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FILED

AUG 17 2012

DEPARTMENT OF REAL ESTATE

BY: C-2

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-38347 LA
12)
13 MAGNUS FINANCIAL CORP. and) A C C U S A T I O N
14 KRISTIANA NICOLE COLLINS,)
15 individually and as)
16 designated officer of Magnus)
17 Financial Corp.,)
18 Respondents.)
19)

20 The Complainant, Robin Trujillo, a Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against MAGNUS FINANCIAL CORP. and KRISTIANA NICOLE COLLINS,
23 individually and as designated officer of Magnus Financial Corp.
24 ("Respondents"), is informed and alleges as follows:

25 1.

26 The Complainant, Robin Trujillo, a Deputy Real Estate
27 Commissioner of the State of California, makes this Accusation
28 in her official capacity.

1 2.

2 From June 4, 2008, through June 3, 2012, Respondent
3 MAGNUS FINANCIAL CORP. ("MAGNUS") was licensed by the Department
4 of Real Estate ("Department") as a corporate real estate broker,
5 Department ID 01845066. MAGNUS was licensed to do business as
6 Magnus Financial Co. Respondent MAGNUS' license expired on
7 June 3, 2012. The Department retains jurisdiction pursuant to
8 Business and Professions Code ("Code") Section 10103.
9

10 3.

11 From September 6, 2007, through September 5, 2011,
12 Respondent KRISTIANA NICOLE COLLINS ("COLLINS") was licensed by
13 the Department as a real estate broker, Department ID. 01832431.
14 Respondent COLLINS' license expired on September 5, 2011. The
15 Department retains jurisdiction pursuant to Code Section 10103.
16

17 4.

18 From June 4, 2008, through June 3, 2012, Respondent
19 MAGNUS was acting by and through Respondent COLLINS as its
20 officer pursuant to Code Section 10159.2 to be responsible for
21 ensuring compliance with the Real Estate Law.
22

23 5.

24 Respondent MAGNUS is a California corporation.
25 Philford Floyd Jeffords ("Jeffords") is the Chief Executive
26 Officer and a director of MAGNUS. Elizabeth Venulda Deburgo
27 ("Deburgo") is the Secretary for MAGNUS.
28

6.

Jeffords, Deburgo, David Medina, and Anthony Sison
have never been licensed in any capacity by the Department.

1 7.

2 Business and Professions Code ("Code") Section 10132
3 defines a real estate salesperson as a person who, for
4 compensation or in expectation of compensation, is employed by a
5 licensed real estate broker to do one or more of the acts set
6 forth in Code Sections 10131, 10131.1, 10131.2, 10131.3,
7 10131.4, and 10131.6.

8 8.

9 Pursuant to Code Section 10131, a real estate broker
10 is defined as a person who: (a) sells or offers to sell, buys or
11 offers to buy, solicits prospective sellers or purchasers of,
12 solicits or obtains listing of, or negotiates the purchase, sale
13 or exchange of real property or a business opportunity; or (d)
14 solicits borrowers or lenders for or negotiates loans or
15 collects payment or performs services for borrowers or lenders
16 or note owners in connection with loans secured directly or
17 collaterally by liens on real property or on a business
18 opportunity.

19 9.

20 Code Section 10131.2 defines a real estate broker as a
21 person who engages in the business of claiming, demanding,
22 charging, receiving, collecting or contracting for the
23 collection of an advance fee in connection with any employment
24 undertaken to promote the sale or lease of real property or of a
25 business opportunity by advance fee listing, advertisement or
26 other offering to sell, lease, exchange or rent property or a
27 business opportunity, or to obtain a loan or loans thereon.

10.

Code Section 10026, in pertinent part, defines an advance fee as a fee that is claimed, demanded, charged, received, or collected by a licensee for services requiring a license. A person who proposes to collect an advance fee as defined in Code Section 10026 must submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use, pursuant to Section 2970, Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations ("Regulations"). Code Section 10085 also allows the Commissioner to require that any all materials used in obtaining advance fee agreements, including contract forms, be submitted at least 10 calendar days before they are used.

11.

On October 11, 2009, then Governor Arnold Schwarzenegger signed Senate Bill 94 (Calderon), and the legislation took effect immediately upon his signature. Thus, California law prohibited any person, including real estate licensees and attorneys, from demanding or collecting an advance fee from a consumer for loan modification or mortgage loan forbearance services affecting 1 - 4 unit residential dwellings.

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12.

The following notice was prominently featured on the Department's website as of October 11, 2009:

"IF YOU ARE A REAL ESTATE BROKER, OR THE DESIGNATED OFFICER OF A LICENSED CORPORATION, WHO HAS BEEN ISSUED A "NO OBJECTION" LETTER BY THE DEPARTMENT OF REAL ESTATE FOR LOAN MODIFICATION OR OTHER MORTGAGE LOAN FORBEARANCE SERVICES, YOU CAN NO LONGER ENTER INTO THESE AGREEMENTS EFFECTIVE AS OF OCTOBER 11, 2009, NOR CAN YOU COLLECT ANY ADVANCE FEES FOR SUCH SERVICES. Agreements entered into and advance fees collected prior to October 11, 2009 are not affected. Advance fees inadvertently collected after October 11, 2009 must be fully refunded. All real estate licensees should become familiar with the provisions of SB94 as there are substantial administrative and criminal penalties for violations."

