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**FILED**

JUN 18 2014

BUREAU OF REAL ESTATE

By: *K. Contreras*

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
 )  
MFS/TA INC., )  
ROBERT ALLEN KISLING, and )  
BARBARA LEE McMANUS, )  
 )  
Respondents. )

No. H-4314 SD

ORDER EXTENDING TIME

On April 17, 2014, a Stipulation and Agreement was entered into between the Bureau of Real Estate ("Bureau") and MFS/TA INC. ("MFS") and ROBERT ALLEN KISLING ("KISLING") herein suspending MFS' corporate real estate broker license and KISLING'S real estate broker license each for a period of ninety (90) days with the following conditions:

1. Sixty (60) days of the suspension of MFS and KISLING are stayed, and each was given the right to buyout the remaining thirty (30) days at a rate of \$100 per day;
2. Joint and several liability for MFS and KISLING to pay the Bureau's audit costs, the costs of a follow-up audit, and the investigation costs;

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- 3. Joint and several liability by MFS and KISLING to provide proof of repayment of advance fees collected from clients, as set forth in the Accusation; and
- 4. Successful completion by KISLING of the Professional Responsibility Examination administered by the Bureau, including the appropriate examination fee, and a trust fund handling course.

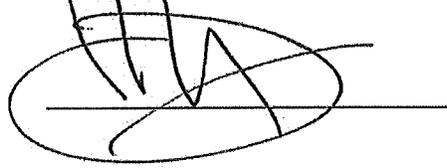
MFS and KISLING have requested additional time to complete the terms and conditions of the Stipulation and Agreement.

Good cause having been shown, the time during which Respondents MFS/TA, INC. and ROBERT ALLEN KISLING must complete the terms and conditions of the Stipulation and Agreement herein is hereby extended to July 31, 2014.

This Order shall be effective immediately.

DATED: June 18, 2014

Real Estate Commissioner



By: JEFFREY MASON  
Chief Deputy Commissioner

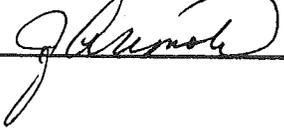
1 BUREAU OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8670

**FILED**

APR 17 2014

BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-4314 SD  
13 )  
14 MFS/TA, INC., ROBERT ALLEN ) STIPULATION AND AGREEMENT  
KISLING and BARBARA MCMANUS, )  
15 ) (As to MFS/TA, Inc. and  
Respondents. ) Robert Allen Kisling only  
16 )

17 It is hereby stipulated by and between Respondents MFS/TA, INC. ("MFS")  
18 and ROBERT ALLEN KISLING ("KISLING"), (collectively "Respondents"), acting by and  
19 through Rizza Gonzales, Counsel for Respondents, and the Complainant, acting by and through  
20 John W. Barron, Counsel for the Bureau of Real Estate, as follows for the purpose of settling  
21 and disposing of the Third Amended Accusation filed on August 28, 2013, in this matter:

22 1. All issues which were to be contested and all evidence which was to be  
23 presented by Complainant and Respondents at a formal hearing on the Accusation, which  
24 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
25 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions  
26 of this Stipulation and Agreement.

27 2. Respondents have received, read and understand the Statement to

1 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department  
2 of Real Estate in this proceeding.

3           3.       On January 6, 2012, Respondents filed a Notice of Defense pursuant to  
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the  
5 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice  
6 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said  
7 Notice of Defense, Respondents will thereby waive Respondents' right to require the  
8 Commissioner to prove the allegations in the Accusation at a contested hearing held in  
9 accordance with the provisions of the APA and that Respondents will waive other rights  
10 afforded to Respondents in connection with the hearing such as the right to present evidence in  
11 defense of the allegations in the Accusation and the right to cross-examine witnesses.

12           4.       This Stipulation is based on the factual allegations contained in the  
13 Accusation. In the interest of expedience and economy, Respondents choose not to contest  
14 these factual allegations, but to remain silent and understand that, as a result thereof, these  
15 factual statements will serve as a prima facie basis for the "Determination of Issues" and  
16 "Order" set forth below. The Real Estate Commissioner shall not be required to provide further  
17 evidence to prove such allegations.

18           5.       This Stipulation and Respondents' decision not to contest the Accusation  
19 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
20 limited to this proceeding and any other proceeding or case in which the Bureau of Real Estate,  
21 the State or the federal government, an agency of this State, or an agency of another state is  
22 involved.

23           6.       It is understood by the parties that the Real Estate Commissioner may  
24 adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty  
25 and sanctions on Respondents' real estate licenses and license rights as set forth in the "Order"  
26 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and  
27 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing



1 10131.2 (collection of advance fees), 10137 (payment of compensation to salesperson not  
2 employed by broker), 10140 (false advertising), 10145 (advance fees), 10146 (deposit of  
3 advance fees into trust account), 10148 (retention of records), 10159.5 (fictitious business  
4 name), 10160 (possession of salesperson license by broker), 10177(d) (violation of real estate  
5 law), 10177(j) (fraud), 10235 (misleading advertising) and 10235.5 (license disclosure) of the  
6 Code; and Sections 2726 (broker-salesperson relationship agreements), 2731 (fictitious  
7 business name), 2753 (retention of salesperson license by broker), 2831 (trust fund records),  
8 2831.1 (maintenance of separate records for each beneficiary or transaction), 2831.2 (trust  
9 account reconciliation), 2832 (trust fund handling), 2834 (trust account withdrawals), 2848  
10 (advertising criteria), 2970 (submission of advance fee materials) and 2972 (verified  
11 accounting) of Title 10 of the California Code of Regulations.

12 ORDER

13 1

14 All licenses and licensing rights of MFS under the Real Estate Law are suspended  
15 for a period of ninety (90) days from the effective date of this Order; provided, however, that:

16 1. Sixty (60) days of said suspension shall be stayed, upon the condition that  
17 MFS petitions pursuant to Section 10175.2 of the Business and Professions Code and pays a  
18 monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of  
19 \$100 for each day of the suspension for a total monetary penalty of \$6,000.

20 a. Said payment shall be in the form of a cashier's check or certified  
21 check made payable to the Recovery Account of the Real Estate Fund. Said check must be  
22 delivered to the Bureau prior to the effective date of the Decision in this matter.

23 b. No further cause for disciplinary action against the real estate  
24 license of MFS occurs within two (2) years from the effective date of the decision in this matter.

25 c. If MFS fails to pay the monetary penalty in accordance with the  
26 terms and conditions of the Decision, the Commissioner shall, without a hearing, order the  
27 immediate execution of all or any part of the stayed suspension, in which event, MFS shall not

1 be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau  
2 under the terms of this decision.

3 d. If MFS pays the monetary penalty, and if no further cause for  
4 disciplinary action against the real estate license of MFS occurs within two (2) years from the  
5 effective date of the Decision herein, then the stay hereby granted shall become permanent.

6 2. The remaining thirty (30) days of said suspension shall be stayed for two  
7 (2) years upon the following terms and conditions:

8 a. MFS shall obey all laws, rules and regulations governing the  
9 rights, duties and responsibilities of a real estate licensee in the State of California; and

10 b. That no final subsequent determination be made, after hearing or  
11 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
12 effective date of this Order. Should such a determination be made, the Commissioner shall, in  
13 his discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed  
14 suspension. Should no such determination be made, the stay imposed herein shall become  
15 permanent.

16 2

17 All licenses and licensing rights of KISLING under the Real Estate Law are  
18 suspended for a period of ninety (90) days from the effective date of this Order; provided,  
19 however, that:

20 1. Sixty (60) days of said suspension shall be stayed, upon the condition that  
21 KISLING petitions pursuant to Section 10175.2 of the Business and Professions Code and pays  
22 a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate  
23 of \$100 for each day of the suspension for a total monetary penalty of \$6,000.

24 a. Said payment shall be in the form of a cashier's check or certified check  
25 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to  
26 the Bureau prior to the effective date of the Decision in this matter.

27 b. No further cause for disciplinary action against the real estate license of

1 KISLING occurs within two (2) years from the effective date of the decision in this matter.

2 c. If KISLING fails to pay the monetary penalty in accordance with the  
3 terms and conditions of the Decision, the Commissioner shall, without a hearing, order the  
4 immediate execution of all or any part of the stayed suspension, in which event, KISLING shall  
5 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Bureau  
6 under the terms of this decision.

7 d. If KISLING pays the monetary penalty, and if no further cause for  
8 disciplinary action against the real estate license of KISLING occurs within two (2) years from  
9 the effective date of the Decision herein, then the stay hereby granted shall become permanent.

10 2. The remaining thirty (30) days of said suspension shall be stayed for two  
11 (2) years upon the following terms and conditions:

12 a. KISLING shall obey all laws, rules and regulations governing the rights,  
13 duties and responsibilities of a real estate licensee in the State of California; and

14 b. That no final subsequent determination be made, after hearing or upon  
15 stipulation, that cause for disciplinary action occurred within two (2) years from the effective  
16 date of this Order. Should such a determination be made, the Commissioner shall, in his  
17 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed  
18 suspension. Should no such determination be made, the stay imposed herein shall become  
19 permanent.

20 3. KISLING shall, within six (6) months from the effective date of this Order,  
21 take and pass the Professional Responsibility Examination administered by the Bureau,  
22 including the payment of the appropriate examination fee. If KISLING fails to satisfy this  
23 condition, KISLING's real estate license shall automatically be suspended until KISLING  
24 passes the examination.

25 ///

26 ///



1 the estimated average hourly salary for all persons performing audits of real estate brokers, and  
2 shall include an allocation for travel time to and from the auditor's place of work. Respondents  
3 shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
4 Commissioner detailing the activities performed during the audit and the amount of time spent  
5 performing those activities. If Respondents fail to pay such cost within the sixty (60) days, the  
6 Commissioner shall automatically suspend all licenses and licensing rights of Respondents  
7 under the Real Estate Law until payment is made in full or until Respondents enter into an  
8 agreement satisfactory to the Commissioner to provide for payment, or until a decision  
9 providing otherwise is adopted following a hearing held pursuant to this condition. Upon full  
10 payment, the indefinite suspension provided for in this paragraph shall be stayed.

11 3. All licenses and licensing rights of Respondents are indefinitely suspended  
12 unless or until Respondents, jointly and severally, pay the sum of \$4,592.75 for the  
13 Commissioner's reasonable cost of the investigation and enforcement which led to this  
14 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
15 made payable to the Real Estate Fund and mailed to: Bureau of Real Estate, P. O. Box 137007,  
16 Sacramento, CA 95813-7007 or delivered to the Bureau of Real Estate at 1651 Exposition  
17 Boulevard, Sacramento, CA 95815. Said check must be received by the Bureau prior to the  
18 effective date of the Order in this matter.

