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STATE OF CALIFORNIA
BUSINESS TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Benny Chetcuti, Jr.
Chetcuti and Associates, Inc.
1204 Alpine Road, #3
Walnut Creek, CA 94596

DESIST AND REFRAIN ORDER
(For violations of California Corporations Code sections 25110 and 25401)

The California Corporations Commissioner finds that:

1. At all relevant times Chetcuti and Associates, Inc. (hereinafter referred to as "CAA Inc.") was a California corporation with its principal place of business in Contra Costa County, California. CAA Inc. was in the business of purchasing, renovating and selling residential properties in the San Francisco Bay area.

2. Benny Chetcuti, Jr. (hereinafter referred to as "Chetcuti") is and was at all relevant times the president, director and the sole or controlling shareholder and manager of CAA Inc.

3. The business operations of CAA Inc. were funded by investors who were solicited to invest in CAA Inc. by Chetcuti. Chetcuti issued promissory notes in consideration of money invested in CAA Inc. Some of the notes were unsecured, and others allegedly were secured by liens on real property, when in fact, no such security was ever put in place. The offer and sale of the promissory notes were "issuer transactions" which Chetcuti "offered and sold" within the state of California. The Commissioner has not issued a permit or other form of qualification authorizing the offer and sale of the securities and some of the sales of securities by Chetcuti and CAA Inc. were not exempt from the qualification requirements under Corporations Code section 25110.

4. In January of 2007 a California resident investor (Investor #1), was solicited to invest funds in CAA Inc. by Chetcuti. This investor did not have a personal or business relationship with Chetcuti and did not have sufficient investing experience. The investor met with Chetcuti in the offices of CAA Inc. and provided Chetcuti with a personal check for \$100,000. In consideration

1 Chetcuti then executed and delivered a promissory note in the name of CAA Inc. to the investor. The
2 note was to be paid in full in November of 2007. The interest rate payable on the note was 13% per
3 annum. The investor provided the \$100,000 based upon the assurance from Chetcuti that he would
4 be receiving interests payments of \$1083.33 monthly, and that the principal amount would be repaid
5 in November of 2007.

6 5. Less than a month later, in February of 2007, Chetcuti approached the same investor and
7 solicited an additional short-term (six month) investment of a second \$100,000 in CAA Inc. The note
8 stated that the entire principal amount and any accrued interest were to be repaid on or before
9 September 1, 2007. In December of 2007, in reliance upon representations from Chetcuti as to the
10 solvency of CAA Inc. and Chetcuti personally, the California resident investor extended the
11 repayment dates for the first two investments so that on November 30, 2008, the principal amount of
12 \$200,000 plus accrued interest would be repaid. Subsequent to the second investment Chetcuti
13 approached the investor and solicited additional funds. The investor declined, stating that he had no
14 further funds to invest.

15 6. In offering and selling the securities referred to herein Chetcuti made untrue statements of
16 material fact and/or omitted to state material facts to the investors in CAA Inc. The untrue
17 statements, and/or omissions include but are not necessarily limited to the following:

18 a. Chetcuti failed to disclose to Investor (#1) at the time of the issuance of the promissory
19 notes in January and February 2007, and at the time of the roll over of both notes in December of
20 2007 that Chetcuti had rolled over a one-year note for \$200,000 from another investor on March 6,
21 2007, which note was originally issued on March 6, 2006.

22 b. Chetcuti failed to disclose to the investor that CAA Inc. had defaulted on the payment of a
23 note issued in February of 2003 for \$75,000 and another note issued in December of 2005 for
24 \$500,000.

25 Eventually these two notes were incorporated into a Loan Modification Agreement, on which
26 CAA Inc. then defaulted. This failure to disclose the defaults on these notes was the omission of a
27 material fact in the sale of the two notes to the later investor totaling \$200,000.

28 c. Chetcuti failed to disclose to the California investor that prior to soliciting funds from the

1 investor in January of 2007 that Chetcuti had liens upon his personal residence totaling \$1,390,000
2 which had been obtained at the following times for the stated amounts:

- 3 1. June 17, 2003--\$650,000
- 4 2. March 22, 2005--\$250,000
- 5 3. October 2, 2006--\$270,000
- 6 4. January 2, 2007--\$220,000

7 In his bankruptcy filing of July 2, 2010, Chetcuti stated that the value of his home was
8 \$425,000. (Chetcuti filed bankruptcy seeking to discharge debts totaling \$25,640,594.54.) The 2007
9 lien in the amount of \$220,000 was put in place the same month Chetcuti solicited the first \$100,000
10 from the California Investor #1. The investor never received a return of any portion of the funds
11 loaned to Chetcuti.

