FILED

JAN 16 2013

DEPARTMENT OF REAL ESTATE
BY: Jana B. Clon

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of	)	No. H-37654 LA
	)	
HOME RESCUE PROGRAMS INC., a corporate real estate broker;	)	DEFAULT DECISION
SUSAN AMY HERMAN, individually and as former designated officer of Home Rescue Programs Inc.;	)(	**CYNTHIA LYNN CROCKETT**)
ANA SAMAYOA POSADAS;	)	
GINA MARIE ALCANTAR; and	)	
CYNTHIA LYNN CROCKETT,	)	
	)	
Respondents.	)	
	)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on October 15, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

Default

1. On November 4, 2011, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate, State of California ("Department").

(a) On November 9, 2011, the Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent CYNTHIA LYNN CROCKETT at her mailing address on record with the Department at P.O. Box 3823, Beverly Hills, CA 90212. This mailing was signed for on November 28, 2011.

(b) No Notice of Defense was received from Respondent CYNTHIA LYNN CROCKETT.

(c) No Notice of Defense having been received from Respondent CYNTHIA LYNN CROCKETT, her default was entered on October 15, 2012.

Parties and Entities

2. Home Rescue Programs Inc. ("Home Rescue") is a California corporation. At all times relevant herein, Brian Suder was and is the President of Home Rescue, and Steven Duplain was Chief Financial Officer.

3. Home Rescue is licensed and has license rights as a corporate real estate broker under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code"). HOME RESCUE was first licensed by the Department of Real Estate of the State of California ("Department") on January 26, 2009. Beginning on January 26, 2009, and continuing through November 25, 2009, Susan Amy Herman was the broker-officer designated pursuant to Code Section 10159.2 to be responsible for ensuring Home Rescue's compliance with the Real Estate Law. Herman cancelled her designated broker status on or about November 25, 2009. Since November 25, 2009, Home Rescue has not been broker affiliated, and its license has therefore been inactive since that time.

4. Respondent CYNTHIA LYNN CROCKETT ("CROCKETT") was at all times relevant herein licensed by the Department as a real estate salesperson, or had rights with respect to said license. Respondent CROCKETT was first licensed by the Department on or about October 12, 2007. She was licensed to conduct real estate business as an employee of Chrismar Financial Inc. (October 12, 2007-April 12, 2009); LT Realty Services (July 6, 2009 – January 30, 2011); and The Pitts Group Inc. (January 31, 2011 to October 11, 2011). CROCKETT's real estate license expired on October 11, 2011. She retains renewal rights and the Department retains jurisdiction pursuant to Code Section 10103.

5. The parties and entities listed above have also engaged in real estate activities under numerous other business names, including, but not limited to, the following unlicensed business names:

(a) www.hrpapply.com
(b) Home Rescue Programs
(c) Home Rescue Programs LLC

6. At all times relevant herein, Respondent CROCKETT and Home Rescue engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Code Sections 10131(d) and 10131.2. CROCKETT and Home Rescue's activities included soliciting borrowers or lenders for and/or negotiating loans, collecting payments and/or performing services for borrowers or lenders in connection with loans secured by liens on real property. CROCKETT and Home Rescue's activities also included claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Code Sections 10026 and 10085.

7. Respondent CROCKETT has never been licensed by the Department as a broker or as a salesperson employed by Home Rescue as her supervising broker of record.

8. Beginning on or about February 25, 2009, and continuing through on or after December 1, 2009, Respondent CROCKETT solicited borrowers for loan modification services and collected advance fees as an agent and/or affiliate of Home Rescue. CROCKETT, as an agent of Home Rescue, purported to represent consumers in negotiating with lenders on their behalves to modify the terms of their mortgage loans. Examples of loan modification consumers who dealt with CROCKETT as an agent of Home Rescue include, but are not limited to Jose E. and Ben and Crystal S.

9. During the time period set forth above, CROCKETT engaged in activities requiring a real estate salesperson license for or in expectation of compensation from Home Rescue when Home Recue was not her supervising broker of record. CROCKETT was not employed by Home Rescue or authorized to conduct licensed activities under Home Rescue's license.

DETERMINATION OF ISSUES

1. Evidence considered in this matter included the sworn statements and complaints of consumers; written statements of witnesses; public records pertaining to the corporate status of Home Rescue, as well as licensing records from the Department; the audit report; bank records; and loan modification records provided to the Department during the course of the audit.

2. The standard of proof applied was clear and convincing proof to a reasonable certainty.

3. CROCKETT's conduct, as set forth in the Findings of Fact above, in soliciting borrowers, collecting advance fees and negotiating loan modifications as an agent of Home Rescue, and accepting compensation from any person other than the broker under whom she was then licensed, constitutes grounds to revoke or suspend CROCKETT's real estate salesperson license and license rights pursuant to Code Sections 10137, 10177(d), and 10176(i).

ORDER

All licenses and license rights of Respondent CYNTHIA LYNN CROCKETT under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on FEB - 5 2013.

DATED: 1/14/13.

REAL ESTATE COMMISSIONER

By: [signature]
Awet P. Kidane
Chief Deputy Commissioner

FILED

JAN 16 2013

DEPARTMENT OF REAL ESTATE
BY: Jana B. Olson

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of **HOME RESCUE PROGRAMS INC.**, a corporate real estate broker; SUSAN AMY HERMAN, individually and as former designated officer of Home Rescue Programs Inc.; ANA SAMAYOA POSADAS; GINA MARIE ALCANTAR; and CYNTHIA LYNN CROCKETT, Respondent.	)	No. H-37654 LA DEFAULT DECISION **(HOME RESCUE PROGRAMS INC.)**

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on October 15, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

Default

1. On November 4, 2011, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate, State of California ("Department").

(a) On November 9, 2011, the Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent HOME RESCUE PROGRAMS INC. at its mailing address on record with the Department at 13428 Maxella Ave, Suite 326, Marina Del Rey, California 90292. This mailing was

returned by the post office marked, "Undeliverable commercial mail receiving agency. No authorization to receive mail for this customer."

(b) No Notice of Defense was received from Respondent HOME RESCUE PROGRAMS INC.

(c) No Notice of Defense having been received, Respondent HOME RESCUE PROGRAMS INC.'s default was entered on October 15, 2012[1].

Parties and Entities

2. Respondent HOME RESCUE PROGRAMS INC. ("HOME RESCUE") is a California corporation. At all times relevant herein, Brian Suder was and is the President of HOME RESCUE, and Steven Duplain was Chief Financial Officer.

3. Respondent HOME RESCUE is licensed and/or has license rights as a corporate real estate broker under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code"). HOME RESCUE was first licensed by the Department of Real Estate of the State of California ("Department") on January 26, 2009.

(a) Prior to January 26, 2009, HOME RESCUE was not licensed by the Department in any capacity.

(b) Beginning on January 26, 2009, and continuing through November 25, 2009, Susan Amy Herman was the broker-officer designated pursuant to Code Section 10159.2 to be responsible for ensuring HOME RESCUE's compliance with the Real Estate Law. Herman cancelled her designated broker status on or about November 25, 2009.

(c) Since November 25, 2009, HOME RESCUE has not been broker affiliated, and its license has therefore been inactive since that time.

(d) Effective March 26, 2012, Susan Amy Herman voluntarily surrendered her real estate license.

