the Code and the Regulations in which Respondents:

///

(a) Loan Modifications Conducted by EDMC

EDMC conducted loan modification activities without an advance fee agreement approved by the Department. On or about April 22, 2009, EDMC commenced loan modification services; ceasing such activities during May 2009.

Initially EDMC forwarded EDMC's loan modification to licensed real estate brokers Loan Processing Center Inc. and Community First Finance, Inc. EDMC also forwarded its loan modifications through PTD, LLC, an unlicensed entity for processing. In time, EDMC elected to cease outside processing, commencing to process loan modifications in house.

EDMC paid fees to the aforesaid processing companies within a range of \$500 to \$1,100 per loan modification transaction, including, but not limited to, these examples hereof:

	<u>Fees Paid</u>				
<u>Borrower</u>	<u>Fees Collected</u>	<u>Date Collected</u>	<u>Processing Company</u>	<u>to Processor</u>	<u>Date Paid</u>
B. Lee	3,000.00	9/3/08	PTD, LLC	900.00	09/02/08
K. Savell	3,495.00	07/28/08	CFF	500.00	07/28/08

1 R.

2 Hayward 3,195.00 9/9/08 PTD, LLC 1,100.00 09/08/08

3 A.

4 Burgoon 2,900.00 5/8/08 LPC 995.00 05/07/08

5
6 M. Wuori 2,995.00 06/06/08 CFF 995.00 6/6/2008

7
8 G. Orr 2,921.60 6/25/08 CFF 995.00 9/9/2008

9
10 Loan Modification - Borrower: Barbara Lee

11 Barbara Lee (Lee) contracted with EDMC in early
12 August 28, 2008 to modify the mortgage loan for her home
13 located at 11407 Braidstone Ln., Chesterfield, VA 23838.
14 As of November 2008, EDMC had not contacted Lee's mortgage
15 lender, Lee herself or provided a refund to her for
16 services contracted for but not performed

17
18 Lee entered into a loan modification agreement
19 with EDMC on August 28, 2008. Lee paid fees in advance by
20 two direct bank debits in the amount of \$1,500.00 on
21 September 3, 2008 and \$1,500.00 on September 15, 2008 for
22 the services to be rendered by EDMC. An "Equity Direct
23 Mortgage Corporation Loan Workout Information Sheet" dated
24 August 28, 2008 with complete borrower's financial
25 information was found in the transaction file. The loan
26 modification transaction file along with a \$900.00 check
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1 made payable to PTD, LLC from EDMC was forwarded to PTD,
2 LLC on September 2, 2008 for processing of Lee's loan
3 modification.

4 Loan Modification - Borrower: Kenneth Savell

5 Kenneth Savell (Savell) sought to modify his loan
6 to lower the interest rate and monthly payments, obtain a
7 fixed interest rate for the duration of the home loan and
8 keep the due date in the third week of the month. Savell
9 entered into a loan modification agreement with EDMC on
10 July 17, 2008, for his home located at 5679 Gainswood
11 Court, Pensacola, FL 32526. Savell paid \$3,495.00 fees in
12 advance on July 28, 2008 to EDMC for the loan modification
13 services to be rendered by EDMC. The loan modification
14 transaction file along with a \$500.00 check made payable to
15 Community First Finance (CFF), on July 28, 2008 was
16 forwarded to CFF on July 25, 2008 for processing.

17
18 Savell's loan was completed. The modified terms
19 for the First Trust Deed were: 7.8% for 61 months starting
20 October 1, 2008 and the second Trust Deed was discharged.

21 Loan Modification - Borrower: Steven Fether

22 On September 19, 2008, Steven Fether (Fether)
23 contracted with EDMC to modify his home loan. Subsequently,
24 Fether received a foreclosure notice on November 11, 2008.
25 Fether was informed by his mortgage lender that no record existed
26 of any work being performed on his home loan account regarding a
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1 loan modification. After November 26, 2008, EDMC no longer
2 communicated with Fether. On September 19, 2008, Fether entered
3 into a loan modification agreement with EDMC for his home located
4 at 12224 E. 33rd St., Yuma, AZ 85367. On October 15, 2008,
5 Fether paid fees in advance by three electronic debit payments in
6 the amount of \$1,348 on September 23, 2008, \$673.50 on September
7 30, 2008 and \$673.50, totaling \$2,695.00, for the loan
8 modification services to be rendered by EDMC.