19 4. Respondents, jointly and severally, shall within ninety (90) days of the  
20 effective date of this Order provide proof satisfactory to the Commissioner that for each of the  
21 58 clients identified in Attachment E-1 of the Audit Report herein from whom Respondents  
22 collected an advance fee prior to the Bureau's approval of the advance fee materials used by  
23 Respondents, that Respondent did one of the following for each of those clients:

24 a. Repaid the advance fee collected from them; or

25 b. Obtained a loan modification for each client without additional fees or

26 costs to the client beyond the advance fees collected by Respondents.

27 If Respondents are unable to provide proof satisfactory to the Commissioner that all clients

1 identified above have been repaid or received loan modifications as noted, the parties shall  
2 have the right to proceed to a hearing on the issues.

3 3/3/14  
4 \_\_\_\_\_  
5 DATED

JOHN W. BARRON, Counsel  
Bureau of Real Estate

6 \* \* \*

7 I have read the Stipulation and Agreement and its terms are understood by me  
8 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by  
9 the California Administrative Procedure Act (including but not limited to Sections 11506,  
10 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and  
11 voluntarily waive those rights, including the right of requiring the Commissioner to prove the  
12 allegations in the Accusation at a hearing at which I would have the right to cross-examine  
13 witnesses against me and to present evidence in defense and mitigation of the charges.

14  
15 3/3/14  
16 \_\_\_\_\_  
17 DATED

ROBERT ALLEN KISLING,  
Respondent and as the Designated  
Officer/Broker for Respondent  
MFS/TA, INC.

18 \* \* \*

19  
20 *I have reviewed this Stipulation and Agreement and Order as to form and*  
21 *content and have advised my client accordingly.*

22 3/3/14  
23 \_\_\_\_\_  
24 DATED

RIZZA GONZALES  
Attorney for Respondents, MFS/TA, INC.  
and ROBERT ALLEN KISLING

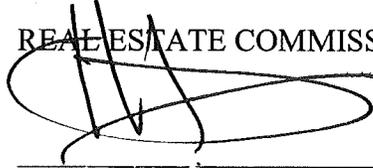
25 \* \* \*

26 The foregoing Stipulation and Agreement is hereby adopted by me as my  
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Decision in this matter as to Respondents MFS/TA, INC. and ROBERT ALLEN KISLING and shall become effective at 12 o'clock noon on MAY 08 2014.

IT IS SO ORDERED APR 11 2014.

REAL ESTATE COMMISSIONER  


By: JEFFREY MASON  
Chief Deputy Commissioner

1  
2 BUREAU OF REAL ESTATE  
3 P. O. Box 137007  
4 Sacramento, CA 95813-7007  
5 Telephone: (916) 263-8670

**FILED**

APR 17 2014

BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) NO. H-4314 SD  
13 MFS/TA, INC., )  
14 ROBERT ALLEN KISLING and ) STIPULATION AND AGREEMENT  
15 BARBARA LEE MCMANUS, ) IN SETTLEMENT AND ORDER  
16 Respondents. ) (As to Barbara Lee McManus Only)

17 It is hereby stipulated by and between Respondent BARBARA LEE MCMANUS,  
18 (“Respondent”), and her attorney, Edward O. Lear, and the Complainant, acting by and through  
19 John W. Barron, Counsel for the Bureau of Real Estate (“the Bureau”), as follows for the purpose  
20 of settling and disposing of the Third Amended Accusation, only as it pertains to Respondent,  
21 filed on August 28, 2013, in this matter (“the Accusation”):

22 1. All issues which were to be contested and all evidence which was to be  
23 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing  
24 was to be held in accordance with the provisions of the Administrative Procedure Act (APA),  
25 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
26 Stipulation and Agreement in Settlement and Order.

1                   2. Respondent has received, read and understands the Statement to Respondent,  
2 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.

3                   3. A Notice of Defense was filed on March 22, 2012, by Respondent, pursuant to  
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the  
5 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice  
6 of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of  
7 Defense, she will thereby waive her right to require the Commissioner to prove the allegations  
8 in the Accusation at a contested hearing held in accordance with the provisions of the APA and  
9 that she will waive other rights afforded to her in connection with the hearing such as the right  
10 to present evidence in defense of the allegations in the Accusation and the right to cross-  
11 examine witnesses.

12                   4. This Stipulation and Agreement in Settlement and Order is based on the  
13 factual allegations contained in the Accusation. In the interests of expedience and economy,  
14 Respondent choses not to contest these allegations at hearing, but rather understands that, as a  
15 result thereof, these allegations, without being admitted or denied, will serve as a prima facie  
16 basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not  
17 be required to provide further evidence to prove said factual allegations.

18                   5. This Stipulation and Respondent's decision not to contest the Accusation are  
19 made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
20 limited to this proceeding and any other proceeding or case in which the Bureau, the state or  
21 federal government, an agency of this state, or an agency of another state is involved.

22                   6. It is understood by the parties that the Real Estate Commissioner may adopt  
23 the Stipulation and Agreement in Settlement and Order as his decision in this matter thereby  
24 imposing the penalty and sanctions on Respondent's real estate licenses and license rights as  
25 set forth in the below "Order". In the event that the Commissioner in his discretion does not  
26 adopt the Stipulation and Agreement in Settlement and Order, it shall be void and of no effect,  
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1 and Respondent shall retain the right to a hearing and proceeding on the Accusation under all  
2 the provisions of the APA and shall not be bound by any admission or waiver made herein.

3 7. The Order or any subsequent Order of the Real Estate Commissioner made  
4 pursuant to this Stipulation and Agreement in Settlement and Order shall not constitute an  
5 estoppel, merger, or bar to any further administrative or civil proceedings by the Bureau with  
6 respect to any matters which were not specifically alleged to be causes for accusation in this  
7 proceeding.

#### 8 DETERMINATION OF ISSUES

9 The acts and omissions of Respondent as described in the Accusation are  
10 grounds for the suspension or revocation of the license and license rights of Respondent under  
11 Sections 10137 (employment by and/or acceptance of compensation from someone other than  
12 employing broker), and 10177(d) (willful disregard/violation of Real Estate Law) and/or  
13 10177(g) (negligence/incompetence) of the Code.

#### 14 ORDER

15 1. All licenses and licensing rights of Respondent under the Real Estate Law  
16 are suspended for a period of sixty (60) days from the effective date of this Order; provided,  
17 however, that:

18 1. Thirty (30) days of said suspension shall be stayed, upon the condition  
19 that Respondent petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty  
20 pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$50.00 for each of  
21 the remaining 30-days of the suspension for a total monetary penalty of \$1,500.00.

22 a. Said payment shall be in the form of a cashier's check or certified  
23 check made payable to the Consumer Recovery Account of the Real Estate Fund. Said check  
24 must be delivered to the Bureau prior to the effective date of the Decision in this matter.

25 b. No further cause for disciplinary action against the real estate  
26 license of Respondent occurs within two (2) years from the effective date of the decision in this  
27 matter.



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I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California APA (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

February 28, 2014  
DATED

Barbara Lee McManus  
BARBARA LEE McMANUS  
Respondent

\*\*\*

I have reviewed this Stipulation and Agreement In Settlement and Order as to form and content and have advised my client accordingly.

2/28/14  
DATED

Edward O. Lear  
EDWARD O. LEAR  
Attorney for Respondent

\*\*\*

The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on

MAY 08 2014

IT IS SO ORDERED APR 11 2014

REAL ESTATE COMMISSIONER

Jeffrey Mason

By: JEFFREY MASON  
Chief Deputy Commissioner

1 JOHN W. BARRON, Counsel (SBN 171246)  
Bureau of Real Estate  
2 P.O. Box 137007  
3 Sacramento, CA 95813-7007

**FILED**

4 Telephone: (916) 263-8670  
5 (916) 263-8680 (Direct)

AUG 28 2013

BUREAU OF REAL ESTATE

By K. Contreras

8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 MFS/TA, INC., ) NO. H-4314 SD  
14 ROBERT ALLEN KISLING and )  
BARBARA LEE McMANUS, ) THIRD AMENDED  
15 Respondents. ) ACCUSATION  
16 )

17 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
18 of the State of California, for cause of Third Amended Accusation against MFS/TA, INC.,  
19 individually and doing business as "Future Security Financial", "Golden Real Estate Group",  
20 "Golden Valley Lending Group", "Millennium Financial Systems", "Millennium Real Estate  
21 Group", "Nationwide Loan Modification Services" and "RK Funding" ("MFS"); ROBERT  
22 ALLEN KISLING, individually and doing business as "Associated Financial Systems",  
23 "Millennium Financial Systems" and "V.A. Mortgage Express" ("KISLING"); and, BARBARA  
24 LEE McMANUS ("McMANUS") (herein collectively "Respondents"); is informed and alleges  
25 as follows:

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27 The Complainant makes this Third Amended Accusation in her official capacity.

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MFS is presently licensed by the Bureau of Real Estate (hereinafter "the Bureau") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code") as a corporate real estate broker.

3

KISLING is presently licensed and/or has license rights under the Code as a real estate broker, and is licensed by the Bureau as the designated broker/officer of MFS. As the designated broker/officer, KISLING was responsible, pursuant to Section 10159.2 (responsibility of corporate officer in charge) of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of MFS for which a real estate license is required.

4

KISLING is presently licensed and/or has license rights under the Code as a mortgage loan originator.

5

McMANUS is presently licensed by the Bureau and/or has license rights under the Code as a real estate salesperson. At all times relevant, neither MFS nor KISLING were the employing broker for McMANUS.

6

Joel Saul Hernandez is presently licensed by the Bureau and/or has license rights under the Code as a real estate salesperson.

7

At all times relevant herein, Sandi Alonzo (also known as "Sandra Lee Alonzo") was not licensed by the Bureau in any capacity in the State of California.

8

At all times relevant herein, MFS performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation

1 of compensation: negotiate one or more loans for, or perform services for, borrowers and/or  
2 lenders with respect to the collection of advance fees and loan modification, loan refinance,  
3 principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders  
4 in connection with loans secured directly or collaterally by one or more liens on real property;  
5 operated and conducted a loan brokerage business with the public, wherein, on behalf of others,  
6 for compensation or in expectation of compensation, Respondents solicited lenders and  
7 borrowers for loans secured directly or collaterally by liens on real property, and wherein  
8 Respondents arranged, negotiated, processed and consummated such loans; and charged,  
9 demanded or collected an advance fee for any of the services offered.

10 FIRST CAUSE OF ACTION

11 9

12 In or about the period of June 22, 2011, and continuing intermittently through  
13 June 24, 2011, an audit was conducted of the records of MFS at its main office located at  
14 105 N. Rose Street, Suite 201, Escondido, California, and the Bureau's Oakland District Office.  
15 The auditor herein examined the records for the period of May 1, 2008, through April 30, 2011  
16 (the audit period).