12 7. In early 2008, Chetcuti issued a promissory note to California Investor #2 along with a
13 deed of trust to secure an investment for 45 days of \$250,000. Chetcuti did not have a pre-existing
14 personal or business relationship with this investor. At the time Chetcuti issued the deed of trust to
15 the investor Chetcuti knew that he did not have any legal ownership interest in the property and
16 therefore the deed of trust was worthless. Chetcuti never disclosed this information to the investor.
17 Chetcuti further assured the investor, at the time of the issuance of the promissory note, that he would
18 record the deed of trust, which he never did. Investor #2 never received in return any of the funds
19 loaned to Chetcuti.

20 At the time of the issuance of the promissory note to California Investor #2, Chetcuti failed to
21 notify the investor that CAA Inc. had failed to file tax returns since 2007 and that the books and
22 records of the company were not adequate to allow CAA Inc. to file returns for the years 2007
23 through 2010.

24 8. Chetcuti issued a promissory note in the middle of 2009 to California Investor #3 in the
25 amount of \$192,525. This note was allegedly secured by a lien and deed of trust on the personal
26 residence of Chetcuti and the face of the note states that there are no other loans on this property
27 other than borrowers financing in the amount of \$610,000. This was false. In fact the total liens on
28 the personal residence of Chetcuti by July, 2009 were \$2,137,000.

1 9. In early 2009, Chetcuti issued a promissory note to California Investor #4 for the amount
2 of \$250,000. The note was allegedly "...100% secured with a security interest in the real
3 property..." At the time the investor provided the funds in the amount of \$250,000, Chetcuti assured
4 the investor that the note was "100%" secured. This was in fact not true. Chetcuti, notwithstanding
5 his assurances to the investor that the deed of trust would be recorded, never recorded the deed of
6 trust. After receiving the investor's funds, he imposed additional liens on the property such that
7 when the investor's deed of trust was finally recorded by the investor, it was worthless due to
8 superior liens that had been created by Chetcuti. Investor #4 received nothing in return from the
9 funds loaned to Chetcuti.

10 Chetcuti failed to disclose to Investors #3 and #4 that CAA Inc. had failed to file tax returns
11 since 2007, and that this failure was due to the fact that the books and records of CAA Inc. were not
12 adequate to allow tax returns to be filed. Chetcuti testified to this books and records deficiency under
13 oath during his bankruptcy proceedings.

14 10. In 2003 and 2005, Chetcuti issued promissory notes in this state to California Investor #5.
15 Chetcuti as the borrower, failed to make timely payments on each of these notes and they both went
16 into default, as admitted by Chetcuti. The amount defaulted on by Chetcuti, including principal and
17 interest was \$897,000. Chetcuti never at any time disclosed these defaults to the California Investors
18 #'s 1-4 who subsequently provided Chetcuti funds in consideration for promissory notes and/or notes
19 allegedly secured by deeds of trust. This was a material omission in each case.

20 In November 2008, Chetcuti entered into a loan modification agreement with Investor #5 to
21 restructure the payment of the \$897,000 and in July of 2009, Chetcuti executed an amendment to that
22 modification agreement, wherein as security for an additional loan of \$300,000 he provided his
23 assurance in the amendment agreement that the additional funds would be repaid out of escrow from
24 a specific property in Contra Costa County, California. He also provided a promissory note and a
25 deed of trust to the investor relating to this specific property. Subsequently, Investor #5 would learn
26 that Chetcuti had no interest, as either a buyer or a seller, in the real property set out in the note and
27 the deed. As part of the same amendment to the modification agreement, Chetcuti also assured
28 Investor #5 that they would have "possession and ownership" of one or two units at a tenancy in

1 common property in San Francisco. Chetcuti provided Investor #5 with a letter from a senior lien
2 holder of the property agreeing to this arrangement. Chetcuti, in a declaration provided to the
3 investor, would later admit this letter was a forgery.

4 11. In 2006, Chetcuti issued a promissory note as president of Chetcuti & Associates, Inc. to
5 secure a loan of \$300,000 from a California resident, Investor #6. As stated on the face of the note,
6 the note was “secured with an interest in real property” and described that property within the note.
7 The term of the note was one year, and in 2007 the investor contacted Chetcuti regarding payment on
8 the note.

