

**FILED**

**October 26, 2012**

DEPARTMENT OF REAL ESTATE

By *[Signature]*

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9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 FRANCISCO RIOS, )  
14 Respondent. )

No. H-2787 FR  
ACCUSATION

15  
16 The Complainant, BRENDA SMITH, a Deputy Real Estate Commissioner of the  
17 State of California, for cause of Accusation against FRANCISCO RIOS, also known as Pedro  
18 Esparza, (Respondent), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, BRENDA SMITH, a Deputy Real Estate Commissioner of the  
22 State of California, makes this Accusation in her official capacity.

23 2

24 Respondent is presently licensed and/or has license rights under the Real Estate  
25 Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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1 3

2 At all times mentioned, FRANCISCO RIOS was and is licensed by the  
3 Department as a real estate salesperson. From on or about April 8, 2008, through November 25,  
4 2009, FRANCISCO RIOS was licensed as a real estate salesperson under Edgewater Executive  
5 Mortgage, Inc., a corporate real estate broker. From on or about December 31, 2010, to May 2,  
6 2011, FRANCISCO RIOS was licensed as a real estate salesperson under 4 USA Loans, Inc., a  
7 corporate real estate broker. From on or about May 11, 2011, to July 11, 2012, FRANCISCO  
8 RIOS was licensed as a real estate salesperson under Renwick Penrose Russell, an individual real  
9 estate broker. From on or about July 12, 2012, to the present, FRANCISCO RIOS has had no  
10 broker affiliation.

11 4

12 From on or about July 8, 2006, to July 7, 2010, Yolanda Rios was licensed by the  
13 Department as a real estate salesperson. Beginning on or about January 9, 2008 YOLANDA  
14 RIOS' real estate salesperson license was suspended pursuant to Section 10153.4 of the Code.  
15 At no time after July 7, 2010, was Yolanda Rios licensed by the Department in any capacity. At  
16 no time mentioned was Yolanda Rios affiliated under any real estate broker.

17 5

18 At no time mentioned was Certified Forensic Loan Audits licensed by the  
19 Department in any capacity. Certified Forensic Loan Audits is a fictitious business name owned  
20 by Respondent.

21 6

22 At no time mentioned was Genesis Mortgage Solutions licensed by the  
23 Department in any capacity. Genesis Mortgage Solutions is a fictitious business name owned by  
24 Respondent and Yolanda Rios.

25 7

26 Whenever reference is made in an allegation in this Accusation to an act or  
27 omission of Respondent, such allegation shall be deemed to mean that the employees, agents,

1 real estate licensees, and others employed by or associated with Respondent committed such act  
2 or omission while engaged in furtherance of the business or operations of Respondent and while  
3 acting within the course and scope of their authority and employment.

4 8

5 At all times mentioned herein, Respondent engaged in the business of, acted in the  
6 capacity of, advertised, or assumed to act as a real estate licensee, in the State of California,  
7 within the meaning of:

8 Section 10131(d) of the Code, including the operation and conduct of a mortgage  
9 loan brokerage and/or loan modification business with the public wherein Respondent solicited  
10 lenders and borrowers for or negotiated loans or collected payments and/or performed services  
11 for borrowers or lenders or note owners in connection with loans secured directly or collaterally  
12 by liens on real property for or in expectation of compensation; and,

13 Section 10131.2 of the Code, including the claiming, demanding, charging,  
14 receiving, collecting or contracting for the collection of an advance fee in connection with any  
15 employment undertaken to promote the sale or lease of real property or of a business opportunity  
16 by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or  
17 a business opportunity, or to obtain a loan or loans thereon.

18 FIRST CAUSE OF ACTION

19 9

20 Each and every allegation in Paragraphs 1 through 8, inclusive, above is  
21 incorporated by this reference as if fully set forth herein.

22 10

23 While acting in the course and scope of a real estate licensee as described in  
24 Paragraph 8, Respondent and Yolanda Rios, using the fictitious business names Genesis  
25 Mortgage Solutions and/or Certified Forensic Loan Audits, claimed, demanded, charged,  
26 collected, and/or received advance fees in connection with loan modification services after  
27 October 10, 2009, in violation of Section 10085.6 (unlawful collection of advance fees related to

1 loan modifications) of the Code and Section 2945.4 (unlawful collection of advance fees related  
2 to loan modifications) of the California Civil Code (Civil Code), for transactions, including but  
3 not limited to the following:

<b>Borrower</b>	<b>Property</b>	<b>Advance Fee</b>	<b>Date Received</b>	<b>Status of Loan Modification</b>
Antonia P.	1187 King Street, Parlier, CA	\$1,500	11/6/09	Denied
Eva C.	4029 Anna Avenue, Keyes, CA	\$1,500	2/13/10	Completed
Javier C.	450 Sharon Court, Manteca, CA	\$1,500	6/11/10 & 7/30/10	Completed
Graciela V.	135 Ivy Avenue, Patterson, CA	\$1,000	3/12/10	Completed
Maricela M.	2016 Boise Avenue, Modesto, CA	\$2,500	4/01/10 & 6/10/10	Completed
Juan E.	109 South Fremont Street, Manteca, CA	\$2,500	5/12/10 & 6/24/10	Completed

