

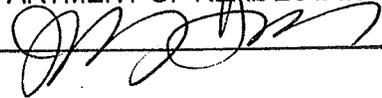
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FILED

MAR 19 2009

DEPARTMENT OF REAL ESTATE

BY: 

7
8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-35502 LA
13) L-2009010216
14 POPE MORTGAGE & ASSOCIATES) A C C U S A T I O N
15 INC., doing business as Pope)
16 Real Estate, Pope Mortgage &) FIRST AMENDED
17 Associates, Pope Mortgage,)
18 and North American Escrow;)
19 POPE FINANCIAL CENTER INC.,)
20 doing business as Pope &)
21 Associates; PAUL N. POPE,)
22 individually, and doing)
23 business as Pope Realty &)
24 Mortgage, Pope Mortgage &)
25 Associates Realty, Pope)
26 Mortgage & Associates,)
27 and North American Escrow,)
and as designated officer)
of Pope Mortgage & Asso-)
ciates Inc. and of Pope)
Financial Center Inc.,)
Respondents.)
_____)

25 This First Amended Accusation amends the Accusation
26 filed on December 5, 2008.

1 corporation acting by and through Respondent POPE as its
2 designated broker-officer at all times relevant herein.

3 4.

4 Respondent POPE is presently licensed and/or has
5 license rights under the Real Estate Law as a real estate broker
6 and designated broker-officer of POPE MORTGAGE and POPE
7 FINANCIAL at all times relevant herein.

8 5.

9 All further references to respondents herein include
10 Respondents POPE MORTGAGE, POPE FINANCIAL, and POPE, and also
11 include officers, directors, employees, agents and real estate
12 licensees employed by or associated with POPE MORTGAGE, POPE
13 FINANCIAL, and POPE, and who at all times herein mentioned were
14 engaged in the furtherance of the business or operations of
15 Respondents POPE MORTGAGE, POPE FINANCIAL, and POPE, and who
16 were acting within the course and scope of their authority and
17 employment.
18

19 6.

20 From July 24, 2008, to the present Respondent POPE, as
21 the officer designated by Respondent POPE MORTGAGE pursuant to
22 Section 10211 of the Code, was responsible for the supervision
23 and control of the activities conducted on behalf of Respondent
24 POPE MORTGAGE by its officers and employees as necessary to
25 secure full compliance with the Real Estate Law as set forth in
26 Section 10159.2 of the Code.

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7.

1 From February 13, 2008, to November 12, 2008,
2 Respondent POPE, as the officer designated by Respondent POPE
3 FINANCIAL pursuant to Section 10211 of the Code, was responsible
4 for the supervision and control of the activities conducted on
5 behalf of Respondent POPE FINANCIAL by its officers and
6 employees as necessary to secure full compliance with the Real
7 Estate Law as set forth in Section 10159.2 of the Code.

9 FIRST CAUSE OF ACCUSATION
10 (Advance Fee Violation)

11 8.

12 Complainant hereby incorporates by reference the
13 allegations contained in Paragraphs 1 through 7, above.

14 9.

15 At all times mentioned herein, Respondents POPE
16 MORTGAGE, POPE FINANCIAL and POPE engaged in the business of an
17 advance fee brokerage, within the definition of Code Section
18 10131.2, in that, for fees received in advance, as well as at
19 the conclusion of transactions, Respondents performed loan
20 modification services with respect to loans which were secured
21 by liens on real property, including, but not limited to, the
22 following:

23 a. At a date unknown, Respondents collected an
24 advance fee of \$1,000 from Samuel Hernandez pursuant to the
25 provisions of a written agreement pertaining to loan
26 modification services to be provided by Respondents with respect
27

1 to a loan secured by the real property located at 15634
2 Beechwood Avenue, Ivanhoe, California 91235.

3 b. On or about August 1, 2008, Respondents collected
4 an advance fee of \$2,895 from Bryan K. Batiste pursuant to the
5 provisions of a written agreement pertaining to loan
6 modification services to be provided by Respondents with respect
7 to a loan secured by the real property located at 23338 Wagon
8 Trail Road, Diamond Bar, California 91765.

