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DEPARTMENT OF REAL ESTATE

By *L. Frost*

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11	In the Matter of the Accusation of)	
12)	NO. H-10749 SF
13	HOME RESOLUTIONS AND CREDIT)	
14	SERVICES, INC., a California corporation, dba)	<u>ACCUSATION</u>
15	HABLANO DE CASAS!, dba HOME)	
16	RESOLUTION & CREDIT SERVICES, and)	
17	MARTHA LOPEZ-CHUBB,)	
)	
	Respondents.)	

18 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
19 State of California, for Causes of Accusation against HOME RESOLUTIONS AND CREDIT
20 SERVICES, INC., a California corporation, doing business under the fictitious names of
21 HABLANO DE CASAS! and HOME RESOLUTION & CREDIT SERVICES, and against
22 MARTHA LOPEZ-CHUBB is informed and alleges as follows:

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24 Respondent HOME RESOLUTIONS AND CREDIT SERVICES, INC.,
25 (hereinafter "Respondent HRCSP") and Respondent MARTHA LOPEZ-CHUBB (hereinafter
26 "Respondent LOPEZ-CHUBB") are presently licensed and/or have license rights under the Real
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1 Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter
2 "the Code").

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4 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
5 State of California, makes this Accusation against Respondents in his official capacity.

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7 Beginning on and after August 26, 2008, Respondent HRCSI was and is licensed
8 by the Department of Real Estate (hereinafter "the Department") as a corporate real estate
9 broker.

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11 At all times herein mentioned, Respondent LOPEZ-CHUBB was and is licensed
12 by the Department as an individual real estate broker.

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14 Beginning on and after August 26, 2008, Respondent LOPEZ-CHUBB was and
15 is licensed by the Department as the designated broker/officer of Respondent HRCSI. As said
16 designated broker/officer, Respondent LOPEZ-CHUBB was at all times mentioned herein
17 responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the
18 officers, agents, real estate licensees and employees of Respondent HRCSI for which a real
19 estate license is required.

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21 Whenever reference is made in an allegation in this Accusation to an act or
22 omission of Respondent HRCSI, such allegation shall be deemed to mean that the officers,
23 directors, employees, agents and real estate licensees employed by or associated with
24 Respondent HRCSI committed such act or omission while engaged in the furtherance of the
25 business or operations of Respondent HRCSI and while acting within the course and scope of
26 their corporate authority and employment.

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At all times herein mentioned, Respondent HRCSI engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the meaning of Section 10131 of the Code, including:

- (a) Under Section 10131(a), selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business opportunity; and,
- (b) Under Section 10131(b), soliciting borrowers or lenders for or negotiating loans or collecting payments or performing services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

FIRST CAUSE OF ACTION

There is hereby incorporated in this First, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 7, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

At all time herein mentioned, while acting as a real estate broker as described in Paragraph 7, above, Respondent HRCSI accepted or received funds in trust (hereinafter "trust funds") from or on behalf of purchasers and sellers in connection with real property sales activities and from or on behalf of lenders, borrowers and/or others in connection with mortgage lending activities.

Within the three year period prior to the filing of this Accusation, in connection with the collection and disbursement of trust funds, the aforesaid trust funds accepted or received by Respondent HRCSI were deposited or caused to be deposited by Respondent

1 HRCSI into a bank account maintained by Respondent HRCSI at Bank of America, 2300 Alum
2 Rock Avenue, in San Jose, California, entitled "Home Resolution and Credit Services, Inc.,
3 Trust Fund Account" and identified as account number 05811-73228 (hereinafter "Trust #1).

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5 Within the three year period prior to the filing of this Accusation, in connection
6 with the collection and disbursement of trust funds, Respondent HRCSI failed to deposit and
7 maintain the trust funds in a trust account or neutral escrow depository, or to deliver them into
8 the hands of the owners of the funds, as required by Section 10145 of the Code, in such a manner
9 that as of March 31, 2009, there was a trust fund shortage in Trust #1 in the approximate sum of
10 \$17,855.00.

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12 Within the three year period prior to the filing of this Accusation, in connection
13 with the collection and disbursement of trust funds, as alleged above, Respondent HRCSI failed
14 to obtain the prior written consents of the principals for the reduction of the aggregate balance of
15 trust funds in Trust #1 to an amount less than the existing aggregate trust fund liability to the
16 owners of said funds in conformance with Chapter 6, Title 10, California Code of Regulations,
17 Section 2832.1 (hereinafter "Regulations").

