Key Date

FILED

JAN 21 2016

BUREAU OF REAL ESTATE

By [signature]

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of **PACIFIC HORIZON FINANCIAL GROUP INC.** and TRINNA MONGTRINH NGUYEN Respondents.	No. H-38769 LA As to PACIFIC HORIZON FINANCIAL GROUP INC. only

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On March 22, 2013, an Accusation was filed in this matter against Respondent PACIFIC HORIZON FINANCIAL GROUP INC. ("Respondent").

On January 4, 2016, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent PACIFIC HORIZON FINANCIAL GROUP INC.'s petition for voluntary surrender of its real estate broker license 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 January 4, 2016 (attached as Exhibit "A" hereto). Respondent's license certificate and pocket card shall be sent to the below-listed address so that they reach the Bureau on or before the effective date of this Order:

BUREAU OF REAL ESTATE
Attention: Licensing Flag Section
P. O. Box 137013
Sacramento, CA 95813-7013

This Order shall become effective at 12 o'clock noon on FEB 10 2016.

DATED: January 15, 2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By: _____
JEFFREY MASON
Chief Deputy Commissioner

EXHIBIT "A"

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of **PACIFIC HORIZON FINANCIAL GROUP INC.**; and TRINNA MONGTRINH NGUYEN, individually and as designated officer of Pacific Horizon Financial Group Inc. Respondents.	No. H-38769 LA As to PACIFIC HORIZON FINANCIAL GROUP INC. only

DECLARATION

My name is TRINNA MONGTRINH NGUYEN. PACIFIC HORIZON FINANCIAL GROUP INC. was licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of PACIFIC HORIZON FINANCIAL GROUP INC. I am acting on behalf of PACIFIC HORIZON FINANCIAL GROUP INC. in this matter.

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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) PACIFIC HORIZON FINANCIAL GROUP INC. wishes to voluntarily surrender its real estate license, issued by the Bureau of Real Estate ("Bureau"), pursuant to Business and Professions Code Section 10100.2.

I understand that PACIFIC HORIZON FINANCIAL GROUP INC., by so voluntarily surrendering its license, can only have it reinstated in accordance with the provisions of Section 11522 of the Government Code. I also understand that by so voluntarily surrendering its license, PACIFIC HORIZON FINANCIAL GROUP INC. agrees to the following:

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

2. It shall also be deemed to be an understanding and agreement by PACIFIC HORIZON FINANCIAL GROUP INC. that it waives all rights it has 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 it also waives other rights afforded to it 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.

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3. I further agree on behalf of PACIFIC HORIZON FINANCIAL GROUP INC. that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Bureau in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Bureau Case No. H-38769 LA, may be considered by the Bureau to be true and correct for the purpose of deciding whether or not to grant reinstatement of PACIFIC HORIZON FINANCIAL GROUP INC.'s license pursuant to Government Code Section 11522.

4. PACIFIC HORIZON FINANCIAL GROUP INC. freely and voluntarily surrenders all of its licenses and license rights under the Real Estate Law.

5. 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 Respondent, whether or not such persons are named in the investigation file in this case.

6. I further agree on behalf of PACIFIC HORIZON FINANCIAL GROUP INC. to pay the Commissioner's reasonable cost for the audit which led to this action in the amount of $4,102.49. 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 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.

7. I agree that if PACIFIC HORIZON FINANCIAL GROUP INC. petitions for reinstatement in the future, that payment of the audit costs will be a condition of reinstatement.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of PACIFIC HORIZON FINANCIAL GROUP INC. to surrender its license and all license rights attached thereto.