4. Brian Suder ("Suder") is not currently licensed by the Department in any capacity, and does not have any license rights. Suder has never been licensed as a broker. Suder was licensed by the Department as a conditional restricted salesperson between September 2, 2005 and March 2, 2007. On March 3, 2007, Suder's conditional restricted salesperson license was permanently suspended due to his failure to complete education requirements.

5. Steven Duplain ("Duplain") is not now and has never been licensed by the Department in any capacity. At times relevant herein, Duplain was an officer and agent for service of process

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[1] Former designated broker-officer of HOME RESCUE PROGRAMS INC., Susan Herman, filed a Notice of Defense on her own behalf. At the time that she filed her Notice of Defense, she was no longer the designated broker-officer of HOME RESCUE PROGRAMS INC. Herman voluntarily surrendered her license.

for Respondent HOME RESCUE. At times relevant herein, Duplain was also a managing partner of Home Rescue Programs LLC.

6. Home Rescue Programs LLC is a California Limited Liability company. At all times relevant herein, Brian Suder and Steven Duplain were and are managing partners of Home Rescue Programs LLC. Home Rescue Programs LLC has never been licensed by the Department in any capacity.

7. The parties and entities listed above have also engaged in real estate activities under numerous other business names, including, but not limited to, the following unlicensed business names:

(a) www.hrpapply.com
(b) Home Rescue Programs
(c) Home Rescue Programs LLC

8. At all times relevant herein, Respondent HOME RESCUE engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Code Sections 10131(d) and 10131.2. HOME RESCUE's activities included soliciting borrowers or lenders for and/or negotiating loans, collecting payments and/or performing services for borrowers or lenders in connection with loans secured by liens on real property. HOME RESCUE's activities also included claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Code Sections 10026 and 10085.

Audit Violations (DRE Audit No. LA 090111)

9. On April 26, 2010, the Department completed an audit examination of HOME RESCUE's books and records pertaining to the mortgage lending activities described in Finding No. 8 above, covering a period from December 18, 2008 to November 24, 2009. The primary purpose of the examination was to determine HOME RESCUE's compliance with the Real Estate Law. The examination, Audit No. LA 090111, revealed violations of the Code and Title 10, Chapter 6 of the California Code of Regulations ("Regulations"), as set forth below, and as more specifically set forth in the Audit Report and Exhibits attached thereto.

10. During the examination period HOME RESCUE, through its agents and employees, deposited and/or disbursed funds, including trust funds, into and/or from the following general business accounts:

(a). Bank Account 1: Account number xxxxx-x2839 ("B/A1"), was named, "Steven Duplain, Home Rescue Programs Inc." B/A1 was maintained at Bank of America, 4754 Admiralty Way, Marina Del Rey, CA 90292. This account was maintained for the receipt and disbursement of trust funds in the form of advance fees received in connection with HOME RESCUE's loan modification business. Duplain was the only signatory on the account, and only one signature was required. B/A1 was not identified as a trust account.

(b). Bank Account 2: Account number xxxxx-x1664 ("B/A2") was named "Home Rescue Programs LLC." B/A2 was maintained at the Bank of America, 4754 Admiralty Way, Marina Del Rey, CA 90292. This account was maintained as HOME RESCUE's general operating account, and was also used for the receipt and disbursement of advance fees collected in connection with HOME RESCUE's loan modification activity. Duplain and Suder were signatories on the account, and only one signature was required. B/A2 was not identified as a trust account.

11. In the course of activities described in Finding 8 above, and during the examination period described in Finding No. 9, Respondent HOME RESCUE acted in violation of the Code and the Regulations in that:

(a) HOME RESCUE placed trust funds, in the form of advance fees, into general bank accounts and did not maintain a trust account for the advance fees, in violation of Code Sections 10145 and 10146 and Regulation 2832.

(b) HOME RESCUE allowed the balance of the trust funds placed in the general bank accounts to fall below the total aggregate trust fund liability to the owners of the trust funds, in violation of Code Section 10145 and Regulation 2932.1.

(i) Based on records provided to the Department during the audit, as of the audit cut-off date of November 24, 2009, B/A1 had a minimum shortage of approximately $1,643,767.18.

(ii) As of November 24, 2009, B/A2 had a minimum shortage of approximately $84,268.27.

(iii) There was no evidence that Respondent obtained the written consent of the beneficiary/owners of the trust funds to allow the account balances to fall below the aggregate liability.

(c) Respondent collected advance fees from borrowers pursuant to an agreement which was not authorized by the Department, in violation of Code Section 10085 and Regulation 2970.

(i) Respondent collected advance fees from borrowers prior to submitting an advance fee agreement and materials to the Department for review and approval on March 20, 2009.

(ii) After receiving a "No Objection Letter" from the Department relating to a proposed advance fee agreement and materials on March 20, 2009, Respondent did not use the advance fee agreement and accounting format as submitted.

(d) HOME RESCUE collected trust funds, in the form of advance fees, on behalf of borrowers, which trust funds were deposited into general accounts, and commingled with general funds, in violation of Code Sections 10145, 10176(e) and Regulation 2832.

(i) Between February 14, 2009 and November 24, 2009, HOME RESCUE collected advance fees totaling $2,227,314.33 from borrowers, which funds were deposited into B/A1, an account not designated as a trust account.

(ii) Between February 14, 2009 and November 24, 2009, HOME RESCUE deposited advance fees totaling $94,885.00 into B/A2, and commingled those trust funds with HOME RESCUE's general funds.

(e) HOME RESCUE deposited trust funds into general accounts, then disbursed funds from the accounts and converted them to personal use, and/or allowed others to convert them to personal use, and account balances were reduced below the amount of trust funds deposited, in violation of Code Sections 10145, 10176(i) and/or 10177(j).

(i) Based on a review of the records HOME RESCUE provided during the audit, there was no evidence maintained in the files regarding the completion of the loan modification transactions.

(ii) Of the advance fees collected and deposited into B/A1 during the audit period, $1,643,696.14 were disbursed to HOME RESCUE prior to completion of services, and deposited into B/A 2, HOME RESCUE's general account out of which operating expenses and personal disbursements were made. $26,840.00 was disbursed to another account ending in "1508," for which further records were not provided during the audit.

(f) Respondent received advance fees from borrowers without maintaining and providing an accounting identifying the name of the agent, name of the principal, services to be rendered, identity of the trust fund account into which the advance fees were deposited, the amount of the fee collected, and the allocation of money disbursed from the advance fee to cover services, commission and overhead. This was in violation of Code Section 10146 and Regulation 2972.

(g) Between December 18, 2008 and November 24, 2009, HOME RESCUE negotiated approximately 2000 loan modification transactions and collected fees in advance ranging from $1,000.00 to $5,599.00 per transaction. HOME RESCUE did not maintain a columnar record of receipts and disbursements of these trust funds received on behalf of borrowers, in violation of Code Section 10145 and Regulation 2831.

(h) HOME RESCUE did not maintain complete and accurate separate records for each beneficiary or transaction in which advance fees were collected for loan modification services. HOME RESCUE's records for trust funds placed in B/A1 and B/A2 did not include dates of receipts, amounts of deposits, and amounts of disbursements. This was in violation of Code Section 10145 and Regulation 2831.1.

(i) HOME RESCUE did not maintain monthly reconciliations of all separate records to the columnar records of receipts and disbursements for the bank accounts that handled advance fees, in violation of Code Section 10145 and Regulation 2831.2.