17 10

18 While acting as a real estate broker as described in Paragraph 8, above, and within  
19 the audit period, MFS accepted or received funds in trust (trust funds) from or on behalf of  
20 lenders, investors, borrowers and others in connection with the sale/resale of real estate,  
21 mortgage and loan brokerage activities, and deposited or caused to be deposited those funds into  
22 a bank account maintained by MFS, including, but not limited to:

23 Bank Account #1

24 1<sup>st</sup> Centennial Bank/First California Bank  
25 320 West Mission Avenue  
Escondido, CA 92025

26 Account No.: XXXXX9984

27 Account Name: Abell Escrow

1 Signatories: Robert Kisling, REB/D.O.  
2 Madeleine Kisling, Not licensed

3 Thereafter, MFS from time-to-time made disbursement of said trust funds.

4 11

5 In the course of the activities described in Paragraph 8, above, in connection with  
6 the collection and disbursement of trust funds:

7 (a) MFS failed to maintain adequate trust records resulting in an inability by  
8 the Bureau's auditor to conduct a reconciliation of the adjusted bank balance to the accountability  
9 of Bank Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code.

10 (b) MFS failed to designate Bank #1 as a trust account. Such acts and/or  
11 omissions by MFS violate Section 10145 of the Code and Section 2832 (trust fund handling) of  
12 Title 10 of the California Code of Regulations ("the Regulations").

13 (c) MFS failed to maintain adequate Control Records for Bank Account #1.  
14 Such acts and/or omissions by MFS violate Section 2831 (trust fund records maintenance) of the  
15 Regulations.

16 (d) MFS allowed non-licensee Madeleine Kisling to withdraw funds from Bank  
17 Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code and Section  
18 2834 (trust account withdrawals) of the Regulations.

19 (e) MFS failed to deposit advance fees it collected into a trust account. Such  
20 acts and/or omissions by MFS violate Section 10146 (deposit of advance fees into trust account)  
21 of the Code and Section 2832 (trust fund handling) of the Regulations.

22 (f) MFS failed to maintain a separate record for each beneficiary of Bank  
23 Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code and  
24 Section 2831.1 (maintenance of separate records for each beneficiary or transaction) of the  
25 Regulations.

26 (g) MFS failed to maintain accurate written monthly reconciliations for the  
27 balances of all of the separate records with the control records for Bank Account #1. Such acts

1 and/or omissions by MFS violate Section 10145 of the Code and Section 2831.2 (trust account  
2 reconciliation) of the Regulations.

3 (h) MFS failed to furnish a verified copy of the accounting with respect to  
4 advance fees it collected to the principals at the end of each calendar quarter and when each  
5 contract was completely performed by MFS. Such acts and/or omissions by MFS violate  
6 Section 10146 of the Code and Section 2972 (verified accounting content) of the Regulations.

7 (i) MFS failed to retain cancelled checks from Bank Account #1 and failed  
8 to retain communications with lenders for loan modifications in its transaction files. Such  
9 acts and/or omissions by MFS violate Section 10148 (record retention requirements) of the  
10 Code.

11 12

12 The acts and/or omissions of MFS as alleged in Paragraph 11, above, violate  
13 Sections 10145, 10146 and 10148 of the Code, and Sections 2831, 2831.1, 2831.2, 2832, 2834  
14 and 2972 of the Regulations.

15 13

16 The facts alleged in Paragraph 11, above, are grounds for the suspension or  
17 revocation of the license(s) and license rights of MFS under Sections 10177(d) (willful disregard  
18 of Real Estate Law) and/or 10177(g) (negligence/incompetence) of the Code. In addition, the  
19 Bureau is entitled to reimbursement for the costs of its audit pursuant to Section 10148(b) (cost  
20 of audit in final decision following disciplinary hearing) of the Code.

21 SECOND CAUSE OF ACTION

22 14

23 On or about March 9, 2009, Sandra Alonzo, while in the employ of and  
24 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
25 modification services contract with Juan F. and Ysabel C. Under the terms of the loan  
26 modification services contract, MFS agreed to negotiate a loan modification on behalf of Juan F.  
27 and Ysabel C. for their real property located at 4063 Poppy Place, San Diego, California, in

1 exchange for an advance fee payment of \$3,500.00. On or about March 11, 2009, Juan F. and  
2 Ysabel C., paid to MFS \$3,500.00 for loan modification services.

3 15

4 After receiving advance fee payments from Juan F. and Ysabel C., MFS failed to  
5 obtain a loan modification for them and did not repay the advance fees received from them.  
6 MFS's failure to provide the services promised or to refund the funds paid by Juan F. and  
7 Ysabel C., constitutes dishonest dealing.

8 16

9 The facts alleged in Paragraphs 14 and 15, above, are grounds for the suspension  
10 or revocation of the license(s) and license rights of MFS under Sections 10085 (advance fee  
11 agreements and materials), 10085.6 (collection of unauthorized advance fees), 10131.2  
12 (collection of advance fees), 10177(d) and/or 10177(g), and 10177(j) (fraud or dishonest dealing)  
13 of the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

14 THIRD CAUSE OF ACTION

15 17

16 On or about March 11, 2009, Joel Saul Hernandez, while in the employ of and  
17 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
18 modification services contract with Juan G., Adriana M., and Zoilo S. Under the terms of the  
19 loan modification services contract, MFS agreed to negotiate a loan modification on behalf of  
20 Juan G., Ysabel C., and Zoilo S. for their real property located at 2274 Montemar Avenue,  
21 Escondido, California, in exchange for an advance fee payment of \$3,000.00. On or about  
22 March 12, 2009, Juan G., Adriana M., and Zoilo S. paid \$1,500.00 in advance fees to MFS as  
23 partial payment for loan modification services. On or about June 8, 2009, Juan G., Adriana M.,  
24 and Zoilo S., paid the remaining advance fees of \$1,500.00 to MFS for loan modification services.

25 18

26 After receiving advance fee payments from Juan G., Adriana M., and Zoilo S.,  
27 MFS failed to obtain a loan modification for them and did not repay the advance fees received

1 from them. MFS's failure to provide the services promised or to refund the funds paid by  
2 Juan G., Adriana M., and Zoilo S., constitutes dishonest dealing.

3 19

4 The facts alleged in Paragraphs 17 and 18, above, are grounds for the suspension  
5 or revocation of the license(s) and license rights of MFS under Sections 10085, 10085.6,  
6 10131.2, 10177(d) and/or 10177(g), and 10177(j) of the Code, and Section 2970 of the  
7 Regulations.

8 FOURTH CAUSE OF ACTION

9 20

10 In connection with the collection and handling of advance fees as alleged in  
11 Paragraphs 13 through 18, above, MFS failed to submit the advance fee contract and all  
12 materials used in obtaining those advance fees to the Bureau for approval, prior to their use in  
13 obtaining the advance fees.

14 21

15 The acts and/or omissions of MFS as alleged in Paragraph 19, above, violate  
16 Sections 10085.5, 10085.6 and 10177(d) in conjunction with Section 10085 of the Code, and  
17 Section 2970 of the Regulations.

18 22

19 The facts alleged in Paragraph 20, above, are grounds for the suspension or  
20 revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of  
21 the Code.

22 FIFTH CAUSE OF ACTION

23 23

24 MFS used the fictitious business names of "Nationwide Loan Modification  
25 Services" and "Nationwide Modification Services" in conducting the loan modification activity  
26 set forth in Paragraphs 13 through 18, above, without first obtaining licenses bearing those  
27 fictitious business names from the Bureau.

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The acts and/or omissions of MFS as alleged in Paragraph 23, above, violate Section 10159.5 (fictitious business name) of the Code, and Section 2731 (use of false or fictitious business name) of the Regulations.

25

The facts alleged in Paragraph 23, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SIXTH CAUSE OF ACTION

26

In or about the period of March 2009 through August 2009, McMANUS conducted loan modification activities on behalf of MFS in at least four (4) real estate transactions. In exchange for those activities, McMANUS was paid \$500.00 for each transaction by MFS.

27

While performing the activities alleged in Paragraph 26, above, McMANUS was not licensed under the real estate broker license of either MFS or KISLING.

28

The acts and/or omissions by McMANUS as alleged in Paragraphs 26 and 27, above, violate Section 10137 (employment by and/or acceptance of compensation from someone other than employing broker) of the Code.

29

The facts alleged in Paragraphs 26 and 27, above, are grounds for the suspension or revocation of McMANUS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

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The acts and/or omissions by MFS as alleged in Paragraphs 26 and 27, above, violate Section 10137 (payment of compensation to salesperson not employed under broker's license) of the Code.

31

The facts alleged in Paragraphs 26 and 27, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SEVENTH CAUSE OF ACTION

32

The Broker-Salesman Relationship Agreement between MFS and the following real estate salespersons employed by MFS failed to address material aspects of their relationship related to supervision of activities by KISLING:

- Philip Mitchell Anderson
- Christopher Filasky
- Sheryl Ann Alvarado

33

The acts and/or omissions of MFS as alleged in Paragraph 32, above, violate Section 2726 (required contents of broker-salesperson relationship agreements) of the Regulations.

34

The facts alleged in Paragraph 32, above, are grounds for the suspension or revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

EIGHTH CAUSE OF ACTION

35

MFS failed to maintain possession of the original real estate salesperson license certificates for Jamie Ramona Ohlsen and Greg Weber.

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The acts and/or omissions of MFS as alleged in Paragraph 35, above, violate Section 10160 (possession/inspection of salesperson license) of the Code and Section 2753 (retention of real estate salesperson license by broker) of the Regulations.

37

The facts alleged in Paragraph 35, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

NINTH CAUSE OF ACTION

38

In or about March 2010, MFS solicited Debra F. by mail offering to provide Debra F. with mortgage loan services for her real property located at 14451 Broadway, Whittier, California. At the time, Debra F.'s mortgage on her property was with First US Community Credit Union. Although MFS was not affiliated in any way with First US Community Credit Union, the mailing it sent to Debra F. referenced both First US Community Credit Union and Debra F.'s loan with that company. Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitation listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and content of the letter clearly gave the appearance that Millennium Financial Systems was connected with First US Community Credit Union in some fashion.

39

In or about early 2012, MFS solicited Joseph P. by mail on two separate occasions offering to provide Joseph P. with mortgage loan services for his real property located at 3021 Paulcrest Drive, Los Angeles, California. At the time, Joseph P.'s mortgage on his property was with First Entertainment Credit Union. Although MFS was not affiliated in any way with First Entertainment Credit Union, the mailings it sent to Joseph P. referenced both First Entertainment Credit Union and Joseph P.'s loan with that company. Nowhere in the solicitation was any

1 language indicating otherwise. In addition, the solicitations listed MFS's dba of "Millennium  
2 Financial Systems" at the bottom of the page. The form and content of the letters clearly gave  
3 the appearance that MFS and/or Millennium Financial Systems was connected with First  
4 Entertainment Credit Union in some fashion.

5 40

6 The acts and/or omissions of MFS as alleged in Paragraphs 38 and 39, above,  
7 violate Section 10140 (false advertising), 10235 (misleading advertising) and 10235.5 (license  
8 disclosure) of the Code, and Section 2848 (advertising criteria) of the Regulations.