FIRST CAUSE OF ACCUSATION
(ADVANCE FEE VIOLATIONS)

13.

For an unknown period of time beginning no later than October 6, 2009, through the present, Respondents, while doing business as Magnus Financial, Magnus Financial Co., or New Horizon Financial Services, solicited and offered loan services to consumers, including services to assist them in negotiating with lenders, foreclosure forbearance, or obtaining a loan modification. Respondents, while licensed to do business in California, engaged in the business of claiming, demanding, charging receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026

1 including, but not limited to, the following loan activities
2 with respect to loans which were secured by liens on real
3 property.

4 Justin T.

5 14.

6 On or about October 6, 2009, Respondents solicited and
7 offered to assist borrower Justin T. with loan modification and
8 negotiation services. Justin T. entered into a written advance
9 fee agreement with Magnus Financial Co. for loan modification
10 and negotiation services in connection with a loan secured by a
11 lien on real property. Justin T. paid an advance fee of \$2,900
12 to Magnus Financial Co. for loan modification and negotiation
13 services.

14 15.

15 Respondents made misrepresentations to Justin T. in
16 order to induce Justin T. to enter into the advance fee
17 agreement including, among others, that Justin T. would receive
18 a full refund of his advance fee if Magnus Financial Co. could
19 not obtain a loan modification for Justin T. Moreover, on July
20 15, 2010, Justin T. received a notice from Deburgo and Jeffords
21 that Justin T. would be required to pay an additional monthly
22 service fee of \$145 to Magnus Financial Co./New Horizon
23 Financial Services or work on Justin T.'s loan modification
24 would cease. Respondents failed to perform the loan
25 modification and negotiation services that had been promised to
26 Justin T. Respondents failed to provide an accounting of any
27 services done for Justin T. or an accounting of the advance fees
28 collected from Justin T.

16.

Respondents collected the advance fees described in Paragraph 15, above, pursuant to the provisions of a written agreement which constitutes an advance fee agreement within the meaning of Code Section 10085. Respondents failed to submit the advance fee agreement to the Department for review prior to use, in violation of Code Section 10085 and Regulation 2970.

17.

Respondents failed to comply with the requirements for handling of advance fees, in violation of Code Section 10146. Edgar A.

18.

On or about November 12, 2009, Anthony Sison, an unlicensed person working on behalf of Respondents, solicited and offered to assist borrower Edgar A. with loan modification and negotiation services. Edgar A. entered into a written advance fee agreement with Magnus Financial Co. for loan modification and negotiation services in connection with a loan secured by a lien on real property. Edgar A. paid an advance fee of \$2,475 to Magnus Financial Co. for loan modification and negotiation services. Respondents made misrepresentations to Edgar A. in order to induce Edgar A. to enter into the advance fee agreement including, among others, that Edgar A. would receive a full refund of his advance fee if Magnus Financial Co. could not obtain a loan modification for Edgar A.

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1 Najma P.

2 19.

3 On or about November 12, 2009, David Medina, an
4 unlicensed person working on behalf of Respondents, solicited
5 and offered to assist borrower Najma P. with loan modification
6 and negotiation services. Najma P. entered into a written
7 advance fee agreement with Magnus Financial Co. for loan
8 modification and negotiation services in connection with a loan
9 secured by a lien on real property. Najma P. paid an advance
10 fee of \$3,000 to Magnus Financial Co. for loan modification and
11 negotiation services. Respondents made misrepresentations to
12 Najma P. in order to induce Najma P. to enter into the advance
13 fee agreement including, among others, that Najma P. would
14 receive a full refund of her advance fee if Magnus Financial Co.
15 could not obtain a loan modification for Najma P. .

16 Alice C.

17 20.

18 On or about December 2, 2009, Respondents solicited
19 and offered to assist borrower Alice C. with loan modification
20 and negotiation services. Alice C. entered into a written
21 advance fee agreement with Magnus Financial Co. for loan
22 modification and negotiation services in connection with a loan
23 secured by a lien on real property. Alice C. paid an advance
24 fee of \$3,000 to Magnus Financial Co. for loan modification and
25 negotiation services. Respondents made misrepresentations to
26 Alice C. in order to induce Alice C. to enter into the advance
27 fee agreement including, among others, that Alice C. would
28

1 receive a full refund of her advance fee if Magnus Financial Co.
2 could not obtain a loan modification for Alice C..

3 21.

4 The conduct, acts and/or omissions of Respondents as
5 set forth above are in violation of Code Sections 10085,
6 10085.5, 10085.6, 10146 and Regulation Section 2970 and
7 constitute grounds for the suspension or revocation of the
8 licenses and license rights of Respondents pursuant to Code
9 Sections 10177(d) or 10177(g).

10 22.