(j) HOME RESCUE's president, Steven Duplain, was not licensed by the Department and was the sole signatory on B/A 1. He was authorized to sign and make withdrawals on B/A 1 without fidelity bond coverage, in violation of Code Section 10145 and Regulation 2834.

(k) HOME RESCUE conducted mortgage loan activities using the fictitious business names "Home Rescue Programs," and "Home Rescue Programs LLC" without first obtaining a license from the Department bearing such fictitious names, in violation of Code Section 10159.5 and Regulation 2731.

(l) Between October 11, 2009 and November 24, 2009, HOME RESCUE continued to collect advance fees for loan modification services, in violation of Code Sections 10085.6, 10146 and 10145, and Regulation 2832.

(m) HOME RESCUE performed activities requiring a real estate license prior to licensure by the Department. As examples, between December 22, 2008 and January 20, 2009, HOME RESCUE solicited borrowers, offered loan modification services and collected advance fees from borrowers Jane T., Toni M., Oscar A. and Rickey G.. This was in violation of Code Section 10130.

(n) HOME RESCUE employed unlicensed agents Infinity Financial Alliance, Carolina Crooks, John Boatman, Derek Forest, DLN Financials, Carmen Kovac, Richard Pavlick and Brian Hollifield to perform activities requiring a real estate license when none of these agents was properly licensed by the Department, in violation of Code Section 10137.

(o) HOME RESCUE failed to notify the Department of the employment of all salespersons performing licensed activities under its name, including salespersons Ana Posadas, Leslie Thulin and Juan Ferrer, and failed to make available for inspection written Broker/Salesperson agreements with these salespersons. This was in violation of Code Section 10161.8 and Regulations 2726 and 2752.

(p) HOME RESCUE failed to maintain copies of all trust fund records relating to the fees collected for loan modifications, in violation of Code Section 10148.

Unlawful Compensation of Salesperson Affiliates and Unlicensed Agents

12. Between January 26, 2009 and November 24, 2009, HOME RESCUE negotiated approximately 2000 loan modification transactions and collected advance fees totaling approximately $2,326,949.33.

13. Respondent HOME RESCUE routinely compensated individuals to perform activities requiring a real estate license who were not licensed by the Department in any capacity and/or who were licensed as salespersons employed by brokers other than HOME RESCUE. These unlicensed individuals, and salespersons licensed under the employ of brokers other than HOME RESCUE, advertised, solicited and collected advance fees, and/or performed loan on services on behalf of HOME RESCUE.

14. Respondent compensated real estate salespersons Ana S. Posadas ("Posadas"), Gina M. Alcantar ("Alcantar"), and Cynthia Lynn Crockett ("Crockett"), among others, to perform loan modification activities as agents or affiliates of HOME RESCUE at times when these salespersons were licensed under the employ of other supervising brokers. Examples include, but are not limited to the following:

(a) Examples of individuals from whom Posadas collected advance fees on behalf of HOME RESCUE for loan modification services include Rebecca H. ($4400, Jimmy M. ($1,500, and Louis P. ($5,990).

(b) Examples of individuals from whom Alcantar collected advance fees on behalf of HOME RESCUE include Maria M. ($3,750); Ramiro M. ($1,500, and Montano M. ($3,750).

(c) Examples of individuals from whom Crockett solicited advance fees and provided loan modification services on behalf of HOME RESCUE include Ben S. ($1,995) and Jose E. ($3,750).

15. HOME RESCUE and designated officer HERMAN failed to maintain records indicating whether or not loan modification services were provided or loan modifications were obtained on behalf of the borrowers listed in Findings of Fact 14 A, B and C.

Misleading, False and/or Deceptive Advertising

16. Between on or before August 31, 2009 and continuing through on or after November 4, 2009, Respondent HOME RESCUE, also doing business under the unlicensed fictitious business name www.hrpapply.com, knowingly advertised, printed, displayed, published, distributed or caused or permitted to be advertised, printed, displayed, published distributed, false, misleading or deceptive statements or representations with regard to the rates, terms or conditions for making, purchasing or negotiating loans on real property. HOME RESCUE did so in order to induce consumers to pay up front, advance fees to engage HOME RESCUE to provide loss mitigation services.

17. Beginning on or before August 9, 2009, HOME RESCUE, doing business as www.hrp.com, circulated advertisements soliciting consumers through the U.S. Postal service, which mail solicitations contained deceptive, misleading and materially false representations which HOME RESCUE knew, or should have known, were false. These mail solicitations entitled, "Lender Investigation Notification," urged homeowners who were borrowers under residential mortgage loans to contact HOME RESCUE to participate in a lawsuit against lenders that would entitle them to a reduction of the principal amount of their loan, lower their interest rates, and eliminate or reduce delinquent amounts.

18. Between August 8, 2009 and December 28, 2009, the Department received samples of mail solicitations sent to consumers of loans issued by Sun America Mortgage, Citibank, and Nevada State Bank, which solicitations were deceptive, misleading or false in the following ways:

(a) The solicitations were formatted and presented in a manner suggesting they were from a governmental agency, when they were not.

(b) The solicitations did not clearly and conspicuously state that the solicitor was not sponsored or affiliated with the lender and that the solicitation was not authorized by the lender.

(c) The solicitations did not clearly identify HOME RESCUE and were deceptively structured as if they were official legal documents and not a solicitation.

(d) The solicitations falsely notified the consumers that their lenders were under investigation for predatory lending practices.

(e) The offers enumerated a number of benefits to the consumer, implying a guarantee of outcomes which the solicitor was unable to guarantee.

(f) The solicitation referred consumers to a HOME RESCUE website which used quotes from then FDIC Chairman Sheila Baird and California Governor Arnold Schwarzenegger implying government support for their services.

DETERMINATION OF ISSUES

1. Evidence considered in this matter included the sworn statements and complaints of consumers; written statements of witnesses; public records pertaining to the corporate status of HOME RESCUE, as well as licensing records from the Department; the audit report; bank records; and loan modification records provided to the Department during the course of the audit.

2. The standard of proof applied was clear and convincing proof to a reasonable certainty.

Audit Violations

3. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent HOME RESCUE PROGRAMS INC. pursuant to Code Sections 10177(d) and 10176(i) for collecting advance fees from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, in violation of Code Section 10085 and Regulation 2970.

4. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent HOME RESCUE PROGRAMS INC. pursuant to Code Sections 10130 and 10137 for engaging in activities requiring a real estate broker license when it was not licensed as a real estate broker, and when it was not operating through a broker-officer designated pursuant to Code Section 10159.2 to be responsible for supervising the activities of the corporations employees and agents to ensure compliance with the Real Estate Law.

5. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent HOME RESCUE PROGRAMS INC. pursuant to Code Sections 10177(d),

10176(e), 10176(i), 10177(j), 10137, 10085, and 10085.6 for violating Code Sections 10145, 10146, 10130, 10137, 10159.5, 10161.8 and 10148, and Regulations 2726, 2731, 2752, 2831, 2831.1, 2831.2, 2832, 2832.1, 2834, 2970, and 2972.

Advance Fee Violations, Unlicensed Agents, and Unlawful Compensation of Salesperson Affiliates

6. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent HOME RESCUE PROGRAMS INC. pursuant to Code Sections 10137, 10177(d) and 10176(i) for employing and compensating unlicensed agents and affiliates who were either not licensed to conduct real estate activities, or who were licensed as employees of other supervising brokers of record to perform acts requiring a real estate license.