9 41

10 The facts alleged in Paragraphs 38 and 39, above, are grounds for the  
11 suspension or revocation of MFS's license(s) and license rights under Sections 10176(i) (fraud  
12 or dishonest dealing), 10177(d) and/or 10177(g) of the Code.

13 TENTH CAUSE OF ACTION

14 42

15 On or about October 13, 2012, MFS solicited Jon L. by mail on two separate  
16 occasions offering to provide Jon L. with mortgage loan services for his real property located at  
17 5 Hutton Circle Drive, Santa Ana, California. At the time, Jon L.'s mortgage on his property was  
18 with Central Mortgage. Although MFS was not affiliated in any way with Central Mortgage, the  
19 mailings it sent to Jon L. referenced both Central Mortgage and Jon L.'s loan with that company.  
20 Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitations  
21 listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and  
22 content of the letters clearly gave the appearance that Millennium Financial Systems was  
23 connected with Central Mortgage in some fashion.

24 43

25 On or about August 15, 2012, MFS solicited Jon L. by mail offering to provide  
26 Jon L. with mortgage loan services for his real property located at 5 Hutton Circle Drive,  
27 Santa Ana, California. At the time, Jon L.'s mortgage on his property was with Bank of America.

1 Although MFS was not affiliated in any way with Bank of America, the mailings it sent to Jon L.  
2 referenced both Bank of America and Jon L.'s loan with that company. Nowhere in the  
3 solicitation was any language indicating otherwise. In addition, the solicitations listed MFS's  
4 dba of "Millennium Financial Systems" at the bottom of the page. The form and content of the  
5 letter clearly gave the appearance that MFS and/or Millennium Financial Systems was connected  
6 with Bank of America in some fashion.

7 44

8 The acts and/or omissions of MFS as alleged in Paragraphs 42 and 43, above,  
9 violate Sections 10140, 10235 and 10235.5 of the Code, and Section 2848 of the Regulations.

10 45

11 The facts alleged in Paragraphs 42 and 43, above, are grounds for the  
12 suspension or revocation of MFS's license(s) and license rights under Sections 10176(i),  
13 10177(d) and/or 10177(g) of the Code.

14 ELEVENTH CAUSE OF ACTION

15 46

16 In or about February 2013, MFS solicited Donald W. by mail offering to provide  
17 Donald W. with mortgage loan services for his real property located at 959 Fontes Place,  
18 Walnut, California. According to the solicitation from MFS, Donald W. was being offered a very  
19 low interest rate for a new loan on his property. Upon further investigation, Donald W. discovered  
20 that the loan interest rate offered in MFS's solicitation was actually for an interest only loan.  
21 However, the solicitation document failed to disclose that fact. In addition, at the time, Donald W.'s  
22 mortgage on his property was with JMAC Lending. Although MFS was not affiliated in any way  
23 with JMAC Lending, the mailing it sent to Donald W. referenced both JMAC Lending and  
24 Donald W.'s loan with that company. Nowhere in the solicitation was any language indicating  
25 otherwise. In addition, the solicitation listed MFS's dba of "Millennium Financial Systems" at  
26 the bottom of the page. The form and content of the letter clearly gave the appearance that MFS  
27 and/or Millennium Financial Systems was connected with JMAC Lending in some fashion.

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The acts and/or omissions of MFS as alleged in Paragraph 46, above, violate Section 10140, 10235 and 10235.5 of the Code, and Section 2848 of the Regulations.

48

The facts alleged in Paragraph 46, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10176(i), 10177(d) and/or 10177(g) of the Code.

TWELFTH CAUSE OF ACTION

49

In or about April, 2013, MFS solicited Jeff H. by mail offering to provide Jeff H. with mortgage loan services for his real property located at 3125 Julian Avenue, Long Beach, California. Jeff H.'s mortgage through Washington Mutual on the Julian Avenue property had been discharged in bankruptcy on or about May 21, 2012. However, MFS' solicitation offered to help refinance the Julian Avenue property in spite of that fact. In addition, the solicitation from MFS was addressed to Jeff H. at his new address, still indicating the Washington Mutual loan. Although MFS was not affiliated in any way with Washington Mutual, the mailings it sent to Jeff H. referenced both Washington Mutual and Jeff H.'s prior loan with that company. Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitations listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and content of the letter clearly gave the appearance that MFS and/or Millennium Financial Systems was connected with Washington Mutual in some fashion.

50

The acts and/or omissions of MFS as alleged in Paragraph 49, above, violate Sections 10140, 10235 and 10235.5 of the Code, and Section 2848 of the Regulations.

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The facts alleged in Paragraph 49, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10176(i), 10177(d) and/or 10177(g) of the Code.

THIRTEENTH CAUSE OF ACTION

In or about March 2013, MFS solicited Jerrold W. by mail offering to provide Jerrold W. with mortgage loan services for his real property located at 939 Mesa Grande Drive, Palm Desert, California. At the time, Jerrold W.'s mortgage on his property was with Wachovia Mortgage. Although MFS was not affiliated in any way with Wachovia Mortgage, the mailing it sent to Jerrold W. referenced both Wachovia Mortgage and Jerrold W.'s loan with that company. Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitation listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and content of the letter clearly gave the appearance that MFS and/or Millennium Financial Systems was connected with Wachovia Mortgage in some fashion.

The acts and/or omissions of MFS as alleged in Paragraph 52, above, violate Section 10140 (false advertising) and 10235 (misleading advertising) of the Code, and Section 2848 (advertising criteria) of the Regulations.

The facts alleged in Paragraph 52, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10176(i) (fraud or dishonest dealing), 10177(d) and/or 10177(g) of the Code.

FOURTEENTH CAUSE OF ACTION

At all times relevant herein, KISLING was responsible, as the designated broker/officer for MFS, for the supervision and control of the activities conducted on behalf of

1 the corporation by its officers and employees. KISLING failed to exercise reasonable  
2 supervision and control over the property mortgage loan brokering activities of MFS. In  
3 particular, KISLING permitted, ratified and/or caused the conduct described in the First through  
4 Tenth Causes of Action, above, to occur, and failed to take reasonable steps, including, but not  
5 limited to, the supervision of employees and the implementation of policies, rules, procedures  
6 and systems to ensure the compliance of the corporation with the Real Estate Law and the  
7 Regulations.

8 56

9 The acts and/or omissions of KISLING as set forth in Paragraph 45, above,  
10 violate Section 10159.2 (responsibilities of corporate officer in charge) of the Code and  
11 Section 2725 (broker supervision of salespersons) of the Regulations.

12 57

13 The facts alleged in Paragraph 45, above, are grounds for the suspension or  
14 revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g),  
15 and 10177(h) (reasonable supervision requirements for broker) of the Code.

16 MORTGAGE LOAN ORIGINATOR LICENSE ENDORSEMENT

17 58

18 The facts alleged in Paragraphs 11 through 47, above, constitute cause for  
19 revocation of KISLING's mortgage loan originator license endorsement under Section  
20 10166.05(c) (lack of general fitness) of the Code.

21 COST RECOVERY

22 59

23 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
24 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the  
25 Administrative Law Judge to direct a licensee found to have committed a violation of this part to  
26 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

27 ///

1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Third Amended Accusation, and that upon proof thereof, a decision be rendered imposing  
3 disciplinary action against all licenses and license rights of Respondents under the Code, for the  
4 reasonable cost of investigation and prosecution of this case, including agency attorney's fees,  
5 and for such other and further relief as may be proper under applicable provisions of law.  
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9 TRICIA D. SOMMERS  
10 Deputy Real Estate Commissioner  
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12 Dated at Sacramento, California,  
13 this 28th day of August, 2013.  
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1 JOHN W. BARRON, Counsel (SBN 171246)  
2 Department of Real Estate  
3 P.O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 (916) 227-0792 (Direct)

**FILED**

MAR 21 2013

DEPARTMENT OF REAL ESTATE  
By R. Mar

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )

13 MFS/TA, INC., )  
14 ROBERT ALLEN KISLING and )  
15 BARBARA LEE McMANUS, )

16 Respondents. )

NO. H-4314 SD

SECOND AMENDED  
ACCUSATION

17  
18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
19 of the State of California, for cause of Accusation against MFS/TA, INC., individually and doing  
20 business as "Future Security Financial", "Golden Real Estate Group", "Golden Valley Lending  
21 Group", "Millennium Financial Systems", "Millennium Real Estate Group", "Nationwide Loan  
22 Modification Services" and "RK Funding" ("MFS"); ROBERT ALLEN KISLING, individually  
23 and doing business as "Associated Financial Systems", "Millennium Financial Systems" and  
24 "V.A. Mortgage Express" ("KISLING"); and, BARBARA LEE McMANUS, ("McMANUS")  
25 (herein collectively "Respondents"); is informed and alleges as follows:

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27 The Complainant makes this Accusation in her official capacity.

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MFS is presently licensed by the Department of Real Estate (hereinafter "the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code") as a corporate real estate broker.

3

KISLING is presently licensed and/or has license rights under the Code as a real estate broker, and is licensed by the Department as the designated broker/officer of MFS. As the designated broker/officer, KISLING was responsible, pursuant to Section 10159.2 (responsibility of corporate officer in charge) of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of MFS for which a real estate license is required.

4

KISLING is presently licensed and/or has license rights under the Code as a mortgage loan originator.

5

McMANUS is presently licensed by the Department and/or has license rights under the Code as a real estate salesperson. At all times relevant, neither MFS nor KISLING were the employing broker for McMANUS.

6

Joel Saul Hernandez is presently licensed by the Department and/or has license rights under the Code as a real estate salesperson.

7

At all times relevant herein, Sandi Alonzo (also known as "Sandra Lee Alonzo") was not licensed by the Department in any capacity in the State of California.

8

At all times relevant herein, MFS performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation

1 of compensation: negotiate one or more loans for, or perform services for, borrowers and/or  
2 lenders with respect to the collection of advance fees and loan modification, loan refinance,  
3 principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders  
4 in connection with loans secured directly or collaterally by one or more liens on real property;  
5 operated and conducted a loan brokerage business with the public, wherein, on behalf of others,  
6 for compensation or in expectation of compensation, Respondents solicited lenders and  
7 borrowers for loans secured directly or collaterally by liens on real property, and wherein  
8 Respondents arranged, negotiated, processed and consummated such loans; and charged,  
9 demanded or collected an advance fee for any of the services offered.

10 FIRST CAUSE OF ACTION

11 9

12 In or about the period of June 22, 2011, and continuing intermittently through  
13 June 24, 2011, an audit was conducted of the records of MFS at its main office located at  
14 105 N. Rose Street, Suite 201, Escondido, California, and the Department's Oakland District  
15 Office. The auditor herein examined the records for the period of May 1, 2008, through April 30,  
16 2011 (the audit period).