9 12. In 2007, Chetcuti convinced Investor #6 to roll over the first note until the property
10 securing the note was sold. Later Chetcuti expressed the opinion that the property would sell by a
11 date certain in 2008 and agreed in writing that the investor would be paid out of the proceeds of the
12 sale of the property by that agreed date. The property did sell in 2008 and all proceeds were
13 distributed by the title company to secured creditors or to Chetcuti. Chetcuti had never recorded the
14 security interest of Investor #6, even though that security interest was clearly stated on the face of the
15 note, and Chetcuti told the investor that his funds were secured with an interest in the property.

16 13. By 2009, Chetcuti continued to represent to Investor #6 (by means of a false balance
17 sheet and oral representations) that there were still funds in escrow that would be used to repay the
18 investor. By the middle of 2009 the investor demanded some assurance from the title company as to
19 the continued existence of the escrow on the property. Chetcuti arranged a three-way phone call with
20 an alleged employee of the title company. During this call the investor was assured that an escrow
21 “hold” of \$700,000 was still in effect. Subsequent events would show that the person on the phone
22 was not an employee of the title company and that in fact the escrow had closed in October, 2008. A
23 letter was faxed to the investor on title company letterhead reiterating that there was still \$700,000 in
24 escrow. This was in December of 2009, approximately one year after escrow had closed and the
25 subject property had sold. The letter sent to the investor was signed by a person who had never been
26 an employee of the title company, and the letter was faxed from a FedEx office. Chetcuti never
27 repaid the investor any of the \$300,000 provided as a loan.

28 14. Chetcuti also solicited funds from a long time investor (Investor #7) in Chetcuti

1 properties stating that he needed loans to assist with the refinancing of one of his properties. As
2 security for a loan of \$350,000 given in 2007, Chetcuti issued a promissory note that was “secured
3 with a security interest in real property” and stated the address of the property on the face of the note.
4 In the next year, 2008, Chetcuti again issued a promissory note to the same Investor #7 with the
5 identical security assurance in consideration of receiving a loan of \$450,000. Both notes were to be
6 paid off in no longer than 9 months. When the property sold, Chetcuti did not inform the investor
7 and used the proceeds of the sale to pay interest payments on notes to other lien holders on other
8 properties. Chetcuti never paid Investor #7 any of the \$800,000 provided in consideration of the two
9 promissory notes that were allegedly secured.

10 Based on the foregoing findings, the California Corporations Commissioner is of the
11 opinion that the investments in the form of promissory notes issued by CAA Inc. and Benny Chetcuti,
12 Jr. as president to Investors #1, #2, and #4 were securities subject to qualification under the California
13 Corporate Securities Law of 1968 and are being or have been offered or sold without being qualified
14 in violation of Corporations Code section 25110. Pursuant to section 25532 of the Corporate
15 Securities Law of 1968, Chetcuti and Associates, Inc. and Benny Chetcuti, Jr. are hereby ordered to
16 desist and refrain from the further offer or sale in the State of California of securities, including but
17 not limited to promissory notes, unless and until qualification has been made under the law.

18 Further, the California Corporations Commissioner is of the opinion that the securities in the
19 form of promissory notes issued by Chetcuti and Associates, Inc. and Benny Chetcuti, Jr. to Investors
20 #'s 1-7 were offered or sold in this state by means of written or oral communications which included
21 an untrue statement of a material fact or omitted to state a material fact necessary in order to make the
22 statements made, in the light of the circumstances under which they were made, not misleading, in
23 violation of section 25401 of the Corporate Securities Law of 1968. Pursuant to section 25532 of the
24 Corporate Securities Law, Chetcuti and Associates, Inc. and Benny Chetcuti, Jr. are hereby ordered to
25 desist and refrain from offering or selling or buying or offering to buy any security in the state of
26 California, including but not limited to the issuance of promissory notes by means of any written or
27 oral communication which includes an untrue statement of a material fact or omits to state a material
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1 fact necessary in order to make the statements made, in light of the circumstances under which they
2 were made, not misleading.

3 This Order is necessary, in the public interest, for the protection of investors and consistent
4 with the purposes, policies, and provisions of the Corporate Securities Law of 1968. This Order shall
5 remain in full force and effect until further order of the California Corporations Commissioner.

6 Dated: November 16, 2011
7 Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

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9
10 By _____
11 ALAN S. WEINGER
12 Deputy Commissioner
13 Enforcement Division
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