Misleading, False and Deceptive Advertising

7. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent HOME RESCUE PROGRAMS INC. pursuant to Code Sections 10235, 10176(a), 10176(c), 10177(g), 10176(i) and 10177(j) for fraud and dishonest dealing, false advertising, misrepresentation and negligence.

ORDER

All licenses and license rights of Respondent HOME RESCUE PROGRAMS INC. under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on FEB - 5 2013.

DATED: 1/14/13.

REAL ESTATE COMMISSIONER

By: [signature]
Awet P. Kidane
Chief Deputy Commissioner

SPCTO Flag

FILED

JUL 18 2012

DEPARTMENT OF REAL ESTATE
BY: Guadalupe Valencia

Department of Real Estate
320 West Fourth Street, #350
Los Angeles, California 90013

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of HOME RESCUE PROGRAMS INC., a corporate real estate broker; SUSAN AMY HERMAN, individually and as former designated officer of Home Rescue Programs Inc.; ANA SAMAYOA POSADAS; GINA MARIE ALCANTAR; and CYNTHIA LYNN CROCKETT, Respondents.	DRE Case No. H-37654 LA OAH Case No. L-2012010359 STIPULATION AND AGREEMENT

It is hereby stipulated by and between ANA SAMAYOA POSADAS (sometimes referred to herein as "Respondent"), represented in this matter by Mark F. Miller, Attorney at Law of Manfredi, Levine, Eccles, Miller & Lanson, APC, and the Complainant, acting by and through Martha J. Rosett, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on November 9, 2011 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act

(APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

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

3. On November 18, 2011, Respondent filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. In order to effectuate this settlement, Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of Defense, she will thereby waive her right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that she will waive other rights afforded to her in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth below, although not admitting or denying the truth of the allegations, will not contest the factual allegations contained in the Accusation filed in this proceeding and the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to

any further administrative proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

7. This Stipulation and Respondent's decision not to contest the Accusation are made for the purpose of reaching an agreed disposition of this proceeding, and are expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), or another licensing agency of this state, another state, or of the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following Determination of Issues shall be made:

The conduct, acts or omissions of Respondent ANA SAMAYOA POSADAS, as set forth in the Accusation constitute cause to suspend or revoke the real estate license and licensing rights of Respondent ANA SAMAYOA POSADAS pursuant to Business and Professions Code Sections 10137 and 10177(d).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. All licenses and licensing rights of Respondent ANA SAMAYOA POSADAS under the Real Estate Law are suspended for a period of 180 days from the effective date of this Decision; provided, however, that ninety (90) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code of $5,000.00.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter, or within 10 days of

notice to the Respondent of the acceptance of this stipulation by the Department of Real Estate, whichever is later, with notice being given to Mark. F. Miller, Esq. at 805-379-3819.

3. No further cause for disciplinary action against the real estate license of Respondent occurs within two years from the effective date of the Decision in this matter.

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

B. As to the remaining 90 days of the 180 day suspension, said 90 days shall be stayed for two (2) years upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

C. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

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DATED: 4/12/12

MARTHA J. ROSETT
Counsel for Complainant

* * *

I have read the Stipulation and Agreement, have discussed it with my counsel, 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 Administrative Procedure Act (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.

Respondent may signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at the following fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 4/11/12

ANA SAMAYOA POSADAS
Respondent

DATED: 4/11/12

MARK F. MILLER, Esq.
Manfredi, Levine Eccles, Miller and Lanson APC
Counsel for Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on JUL 31 2012.

IT IS SO ORDERED 7/2/2012.

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

SACTO Flag

Department of Real Estate
320 West Fourth Street, #350
Los Angeles, California 90013

FILED

JUL 18 2012

DEPARTMENT OF REAL ESTATE
BY: Guadalupe Valencia

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of HOME RESCUE PROGRAMS INC., a corporate real estate broker; SUSAN AMY HERMAN, individually and as former designated officer of Home Rescue Programs Inc.; ANA SAMAYOA POSADAS; GINA MARIE ALCANTAR; and CYNTHIA LYNN CROCKETT, Respondents.	DRE Case No. H-37654 LA OAH Case No. L-2012010359 STIPULATION AND AGREEMENT

It is hereby stipulated by and between GINA MARIE ALCANTAR (sometimes referred to herein as "Respondent"), representing herself in this matter, and the Complainant, acting by and through Martha J. Rosett, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on November 9, 2011 in this matter:

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

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

3. On November 17, 2011, Respondent filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. In order to effectuate this settlement, Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that she understands that by withdrawing said Notice of Defense, she will thereby waive her right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that she will waive other rights afforded to her in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth below, although not admitting or denying the truth of the allegations, will not contest the factual allegations contained in the Accusation filed in this proceeding and the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

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

7. This Stipulation and Respondent's decision not to contest the Accusation are made for the purpose of reaching an agreed disposition of this proceeding, and are expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), or another licensing agency of this state, another state, or of the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following Determination of Issues shall be made:

The conduct, acts or omissions of Respondent GINA MARIE ALCANTAR, as set forth in the Accusation constitute cause to suspend or revoke the real estate license and licensing rights of Respondent GINA MARIE ALCANTAR pursuant to Business and Professions Code Sections 10137 and 10177(d).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent GINA MARIE ALCANTAR under the Real Estate Law are suspended for a period of 180 days from the effective date of this Decision:

A. Provided, however, that if Respondent requests, the initial 90 days of said suspension (or a portion thereof) shall be stayed upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code of $5,000.00.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate license of a Respondent occurs within two (2) years from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

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

B. The remaining 90 days of the 180 day suspension shall be stayed for two (2) years upon the following terms and conditions:

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

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

C. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

///

///

DATED: 4/10/12

MARTHA J. ROSETT
Counsel for Complainant

* * *

I have read the Stipulation and Agreement, have discussed it with my counsel, 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 Administrative Procedure Act (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.

Respondent may signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at the following fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 4/10/2012

GINA MARIE ALCANTAR
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on JUL 31 2012.

IT IS SO ORDERED 7/2/2012.

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

SACTO Flag

FILED

MAR 06 2012

DEPARTMENT OF REAL ESTATE
BY: Suzanne Valencia

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of SUSAN AMY HERMAN, Respondent.	No. H-37654 LA L-2012010359

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On November 9, 2011, an Accusation was filed in this matter against Respondent SUSAN AMY HERMAN.

On February 7, 2012, Respondent petitioned the Commissioner to voluntarily surrender her real estate broker license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent SUSAN AMY HERMAN's petition for voluntary surrender of her real estate broker license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated February 7, 2012,

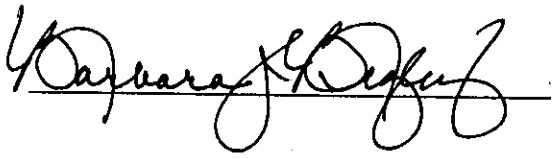
(attached as Exhibit "A" hereto). Respondent's license certificate(s), pocket card(s) and any branch office license certificate(s) shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on MAR 26 2012.

DATED: 3/1/12.