17 10

18 While acting as a real estate broker as described in Paragraph 8, above, and within  
19 the audit period, MFS accepted or received funds in trust (trust funds) from or on behalf of  
20 lenders, investors, borrowers and others in connection with the sale/resale of real estate,  
21 mortgage and loan brokerage activities, and deposited or caused to be deposited those funds into  
22 a bank account maintained by MFS, including, but not limited to:

23 Bank Account #1

24 1<sup>st</sup> Centennial Bank/First California Bank  
25 320 West Mission Avenue  
Escondido, CA 92025

26 Account No.: XXXXX9984

27 Account Name: Abell Escrow



1 (g) MFS failed to maintain accurate written monthly reconciliations for the  
2 balances of all of the separate records with the control records for Bank Account #1. Such acts  
3 and/or omissions by MFS violate Section 10145 of the Code and Section 2831.2 (trust account  
4 reconciliation) of the Regulations.

5 (h) MFS failed to furnish a verified copy of the accounting with respect to  
6 advance fees it collected to the principals at the end of each calendar quarter and when each  
7 contract was completely performed by MFS. Such acts and/or omissions by MFS violate  
8 Section 10146 of the Code and Section 2972 (verified accounting content) of the Regulations.

9 (i) MFS failed to retain cancelled checks from Bank Account #1 and failed  
10 to retain communications with lenders for loan modifications in its transaction files. Such  
11 acts and/or omissions by MFS violate Section 10148 (record retention requirements) of the  
12 Code.

13 12

14 The acts and/or omissions of MFS as alleged in Paragraph 11, above, violate  
15 Sections 10145, 10146 and 10148 of the Code, and Sections 2831, 2831.1, 2831.2, 2832, 2834  
16 and 2972 of the Regulations.

17 13

18 The facts alleged in Paragraph 11, above, are grounds for the suspension or  
19 revocation of the license(s) and license rights of MFS under Sections 10177(d) (willful disregard  
20 of Real Estate Law) and/or 10177(g) (negligence/incompetence) of the Code. In addition, the  
21 Department is entitled to reimbursement for the costs of its audit pursuant to Section 10148(b)  
22 (cost of audit in final decision following disciplinary hearing) of the Code.

23 SECOND CAUSE OF ACTION

24 14

25 On or about March 9, 2009, Sandra Alonzo, while in the employ of and  
26 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
27 modification services contract with Juan F. and Ysabel C. Under the terms of the loan

1 modification services contract, MFS agreed to negotiate a loan modification on behalf of Juan F.  
2 and Ysabel C. for their real property located at 4063 Poppy Place, San Diego, California, in  
3 exchange for an advance fee payment of \$3,500.00. On or about March 11, 2009, Juan F. and  
4 Ysabel C., paid to MFS \$3,500.00 for loan modification services.

5 15

6 After receiving advance fee payments from Juan F. and Ysabel C., MFS failed to  
7 obtain a loan modification for them and did not repay the advance fees received from them.  
8 MFS's failure to provide the services promised or to refund the funds paid by Juan F. and  
9 Ysabel C., constitutes dishonest dealing.

10 16

11 The facts alleged in Paragraphs 14 and 15, above, are grounds for the suspension  
12 or revocation of the license(s) and license rights of MFS under Sections 10085 (advance fee  
13 agreements and materials), 10085.6 (collection of unauthorized advance fees), 10131.2  
14 (collection of advance fees), 10177(d) and/or 10177(g), and 10177(j) (fraud or dishonest dealing)  
15 of the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

16 THIRD CAUSE OF ACTION

17 17

18 On or about March 11, 2009, Joel Saul Hernandez, while in the employ of and  
19 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
20 modification services contract with Juan G., Adriana M., and Zoilo S. Under the terms of the  
21 loan modification services contract, MFS agreed to negotiate a loan modification on behalf of  
22 Juan G., Ysabel C., and Zoilo S. for their real property located at 2274 Montemar Avenue,  
23 Escondido, California, in exchange for an advance fee payment of \$3,000.00. On or about  
24 March 12, 2009, Juan G., Adriana M., and Zoilo S. paid \$1,500.00 in advance fees to MFS as  
25 partial payment for loan modification services. On or about June 8, 2009, Juan G., Adriana M.,  
26 and Zoilo S., paid the remaining advance fees of \$1,500.00 to MFS for loan modification services.

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After receiving advance fee payments from Juan G., Adriana M., and Zoilo S., MFS failed to obtain a loan modification for them and did not repay the advance fees received from them. MFS's failure to provide the services promised or to refund the funds paid by Juan G., Adriana M., and Zoilo S., constitutes dishonest dealing.

19

The facts alleged in Paragraphs 17 and 18, above, are grounds for the suspension or revocation of the license(s) and license rights of MFS under Sections 10085, 10085.6, 10131.2, 10177(d) and/or 10177(g), and 10177(j) of the Code, and Section 2970 of the Regulations.

FOURTH CAUSE OF ACTION

20

In connection with the collection and handling of advance fees as alleged in Paragraphs 13 through 18, above, MFS failed to submit the advance fee contract and all materials used in obtaining those advance fees to the Department for approval, prior to their use in obtaining the advance fees.

21

The acts and/or omissions of MFS as alleged in Paragraph 19, above, violate Sections 10085.5, 10085.6 and 10177(d) in conjunction with Section 10085 of the Code, and Section 2970 of the Regulations.

22

The facts alleged in Paragraph 20, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

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1 FIFTH CAUSE OF ACTION

2 23

3 MFS used the fictitious business names of "Nationwide Loan Modification  
4 Services" and "Nationwide Modification Services" in conducting the loan modification activity  
5 set forth in Paragraphs 13 through 18, above, without first obtaining licenses bearing those  
6 fictitious business names from the Department.

7 24

8 The acts and/or omissions of MFS as alleged in Paragraph 23, above, violate  
9 Section 10159.5 (fictitious business name) of the Code, and Section 2731 (use of false or  
10 fictitious business name) of the Regulations.

11 25

12 The facts alleged in Paragraph 23, above, are grounds for the suspension or  
13 revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of  
14 the Code.

15 SIXTH CAUSE OF ACTION

16 26

17 In or about the period of March 2009 through August 2009, McMANUS  
18 conducted loan modification activities on behalf of MFS in at least four (4) real estate  
19 transactions. In exchange for those activities, McMANUS was paid \$500.00 for each  
20 transaction by MFS.

21 27

22 While performing the activities alleged in Paragraph 26, above, McMANUS was  
23 not licensed under the real estate broker license of either MFS or KISLING.

24 28

25 The acts and/or omissions by McMANUS as alleged in Paragraphs 26 and 27,  
26 above, violate Section 10137 (employment by and/or acceptance of compensation from someone  
27 other than employing broker) of the Code.

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The facts alleged in Paragraphs 26 and 27, above, are grounds for the suspension or revocation of McMANUS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

30

The acts and/or omissions by MFS as alleged in Paragraphs 26 and 27, above, violate Section 10137 (payment of compensation to salesperson not employed under broker's license) of the Code.

31

The facts alleged in Paragraphs 26 and 27, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SEVENTH CAUSE OF ACTION

32

The Broker-Salesman Relationship Agreement between MFS and the following real estate salespersons employed by MFS failed to address material aspects of their relationship related to supervision of activities by KISLING:

- Philip Mitchell Anderson
- Christopher Filasky
- Sheryl Ann Alvarado

33

The acts and/or omissions of MFS as alleged in Paragraph 32, above, violate Section 2726 (Required contents of broker-salesperson relationship agreements) of the Regulations.

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The facts alleged in Paragraph 32, above, are grounds for the suspension or revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

EIGHTH CAUSE OF ACTION

35

MFS failed to maintain possession of the original real estate salesperson license certificates for Jamie Ramona Ohlsen and Greg Weber.

36

The acts and/or omissions of MFS as alleged in Paragraph 35, above, violate Section 10160 (possession/inspection of salesperson license) of the Code and Section 2753 (retention of real estate salesperson license by broker) of the Regulations.

37

The facts alleged in Paragraph 35, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

NINTH CAUSE OF ACTION

38

In or about March 2010, MFS solicited Debra F. by mail offering to provide Debra F. with mortgage loan services for her real property located at 14451 Broadway, Whittier, California. At the time, Debra F.'s mortgage on her property was with First US Community Credit Union. Although MFS was not affiliated in any way with First US Community Credit Union, the mailing it sent to Debra F. referenced both First US Community Credit Union and Debra F.'s loan with that company. Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitation listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and content of the letter clearly gave the appearance that

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1 Millennium Financial Systems was connected with First US Community Credit Union in some  
2 fashion.

3 39

4 In or about early 2012, MFS solicited Joseph P. by mail on two separate occasions  
5 offering to provide Joseph P. with mortgage loan services for his real property located at 3021  
6 Paulcrest Drive, Los Angeles, California. At the time, Joseph P.'s mortgage on his property was  
7 with First Entertainment Credit Union. Although MFS was not affiliated in any way with First  
8 Entertainment Credit Union, the mailings it sent to Joseph P. referenced both First Entertainment  
9 Credit Union and Joseph P.'s loan with that company. Nowhere in the solicitation was any  
10 language indicating otherwise. In addition, the solicitations listed MFS's dba of "Millennium  
11 Financial Systems" at the bottom of the page. The form and content of the letters clearly gave  
12 the appearance that Millennium Financial Systems was connected with First Entertainment  
13 Credit Union in some fashion.

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15 The acts and/or omissions of MFS as alleged in Paragraphs 38 and 39, above,  
16 violate Section 10140 (false advertising) and 10235 (misleading advertising) of the Code, and  
17 Section 2848 (advertising criteria) of the Regulations.

18 41

19 The facts alleged in Paragraphs 38 and 39, above, are grounds for the  
20 suspension or revocation of MFS's license(s) and license rights under Sections 10176(i) (fraud  
21 or dishonest dealing), 10177(d) and/or 10177(g) of the Code.

22 TENTH CAUSE OF ACTION

23 42

24 On or about October 13, 2012, MFS solicited Joseph P. by mail on two separate  
25 occasions offering to provide Jon L. with mortgage loan services for his real property located at 5  
26 Hutton Circle Drive, Santa Ana, California. At the time, Jon L.'s mortgage on his property was  
27 with Central Mortgage. Although MFS was not affiliated in any way with Central Mortgage, the

1 mailings it sent to Jon L. referenced both Central Mortgage and Jon L.'s loan with that company.  
2 Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitations  
3 listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and  
4 content of the letters clearly gave the appearance that Millennium Financial Systems was  
5 connected with Central Mortgage in some fashion.

6 43

7 The acts and/or omissions of MFS as alleged in Paragraph 42, above, violate  
8 Sections 10140, 10140.6 (disclosure of license status in advertising), 10235, 10235.5 (license  
9 disclosure in advertising) and 10236.4 (disclosure of license number in advertising) of the  
10 Code, and Section 2848 of the Regulations.

11 44

12 The facts alleged in Paragraph 42, above, are grounds for the suspension or  
13 revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of  
14 the Code.