11

16 In connection with the operation and conduct of the activities and transactions  
17 described in Paragraph 9, Respondent:

18 (a) Claimed, demanded, charged, received, collected and/or contracted for  
19 advance fees in connection with loan modification services and failed to submit the advance fee  
20 agreements and all materials used in obtaining the advance fee agreements to the Department  
21 prior to use, without first obtaining a "No Objection Letter" as required by Sections 10085  
22 (failure to submit materials used in collection of advance fees to Department) of the Code, and  
23 Section 2970 (materials used in collection of advance fees must be approved by Department prior  
24 to use) of Title 10 of the California Code of Regulations (Regulations);

25 (b) Failed to immediately deliver said trust funds to his broker, or at the  
26 broker's direction into the hands of the broker's principal, into a neutral escrow depository, or into  
27 his broker's trust fund account in violation of Section 10145(c) of the Code.

1  
2 The acts and/or omissions of Respondent as alleged above constitute grounds for  
3 the suspension or revocation of all licenses and license rights of Respondent, pursuant to the  
4 following provisions of the Code and Regulations:

5 (a) As to Paragraph 10, under Section 10177(d) (willful disregard or  
6 violation of Real Estate Law) in conjunction with Section 10085.6 (unlawful collection of  
7 advance fees related to loan modifications) of the Code, and/or 10177(g) (negligence or  
8 incompetence in performing licensed act) of the Code, and/or Section 10177(q) (violation of  
9 Civil Code) of the Code, in conjunction with Section 2945.4 (unlawful collection of advance  
10 fees related to loan modifications) of the Civil Code;

11 (b) As to Paragraph 11(a), under Sections 10177(d) (willful disregard or  
12 violation of Real Estate Law) in conjunction with Section 10085 (failure to submit materials  
13 used in collection of advance fees to Department) of the Code and Section 2970 (materials used  
14 in collection of advance fees must be approved by Department prior to use) of the Regulations,  
15 and/or 10177(g) (negligence or incompetence in performing licensed act) of the Code; and

16 (c) As to Paragraph 11(b), under Sections 10177(d) (willful disregard or  
17 violation of Real Estate Law) in conjunction with Sections 10145(c) (trust fund handling) of the  
18 Code.

19 SECOND CAUSE OF ACTION

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21 Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated  
22 by this reference as if fully set forth herein.

23  
24 Beginning on or about November 2009, Respondent, in the course of the real  
25 estate activities described in Paragraph 8, without the knowledge and consent of his employing  
26 real estate broker and using the fictitious business name(s) Genesis Mortgage Solutions and/or  
27 Certified Forensic Loan Audit, solicited lenders and borrowers for or negotiated loans or

1 collected payments and/or performed services for borrowers or lenders or note owners, in  
2 connection with loans secured directly or collaterally by liens on real property for or in  
3 expectation of compensation, including but not limited to the following:

Borrower	Property
Antonia P.	1187 King Street, Parlier, CA
Eva C.	4029 Anna Avenue, Keyes, CA
Javier C.	450 Sharon Court, Manteca, CA
Graciela V.	135 Ivy Avenue, Patterson, CA
Maricela M.	2016 Boise Avenue, Modesto, CA
Juan E.	109 South Fremont Street, Manteca, CA

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11 By the commission of the acts alleged above, Respondent engaged in the business  
12 and acted in the capacity of a real estate broker within the State of California as defined by  
13 Section 10131(d) of the Code.

14 16

15 On or about April 29, 2009, above, Respondent changed his name to Pedro  
16 Esparza and failed to notify the Department of the change within 5 days after the effective date of  
17 the change in violation of Section 2710 of Title 10 of the Regulations.

18 17

19 The facts alleged in the Second Cause of Action are grounds for the suspension or  
20 revocation of the licenses of Respondent under Section 10130 of the Code in conjunction with  
21 10177(d) of the Code.

22 18

23 The facts alleged in Paragraph 16 are grounds for the suspension or revocation of  
24 Respondent's licenses and license rights under Section 10177(d) of the Code in conjunction  
25 with Section 2710 of the Regulations.

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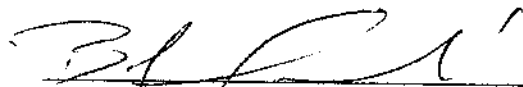
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1 COST RECOVERY

2 19

3 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
4 resolution of a disciplinary proceeding before the Department, the Commissioner may request the  
5 administrative law judge to direct a licensee found to have committed a violation of this part to  
6 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
8 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
9 action against all licenses and license rights of Respondent under the Code, for the cost of  
10 investigation and enforcement as permitted by law, and for such other and further relief as may  
11 be proper under the provisions of law.

12 

13 BREND A SMITH  
14 Deputy Real Estate Commissioner

15 Dated at Fresno, California,  
16 this 16 day of October, 2012

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18 DISCOVERY DEMAND

19 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of  
20 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the  
21 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate  
22 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the  
23 Office of Administrative Hearings deems appropriate.  
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