BARBARA J. BIGBY
Acting Real Estate Commissioner



"EXHIBIT A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of SUSAN AMY HERMAN, Respondent.	DRE No. H- 37654 LA OAH No.L-2012010359

DECLARATION

My name is SUSAN AMY HERMAN, and I am currently licensed as a real estate broker and have license rights with respect to said license. I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my license, I may be relicensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to Section 11522 of the Government Code. I also understand that by so voluntarily surrendering my license, I agree to the following:

1. The filing of this Declaration shall be deemed as my petition for voluntary surrender.

2. It shall also be deemed to be an understanding and agreement by me that I waive all rights I have to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that I also waive other rights afforded to me in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

3. I agree that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-37654 LA may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

4. I further agree to pay the Commissioner's reasonable cost for the audit which led to this action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. I will not be ABLE TO ON pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. * I AM unable to pay anything at all ON DISABILITY & SOCIAL SECURITY

5. I am aware that if I petition for reinstatement in the future, payment of the audit costs will be a condition of reinstatement.

6. I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

7. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto. If and when a petition application is made for reinstatement of a surrendered license, the Real Estate Commissioner will consider as one of the criteria of rehabilitation, whether or not restitution has been made to <u>any person</u> who has suffered monetary losses through "substantially related" acts or omissions of Respondents, whether or not such persons are named in the Accusation filed in this case.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed 2/7/12, 20 12, at SANTA MONICA, California.

SUSAN AMY HERMAN

SACTO Flag

FILED

NOV - 9 2011

DEPARTMENT OF REAL ESTATE
BY: [illegible]

MARTHA J. ROSETT, Counsel (SBN 142072)
Department of Real Estate
320 West Fourth St. #350
Los Angeles, CA 90013

(213) 576-6982
(213) 620-6430

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of HOME RESCUE PROGRAMS INC., a corporate real estate broker; SUSAN AMY HERMAN, individually and as former designated officer of Home Rescue Programs Inc.; ANA SAMAYOA POSADAS; GINA MARIE ALCANTAR; and CYNTHIA LYNN CROCKETT, Respondents.	No. H-37654 LA ACCUSATION

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner, for cause of Accusation against HOME RESCUE PROGRAMS INC.; SUSAN AMY HERMAN, individually and as former designated officer of Home Rescue Programs Inc.; ANA SAMAYOA POSADAS; GINA MARIE ALCANTAR; and CYNTHIA LYNN CROCKETT ., is informed and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the

State of California, makes this Accusation in her official capacity.

2.

Respondent HOME RESCUE PROGRAMS INC. ("HOME RESCUE") is a California corporation. At all times relevant herein, Brian Suder was and is the President of HOME RESCUE, and Steven Duplain was Chief Financial Officer.

3.

Respondent HOME RESCUE is licensed by the Department of Real Estate ("Department") as a corporate real estate broker. HOME RESCUE was originally licensed by the Department on January 26, 2009. Respondent SUSAN AMY HERMAN was the broker-officer designated pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring HOME RESCUE's compliance with the Real Estate Law until she cancelled her designated broker status on or about November 25, 2009. Since November 25, 2009, HOME RESCUE has not been broker affiliated, and its license has therefore been inactive.

4.

Respondent SUSAN AMY HERMAN ("HERMAN") is licensed by the Department as a real estate broker. HERMAN was originally licensed by the Department as a broker on or about August 18, 2007. Between January 26, 2009 and November 25, 2009, Respondent HERMAN was the designated broker-officer of HOME RESCUE.

5.

Home Rescue Programs LLC is a California Limited Liability company. At all times relevant herein, Brian Suder and Steven Duplain were and are managing partners of Home Rescue Programs LLC. Home Rescue Programs LLC has never been licensed by the Department in any capacity.

6.

Brian Suder ("Suder") is not licensed by the Department in any capacity. Suder has never been licensed as a broker. Suder was licensed by the Department as a conditional restricted salesperson between September 2, 2005 and March 2, 2007. On March 3, 2007, Suder's conditional restricted salesperson license was permanently suspended due to his failure to complete education requirements. Suder does not currently have any license rights.

7.

Steven Duplain ("Duplain") is not now and has never been licensed by the Department in any capacity. At times relevant herein, Duplain was an officer and agent for service of process for Respondent HOME RESCUE. At times relevant herein, Duplain was also a managing partner of Home Rescue Programs LLC.

8.

Respondent ANA SAMAYOA POSADAS, dba El Punto Profesional, and dba One Stop Financial Solutions ("POSADAS") is, and at all times relevant herein was, licensed by the Department as a real estate salesperson. Respondent POSADAS was first licensed by the Department in 1991. For the past three years, POSADAS has been licensed to conduct real estate business as an employee of the following supervising brokers: Calabasas Funding Corporation (5/3/2002 – 6/16/09); City Lights Financial Express Inc. (6/17/09 – 1/2/11) and Rafeh Real Estate & Investments Inc. (1/3/11 – present)

9.

Respondent GINA MARIE ALCANTAR ("ALCANTAR") is, and at all times relevant herein was, licensed by the Department as a real estate salesperson. Respondent ALCANTAR was first licensed by the Department in 1991. For the past three years,

ALCANTAR has been licensed to conduct real estate business as an employee of Jose A. Budet (April 10, 2008-April 2, 2009) and Honeywell Mortgages-Real Estate Inc. (April 28, 2009-present).

10.

Respondent CYNTHIA LYNN CROCKETT ("CROCKETT") is, and at all times relevant herein was, licensed by the Department as a real estate salesperson. Respondent CROCKETT was first licensed by the Department on or about October 12, 2007. For the past four years, CROCKETT has been licensed to conduct real estate business as an employee of Chrismar Financial Inc. (October 12, 2007-April 12, 2009); LT Realty Services (July 6, 2009-January 30, 2011); and The Pitts Group Inc. (January 31, 2011 to the present). Between April 13, 2009 and July 5, 2009, CROCKETT was not employed under a supervising broker, and was therefore not authorized to conduct activities requiring a real estate license.

11.

The parties and entities listed above have also engaged in real estate activities under numerous other business names, including, but not limited to, the following unlicensed business names:

a) www.hrpapply.com

b) Home Rescue Programs

c) Home Rescue Programs LLC

12.

At all times relevant herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Code Sections 10131(d) and 10131.2. Their activities included soliciting

borrowers or lenders for and/or negotiating loans, collecting payments and/or performing services for borrowers or lenders in connection with loans secured by liens on real property. Their activities also included claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Code Sections 10026 and 10085.

FIRST CAUSE OF ACCUSATION

Audit No. LA090111

13.

All references to "Respondents" in this First Cause of Accusation include Respondent HOME RESCUE and/or Respondent HERMAN, as well as the officers, agents, affiliates and employees of Respondent HOME RESCUE and/or Respondent HERMAN.

14.

On April 26, 2010, the Department completed an audit examination of Respondent HOME RESCUE's books and records pertaining to the mortgage lending activities described in Paragraph 12 above, covering a period from approximately December 18, 2008 to November 24, 2009. The primary purpose of the examination was to determine Respondent HOME RESCUE and Respondent HERMAN's compliance with the Real Estate Law. The examination, Audit No. LA 090111, revealed violations of the Code and Title 10, Chapter 6 of the California Code of Regulations ("Regulations"), as set forth below, and as more specifically set forth in the Audit Report and Exhibits attached thereto.

15.