1/4/2016 - Fountain Valley
Date and Place

PACIFIC HORIZON FINANCIAL GROUP INC.
By: TRINNA MONG TRINH NGUYEN

ELLIOTT MACLENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
(213) 576-6982 (office)

FILED

MAR 22 2013

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PACIFIC HORIZON FINANCIAL GROUP INC.; and, TRINNA MONGTRINH NGUYEN, individually and as designated officer of Pacific Horizon Financial Group Inc. Respondents,	No. H- 38769 LA ACCUSATION

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against PACIFIC HORIZON FINANCIAL GROUP INC., and TRINNA MONGTRINH NGUYEN, individually and as designated officer of Pacific Horizon Financial Group Inc., alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

License Status

A. PACIFIC HORIZON FINANCIAL GROUP INC. ("PHFGI"). At all times mentioned, Respondent PHFGI was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. On August 19, 2010, PHFGI was originally licensed as a corporate real estate broker. Respondent PHFGI is authorized to act by and through Respondent TRINNA MONGTRINH NGUYEN, PHFGI's current broker, and formerly through Jose F. Casares, as PHFGI's designated brokers during the audit period, pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. TRINNA MONGTRINH NGUYEN ("NGUYEN"). At all times mentioned, Respondent NGUYEN was licensed or had license rights issued by the Department as a real estate broker. On November 17, 2000, NGUYEN was originally licensed as a real estate broker. Since its inception on August 19, 2010, NGUYEN became the designated officer of PHFGI.

C. Jose F. Casares ("Casares"). At all times mentioned, Casares was licensed or had license rights issued by the Department as a real estate broker. On October 13, 2006, Casares was originally licensed as a real estate broker. Since its inception on August 19, 2010, Casares became a co-designated officer of PHFGI along with NGUYEN. On August 21, 2012, Casares' real estate broker license and license rights were revoked pursuant to Department of Real Estate cases H-37997 LA and H-37568.

D. Anthony Doan, an unlicensed person, and NGUYEN are equal shareholders of PHFGI.

E. NGUYEN is PHFGI's Chief Executive Officer and Anthony Doan is Chairman of the Board of Directors of PHFGI.

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Table: Designated Officer Tenure

Designated Officers	Co-Tenure during the Audit period
Jose F. Casares	August 19, 2010 to August 20, 2012
Trinna Mongtrinh Nguyen	August 19, 2010 to August 20, 2012 and sole designated officer as of August 21, 2013

Brokerage

4.

At all times mentioned, in the City of Fountain Valley, County of Orange, PHFGI and NGUYEN acted as real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(d). Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

B. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and offered to provide consultation, loss mitigation and loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to: principal reduction, repayment plans, forbearance plans, partial claims, or interest, extenuations, foreclosure prevention and short sales.

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FIRST CAUSE OF ACCUSATION

(Audit)

5.

On November 13, 2012, the Department completed an audit examination of the books and records of PHFGI limited to the mortgage loan brokerage, loan modification and consultation activities only, as described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on November 3, 2009 and ending on May 31, 2012. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 110252 and the exhibits and work papers attached to said audit report.

Bank Account

6.

PHFGI did not maintain a trust account during the audit period. In lieu thereof, PHFGI collected trust funds in the form of advance fees which were deposited into PHFGI's general business operating account, as set forth herein below:

"Pacific Horizon Financial Group Inc. ("BA 1")
*******01187"
East West Bank

Audit Violations

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents PHFGI and NGUYEN acted in violation of the Code and the Regulations in which Respondents:

(a) The Le Complainant. Negotiated for the refinance, consultation and loan modification services for the borrowers Le's mortgage loan for the property located at 14211 Riata Street, in Westminster, California.

On April 9, 2010, the borrowers Le signed a "Short Refinance Application/Consulting and Processing Fee Agreement" (Agreement) with PHFGI to perform mortgage payment reduction services for the Riata Street property with the borrowers Le's mortgage lenders, Chase/Washington Mutual Bank (1st Lender) and Citi Mortgage, Inc. (2nd Lender). The borrowers Le paid an advance fee of a minimum of $5,000 to "Pacific Horizon Financial Group" on April 14, 2010.