9 On December 16, 2008, EDMC contacted American Home
10 Mortgage Servicing Inc., Fether's lender. EDMC was authorized by
11 Fether to receive information regarding Fether's loan.

12 An EDMC internal email dated January 28, 2009 to
13 the Better Business Bureau was found in the transaction
14 file regarding Fether transaction. According to the email,
15 EDMC was informed by the lender that the loan modification
16 was approved on the first and second mortgage.
17

18 Loan Modification - Borrower: Robert Hayward

19 Robert Hayward (Hayward) was informed by EDMC
20 that he should receive an offer from his lender within two
21 to ten weeks regarding his loan modification. Hayward did
22 not get any response back from EDMC. Hayward was able to
23 modify his loan by working directly with his lender.

24 Hayward entered into a loan modification
25 agreement with EDMC on September 03, 2008, for his home
26 located at 13809 Fuchsia Ln., Victorville, CA 92392.
27

1 Hayward paid fees in advance by two electronic debits in
2 the amount of \$1,600.00 on September 9, 2008 and \$1,595.00
3 on October 3, 2008, totaling \$3,195.00, for the loan
4 modification services to be rendered by EDMC. The loan
5 modification transaction file along with a \$1,100.00 check
6 which was made payable to PTD, LLC (PTD) was sent to PTD on
7 September 08, 2008 for processing.

8 On or about December 2008, Hayward cancelled EDMC's in-
9 process loan modification and received a refund in the amount of
10 \$995. None of the advanced fees collected from homeowners
11 Barbara Lee, Kenneth Savell, Steve Fether and Robert Hayward were
12 placed into a trust account, in violation of Code Section 10146.

13 The conduct of Respondents EDMC, WARNER and BRODERICK,
14 contracting with homeowners Barbara Lee, Kenneth Savell, Steve
15 Fether and Robert Hayward without an approved advance fee
16 agreement from the Department in violation of Code Section 10085
17 and Regulation 2970, constitutes cause for discipline of their
18 real estate license and license rights, pursuant to Code Sections
19 10176(a), 10176(b), 10176(c), 10176(i) and/or 10177(g).

20 (b) Collected advance fees within the meaning of Code
21 Section 10026 from homeowners seeking loan modification services
22 wherein EDMC failed to provide homeowners with a pre-approved
23 advance fee agreement from the Department, in violation of Code
24 Sections 10085, 10176(a) and 10176(i) and Regulation 2970. EDMC
25 used an unauthorized copy of a Loan Modification Agreement for
26
27

1 another corporate real estate broker, to wit, Refisoup.com. EMDC
2 copied Refisoup.com's Loan Modification Agreement, changed the
3 name to EMDC and used it for EMDC's loan modification services.

4 (c) With reference to the lack of an advance fee
5 agreement, EDMC failed to provide a complete description of
6 services to be rendered provided to each homeowner in 10 point
7 type font and failed to provide an allocation and disbursement of
8 the amount collected as the advance fee, in violation of Code
9 Section 10146 and Regulation 2972.

10 (d) Commingled trust funds with EDMC's personal funds
11 by depositing trust funds in the form of advance fees collected
12 for loan modifications from homeowners into EDMC's general
13 operating account, instead of depositing trust funds into a
14 properly designated trust account for that purpose, to wit, T/A
15 #1, in violation of Code Sections 10145 and 10176(e) and
16 Regulation 2832.

17
18 (e) Failed to maintain a control record in the form of
19 a columnar record in chronological order of all trust funds
20 including advance fees collected, deposited and disbursed by
21 T/A #1, in connection with loan modifications, in violation of
22 Code Section 10145 and Regulation 2831.

23 (f) Failed to maintain a separate record for each
24 homeowner-beneficiary or transaction, thereby failing to account
25 for all trust funds in the form of advance fees collected,
26
27

1 deposited and disbursed from T/A #1, in violation of Code Section
2 10145 and Regulation 2831.1.