During the examination period, Respondent HOME RESCUE, acting by and through HERMAN as its designated broker officer, deposited and/or disbursed funds, including trust funds, into and/or from the following general business accounts:

A. Bank Account 1 (B/A 1): Account number xxxxx-x2839 ("B/A 1"), was named, "Steven Duplain, Home Rescue Programs Inc." B/A 1 was maintained at Bank of America, 4754 Admiralty Way, Marina Del Rey, CA 90292. This account was maintained for the receipt and disbursement of trust funds in the form of advance fees received in connection with HOME RESCUE's loan modification business. Duplain was the only signatory on the account, and only one signature was required. B/A 1 was not identified as a trust account.

B. Bank Account 2 (B/A 2): Account number xxxxx-x1664 ("B/A 2") was named "Home Rescue Programs LLC." B/A 2 was maintained at the Bank of America, 4754 Admiralty Way, Marina Del Rey, CA 90292. This account was maintained as HOME RESCUE's general operating account, and was also used for the receipt and disbursement of advance fees collected in connection with HOME RESCUE's loan modification activity. Duplain and Suder were signatories on the account, and only one signature was required. B/A 2 was not identified as a trust account.

16.

In the course of activities described in Paragraph 13 above, and during the examination period described in Paragraph 14, Respondents HOME RESCUE and HERMAN acted in violation of the Code and the Regulations in that:

a) Respondents placed trust funds, in the form of advance fees, into general bank accounts and did not maintain a trust account for the advance fees, in violation of Code Sections 10145 and 10146 and Regulation 2832.

b) Respondents allowed the balance of the trust funds placed in the general bank accounts to fall below the total aggregate trust fund liability of the broker Respondents to the owners of the trust funds. Based on records provided to the Department during the audit, as of

the audit cut-off date of November 24, 2009, B/A 1 had a minimum shortage of approximately $1,643,767.18. As of November 24, 2009, B/A 2 had a minimum shortage of approximately $84,268.27. There was no evidence that Respondents obtained the written consent of the beneficiary/owners of the trust funds to allow the account balances to fall below the aggregate liability. These shortages were in violation of Code Section 10145 and Regulation 2932.1.

c) Respondents collected advance fees from borrowers pursuant to an agreement which was not authorized by the Department, in violation of Code Section 10085 and Regulation 2970.

1) Respondents collected advance fees from borrowers prior to submitting an advance fee agreement and materials to the Department for review and approval on March 20, 2009.

2) After receiving a "No Objection Letter" from the Department relating to a proposed advance fee agreement and materials on March 20, 2009, Respondents did not use the advance fee agreement and accounting format as submitted.

d) Respondents collected trust funds, in the form of advance fees, on behalf of borrowers, which trust funds were deposited into general accounts, and commingled with general funds. Between February 14, 2009 and November 24, 2009, HOME RESCUE collected advance fees totaling $2,227,314.33 from borrowers, which funds were deposited into B/A 1, an account not designated as a trust account. During that same period, advance fees totaling $94,885.00 were deposited into B/A 2, and commingled with HOME RESCUE's general funds. This was in violation of Code Sections 10145, 10176(e) and Regulation 2832.

e) Respondents deposited trust funds into general accounts, then disbursed funds from the accounts and converted them to personal use, and/or allowed others to convert them to

personal use, in violation of Code Sections 10145, 10176(i) and/or 10177(j).

1) Based on a review of the records Respondents provided during the audit, there was no evidence maintained in the files regarding the completion of the loan modification transactions. Of the advance fees collected and deposited into B/A 1 during the audit period, $1,643,696.14 were disbursed to HOME RESCUE prior to completion of services, and deposited into B/A 2, HOME RESCUE's general account out of which operating expenses and personal disbursements were made. $26,840.00 was disbursed to another account ending in "1508," for which further records were not provided during the audit.

2) Account balances were reduced below an amount of trust funds deposited.

f) Respondents received advance fees from borrowers without maintaining and providing an accounting identifying the name of the agent, name of the principal, services to be rendered, identity of the trust fund account into which the advance fees were deposited, the amount of the fee collected, and the allocation of money disbursed from the advance fee to cover services, commission and overhead. This was in violation of Code Section 10146 and Regulation 2972.

g) Between December 18, 2008 and November 24, 2009, Respondent HOME RESCUE negotiated approximately 2000 loan modification transactions and collected fees in advance ranging from $1,000.00 to $5,599.00 per transaction. Respondents did not maintain a columnar record of receipts and disbursements of these trust funds received on behalf of borrowers, in violation of Code Section 10145 and Regulation 2831.

h) Respondents HOME RESCUE and HERMAN did not maintain complete and accurate separate records for each beneficiary or transaction in which advance fees were

collected for loan modification services. Respondents' records for trust funds placed in B/A 1 and B/A 2 did not include dates of receipts, amounts of deposits, and amounts of disbursements. This was in violation of Code Section 10145 and Regulation 2831.1.

i) Respondents HOME RESCUE and HERMAN did not maintain monthly reconciliations of all separate records to the columnar records of receipts and disbursements for the bank accounts that handled advance fees, in violation of Code Section 10145 and Regulation 2831.2.

j) HOME RESCUE's president, Steven Duplain, was not licensed by the Department and was the sole signatory on B/A 1. He was authorized to sign and make withdrawals on B/A 1 without fidelity bond coverage, in violation of Code Section 10145 and Regulation 2834.

k) Respondent HOME RESCUE conducted mortgage loan activities using the fictitious business names "Home Rescue Programs," and "Home Rescue Programs LLC" without first obtaining a license from the Department bearing such fictitious names, in violation of Code Section 10159.5 and Regulation 2731.

l) Between October 11, 2009 and November 24, 2009, after the passage and effective date of SB 94, Respondents continued to collect advance fees for loan modification services, in violation of Code Sections 10085.6, 10146 and 10145, and Regulation 2832.

m) Respondent HOME RESCUE performed activities requiring a real estate license prior to licensure by the Department. As examples, between December 22, 2008 and January 20, 2009, Respondent HOME RESCUE solicited borrowers, offered loan modification services and collected advance fees from borrowers Jane Tarasovic, Toni Mar, Oscar Aviles and Rickey Gonzalez. This was in violation of Code Section 10130.

n) Respondent HOME RESCUE employed unlicensed agents Infinity Financial Alliance, Carolina Crooks, John Boatman, Derek Forest, DLN Financials, Carmen Kovac, Richard Pavlick and Brian Hollifield to perform activities requiring a real estate license when none of these agents was properly licensed by the Department, in violation of Code Section 10137.

o) Respondents HOME RESCUE and HERMAN failed to notify the Department of the employment of all salespersons performing licensed activities under its name, including salespersons Ana Posadas, Leslie Thulin and Juan Ferrer, and failed to make available for inspection written Broker/Salesperson agreements with these salespersons. This was in violation of Code Section 10161.8 and Regulations 2726 and 2752.

p) Respondents HOME RESCUE and HERMAN failed to maintain copies of all trust fund records relating to the fees collected for loan modifications, in violation of Code Section 10148.

q) Respondent HERMAN did not exercise adequate supervision over the activities of HOME RESCUE to ensure compliance with the Real Estate Laws, in violation of Code Sections 10159.2 and 10177(h), and Regulation 2725.

17.

The conduct, acts and/or omissions of Respondent HOME RESCUE and HERMAN, as described in Paragraph 16, above, violated the Code and Regulations in the following ways:

PARAGRAPH	PROVISIONS VIOLATED
16(a)	Code Sections 10145 and 10146; Regulation 2832.
16(b)	Code Section 10145; Regulation 2832.1.

