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2008 APR -8 PM 3: 15

U.S. EPA. REGION IX  
REGIONAL HEARING CLERK

1 NANCY MARVEL  
Regional Counsel  
2 United States Environmental Protection Agency, Region 9

3 RICH CAMPBELL  
Assistant Regional Counsel  
4 United States Environmental Protection Agency, Region 9  
5 75 Hawthorne Street  
San Francisco, California 94105  
6 (415) 972-3870

7 Attorneys for Complainant

8  
9 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
10 **REGION 9**

11 In re the Matter of: ) Docket No.: SDWA-09-2007-0004  
12 )  
13 **American Realty & Mortgage, Inc.** )  
14 ) **CONSENT AGREEMENT**  
15 ) **AND PROPOSED FINAL ORDER**  
16 Respondent. )  
17 )  
18 Proceedings Under Section 1414(g) of the Safe )  
19 Drinking Water Act, 42 U.S.C. § 300g-3(g). )

20 **CONSENT AGREEMENT**

21 1. American Realty & Mortgage Company, Inc. ("Respondent") and the Environmental  
22 Protection Agency ("Complainant") seek approval of their agreement to settle this proceeding  
23 pursuant to 40 C.F.R. § 22.18(b), and move for issuance of the accompanying Proposed Final  
24 Order. Respondent and Complainant (the "Parties") agree that settlement of the relevant matters  
25 without litigation will save time and resources, that it is in the public interest, that it is consistent  
with the provisions and objectives of the federal Safe Drinking Water Act ("SDWA") and

1 applicable regulations, and that entry of this Consent Agreement and Proposed Final Order  
2 (“CA/FO”) is the most appropriate means of resolving such matters.

3 **Respondent’s Admissions**

4 2. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
5 Respondent (a) admits that Complainant has jurisdiction over the subject matter of this CAFO  
6 and over Respondent; (b) admits the jurisdictional allegations contained in the attached  
7 “Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil  
8 Penalty, and Notice of Opportunity to Request a Hearing Thereon” (“Complaint”), Docket No.  
9 SDWA-09-2007-0004; (c) neither admits nor denies any other allegation, finding of fact, or  
10 conclusion of law asserted by Complainant; and (d) waives any right to contest the  
11 Complainant’s allegations or the right to appeal the Proposed Final Order.

12 **Civil Administrative Penalty**

13 3. After taking into consideration the seriousness of the alleged violations, the population at  
14 risk, and other appropriate factors, EPA has determined that it is appropriate to assess, and  
15 Respondent has agreed to pay to the United States, a civil administrative penalty in the amount  
16 of one thousand dollars (**\$1,000.00**).

17 4. Payment of penalty must be received on or before thirty (30) calendar days after the  
18 effective date of the CA/FO. The date by which payment must be received by the United States  
19 shall be the “due date” for the payment.

20 5. Respondent shall make payment under this CA/FO in accordance with any of the  
21 acceptable methods of payment listed in **Exhibit A**, “EPA Region 9 Collection Information,”  
22 which is incorporated by reference as part of this CA/FO. Concurrent with payment of the  
23 penalty, Respondent shall provide written notice of payment, referencing the title and docket  
24 number of this case and attach a photocopy of the penalty payment, via certified mail to each of  
25 the following:



1 Danielle Carr, Regional Hearing Clerk,  
2 EPA Region 9  
3 75 Hawthorne Street (mail code: ORC-1)  
4 San Francisco, California, 94105

5 and

6 Patrick Chan  
7 Drinking Water Office  
8 EPA Region 9  
9 75 Hawthorne Street (mail code: WTR-9)  
10 San Francisco, California, 94105.

11 6. If the penalty is not paid when due, interest shall accrue on any overdue amount from the  
12 first date after the due date through the date of payment, at the interest rate established by the  
13 Secretary of the Treasury under 31 U.S.C. § 3717. In addition, a late payment handling charge  
14 of fifteen dollars (\$15.00) will be assessed for each thirty-(30) day period (or any portion  
15 thereof) following the due date in which the balance remains unpaid. Payment of any interest  
16 and late handling charges shall be made in accordance with paragraph 5 above.

17 7. Failure by Respondent to pay the penalty in full according to the above provisions will  
18 result in referral of this matter to the United States Department of Justice or the United States  
19 Department of the Treasury for collection.

20 8. Respondent shall not deduct the civil penalty, or any interest, late penalty payment and  
21 administrative handling fees, from its federal, state or local income taxes.

22 **Retention of Rights**

23 9. In accordance with 40 C.F.R. § 22.18(c), this CA/FO serves to resolve Respondent's  
24 liability for federal civil penalties for the violations and facts specifically alleged in the attached  
25 Complaint. Nothing in this CA/FO is intended to or shall be construed to resolve (i) any civil  
liability for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
ordinance, or permit not specifically alleged in the attached Complaint; or (ii) any criminal  
liability. EPA specifically reserves any and all authorities, rights, and remedies available to it

1 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
2 any violation of this CA/FO or any violation not specifically alleged in the attached Complaint.

3 10. This CA/FO shall not affect Respondent's obligation to comply with all applicable  
4 federal, state, local laws, ordinances, regulations, permits, and orders.