3 (g) Failed to perform a monthly reconciliation of the
4 balance of all separate homeowner-beneficiary or transaction
5 records maintained pursuant to Regulation 2831.1 with the record
6 of all trust funds received and disbursed by T/A #1, in violation
7 of Code Section 10145 and Regulation 2831.2.

8 (h) Converted trust funds in the amount of \$14,990, in
9 advance fees collected from homeowners for loan modification
10 services which EDMC failed to render. EDMC collected \$14,990
11 from homeowners pursuant to its unapproved loan modification
12 agreement. EDMC made unauthorized disbursements to itself for
13 EDMC's own expenses unrelated to any homeowner. EDMC then
14 reduced the balance in EDMC's general account, to an amount that
15 was less than the amount of advance fees deposited, \$14,9990, in
16 violation of Code Sections 10145, 10176(i) or 10177(j) and/or
17 10177(g).
18

19 (i)(1) Failed to retain a true and correct copy of a
20 Department of Real Estate approved Mortgage Loan Disclosure
21 Statement signed by the broker for borrowers Wheilhan, Palacios,
22 Rosillo, Moya and Haaase, in violation of Code Section 10240; and
23

24 (i)(2) Failed to disclose yield spread premiums from
25 lenders on the approved Mortgage Loan Disclosure Statement for
26 the aforesaid borrowers in violation of Code Section 10240, 10241
27 and Regulation 2840.

1 (j) Failed to retain salesperson license certificates
2 for Ryan Hugh Leach and Mark Steven Churchill, in violation of
3 Code Section 10160 and Regulation 2753; and

4 (k) Failed to notify the Department of the termination
5 of salespersons Frank Lee Domino and Christopher Stone and failed
6 to notify the Department of the employment of Michael Broderick,
7 Ryan Leach and Mark Churchill and Nancy Marchiola in a timely
8 manner, in violation of Code Section 10161.8 and Regulation 2752.

9
10 Discipline Statutes

8.

11 The conduct of Respondents EDMC, WARNER and BRODERICK
12 described in Paragraph 7, above, violated the Code and the
13 Regulations as set forth below:

14 PARAGRAPH	
15 7(a)	16 Code Sections 10085, 10146, 10176(a), 10176(b), 17 10176(c), 10176(i) and/or 10177(g) and Regulation 2970
18 7(b)	19 Code Sections 10085, 10176(a) and 10176(i) and 20 Regulation 2970
21 7(c)	22 Code Section 10146 and Regulation 2972
23 7(d)	24 Code Sections 10145 and 10176(e) and Regulation 2832
25 7(e)	26 Code Section 10145 and Regulation 2831
27 7(f)	Code Section 10145 and Regulation 2831.1

1	7(g)	Code Section 10145 and Regulation 2831.2
2	7(h)	Code Sections 10145, 10176(i) and/or 10177(g)
3		
4	7(i)	Code Section 10240, 10241 and 2840
5		
6	7(j)	Code Section 10160 and Regulation 2753
7		
8	7(k)	Code Section 10161.8 and Regulation 2752
9		

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These violations are cause for discipline of the real estate license and license rights of Respondents EDMC and WARNER under the provisions of Code Sections 10176(a), 10176(b), 10176(c), 10176(e), 10176(i), 10177(j), 10177(d), and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(False, Misleading or Deceptive Advertising)

9.

EDMC's advertising flyer dated September 19, 2008, for "Equity Direct Mortgage Corp. Loss Mitigation Program!", promulgated by unlicensed "Note Modification Specialist" Denise Duncan, to homeowner Steven Fether is false, misrepresentative and deceitful in itself or through the omission of information necessary to make a representation contained therein unambiguous, and as such is insufficient to satisfy the disclosure requirements of Code Section 10235 and Regulation 2848, in

1 violation thereof as herein set forth for Respondents EDMC,
2 WARNER and BRODERICK.

3 EDMC's advertising flyer offer of a (1) "performance
4 guarantee"; (2) EDMC's use of "real estate professionals: who are
5 not licensed by the Department; and, (3) EDMC's assertion that it
6 has "dedicated itself to mortgage lending and loss mitigation for
7 over fourteen years!" when in fact EDMC was originally licensed
8 on December 16, 1995".