16(c)	Code Section 10085; Regulation 2970.
16(d)	Code Sections 10145 and 10176(e); Regulation 2832.
16(e)	Code Section 10145, 10176(i) and 10177(j).
16(f)	Code Section 10146; Regulation 2972.
16(g)	Code Section 10145; Regulation 2831.
16(h)	Code Section 10145; Regulation 2831.1.
16(i)	Code Section 10145; Regulation 2831.2.
16(j)	Code Section 10145; Regulation 2834.
16(k)	Code Section 10159.5; Regulation 2731
16(l)	Code Sections 10085.6, 10146, and 10145; Regulation 2832.
16(m)	Code Section 10130.
16(n)	Code Section 10137
16(o)	Code Section 10161.8; Regulations 2726 and 2752.
16(p)	Code Section 10148
16(q)	Code Sections 10159.2 and 10177(h); Regulation 2725

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondents HOME RESCUE and HERMAN under the provisions of Code Sections 10130, 10137, 10145, 10146, 10148, 10177(d), 10176(e), 10176(i), 10177(g), 10177(j), 10085, and/or 10085.6.

///

18.

The violations set forth above constitute cause for the suspension or revocation of Respondent HERMAN's real estate license and/or license rights, as the broker-officer of Respondent HOME RESCUE, for failing to supervise the activities of the corporation, in violation of Code Sections 10159.2, in conjunction with 10177(h), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION:

(Advance Fee Violations and Unlicensed Activity)

19.

Complainant incorporates by this reference into this separate Second Cause of Accustion the allegations contained above in the preamble and First Cause of Accusation above in Paragraphs 1 through 18.

20.

Between on or about January 26, 2009 and November 24, 2009, Respondent HOME RESCUE negotiated approximately 2000 loan modification transactions and collected advance fees totaling $2,326,949.33. As detailed in the FIRST CAUSE OF ACCUSATION, HOME RESCUE, and its designated broker-officer HERMAN, failed to maintain records of or account for those advance fees, which constituted trust funds.

21.

Respondent HOME RESCUE routinely compensated individuals who were not licensed by the Department in any capacity, and/or who were licensed as salespersons employed by brokers other than HOME RESCUE or HERMAN, to advertise, solicit and/or perform loan modification services requiring a real estate license. Respondent HOME RESCUE failed to maintain, retain and/or to provide to the Department copies of the Broker-Salesperson

Agreements pursuant to which such unlicensed agents and affiliates were employed by HOME RESCUE.

22.

Licensed real estate salespersons ANA S. POSADAS, GINA ALCANTAR, and CYNTHIA CROCKETT, among others, performed loan modification activities and solicited advance fees as agents and/or affiliates of HOME RESCUE at times when they were employed by supervising brokers of record other than HOME RESCUE.

Affiliate ANA SAMAYOA POSADAS

23.

Respondent POSADAS has never been licensed as a real estate broker and has never been licensed by the Department as a salesperson employed by HOME RESCUE as her supervising broker of record.

24.

Beginning on or before March 28, 2009, Respondent POSADAS, as an agent or affiliate of HOME RESCUE, solicited borrowers and offered to provide loan modification services in exchange for an advance fee. Borrowers entered into written agreements with HOME RESCUE for loan modification services. POSADAS was referred to in the Agreements and related materials as "Foreclosure Consultant," "Affiliate" and/or "Broker". Borrowers provided HOME RESCUE and POSADAS with financial information and received an extensive package of materials relating to the loan modification negotiations. The following are examples of transactions in which POSADAS solicited advance fees as an agent and/or affiliate of HOME RESCUE for loan modification services:

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Borrowers	Advance Fees Pd.	Agreement Date	Date Dep.
Hernandez, R	$3,200.00	3/28/09	3/28/09-to Posadas
	($1,200.00)		3/30/09 to Home Rescue
Martinez, J	$1,500.00	5/7/09	5/20/09
Pinto, L	$5,990.00	7/6/09	7/6/09

25.

HOME RESCUE did not maintain records indicating whether or not loan modification services were provided for these borrowers, or whether they succeed in obtaining a loan modification or debt restructuring. HOME RESCUE did not refund any of the money or provide an accounting of services provided and fees disbursed.

26.

At the time that POSADAS solicited borrowers for loan modification services and collected advance fees, as set forth above in Paragraph 24, POSADAS was not licensed as a real estate broker and was not authorized to conduct activities requiring a real estate salesperson license as an employee of HOME RESCUE.

27.

As set forth above, Respondent POSADAS engaged in activities requiring a real estate license for or in expectation of compensation from HOME RESCUE when it was not her supervising broker of record.

28.

HOME RESCUE and designated officer HERMAN failed to maintain a broker/salesperson agreement and/or to notify the Department of POSADAS' employment as salesperson agent under HOME RESCUE's supervision.

Affiliate GINA ALCANTAR

29.

Respondent ALCANTAR has never been licensed by the Department as a broker or as a salesperson employed by HOME RESCUE or HERMAN as her supervising broker of record.

30.

Beginning on or before August 8, 2009 and continuing through on or after September 11, 2009, Respondent ALCANTAR solicited borrowers for loan modification services and collected advance fees as an agent and/or affiliate of HOME RESCUE. The following are examples of transactions in which ALCANTAR solicited advance fees as an agent and/or affiliate of HOME RESCUE for loan modification services:

Borrowers	Advance Fees Pd.	Agreement Date	Date Dep.
Maciel, M.	$3,750.00	8/28/09	8/28/09
Marquez, R.	$1,500.00	8/20/09	8/20-9/9/09
Montano, M.	$3,750.00	9/9/09	9/9/09

31.

HOME RESCUE did not maintain records indicating whether or not loan modification services were provided to these borrowers, or whether they succeed in obtaining a loan modification or debt restructuring. HOME RESCUE did not refund any of the money or provide an accounting of services provided and fees disbursed.

32.

At the time that ALCANTAR solicited borrowers for loan modification services and collected advance fees, as set forth above in Paragraph 30, ALCANTAR was not licensed as

a real estate broker and was not authorized to conduct activities requiring a real estate salesperson license as an employee of HOME RESCUE.

33.

HOME RESCUE and designated officer HERMAN failed to maintain a broker/salesperson agreement and/or to notify the Department of ALCANTAR's employment as salesperson agent under HOME RESCUE's supervision.

34.

As set forth above, Respondent ALCANTAR engaged in activities requiring a real estate license for or in expectation of compensation from HOME RESCUE when HOME RESCUE was not her supervising broker of record.

Affiliate CYNTHIA CROCKETT

35.

Respondent CROCKETT has never been licensed by the Department as a broker or as a salesperson employed by HOME RESCUE as her supervising broker of record.

36.

Beginning on or before August 8, 2009 and continuing through on or after September 11, 2009, Respondent ALCANTAR solicited borrowers for loan modification services and collected advance fees as an agent and/or affiliate of HOME RESCUE. The following are examples of transactions in which ALCANTAR solicited advance fees as an agent and/or affiliate of HOME RESCUE for loan modification services:

Borrowers	Advance Fees Pd.	Agreement Date	Date Dep.
Sandoval, A.	$1,995.00	4/30/09	5/23/09

Escudero, J.[1]	$3,750.00	2/25/09	2/25-3/31/09

37.