15 ELEVENTH CAUSE OF ACTION

16 45

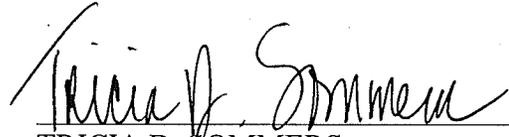
17 At all times relevant herein, KISLING was responsible, as the designated  
18 broker/officer for MFS, for the supervision and control of the activities conducted on behalf of  
19 the corporation by its officers and employees. KISLING failed to exercise reasonable  
20 supervision and control over the property mortgage loan brokering activities of MFS. In  
21 particular, KISLING permitted, ratified and/or caused the conduct described in the First through  
22 Tenth Causes of Action, above, to occur, and failed to take reasonable steps, including, but not  
23 limited to, the supervision of employees and the implementation of policies, rules, procedures  
24 and systems to ensure the compliance of the corporation with the Real Estate Law and the  
25 Regulations.

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1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all licenses and license rights of Respondents under the Code, for the reasonable  
4 cost of investigation and prosecution of this case, including agency attorney's fees, and for such  
5 other and further relief as may be proper under applicable provisions of law.

6  
7   
8 TRICIA D. SOMMERS  
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,  
11 this 19<sup>th</sup> day of March, 2013.

1 JOHN W. BARRON, Counsel (SBN 171246)  
2 Department of Real Estate  
3 P.O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 (916) 227-0792 (Direct)

**FILED**  
DEC - 5 2012

DEPARTMENT OF REAL ESTATE  
By R. Barron

7  
8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 )  
14 MFS/TA, INC., ) NO. H-4314 SD  
15 ROBERT ALLEN KISLING and )  
16 BARBARA LEE McMANUS, ) FIRST AMENDED  
17 Respondents. ) ACCUSATION

18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
19 of the State of California, for cause of Accusation against MFS/TA, INC., individually and doing  
20 business as "Future Security Financial", "Golden Real Estate Group", "Golden Valley Lending  
21 Group", "Millennium Financial Systems", "Millennium Real Estate Group", "Nationwide Loan  
22 Modification Services" and "RK Funding" ("MFS"); ROBERT ALLEN KISLING, individually  
23 and doing business as "Associated Financial Systems", "Millennium Financial Systems" and  
24 "V.A. Mortgage Express" ("KISLING"); and, BARBARA LEE McMANUS, ("McMANUS")  
25 (herein collectively "Respondents"); is informed and alleges as follows:

26 1

27 The Complainant makes this Accusation in her official capacity.

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2  
3 MFS is presently licensed by the Department of Real Estate (hereinafter "the  
4 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the  
5 Business and Professions Code ("the Code") as a corporate real estate broker.

6  
7 KISLING is presently licensed and/or has license rights under the Code as a real  
8 estate broker, and is licensed by the Department as the designated broker/officer of MFS. As  
9 the designated broker/officer, KISLING was responsible, pursuant to Section 10159.2  
10 (responsibility of corporate officer in charge) of the Code, for the supervision of the activities of  
11 the officers, agents, real estate licensees and employees of MFS for which a real estate license is  
12 required.

13  
14 McMANUS is presently licensed by the Department and/or has license rights  
15 under the Code as a real estate salesperson. At all times relevant, neither MFS nor KISLING  
16 were the employing broker for McMANUS.

17  
18 Joel Saul Hernandez is presently licensed by the Department and/or has license  
19 rights under the Code as a real estate salesperson.

20  
21 At all times relevant herein, Sandi Alonzo (also known as "Sandra Lee Alonzo")  
22 was not licensed by the Department in any capacity in the State of California.

23  
24 At all times relevant herein, MFS performed services for one or more borrowers  
25 and negotiated to do one or more of the following acts for another or others, for or in expectation  
26 of compensation: negotiate one or more loans for, or perform services for, borrowers and/or  
27 lenders with respect to the collection of advance fees and loan modification, loan refinance,  
principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders

1 in connection with loans secured directly or collaterally by one or more liens on real property;  
2 operated and conducted a loan brokerage business with the public, wherein, on behalf of others,  
3 for compensation or in expectation of compensation, Respondents solicited lenders and  
4 borrowers for loans secured directly or collaterally by liens on real property, and wherein  
5 Respondents arranged, negotiated, processed and consummated such loans; and charged,  
6 demanded or collected an advance fee for any of the services offered.

7 FIRST CAUSE OF ACTION

8 8

9 In or about the period of June 22, 2011, and continuing intermittently through  
10 June 24, 2011, an audit was conducted of the records of MFS at its main office located at  
11 105 N. Rose Street, Suite 201, Escondido, California, and the Department's Oakland District  
12 Office. The auditor herein examined the records for the period of May 1, 2008, through April 30,  
13 2011 (the audit period).

14 9

15 While acting as a real estate broker as described in Paragraph 7, above, and within  
16 the audit period, MFS accepted or received funds in trust (trust funds) from or on behalf of  
17 lenders, investors, borrowers and others in connection with the sale/resale of real estate,  
18 mortgage and loan brokerage activities, and deposited or caused to be deposited those funds into  
19 a bank account maintained by MFS, including, but not limited to:

20 Bank Account #1

21 1<sup>st</sup> Centennial Bank/First California Bank  
22 320 West Mission Avenue  
23 Escondido, CA 92025

24 Account No.: XXXXX9984

25 Account Name: Abell Escrow

26 Signatories: Robert Kisling, REB/D.O.  
27 Madeleine Kisling, Not licensed

Thereafter, MFS from time-to-time made disbursement of said trust funds.

1  
2 In the course of the activities described in Paragraph 7, above, in connection with  
3 the collection and disbursement of trust funds:

4 (a) MFS failed to maintain adequate trust records resulting in an inability by  
5 the Department's auditor to conduct a reconciliation of the adjusted bank balance to the  
6 accountability of Bank Account #1. Such acts and/or omissions by MFS violate Section 10145  
7 of the Code.

8 (b) MFS failed to designate Bank #1 as a trust account. Such acts and/or  
9 omissions by MFS violate Section 10145 of the Code and Section 2832 (trust fund handling) of  
10 Title 10 of the California Code of Regulations ("the Regulations").

11 (c) MFS failed to maintain adequate Control Records for Bank Account #1.  
12 Such acts and/or omissions by MFS violate Section 2831 (trust fund records maintenance) of the  
13 Regulations.

14 (d) MFS allowed non-licensee Madeleine Kisling to withdraw funds from Bank  
15 Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code and Section  
16 2834 (trust account withdrawals) of the Regulations.

17 (e) MFS failed to deposit advance fees it collected into a trust account. Such  
18 acts and/or omissions by MFS violate Section 10146 (deposit of advance fees into trust account)  
19 of the Code and Section 2832 (trust fund handling) of the Regulations.

20 (f) MFS failed to maintain a separate record for each beneficiary of Bank  
21 Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code and  
22 Section 2831.1 (maintenance of separate records for each beneficiary or transaction) of the  
23 Regulations.

24 (g) MFS failed to maintain accurate written monthly reconciliations for the  
25 balances of all of the separate records with the control records for Bank Account #1. Such acts  
26 and/or omissions by MFS violate Section 10145 of the Code and Section 2831.2 (trust account  
27 reconciliation) of the Regulations.

1 (h) MFS failed to furnish a verified copy of the accounting with respect to  
2 advance fees it collected to the principals at the end of each calendar quarter and when each  
3 contract was completely performed by MFS. Such acts and/or omissions by MFS violate  
4 Section 10146 of the Code and Section 2972 (verified accounting content) of the Regulations.

5 (i) MFS failed to retain cancelled checks from Bank Account #1 and failed  
6 to retain communications with lenders for loan modifications in its transaction files. Such  
7 acts and/or omissions by MFS violate Section 10148 (record retention requirements) of the  
8 Code.

9 11

10 The acts and/or omissions of MFS as alleged in Paragraph 10, above, violate  
11 Sections 10145, 10146 and 10148 of the Code, and Sections 2831, 2831.1, 2831.2, 2832, 2834  
12 and 2972 of the Regulations.

13 12

14 The facts alleged in Paragraph 10, above, are grounds for the suspension or  
15 revocation of the license(s) and license rights of MFS under Sections 10177(d) (willful disregard  
16 of Real Estate Law) and/or 10177(g) (negligence/incompetence) of the Code. In addition, the  
17 Department is entitled to reimbursement for the costs of its audit pursuant to Section 10148(b)  
18 (cost of audit in final decision following disciplinary hearing) of the Code.

19 SECOND CAUSE OF ACTION

20 13

21 On or about March 9, 2009, Sandra Alonzo, while in the employ of and  
22 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
23 modification services contract with Juan F. and Ysabel C. Under the terms of the loan  
24 modification services contract, MFS agreed to negotiate a loan modification on behalf of Juan F.  
25 and Ysabel C. for their real property located at 4063 Poppy Place, San Diego, California, in  
26 exchange for an advance fee payment of \$3,500.00. On or about March 11, 2009, Juan F. and  
27 Ysabel C., paid to MFS \$3,500.00 for loan modification services.

After receiving advance fee payments from Juan F. and Ysabel C., MFS failed to obtain a loan modification for them and did not repay the advance fees received from them. MFS's failure to provide the services promised or to refund the funds paid by Juan F. and Ysabel C., constitutes dishonest dealing.

The facts alleged in Paragraphs 13 and 14, above, are grounds for the suspension or revocation of the license(s) and license rights of MFS under Sections 10085 (advance fee agreements and materials), 10085.6 (collection of unauthorized advance fees), 10131.2 (collection of advance fees), 10177(d) and/or 10177(g), and 10177(j) (fraud or dishonest dealing) of the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

THIRD CAUSE OF ACTION

On or about March 11, 2009, Joel Saul Hernandez, while in the employ of and representing MFS, doing business as Nationwide Modification Services, entered into a loan modification services contract with Juan G., Adriana M., and Zoilo S. Under the terms of the loan modification services contract, MFS agreed to negotiate a loan modification on behalf of Juan G., Ysabel C., and Zoilo S. for their real property located at 2274 Montemar Avenue, Escondido, California, in exchange for an advance fee payment of \$3,000.00. On or about March 12, 2009, Juan G., Adriana M., and Zoilo S. paid \$1,500.00 in advance fees to MFS as partial payment for loan modification services. On or about June 8, 2009, Juan G., Adriana M., and Zoilo S., paid the remaining advance fees of \$1,500.00 to MFS for loan modification services.

After receiving advance fee payments from Juan G., Adriana M., and Zoilo S., MFS failed to obtain a loan modification for them and did not repay the advance fees received from them. MFS's failure to provide the services promised or to refund the funds paid by Juan G., Adriana M., and Zoilo S., constitutes dishonest dealing.

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The facts alleged in Paragraphs 16 and 17, above, are grounds for the suspension or revocation of the license(s) and license rights of MFS under Sections 10085, 10085.6, 10131.2, 10177(d) and/or 10177(g), and 10177(j) of the Code, and Section 2970 of the Regulations.