9 c. On or about August 21, 2008, and September 22,
10 2008, Respondents collected an advance fee totaling \$2,000 from
11 Curtis Ward pursuant to the provisions of a written agreement
12 pertaining to loan modification services to be provided by
13 Respondents with respect to a loan secured by the real property
14 located at 1442 West Victoria Street, Rialto, California 92376.

15 d. On or about August 2, 2008, Respondents collected
16 an advance fee totaling \$3,000 from Michael Florez pursuant to
17 the provisions of a written agreement pertaining to loan
18 modification services to be provided by Respondents with respect
19 to a loan secured by real property.

20 e. On or about August 8, 2008, Respondents collected
21 an advance fee totaling \$2,900 from Angela Saldivia pursuant to
22 the provisions of a written agreement pertaining to loan
23 modification services to be provided by Respondents with respect
24 to a loan secured by real property.

25 f. On or about October 1, 2008, Respondents
26 collected an advance fee totaling \$7,000 from Erica Zamora
27

1 pursuant to the provisions of a written agreement pertaining to
2 loan modification services to be provided by Respondents with
3 respect to a loan secured by real property.

4 g. On or about September 5, 2008, Respondents
5 collected an advance fee totaling \$12,720 from Hamid and Behija
6 Huseinovic pursuant to the provisions of a written agreement
7 pertaining to loan modification services to be provided by
8 Respondents with respect to loans secured by four real
9 properties.

10 h. On or about July 28, 2008, Respondents collected
11 an advance fee totaling \$1,500 from Filomena Langois pursuant to
12 the provisions of a written agreement pertaining to loan
13 modification services with respect to a loan secured by the real
14 property located at 9878 Private Road 2428, Terrell, Texas
15 75160.

16 i. On or about August 11, 2008, Respondents
17 collected an advance fee totaling \$1,500 from Denise Jones
18 pursuant to the provisions of a written agreement pertaining to
19 loan modification services with respect to a loan secured by the
20 real property located at 35 Pooles Bend Way, Hiram, Georgia
21 30141.

22 j. On or about August 14, 2008, Respondents
23 collected an advance fee totaling \$1,500 from Charlotte Finley
24 pursuant to the provisions of a written agreement pertaining to
25 loan modification services with respect to a loan secured by the
26
27

1 real property located at 6350 Mozart Drive, Riverdale, Georgia
2 30296.

3 k. On or about August 27, 2008, Respondents
4 collected an advance fee totaling \$2,895 from Sandra and Jered
5 Crump pursuant to the provisions of a written agreement
6 pertaining to loan modification services with respect to a loan
7 secured by the real property located at 1954 Gibson, Clovis,
8 California 93611.

9 10.

10 Respondents collected the above described advance fees
11 pursuant to the provisions of a document entitled "Loss
12 Mitigation Services Agreement," the written agreement described
13 in Paragraph 9, above, which document constitutes an advance fee
14 agreement within the meaning of Code Section 10085.

15 11.

16 Respondents failed to submit the written agreements
17 referred to in Paragraph 9, above, to the Commissioner ten days
18 before using them in violation of Code Section 10085 and
19 Regulation 2970.
20

21 12.

22 The conduct, acts and/or omissions of Respondents POPE
23 MORTGAGE, POPE FINANCIAL and POPE, as set forth above, are cause
24 for the suspension or revocation of the licenses and license
25 rights of Respondent POPE MORTGAGE, Respondent POPE FINANCIAL,
26 and Respondent POPE pursuant to Code Sections 10085, 10177(d)
27 and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Unlicensed Activity)

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13.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 12, above.

14.