Between on or about February 25, 2009 and on or about January 19, 2010, HOME RESCUE, through CROCKETT and unlicensed agents and/or affiliates Barrios, Gemma Gozon, Cusie Custis and others, purported to represent Escudero in negotiating with lenders on his behalf to modify the terms of his mortgage loan. HOME RESCUE failed to obtain a loan modification and refused to refund Escudero's money or provide an accounting to him.

38.

Barrios, Gemma Gozon, Cusie Custis were not then and are not now licensed by the Department in any capacity. As set forth above, CROCKETT was not employed by HOME RESCUE as a salesperson authorized to conduct licensed activities under HOME RESCUE's license.

39.

As set forth above, Respondent CROCKETT engaged in activities requiring a real estate license for or in expectation of compensation from HOME RESCUE when HOME RESCUE was not her supervising broker of record.

40.

Between January 20, 2009 and December 1, 2009, HOME RESCUE utilized various unlicensed agents and/or affiliates, as well as salespersons who were employed by brokers other than HOME RESCUE, to collect advance fees from additional borrowers in distress, including but not limited to Eunmi ("Amy") Kim, Marilyn Ruts, Christine Cornwell,

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[1] Escudero dealt with several additional unlicensed agents and/or affiliates of HOME RESCUE, including David Barrios, Gemma Gozon and Cusie Custis.

Diana and Louis Pino Jr., Thu Le, Daniel Sanchez and Aracely Alvarado, Robert and Deborah Alvarez, Gonzalo Mendez, Paul Lawrence Doolin and Jo Ann Henderson.

41.

The conduct, acts and/or omissions of Respondent HOME RESCUE in compensating and utilizing agents and affiliates who were either not license to conduct real estate activities, or were licensed as employees of other supervising brokers of record, as set forth above, constitutes grounds to revoke or suspend HOME RESCUE's license and license rights pursuant to Code Sections 10137, 10177(g), 10176(i) and/or 10177(j).

42.

The conduct, acts and/or omissions of Respondent HOME RESCUE in receiving advance fees from borrowers without maintaining and providing an accounting identifying the name of the agent, name of the principal, services to be rendered, identity of the trust fund account into which the advance fees were deposited, the amount of the fee collected, and the allocation of money disbursed from the advance fee to cover services, commission and overhead, constitutes grounds to revoke or suspend HOME RESCUE's license and license rights pursuant to Code Section 10146, 10177(j), 10176(i), and/or 10177(d) in conjunction with Regulation 2972.

43.

The conduct, acts and/or omissions of Respondents HOME RESCUE and HERMAN in failing to notify the Department of the employment of all salespersons performing licensed activities under its name, including salespersons POSADAS, ALCANTAR and CROCKETT, and failing to maintain and make available for inspection written Broker/Salesperson agreements with these salespersons, constitutes grounds to discipline

Respondents' broker licenses and license rights pursuant to Code Sections 10176(i), 10177(g), and/or 10177(d) for violation of Code Section 10161.8 and Regulation 2752.

44.

The conduct, acts and/or omissions of Respondents POSADAS, ALCANTAR, and CROCKETT in soliciting borrowers, collecting advance fees and negotiating loan modifications as agents of HOME RESCUE, and/or accepting compensation from any person other than the broker under whom they were at the time licensed, constitutes grounds to revoke or suspend the real estate salesperson licenses and license rights of Respondents POSADAS, ALCANTAR and CROCKETT pursuant to Code Sections 10137, 10177(d), 10177(g), 10176(i) and/or 10177(j).

45.

The conduct, acts and/or omissions of Respondent HERMAN, as the designated broker officer of HOME RESCUE, in failing to exercise adequate supervision of the activities of HOME RESCUE to ensure compliance with the real estate law, constitutes grounds to revoke or suspend HERMAN's real estate broker license and license rights pursuant to Code Sections 10159.2 and 10177(h), in conjunction with Regulation 2725.

THIRD CAUSE OF ACCUSATION

Misleading, False and/or Deceptive Advertising

46.

Complainant incorporates by this reference into this separate Third Cause of Accusation the allegations contained above in the preamble and the First and Second Causes of Accusation above.

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47.

Between on or before August 31, 2009 and continuing through on or after November 4, 2009, Respondent HOME RESCUE, also doing business under the unlicensed fictitious business name www.hrpapply.com, knowingly advertised, printed, displayed, published, distributed, or caused or permitted to be advertised, printed, displayed, published, distributed, statements or representations with regard to the rates, terms or conditions for making, purchasing or negotiating loans on real property which were false, misleading, or deceptive. HOME RESCUE did so in order to induce consumers to pay up front, advance fees to engage HOME RESCUE to provide services for loss mitigation services.

48.

Beginning on or before August 9, 2009, HOME RESCUE doing business as www.hrpapply.com, circulated through the United States Postal Service advertisements soliciting consumers, which mail solicitations contained deceptive, misleading and materially false representations, which Respondents knew, or should have known, were false. These mail solicitations, entitled, "Lender Investigation Notification," urged homeowners who were borrowers under residential mortgage loans to contact HOME RESCUE to participate in a lawsuit against lenders that would entitle them to a reduction of the principal amount of their loan, lower their interest rates, and eliminate or reduce delinquent amounts.

49.

Between August 8, 2009 and December 28, 2009, the Department received samples of mail solicitations sent to consumers of loans issued by Sun America Mortgage, Citibank, and Nevada State Bank, which solicitations were deceptive, misleading and/or false in the following ways:

a) The solicitations were formatted and presented in a manner suggesting they were from a governmental agency, when they were not;

b) The solicitations did not clearly and conspicuously state that the solicitor was not sponsored or affiliated with the lender and that the solicitation was not authorized by the lender, in violation of Code Section 14701;

b) The solicitations did not clearly identify HOME RESCUE and were deceptively structured as if they were official legal documents and not a solicitation;

c) The solicitations falsely notified the consumers that their lenders were under investigation for predatory lending practices;

d) The offers enumerated a number of benefits to the consumer, implying a guarantee of outcomes which the solicitor was unable to guarantee; and

e) the solicitation referred consumers to a HOME RESCUE website which used quotes from then FDIC Chairman Sheila Bair and California Governor Arnold Schwarzenegger, implying government support of their services.

50.

The conduct, acts and omissions set forth above in Paragraphs 46 through 49 constitute grounds to suspend or revoke the real estate licenses and license rights of Respondents HOME RESCUE and HERMAN pursuant to Code Sections 10235, 10176(a), 10176(c), 10176(i), 10177(j) and/or 10177(g) for fraud and dishonest dealing, false advertising, misrepresentation, and/or negligence.

51.

The violations set forth above constitute cause for the suspension or revocation of Respondent HERMAN's real estate license and/or license rights, as the broker-officer of

Respondent HOME RESCUE, for failing to supervise the activities of the corporation, in violation of Code Sections 10159.2, in conjunction with 10177(h), 10177(d) and/or 10177(g).

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/or license rights of Respondents HOME RESCUE PROGRAMS INC., SUSAN AMY HERMAN, ANA POSADAS, GINA MARIE ALCANTAR and CYNTHIA CROCKETT under the Real Estate Law and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 4 day of November, 2011.

Robin Trujillo
Deputy Real Estate Commissioner

cc: HOME RESCUE PROGRAMS INC.
Susan Amy Herman
Ana Posadas
Gina Marie Alcantar
Cynthia L. Crockett
Robin Trujillo
Sacto.
Audits