

1 STATE OF CALIFORNIA  
2 BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
3 DEPARTMENT OF CORPORATIONS

4 TO: Pacific Equity and Capital, Inc.  
5 Pacific Equity and Capital  
6 Pacific Equity and Capital Fund, LLC  
7 PEAC  
8 1299 Fourth Street, Suite 500  
9 San Rafael, CA 94901

10 Vincent Tomera  
11 10 S. Knoll Road, Suite 4  
12 Mill Valley, CA 94941

13 **DESIST AND REFRAIN ORDER**  
14 **(For violations of sections 22100 and 50002 of the California Financial Code)**

15 The California Corporations Commissioner finds that:

16 1. Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital  
17 Fund, LLC and PEAC (“PEAC”) are businesses located in Northern California whose names were  
18 used interchangeably. At no time was PEAC licensed to engage in the business of a finance lender or  
19 broker or to engage in the business of making or servicing residential mortgage loans by the  
20 Department of Corporations.

21 2. During relevant times Vincent Tomera (“Tomera”) owned, managed or controlled PEAC.  
22 On February 2, 1987, the California Department of Real Estate (“DRE”) revoked Tomera’s real  
23 estate license. At no time was Tomera licensed to engage in the business of a finance lender or  
24 broker or to engage in the business of making or servicing residential mortgage loans by the  
25 Department of Corporations.

26 3. PEAC represented itself to California residents as a “privately-owned real estate services  
27 company that specializes in facilitating clients in areas including financing, investment, acquisition,  
28 divestiture and management.” PEAC states that it originates and services loans secured by real estate  
to individuals and businesses. PEAC engaged in the business of making or servicing residential  
mortgage loans when it agreed to provide financing through investor clients of PEAC.

1           4. PEAC and Tomera engaged in the business of making loans to California residents but  
2 were not issued the license required to do so by the California Corporations Commissioner under  
3 the California Finance Lenders Law found in Financial Code section 22100.

4           5. PEAC and Tomera engaged in the business of making or servicing residential mortgage  
5 loan to California residents but were not issued the license required to do so by the California  
6 Corporations Commissioner under the California Residential Mortgage Lending Act found in  
7 Financial Code section 50002.

8           6. PEAC and Tomera are not exempt from the licensing requirements of Financial Code  
9 sections 22100 and 50002.

10           Based upon the foregoing findings, the California Corporations Commissioner is of the  
11 opinion that Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital  
12 Fund, LLC, PEAC and Vincent Tomera have engaged in the business of a finance lender and/or  
13 broker in violation of California Financial Code section 22100.

14           Pursuant to California Financial Code section 22712, Pacific Equity and Capital, Inc., Pacific  
15 Equity and Capital, Pacific Equity and Capital Fund, LLC, PEAC and Vincent Tomera are hereby  
16 ordered to desist and refrain from engaging in the business of a finance lender or broker in the State  
17 of California without first obtaining a license from the Commissioner, or otherwise being exempt.

18           Based on the foregoing findings, the California Corporations Commissioner is of the further  
19 opinion that Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital  
20 Fund, LLC, PEAC and Vincent Tomera have engaged in the business of making or servicing  
21 residential mortgage loans in violation of California Financial Code section 50002.

22           Pursuant to California Financial Code section 50320, Pacific Equity and Capital, Inc., Pacific  
23 Equity and Capital, Pacific Equity and Capital Fund, LLC, PEAC and Vincent Tomera are hereby  
24 ordered to desist and refrain from engaging in the business of making and servicing residential  
25 mortgage loans in the State of California without first obtaining a license from the Commissioner, or  
26 otherwise being exempt.

27           This Order is necessary, in the public interest, for the protection of consumers and is  
28 consistent with the purposes, policies and provisions of the California Finance Lenders Law and

1 California Residential Mortgage Lending Act. This Order shall become effective immediately and  
2 remain in full force and effect until further order of the California Corporations Commissioner

3 Dated: May 31, 2011  
4 Los Angeles, California

5 PRESTON DuFAUCHARD  
6 California Corporations Commissioner

7  
8 By \_\_\_\_\_  
9 ALAN S. WEINGER  
10 Deputy Commissioner  
11 Enforcement Division  
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13 **DESIST AND REFRAIN ORDER**

14 **(For violations of sections 25110, 25210, 25230 and 25401 of the California Corporations Code)**

15 The California Corporations Commissioner finds that:

16 1. Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital  
17 Fund, LLC and PEAC (“PEAC”) are businesses located in Northern California whose names were  
18 used interchangeably. At no time was PEAC licensed as either a securities broker or investment  
19 adviser by the Department of Corporations or the Securities and Exchange Commission.

20 2. During relevant times Victor Tomera (“Tomera”) owned, managed or controlled PEAC,  
21 which, in concert and in participation with others, violated the Corporate Securities Law (“CSL”) in  
22 California.

23 3. On February 2, 1987, the California Department of Real Estate (“DRE”) revoked Tomera’s  
24 real estate license. At no time was Tomera licensed as either a securities broker or investment  
25 adviser by the Department of Corporations or the Securities and Exchange Commission.