The Agreement recited that the "Transaction would be finished by the end of July 2011 or fully refunded to client." On April 9, 2010, the Agreement was signed by PHFGI's unlicensed sales representative, Duke Lam. It was also specified in the Agreement that PHFGI may refer "client", to wit, the borrowers Le, to and/or contract with third parties who would provide financial, loss or foreclosure mitigation services.

None of the contracted for loan modification services were performed by PHFGI or by any third party loan processor. On September 9, 2011, at the borrowers Le's instigation, the parties entered into a "Notice of Cancellation." Said Notice recited that the borrowers Le would receive a refund of $7,500, and was signed by Anthony Doan, Chairman of PHFGI along with borrowers Le's signature. On November 16, 2011, two refund checks were issued from PHFGI's East-West bank account, BA1, signed by NGUYEN and made payable to the borrowers Le, as described below:

Date No	Check Date.	Check Amount
13101	11/16/11	$4,000
13102	11/16/11	$3,500
Total		$7,500

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The borrowers Le were not able to cash the two refund checks because insufficient cash balance was on deposit in BA 1 to effect payment. On November 16, 2011, a third check issued from PHFGI in the amount of $500 was provided to the borrowers Le as a partial refund. To date, $7,000 of $7,500 remains due and owing, in violation of Code Sections 10130, 10145, 10146, and 10148 and Regulations 2831, 2831.1, 2831.2, 2832, and 2972;

(b) Failed to maintain a control record in chronological order for each beneficiary or transaction, thereby failing to account for trust funds in the form of advance fees collected for loan modification services, in violation of Code Section 10145 and Regulation 2831;

(c) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds in the form of advance fees collected for loan modification services, in violation of Code Section 10145 and Regulation 2831.1;

(d) BA 1 was not in the name of the broker as trustee at a bank or other financial institution, nor designated as a trust account although BA 1 was used for handling of trust funds in the form of advance fees, in violation of Code Section 10145 of the Code and Regulation 2832(a);

(e) PHFGI failed to provide a complete description of services to be rendered provided to each loan modification applicant, including the borrowers Le, in 10 point type font and, an allocation and disbursement of the amount collected as the advance fee for each loan modification, in violation of Code Section 10146 and Regulations 2832 and 2972;

(f) PHFGI and NGUYEN failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by BA 1 which contains trust funds for advance fees collected for loan modification services, in violation of Code Section 10145 and Regulation 2831.2;

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(g) Collected advanced fees in the amount of $7,500 from the borrowers Le, yet failed to refund $7,000, in violation of Code Section 10145;

(h) PHFGI failed to disclose the real estate license identification number of PHFGI and and/or PHFGI' s representatives license numbers including NGUYEN's Mortgage Loan Applications while soliciting borrowers, in violation of Code Section 10140.6(b) and Regulation 2773;

(i) PHFGI moved its main office to 18350 Mount Langley St., Suite 204, Fountain Valley on January 2012. PHFGI failed to notify the Department regarding the change of PHFGI's principal place of business by the next business day following the change, in violation of Code Section 10163 and Regulation 2715;

(j) Performed acts for which a real estate license is required, including soliciting for mortgage loan brokerage, loan modification and consultation activities before PHFGI's broker license had issued, in violation of Code Section 10130. PHFGI's broker license was issued on August 19, 2010. On April 9, 2012, Duke Lam, an unlicensed salesperson of PHFGI, as aforesaid, conducted licensed activities including negotiating for mortgage loan modification and consultation services with the borrowers Le;

(k) Failed to retain all records of PHFGI's activity during the audit period requiring a real estate broker license, including but not limited to, bank statements, bank signature card, records of receipts and disbursements, trust fund records and mortgage loan refinance/modification transaction files related to fees collected in advance, for the audit examination, in violation of Code Section 10148; and

(l) NGUYEN failed to exercise reasonable control and supervision over the activity of PHFGI to secure full compliance with the Real Estate Law, in violation of Code

Sections 10159.2, 10177(h) and Regulation 2725.