The activities described in Paragraph 9, supra, require a real estate license under Sections 10131(d) and 10131.2 of the Code. Respondents violated Section 10137 of the Code by employing and/or compensating individuals who were not licensed as a real estate salesperson or as a broker to perform activities requiring a license as follows:

a. Respondents employed and/or compensated Gabriela Melchor to perform some or all of the services alleged in Paragraph 9, subsection (h), above, though she was not licensed as a real estate salesperson or broker.

b. Respondents employed and/or compensated Ryan Trapp to perform some or all of the services alleged in Paragraph 9, subsections (i) and (j), above, though he was not licensed as a real estate salesperson or broker.

c. Respondents employed and/or compensated Mayra Gonzalez to perform some or all of the services alleged in Paragraph 9, subsection (k), above, though she was not licensed as a real estate salesperson or broker.

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15.

1 The conduct, acts and/or omissions of Respondents POPE
2 MORTGAGE, POPE FINANCIAL and POPE, as set forth in Paragraph 14,
3 above, violate Code Section 10137, and are cause for the
4 suspension or revocation of the licenses and license rights of
5 Respondent POPE MORTGAGE, Respondent POPE FINANCIAL, and
6 Respondent POPE pursuant to Code Sections 10177(d) and/or
7 10177(g).

9 THIRD CAUSE OF ACCUSATION
10 (Use of Unauthorized Fictitious Business Name)

11 16.

12 Complainant hereby incorporates by reference the
13 allegations set forth in Paragraphs 1 through 15, above.

14 17.

15 Use of a fictitious business name for activities
16 requiring the issuance of a real estate license requires the
17 filing of an application for the use of such name with the
18 Department of Real Estate ("Department") in accordance with the
19 provisions of Code Section 10159.5.

20 18.

21 Respondent POPE FINANCIAL filed an application for and
22 was authorized by the Department to use the fictitious business
23 name "Pope & Associates" during the period October 12, 2008,
24 through November 5, 2008. At a time prior to October 12, 2008,
25 Respondents acted without Department authorization in using the
26

1 fictitious business name "Pope & Associates" to engage in
2 activities requiring the issuance of a real estate license.

3 19.

4 The conduct, acts and/or omissions of Respondents POPE
5 MORTGAGE, POPE FINANCIAL and POPE, as set forth in Paragraphs
6 16-18, above, violate Code Section 10159.5 and Section 2731,
7 Title 10, Chapter 6, Code of Regulations ("Regulations"), and
8 are cause for the suspension or revocation of the licenses and
9 license rights of Respondent POPE MORTGAGE, Respondent POPE
10 FINANCIAL, and Respondent POPE pursuant to Code Sections
11 10177(d).

12 20.

13 Respondent POPE ordered, caused, authorized or
14 participated in the conduct of Respondents POPE MORTGAGE and
15 POPE FINANCIAL, as is alleged in this Accusation.

16 21.

17 The conduct, acts and/or omissions, of Respondent
18 POPE, in allowing POPE MORTGAGE and POPE FINANCIAL to violate
19 the Real Estate Law, as set forth above, constitutes a failure
20 by POPE, as the officer designated by a corporate broker
21 licensee, to exercise the supervision and control over the
22 activities of POPE MORTGAGE and POPE FINANCIAL, as required by
23 Code Section 10159.2, and is cause to suspend or revoke the real
24 estate licenses and license rights of POPE under Code Sections
25 10177(d), 10177(g) and/or 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 all the licenses and license rights of Respondent
5 POPE MORTGAGE & ASSOCIATES INC., Respondent POPE FINANCIAL
6 CENTER INC. and Respondent PAUL N. POPE, individually, and as
7 designated broker-officer of Respondents Pope Mortgage &
8 Associates Inc. and Pope Financial Center Inc., under the Real
9 Estate Law (Part 1 of Division 4 of the Business and Professions
10 Code), and for such other and further relief as may be proper
11 under other applicable provisions of law.

12 Dated at Los Angeles, California

13 this 19 day of March, 2009.

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19 Robin Trujillo
20 Deputy Real Estate Commissioner
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24

25 cc: POPE MORTGAGE & ASSOCIATES INC.
26 POPE FINANCIAL CENTER INC.
27 PAUL N. POPE
Robin Trujillo
Sacto.
Jozef g. Magyar, Esq.
OAH