FOURTH CAUSE OF ACTION

19

In connection with the collection and handling of advance fees as alleged in Paragraphs 13 through 18, above, MFS failed to submit the advance fee contract and all materials used in obtaining those advance fees to the Department for approval, prior to their use in obtaining the advance fees.

20

The acts and/or omissions of MFS as alleged in Paragraph 19, above, violate Sections 10085.5, 10085.6 and 10177(d) in conjunction with Section 10085 of the Code, and Section 2970 of the Regulations.

21

The facts alleged in Paragraph 19, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

FIFTH CAUSE OF ACTION

22

MFS used the fictitious business names of "Nationwide Loan Modification Services" and "Nationwide Modification Services" in conducting the loan modification activity set forth in Paragraphs 13 through 18, above, without first obtaining licenses bearing those fictitious business names from the Department.

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The acts and/or omissions of MFS as alleged in Paragraph 22, above, violate Section 10159.5 (fictitious business name) of the Code, and Section 2731 (use of false or fictitious business name) of the Regulations.

24

The facts alleged in Paragraph 22, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SIXTH CAUSE OF ACTION

25

In or about the period of March 2009 through August 2009, McMANUS conducted loan modification activities on behalf of MFS in at least four (4) real estate transactions. In exchange for those activities, McMANUS was paid \$500.00 for each transaction by MFS.

26

While performing the activities alleged in Paragraph 25, above, McMANUS was not licensed under the real estate broker license of either MFS or KISLING.

27

The acts and/or omissions by McMANUS as alleged in Paragraphs 25 and 26, above, violate Section 10137 (employment by and/or acceptance of compensation from someone other than employing broker) of the Code.

28

The facts alleged in Paragraphs 25 and 26, above, are grounds for the suspension or revocation of McMANUS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

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The acts and/or omissions by MFS as alleged in Paragraphs 25 and 26, above, violate Section 10137 (payment of compensation to salesperson not employed under broker's license) of the Code.

30

The facts alleged in Paragraphs 25 and 26, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SEVENTH CAUSE OF ACTION

31

The Broker-Salesman Relationship Agreement between MFS and the following real estate salespersons employed by MFS failed to address material aspects of their relationship related to supervision of activities by KISLING:

- Philip Mitchell Anderson
- Christopher Filasky
- Sheryl Ann Alvarado

32

The acts and/or omissions of MFS as alleged in Paragraph 31, above, violate Section 2726 (Required contents of broker-salesperson relationship agreements) of the Regulations.

33

The facts alleged in Paragraph 31, above, are grounds for the suspension or revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

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1 EIGHTH CAUSE OF ACTION

2 34

3 MFS failed to maintain possession of the original real estate salesperson license  
4 certificates for Jamie Ramona Ohlsen and Greg Weber.

5 35

6 The acts and/or omissions of MFS as alleged in Paragraph 34 above, violate  
7 Section 10160 (possession/inspection of salesperson license) of the Code and Section 2753  
8 (retention of real estate salesperson license by broker) of the Regulations.

9 36

10 The facts alleged in Paragraph 34, above, are grounds for the suspension or  
11 revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of  
12 the Code.

13 NINTH CAUSE OF ACTION

14 37

15 In or about March 2010, MFS solicited Debra F. by mail offering to provide  
16 Debra F. with mortgage loan services for her real property located at 14451 Broadway, Whittier,  
17 California. At the time, Debra F.'s mortgage on her property was with First US Community  
18 Credit Union. Although MFS was not affiliated in any way with First US Community Credit  
19 Union, the mailing it sent to Debra F. referenced both First US Community Credit Union and  
20 Debra F.'s loan with that company. Nowhere in the solicitation was any language indicating  
21 otherwise. In addition, the solicitation listed MFS's dba of "Millennium Financial Systems" at  
22 the bottom of the page. The form and content of the letter clearly gave the appearance that  
23 Millennium Financial Systems was connected with First US Community Credit Union in some  
24 fashion.

25 38

26 In or about early 2012, MFS solicited Joseph P. by mail on two separate occasions  
27 offering to provide Joseph P. with mortgage loan services for his real property located at 3021

1 Paulcrest Drive, Los Angeles, California. At the time, Joseph P.'s mortgage on his property was  
2 with First Entertainment Credit Union. Although MFS was not affiliated in any way with First  
3 Entertainment Credit Union, the mailings it sent to Joseph P. referenced both First Entertainment  
4 Credit Union and Joseph P.'s loan with that company. Nowhere in the solicitation was any  
5 language indicating otherwise. In addition, the solicitations listed MFS's dba of "Millennium  
6 Financial Systems" at the bottom of the page. The form and content of the letters clearly gave  
7 the appearance that Millennium Financial Systems was connected with First Entertainment  
8 Credit Union in some fashion.

9 39

10 The acts and/or omissions of MFS as alleged in Paragraphs 37 through 39,  
11 above, violate Section 10140 (false advertising) and 10235 (misleading advertising) of the  
12 Code, and Section 2848 (advertising criteria) of the Regulations.

13 40

14 The facts alleged in Paragraphs 37 through 39, above, are grounds for the  
15 suspension or revocation of MFS's license(s) and license rights under Sections 10176(i) (fraud  
16 or dishonest dealing), 10177(d) and/or 10177(g) of the Code.

17 TENTH CAUSE OF ACTION

18 41

19 On or about October 13, 2012, MFS solicited Joseph P. by mail on two separate  
20 occasions offering to provide Jon L. with mortgage loan services for his real property located at 5  
21 Hutton Circle Drive, Santa Ana, California. At the time, Jon L.'s mortgage on his property was  
22 with Central Mortgage. Although MFS was not affiliated in any way with Central Mortgage, the  
23 mailings it sent to Jon L. referenced both Central Mortgage and Jon L.'s loan with that company.  
24 Nowhere in the solicitation was any language indicating otherwise. In addition, the solicitations  
25 listed MFS's dba of "Millennium Financial Systems" at the bottom of the page. The form and  
26 content of the letters clearly gave the appearance that Millennium Financial Systems was  
27 connected with Central Mortgage in some fashion.

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The acts and/or omissions of MFS as alleged in Paragraph 41, above, violate Sections 10140, 10140.6 (disclosure of license status in advertising), 10235, 10235.5 (license disclosure in advertising) and 10236.4 (disclosure of license number in advertising) of the Code, and Section 2848 of the Regulations.

43

The facts alleged in Paragraphs 41 and 42, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

ELEVENTH CAUSE OF ACTION

44

At all times relevant herein, KISLING was responsible, as the designated broker/officer for MFS, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. KISLING failed to exercise reasonable supervision and control over the property mortgage loan brokering activities of MFS. In particular, KISLING permitted, ratified and/or caused the conduct described in the First through Tenth Causes of Action, above, to occur, and failed to take reasonable steps, including, but not limited to, the supervision of employees and the implementation of policies, rules, procedures and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

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The acts and/or omissions of KISLING as set forth in Paragraph 42, above, violate Section 10159.2 (responsibilities of corporate officer in charge) of the Code and Section 2725 (broker supervision of salespersons) of the Regulations.

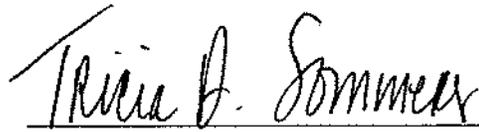
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The facts alleged in Paragraph 42, above, are grounds for the suspension or revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g), and 10177(h) (reasonable supervision requirements for broker) of the Code.

COST RECOVERY

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Code, for the reasonable cost of investigation and prosecution of this case, including agency attorney's fees, and for such other and further relief as may be proper under applicable provisions of law.



TRICIA D. SOMMERS  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 3<sup>rd</sup> day of December, 2012.

1 JOHN W. BARRON, Counsel (SBN 171246)  
2 Department of Real Estate  
3 P.O. Box 187007  
Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789  
5 (916) 227-0792 (Direct)

FILED

MAR 12 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 )  
14 MFS/TA, INC., ) NO. H-4314 SD  
14 ROBERT ALLEN KISLING, and )  
15 BARBARA LEE McMANUS, ) ACCUSATION  
16 Respondents. )  
17 )

18 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
19 of the State of California, for cause of Accusation against MFS/TA, INC., individually and doing  
20 business as "Future Security Financial", "Golden Real Estate Group", "Golden Valley Lending  
21 Group", "Millennium Financial Systems", "Millennium Real Estate Group", "Nationwide Loan  
22 Modification Services" and "RK Funding" ("MFS"); ROBERT ALLEN KISLING, individually  
23 and doing business as "Associated Financial Systems", "Millennium Financial Systems" and  
24 "V.A. Mortgage Express" ("KISLING"); and, BARBARA LEE McMANUS, ("McMANUS")  
25 (herein collectively "Respondents"); is informed and alleges as follows:

27 The Complainant makes this Accusation in her official capacity.

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2

MFS is presently licensed by the Department of Real Estate (hereinafter "the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code") as a corporate real estate broker.

3

KISLING is presently licensed and/or has license rights under the Code as a real estate broker, and is licensed by the Department as the designated broker/officer of MFS. As the designated broker/officer, KISLING was responsible, pursuant to Section 10159.2 (responsibility of corporate officer in charge) of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of MFS for which a real estate license is required.

4

McMANUS is presently licensed by the Department and/or has license rights under the Code as a real estate salesperson. At all times relevant, neither MFS nor KISLING were the employing broker for McMANUS.

5

Joel Saul Hernandez is presently licensed by the Department and/or has license rights under the Code as a real estate salesperson.

6

At all times relevant herein, Sandi Alonzo (also known as "Sandra Lee Alonzo") was not licensed by the Department in any capacity in the State of California.

7

At all times relevant herein, MFS performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders

1 in connection with loans secured directly or collaterally by one or more liens on real property;  
2 operated and conducted a loan brokerage business with the public, wherein, on behalf of others,  
3 for compensation or in expectation of compensation, Respondents solicited lenders and  
4 borrowers for loans secured directly or collaterally by liens on real property, and wherein  
5 Respondents arranged, negotiated, processed and consummated such loans; and charged,  
6 demanded or collected an advance fee for any of the services offered.

7 FIRST CAUSE OF ACTION

8 8

9 In or about the period of June 22, 2011, and continuing intermittently through  
10 June 24, 2011, an audit was conducted of the records of MFS at its main office located at  
11 105 N. Rose Street, Suite 201, Escondido, California, and the Department's Oakland District  
12 Office. The auditor herein examined the records for the period of May 1, 2008, through April 30,  
13 2011 (the audit period).

14 9

15 While acting as a real estate broker as described in Paragraph 7, above, and within  
16 the audit period, MFS accepted or received funds in trust (trust funds) from or on behalf of  
17 lenders, investors, borrowers and others in connection with the sale/resale of real estate,  
18 mortgage and loan brokerage activities, and deposited or caused to be deposited those funds into  
19 a bank account maintained by MFS, including, but not limited to: ...