11 Respondents' conduct, acts and/or omissions as set
12 forth above constitute grounds for the suspension or revocation
13 of the licenses and license rights of Respondents pursuant to
14 Code Sections 10176(a) (making any substantial
15 misrepresentation), 10176(b) (making any false promises of a
16 character likely to influence, persuade or induce), 10176(i)
17 (conduct...which constitutes fraud or dishonest dealing), 10177(d)
18 (violation of the Real Estate Law), and/or 10177(g)
19 (negligence).

20 23.

21 The conduct, acts and/or omissions of Respondent
22 COLLINS, in allowing Respondent MAGNUS to violate the Real
23 Estate Law, as set forth above, constitutes a failure by
24 Respondent COLLINS, as the officer designated by the corporate
25 broker licensee, to exercise the supervision and control over
26 the activities of Respondent MAGNUS, as required by Code Section
27 10159.2 and Regulation 2725, and is cause to suspend or revoke
28

1 the real estate license and license rights of Respondent COLLINS
2 under Code Sections 10177(h), 10177(d) and/or 10177(g).

3 SECOND CAUSE OF ACCUSATION
4 (Unlicensed Activity)

5 24.

6 There is hereby incorporated in this Second, separate,
7 Cause of Accusation, all of the allegations contained in
8 Paragraphs 1 through 23 above, with the same force and effect as
9 if herein fully set forth.

10 25.

11 The activities described in Paragraphs 13 through 20,
12 above, require a real estate broker license under Code Sections
13 10131(d) and 10131.2. Respondents violated Code Section 10137
14 by employing and/or compensating unlicensed individuals
15 including Jeffords, Deburgo, David Medina, and Anthony Sison to
16 perform activities requiring a license.

17 26.

18 The conduct, acts and/or omissions of Respondents as
19 set forth in Paragraph 23 above, violate Code Section 10137, and
20 are cause for the suspension or revocation of the licenses and
21 license rights of Respondents pursuant to Code Sections 10137,
22 10177(d) and/or 10177(g).

23 27.

24 The conduct, acts and/or omissions of Respondent
25 COLLINS, in allowing Respondent MAGNUS to violate the Real
26 Estate Law, as set forth above, constitutes a failure by
27 Respondent COLLINS, as the officer designated by the corporate
28

1 broker licensee, to exercise the supervision and control over
2 the activities of Respondent MAGNUS, as required by Code Section
3 10159.2 and Regulation 2725, and is cause to suspend or revoke
4 the real estate license and license rights of Respondent COLLINS
5 under Code Sections 10177(h), 10177(d) and/or 10177(g).

7 THIRD CAUSE OF ACCUSATION
8 (Office Abandonment)

9 28.

10 There is hereby incorporated in this Third, separate
11 Cause of Accusation, all of the allegations contained in
12 Paragraphs 1 through 7, above, with the same force and effect as
13 if herein fully set forth.

14 29.

15 The current business address and mailing address
16 maintained by Respondents MAGNUS and COLLINS with the Department
17 is 3250 Wilshire Blvd. #1709, Los Angeles, California 90010.
18 Respondents are no longer located at this address nor have
19 Respondents informed the Real Estate Commissioner of any new
20 address, nor are Respondents presently maintaining any definite
21 place of business in the State of California which shall serve
22 as their office for the transaction of business requiring a real
23 estate license.

24 30.

25 The acts and omissions of Respondents, as set forth
26 above, are in violation of Code Section 10162 and are grounds
27 for the suspension or revocation of the licenses and license
28 rights of Respondents pursuant to Code Section 10177(d) and/or

1 10177(g).

2 31.

3 The conduct, acts and/or omissions of Respondent
4 COLLINS, in allowing Respondent MAGNUS to violate the Real
5 Estate Law, as set forth above, constitutes a failure by
6 Respondent COLLINS, as the officer designated by the corporate
7 broker licensee, to exercise the supervision and control over
8 the activities of Respondent MAGNUS, as required by Code Section
9 10159.2 and Regulation 2725, and is cause to suspend or revoke
10 the real estate license and license rights of Respondent COLLINS
11 under Code Sections 10177(h), 10177(d) and/or 10177(g).
12

13 32.

14 Code Section 10106 provides, in pertinent part, that
15 in any order issued in resolution of a disciplinary proceeding
16 before the Department of Real Estate, the Commissioner may
17 request the administrative law judge to direct a licensee found
18 to have committed a violation of this part to pay a sum not to
19 exceed the reasonable costs of the investigation and enforcement
20 of the case.

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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 licenses and license rights of Respondents
5 MAGNUS FINANCIAL CORP. and KRISTIANA NICOLE COLLINS under the
6 Real Estate Law (Part 1 of Division 4 of the Business and
7 Professions Code), for the cost of investigation and enforcement
8 as permitted by law, and for such other and further relief as
9 may be proper under other provisions of law.

10 Dated at Los Angeles, California

11 this 2 day of August, 2012.

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13 
14 ROBIN TRUJILLO
15 Deputy Real Estate Commissioner
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23 cc: Magnus Financial Corp.
24 Kristiana Nicole Collins
25 Robin Trujillo
26 Sacto
27
28