5 11. This Consent Agreement may be executed and transmitted by facsimile, email or other  
6 electronic means, and in multiple counterparts, each of which shall be deemed an original, but all  
7 of which shall constitute one instrument. If any portion of this Consent Agreement is determined  
8 to be unenforceable by a competent court or tribunal, it is the Parties' intent that the remaining  
9 portions shall remain in full force and effect. This is the Parties' complete agreement concerning  
10 the subject matter hereof, and no modification of this Consent Agreement shall be valid or  
11 binding unless the same be in a signed writing of the Parties

12 12. This CA/FO shall in no way affect the right of EPA or the United States against  
13 any third party (person/entity not a party to this CA/FO) or the right of any third party against  
14 Respondent. This CA/FO does not create any right in or grant any cause of action to any third  
15 party.

16 **Attorneys' Fees and Costs**

17 13. Unless otherwise specified, the Parties shall each bear their own costs and attorneys fees  
18 incurred in this proceeding.

19 **Binding Effect**

20 14. This CA/FO shall be binding upon Respondent, its officers, directors, agents, servants,  
21 employees, successors, assigns and subsequent purchasers. Changes in ownership, including but  
22 not limited to any transfer of assets of real or personal property, shall not alter Respondent's  
23 status or responsibilities under this CA/FO.

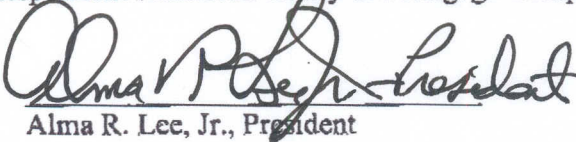
24 15. The undersigned representative of each of the Parties certifies that he or she is fully  
25 authorized to execute and legally bind that party to this CA/FO.

Effective and Termination Dates

16. This CA/FO shall take effect on the date the Final Order is filed with EPA Region 9's Regional Hearing Clerk, and shall terminate when Respondent has complied with this CA/FO in full.


CONSENTING PARTIES:

For Respondent American Ready & Mortgage Company, Inc.:

By:   
Alma R. Lee, Jr., President

Date: March 5, 2008

For Complainant U.S. Environmental Protection Agency, Region 9:

By:   
Alexis Strauss, Director  
Water Division

Date: March ~~5~~, 2008

1 April 2008



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U.S. EPA. REGION IX  
REGIONAL HEARING CLERK

1 NANCY MARVEL  
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2 United States Environmental Protection Agency, Region 9

3 RICH CAMPBELL  
Assistant Regional Counsel  
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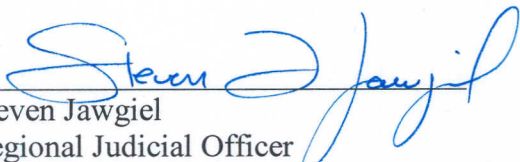
12 **American Realty & Mortgage, Inc.** )

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**[PROPOSED]**  
**FINAL ORDER**

Proceedings Under Section 1414(g) of the Safe  
Drinking Water Act, 42 U.S.C. § 300g-3(g).

19 The foregoing Consent Agreement is hereby approved and incorporated by reference into  
20 this Order. Respondent American Realty & Mortgage Company, Inc. is hereby ordered to  
21 comply with the Consent Agreement.

23   
24 Steven Jawgiel  
Regional Judicial Officer  
25 U.S. Environmental Protection Agency  
Region 9

04/07/08  
DATE:

1 **EXHIBIT A**

2 In the Matter of

3 American Realty & Mortgage Company, Inc.

4 EPA Docket No. SDWA-09-2007-0004

5 **EPA REGION 9 COLLECTION INFORMATION:**

6 **ELECTRONIC FUNDS TRANSFERS**

7  
8 Federal Reserve Bank of New York  
9 ABA = 021030004  
10 Account = 68010727  
11 SWIFT address = FRNYUS33  
12 33 Liberty Street  
13 New York, NY 10045  
14 Field Tag 4200 of the Fedwire message should read:  
15 "D 68010727 Environmental Protection Agency "

16 **CHECK PAYMENTS**

17 If payment is made by check, the check should be made payable to the  
18 "Treasurer, United States of America"

19 U.S. Environmental Protection Agency  
20 Fines and Penalties  
21 Cincinnati Finance Center  
22 P.O. Box 979077  
23 St. Louis, MO 63197-9000

24 **OVERNIGHT MAIL:**

25 U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
314-418-4087

In the Matter of:

American Realty & Mortgage Company, Inc.

EPA Docket No. SDWA-09-2007-0004

Administrative Complaint,

Findings of Violation,

Notice of Proposed Assessment of a Civil Penalty, and

Notice of Opportunity to Request a Hearing Thereon

EPA Docket No. SDWA-09-2007-0004

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**CERTIFICATE OF SERVICE**

In the Matter of

American Realty & Mortgage Company, Inc.

EPA Docket No. SDWA-09-2007-0004

I hereby certify that the original of the Final Order was filed with the Regional Hearing Clerk, Region 9, and that a copy was sent, certified mail, return receipt requested, to:

Joseph W. Lee  
Attorney at Law  
32241 S. Center St.  
Wittman, Arizona 85261  
and  
by facsimile: 623-388-2413

April 8, 2008  
Date

Jamelle L. Carr  
Name  
Reg. Hearing Clerk, R9  
Title