20 Bank Account #1

21 1<sup>st</sup> Centennial Bank/First California Bank  
22 320 West Mission Avenue  
Escondido, CA 92025

23 Account No.: XXXXX9984

24 Account Name: Abell Escrow

25 Signatories: Robert Kisling, REB/D.O.  
26 Madeleine Kisling, Not licensed

27 Thereafter, MFS from time-to-time made disbursement of said trust funds.

1  
2 In the course of the activities described in Paragraph 7, above, in connection with  
3 the collection and disbursement of trust funds:

4 (a) MFS failed to maintain adequate trust records resulting in an inability by  
5 the Department's auditor to conduct a reconciliation of the adjusted bank balance to the  
6 accountability of Bank Account #1. Such acts and/or omissions by MFS violate Section 10145  
7 of the Code.

8 (b) MFS failed to designate Bank #1 as a trust account. Such acts and/or  
9 omissions by MFS violate Section 10145 of the Code and Section 2832 (trust fund handling) of  
10 Title 10 of the California Code of Regulations ("the Regulations").

11 (c) MFS failed to maintain adequate Control Records for Bank Account #1.  
12 Such acts and/or omissions by MFS violate Section 2831 (trust fund records maintenance) of the  
13 Regulations.

14 (d) MFS allowed non-licensee Madeleine Kisling to withdraw funds from Bank  
15 Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code and Section  
16 2834 (trust account withdrawals) of the Regulations.

17 (e) MFS failed to deposit advance fees it collected into a trust account. Such  
18 acts and/or omissions by MFS violate Section 10146 (deposit of advance fees into trust account)  
19 of the Code and Section 2832 (trust fund handling) of the Regulations.

20 (f) MFS failed to maintain a separate record for each beneficiary of Bank  
21 Account #1. Such acts and/or omissions by MFS violate Section 10145 of the Code and  
22 Section 2831.1 (maintenance of separate records for each beneficiary or transaction) of the  
23 Regulations.

24 (g) MFS failed to maintain accurate written monthly reconciliations for the  
25 balances of all of the separate records with the control records for Bank Account #1. Such acts  
26 and/or omissions by MFS violate Section 10145 of the Code and Section 2831.2 (trust account  
27 reconciliation) of the Regulations.

1 (h) MFS failed to furnish a verified copy of the accounting with respect to  
2 advance fees it collected to the principals at the end of each calendar quarter and when each  
3 contract was completely performed by MFS. Such acts and/or omissions by MFS violate  
4 Section 10146 of the Code and Section 2972 (verified accounting content) of the Regulations.

5 (i) MFS failed to retain cancelled checks from Bank Account #1 and failed  
6 to retain communications with lenders for loan modifications in its transaction files. Such  
7 acts and/or omissions by MFS violate Section 10148 (record retention requirements) of the  
8 Code.

9 11

10 The acts and/or omissions of MFS as alleged in Paragraph 10, above, violate  
11 Sections 10145, 10146 and 10148 of the Code, and Sections 2831, 2831.1, 2831.2, 2832, 2834  
12 and 2972 of the Regulations.

13 12

14 The facts alleged in Paragraph 10, above, are grounds for the suspension or  
15 revocation of the license(s) and license rights of MFS under Sections 10177(d) (willful disregard  
16 of Real Estate Law) and/or 10177(g) (negligence/incompetence) of the Code. In addition, the  
17 Department is entitled to reimbursement for the costs of its audit pursuant to Section 10148(b)  
18 (cost of audit in final decision following disciplinary hearing) of the Code.

19 SECOND CAUSE OF ACTION

20 13

21 On or about March 9, 2009, Sandra Alonzo, while in the employ of and  
22 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
23 modification services contract with Juan F. and Ysabel C. Under the terms of the loan  
24 modification services contract, MFS agreed to negotiate a loan modification on behalf of Juan F.  
25 and Ysabel C. for their real property located at 4063 Poppy Place, San Diego, California, in  
26 exchange for an advance fee payment of \$3,500.00. On or about March 11, 2009, Juan F. and  
27 Ysabel C., paid to MFS \$3,500.00 for loan modification services.

1  
2 After receiving advance fee payments from Juan F. and Ysabel C., MFS failed to  
3 obtain a loan modification for them and did not repay the advance fees received from them.  
4 MFS's failure to provide the services promised or to refund the funds paid by Juan F. and  
5 Ysabel C., constitutes dishonest dealing.

6  
7 The facts alleged in Paragraphs 13 and 14, above, are grounds for the suspension  
8 or revocation of the license(s) and license rights of MFS under Sections 10085 (advance fee  
9 agreements and materials), 10085.6 (collection of unauthorized advance fees), 10131.2  
10 (collection of advance fees), 10177(d) and/or 10177(g), and 10177(j) (fraud or dishonest dealing)  
11 of the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

12 THIRD CAUSE OF ACTION

13  
14 On or about March 11, 2009, Joel Saul Hernandez, while in the employ of and  
15 representing MFS, doing business as Nationwide Modification Services, entered into a loan  
16 modification services contract with Juan G., Adriana M., and Zoilo S. Under the terms of the  
17 loan modification services contract, MFS agreed to negotiate a loan modification on behalf of  
18 Juan G., Ysabel C., and Zoilo S. for their real property located at 2274 Montemar Avenue,  
19 Escondido, California, in exchange for an advance fee payment of \$3,000.00. On or about  
20 March 12, 2009, Juan G., Adriana M., and Zoilo S. paid \$1,500.00 in advance fees to MFS as  
21 partial payment for loan modification services. On or about June 8, 2009, Juan G., Adriana M.,  
22 and Zoilo S., paid the remaining advance fees of \$1,500.00 to MFS for loan modification services.

23  
24 After receiving advance fee payments from Juan G., Adriana M., and Zoilo S.,  
25 MFS failed to obtain a loan modification for them and did not repay the advance fees received  
26 from them. MFS's failure to provide the services promised or to refund the funds paid by  
27 Juan G., Adriana M., and Zoilo S., constitutes dishonest dealing.

The facts alleged in Paragraphs 16 and 17, above, are grounds for the suspension or revocation of the license(s) and license rights of MFS under Sections 10085, 10085.6, 10131.2, 10177(d) and/or 10177(g), and 10177(j) of the Code, and Section 2970 of the Regulations.

FOURTH CAUSE OF ACTION

In connection with the collection and handling of advance fees as alleged in Paragraphs 13 through 18, above, MFS failed to submit the advance fee contract and all materials used in obtaining those advance fees to the Department for approval, prior to their use in obtaining the advance fees.

The acts and/or omissions of MFS as alleged in Paragraph 19, above, violate Sections 10085.5, 10085.6 and 10177(d) in conjunction with Section 10085 of the Code, and Section 2970 of the Regulations.

The facts alleged in Paragraph 19, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

FIFTH CAUSE OF ACTION

MFS used the fictitious business names of "Nationwide Loan Modification Services" and "Nationwide Modification Services" in conducting the loan modification activity set forth in Paragraphs 13 through 18, above, without first obtaining licenses bearing those fictitious business names from the Department.

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The acts and/or omissions of MFS as alleged in Paragraph 22, above, violate Section 10159.5 (fictitious business name) of the Code, and Section 2731 (use of false or fictitious business name) of the Regulations.

24

The facts alleged in Paragraph 22, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SIXTH CAUSE OF ACTION

25

In or about the period of March 2009 through August 2009, McMANUS conducted loan modification activities on behalf of MFS in at least four (4) real estate transactions. In exchange for those activities, McMANUS was paid \$500.00 for each transaction by MFS.

26

While performing the activities alleged in Paragraph 25, above, McMANUS was not licensed under the real estate broker license of either MFS or KISLING.

27

The acts and/or omissions by McMANUS as alleged in Paragraphs 25 and 26, above, violate Section 10137 (employment by and/or acceptance of compensation from someone other than employing broker) of the Code.

28

The facts alleged in Paragraphs 25 and 26, above, are grounds for the suspension or revocation of McMANUS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

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The acts and/or omissions by MFS as alleged in Paragraphs 25 and 26, above, violate Section 10137 (payment of compensation to salesperson not employed under broker's license) of the Code.

30

The facts alleged in Paragraphs 25 and 26, above, are grounds for the suspension or revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

SEVENTH CAUSE OF ACTION

31

The Broker-Salesman Relationship Agreement between MFS and the following real estate salespersons employed by MFS failed to address material aspects of their relationship related to supervision of activities by KISLING:

- Philip Mitchell Anderson
- Christopher Filasky
- Sheryl Ann Alvarado

32

The acts and/or omissions of MFS as alleged in Paragraph 31, above, violate Section 2726 (Required contents of broker-salesperson relationship agreements) of the Regulations.

33

The facts alleged in Paragraph 31, above, are grounds for the suspension or revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

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1 EIGHTH CAUSE OF ACTION

2 34

3 MFS failed to maintain possession of the original real estate salesperson license  
4 certificates for Jamie Ramona Ohlsen and Greg Weber.

5 35

6 The acts and/or omissions of MFS as alleged in Paragraph 34 above, violate  
7 Section 10160 (possession/inspection of salesperson license) of the Code and Section 2753  
8 (retention of real estate salesperson license by broker) of the Regulations.

9 36

10 The facts alleged in Paragraph 34, above, are grounds for the suspension or  
11 revocation of MFS's license(s) and license rights under Sections 10177(d) and/or 10177(g) of  
12 the Code.

13 NINTH CAUSE OF ACTION

14 37

15 At all times relevant herein, KISLING was responsible, as the designated  
16 broker/officer for MFS, for the supervision and control of the activities conducted on behalf of  
17 the corporation by its officers and employees. KISLING failed to exercise reasonable  
18 supervision and control over the property mortgage loan brokering activities of MFS. In  
19 particular, KISLING permitted, ratified and/or caused the conduct described in the First through  
20 Eighth Causes of Action, above, to occur, and failed to take reasonable steps, including, but not  
21 limited to, the supervision of employees and the implementation of policies, rules, procedures  
22 and systems to ensure the compliance of the corporation with the Real Estate Law and the  
23 Regulations.

24 38

25 The acts and/or omissions of KISLING as set forth in Paragraph 37, above,  
26 violate Section 10159.2 (responsibilities of corporate officer in charge) of the Code and  
27 Section 2725 (broker supervision of salespersons) of the Regulations.

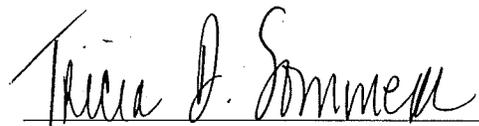
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The facts alleged in Paragraph 37, above, are grounds for the suspension or revocation of KISLING's license(s) and license rights under Sections 10177(d) and/or 10177(g), and 10177(h) (reasonable supervision requirements for broker) of the Code.

COST RECOVERY

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation, and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Code, for the reasonable cost of investigation and prosecution of this case, including agency attorney's fees, and for such other and further relief as may be proper under applicable provisions of law.

  
\_\_\_\_\_  
TRICIA D. SOMMERS  
Deputy Real Estate Commissioner

Dated at Sacramento, California,  
this 12th day of March, 2012.