26 4. PEAC represented itself to California residents as a “privately-owned real estate services  
27 company that specializes in facilitating clients in areas including financing, investment, acquisition,  
28 divestiture and management.” PEAC states that it originates loans secured by real estate to  
individuals and businesses, and packages these loans as trust deed investment opportunities for a  
growing list of investor clients. PEAC states it provides asset management services for its clients.

1           5. PEAC assured investors its trust deed investments were an excellent way for investors to  
2 obtain a substantial profit and greatly increase cash flow with minimal risk. PEAC stated its minimum  
3 investment is \$50,000. In exchange for their funds investors were promised that the trust deeds  
4 typically yield between 10% and 14% annual interest.

5           6. At all relevant times PEAC represented itself to be experienced with investments and  
6 investment opportunities and sought funds directly from investors, including some unsophisticated  
7 and unaccredited individuals. The securities offered varied over time but primarily consisted of the  
8 following: fractionalized trust deeds, evidences of indebtedness, certificates of interests and  
9 investment contracts. These securities offered or sold were neither registered with the SEC nor  
10 qualified with the Department of Corporations.

11           7. PEAC and Tomera failed to disclose to investors that Tomera's real estate license had been  
12 revoked and DRE denied reinstatement of his license. Tomera failed to disclose that Pacific Equity  
13 and Capital, Inc. was not in good standing with the California Secretary of State's Office and that  
14 after it was suspended by the Secretary of State, Tomera filed a fictitious business name to enable  
15 him to continue doing business as Pacific Equity and Capital. By failing to disclose the fact the  
16 California Franchise Tax Board and Secretary of State had suspended Pacific Equity and Capital, Inc.  
17 from doing business and by obtaining the fictitious business name, Pacific Equity and Capital,  
18 Tomera was able to continue to do business notwithstanding the suspensions and unpaid taxes to the  
19 State of California.

20           8. PEAC routinely engaged in the business of effecting transactions in securities for the  
21 accounts of others or its accounts without a certificate to do so. PEAC violated Corporations Code  
22 section 25210 by conducting business as a broker-dealer in California without having first obtained  
23 a certificate from the Commissioner. Corporations Code section 25210 prohibits a broker-dealer  
24 from effecting any transaction in, or inducing or attempting to induce the purchase or sale of any  
25 security unless the Commissioner authorized the person to act as a broker-dealer.

26           9. PEAC advised investors to sell their publicly traded stock or rollover retirement funds to  
27 invest in PEAC. PEAC obtained compensation from the funds invested with commissions, points  
28 and/or advisory fees. PEAC provided advice to others but lacked the requisite investment adviser

1 certificate. Corporations Code section 25230 prohibits an investment adviser from conducting  
2 business as an investment adviser in this state unless the investment adviser has first applied for and  
3 secured a certificate from the California Corporations Commissioner.

4 10. PEAC and Tomera failed to comply with CSL qualification provisions when they  
5 offered and sold securities in violation of Corporations Code section 25110.

6 11. PEAC and Tomera made misrepresentations or omissions of material facts that violated  
7 Corporations Code section 25401.

8 Based upon the foregoing findings, the California Corporations Commissioner is of the  
9 opinion that the activities of Pacific Equity and Capital, Inc., Pacific Equity and Capital, Pacific  
10 Equity and Capital Fund, LLC, PEAC and Vincent Tomera involve offers or sales of securities in  
11 California that are subject to qualification under the CSL, without such offers or sales first being  
12 qualified or exempt, in violation of Corporations Code section 25110.

13 The California Corporations Commissioner is also of the opinion that such offers and  
14 sales of securities in this state were made by means of written or oral communications which  
15 included an untrue statement of a material fact or omitted to state a material fact necessary in  
16 order to make the statements made, in the light of the circumstances under which they were  
17 made, not misleading, in violation of Corporations Code section 25401.

18 Further, the California Corporations Commissioner is of the opinion that Pacific Equity  
19 and Capital, Inc., Pacific Equity and Capital, Pacific Equity and Capital Fund, LLC, PEAC and  
20 Vincent Tomera conducted business as a broker-dealer and an investment adviser in California  
21 without having first obtained a certificate from the Commissioner authorizing such activities, in  
22 violation of sections 25210 and 25230 of the Corporations Code.

23 Pursuant to Corporations Code section 25532 Pacific Equity and Capital, Inc., Pacific Equity  
24 and Capital, Pacific Equity and Capital Fund, LLC, PEAC and Vincent Tomera are hereby ordered to:

25 (1) Desist and refrain from the further offer or sale of securities including, but  
26 not limited to, fractionalized trust deeds, evidences of indebtedness,  
27 certificates of interests and investment contracts, unless and until the offers  
28 and sales have been duly qualified under the Corporate Securities Law or  
unless exempt;

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(2) Desist and refrain from offering or selling or buying or offering to buy any security in the State of California by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(3) Desist and refrain from conducting business as a broker-dealer in the State of California, unless and until granted a certificate by the California Corporations Commissioner under said law or unless exempt; and,

(4) Desist and refrain from conducting business as an investment adviser in the State of California, unless and until granted a certificate by the California Corporations Commissioner under said law or unless exempt.

This Order is necessary, in the public interest, for the protection of investors and consistent with the purposes, policies and provisions of the Corporate Securities Law of 1968.

Dated: May 27, 2011  
Los Angeles, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
ALAN S. WEINGER  
Deputy Commissioner  
Enforcement Division