9 THIRD CAUSE OF ACCUSATION
10 (Employment of Unlicensed Loan Modification Agents)

11 10.

12 Respondents EDMC, WARNER and BRODERICK (1) employed
13 and/or compensated persons who were not licensed as salespersons
14 or as brokers to perform loan modification servicing activities
15 requiring a real estate license under Code Sections 10131(d) and
16 (2) employed and/or compensated PTD, LLC to process EDMC's loan
17 modifications as follows, in violation of Code Section 10137:
18

19 Table: Unlawful Employment/Compensation of Unlicensed Persons

20

21 Processing

<u>Borrower</u>	<u>Company</u>	<u>Loss Mitigation Agents</u>
22 B. Lee	23 PTD, LLC	24 Mani Dilmaghanian, Clair Akey
25 K. Savell	26 CFF	27 Patrick Gerken

1 R. Hayward PTD, LLC

Norman Fairchild, Karen Hughes

2 Denise Duncan, Tina Hickoff,

3 S. Fether CFF

4 Dan Lucey

5
6 Unlicensed Activity

7 11.

8 BRODERICK performed loan modification services and collected
9 or supervised the collection of advance fees from homeowners set
10 forth in the Table, above, when BRODERICK was not licensed by the
11 Department as a real estate broker for performing acts for which
12 a real estate broker license is required, in violation of Code
13 Section 10130.

14 FOURTH CAUSE OF ACCUSATION
15 (Department of Corporations Discipline)

16 12.

17 On November 5, 2008, In the Matter of the Accusation
18 Before the Department of Corporation vs. Equity Direct Mortgage
19 Corporation, filed on November 5, 200, EDMC's residential
20 mortgage lender/servicer license, was revoked effective December
21 8, 2004. Said action is cause for discipline under Code Section
22 10177(f), with respect to EDMC and WARNER.

23 ///

24 ///

25 ///

26 ///

Negligence

13.

The overall conduct of Respondents EDMC and WARNER, constitutes negligence. This conduct and violation are cause for discipline of their real estate license and license rights, pursuant to Code Section 10177(g).

Supervision And Compliance

14.

The overall conduct of Respondent WARNER constitutes a failure on WARNER's part, as officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of EDMC, as required by Code Sections 10159.2 and 10211 and Regulation 2725, and to keep EDMC in compliance with the Real Estate Law. Said conduct, acts and omissions are cause for discipline of the real estate license and license rights of WARNER pursuant to the provisions of Code Sections 10177(d) and 10177(h) and/or 10177(g). WARNER failed to exercise reasonable care and supervision over EDMC, particularly with respect to the trust fund handling and advance fees collection procedures for EDMC's loan modification activities which require a real estate license and an approved advance fee agreement. Nor did WARNER have policies and procedures in place to maintain and monitor EDMC's compliance with the Real Estate Law.

///

Fiduciary Duty

15.

Respondents EDMC, WARNER and BRODERICK, for failing to act in a fiduciary capacity towards economically distressed homeowners with respect to loan modifications services Respondents performed or purported to perform by their use of an unapproved advanced fee agreement collected and deposited into EDMC's general account, after solicitation of said homeowners, using false, deceptive and misleading advertising and for the employment and compensation of unlicensed persons as loss mitigation and loan modification agents to handle the aforesaid loan modifications, in violation of Code Section 10176(i).

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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 100
5 EQUITY DIRECT MORTGAGE CORPORATION, PAUL CRAIG WARNER and
6 THEODORE MICHAEL BRODERICK, under the Real Estate Law (Part 1 of
7 Division 4 of the Business and Professions Code) and for such
8 other and further relief as may be proper under other applicable
9 provisions of law.

10
11 Dated at Los Angeles, California

12 this

10th day of December 2009.


Deputy Real Estate Commissioner

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24 cc: Equity Direct Mortgage Corporation
25 c/o Paul Craig Warner D.O.
26 Maria Suarez
27 Sacto
Audits - Gina King