Discipline Statutes and Regulations

8.

The conduct of Respondents PHFGI and NGUYEN, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10130, 10145, 10146, and 10148 and Regulations2831, 2831.1, 2831.2, 2832, and 2972
7(b)	Code Section 10145 and Regulation 2831
7(c)	Code Section 10145 and Regulation 2831.1
7(d)	Code Section 10145 and Regulation 2832(a)
7(e)	Code Section 10146 and Regulations 2972/2832
7(f)	Code Section 10145 and Regulation 2831.2
7(g)	Code Section 10145
7(h)	Code Section 10140.6(b) and Regulation 2773
7(i)	Code Section 10163 and Regulation 2715
7(j)	Code Section 10130
7(k)	Code Section 10148
7(l)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (NGUYEN)

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondents PHFGI and NGUYEN, as the case may be, under the provisions of Code Sections 10176(i), 10177(d) and/or 10177(g) and 10177(h) for Respondent NGUYEN.

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SECOND CAUSE OF ACCUSATION

(Audit)

9.

On July 31, 2012, the Department completed an audit examination of the books and records of NGUYEN limited to verification of the Department's licensing records, as described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on June 11, 2012 and ending on July 26, 2012. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 110253 and the exhibits and work papers attached to said audit report.

Bank Account

10.

Respondent NGUYEN did not maintain a trust account during the audit period.

Audit Violations

11.

In the course of activities described in Paragraph 4, above, and during the examination period described in Paragraph 9, Respondent NGUYEN acted in violation of the Code and the Regulations in which Respondent:

(a) Failed to provide notice to the Department following the change of her principal place of business by the next business day, in violation of Code Section 10163 and Regulation 2715; and

(b) Failed to maintain a signed broker salesperson agreement with salesperson Tryzzie Nguyen, in violation of Regulation 2726.

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Discipline Statutes and Regulations

12.

The conduct of Respondents PHFGI and NGUYEN, described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
11(a)	Code Section 10163 and Regulation 2715
11(b)	Regulation 2726

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondents PHFGI and NGUYEN, as the case may be, under the provisions of Code Sections 10177(d) and/or 10177(g) and 10177(h) for Respondent NGUYEN.

THIRD CAUSE OF ACCUSATION

(Negligence)

13.

The overall conduct of Respondents PHFGI and NGUYEN constitutes negligence or incompetence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION

(Fiduciary Duty)

14.

The overall conduct of Respondents PHFGI and NGUYEN constitutes a breach of their fiduciary duty of good faith, trust, confidence and candor, within the scope of their brokerage relationship, owed to the parties and of PHFGI's brokered transactions including the borrowers Le, in violation of Code Section 10177(g), and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to said section.

FOURTH CAUSE OF ACCUSATION

(Lack of Supervision and Compliance)

15.

The overall conduct of Respondent NGUYEN constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of PHFGI as required by Code Section 10159.2 and Regulation 2725, and to keep PHFGI in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondent NGUYEN pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

16.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, 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.

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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 the license and license rights of Respondents PACIFIC HORIZON FINANCIAL GROUP INC. and TRINNA MONGTRINH NGUYEN, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including (1) restitution of $7,000 to the borrowers Le, pursuant to applicable provisions of the California Administrative Procedure Act including Government Code Section 11519(d), (2) costs of audit pursuant to Code Section 10148(b) totaling $5,643.00; and (3) costs of investigation and enforcement pursuant to Code Section 10106, and as pursuant to other applicable provisions of the California Administrative Procedure Act.

Dated at Los Angeles, California

this 19 March 2013.

Deputy Real Estate Commissioner

cc: Pacific Horizon Financial Group Inc.
c/o Trinna Mongtrinh. Nguyen D.O.
Maria Suarez
Sacto
Audits – Chona T. Soriano