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19 Within the three year period prior to the filing of this Accusation, in connection
20 with the collection and disbursement of trust funds, as alleged above, Respondent HRCSI:

- 21 (a) Failed to keep a separate record for each beneficiary or transaction,
22 accounting for all funds that have been deposited to Trust #1 containing
23 all of the information required by Section 2831.1 of the Regulations,
24 including, but not limited to, the check numbers for each disbursement;
- 25 (b) Failed to deposit trust funds into Trust #1 within three business days as
26 required by Section 2832 of the Regulations;
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- (c) Failed to maintain a record of all trust funds received and not placed in a trust account as required by Section 2831 of the Regulations:
- (d) Failed to reconcile the balance of separate beneficiary or transaction records with the control records of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations as required by Section 2831.2 of the Regulations for Trust #1; and,

The acts and/or omissions of Respondent HRCSI as alleged above constitute cause for the suspension or revocation of the licenses and license rights of Respondent HRSCI under the following provisions:

- (a) As alleged in Paragraph 11, under Section 10145 of the Code and Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) As alleged in Paragraph 12, under Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) As alleged in Paragraph 13(a), under Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As alleged in Paragraph 13(b) under Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As alleged in Paragraph 13(c), under Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code; and,
- (e) As alleged in Paragraph 13(d), under Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code.

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- 1 (a) As alleged in Paragraph 16, under the provisions of Section 10160 in
2 conjunction with Section 10165 and Section 10177(d) of the Code and
3 Section 2753 of the Regulations in conjunction with Section 10177(d) of
4 the Code;
- 5 (b) As alleged in Paragraph 17, under Section 2726 of the Regulations in
6 conjunction with Section 10177(d) of the Code; and,
- 7 (c) As alleged in Paragraph 18, under Section 2726 of the Regulations in
8 conjunction with Section 10177(d) of the Code.

9 THIRD CAUSE OF ACTION

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11 There is hereby incorporated in this Third, separate and distinct, Cause of Action,
12 all of the allegations contained in Paragraphs 1 through 19, inclusive, of the Accusation with the
13 same force and effect as if herein fully set forth.

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15 At no time prior to August 26, 2008, was Respondent HRCSI licensed by the
16 Department as a real estate broker.

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18 Within the three year period prior to the filing of this Accusation and prior to
19 August 26, 2008, Respondent LOPEZ-CHUBB employed Respondent HRCSI to perform and
20 engage in the activities set forth in Paragraph 7(b), above, for which a real estate license is
21 required, for or in expectation of compensation.

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23 Within the three year period prior to the filing of this Accusation and prior to
24 August 26, 2008, in the course of the activities described in Paragraphs 7(b) and 22, above,
25 Respondent HRCSI, while unlicensed, solicited borrowers and lenders and/or negotiated loans
26 secured directly or collaterally by liens on real property, wherein such loans were brokered,
27 arranged, processed, and/or consummated on behalf of others pursuant to Section 10131(d) of

1 the Code, for or in expectation of compensation, including, but not limited to, the following
2 transaction:

Borrower	Property	Lender	HRCSI Modification Request to Lender
Pedro Nuño and Xiomara Nuño	386 Gloria Avenue San Jose, California	Indymac	7/18/08

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8 The facts alleged in Paragraphs 21, 22, and 23, above, constitute cause for the
9 suspension or revocation of the licenses and license rights of Respondent HRCSI under Sections
10 10130 and 10138 of the Code in conjunction with and Section 10177(d) the Code.

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FOURTH CAUSE OF ACTION

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13 There is hereby incorporated in this Fourth, separate and distinct, Cause of
14 Action, all of the allegations contained in Paragraphs 1 through 24, inclusive, of the Accusation
15 with the same force and effect as if herein fully set forth.

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17 At all times above mentioned, Respondent LOPEZ-CHUBB was responsible, as
18 the designated broker officer of Respondent HRCSI, for the supervision and control of the
19 activities conducted on behalf of the corporation by its officers and employees. Respondent
20 LOPEZ-CHUBB failed to exercise reasonable supervision and control over the mortgage
21 brokering real property sales activities of Respondent HRCSI. In particular, Respondent
22 LOPEZ-CHUBB permitted, ratified and/or caused the conduct described in the First, Second,
23 and Third Causes of Action, above, to occur, and failed to take reasonable steps, including, but
24 not limited to the handling of trust funds, supervision of employees, maintenance of written
25 employment contracts, and the implementation of policies, rules, procedures, and systems to
26 ensure the compliance of the corporation with the Real Estate Law.

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The above acts and/or omissions of Respondent LOPEZ-CHUBB constitute grounds for disciplinary action under the provisions of Section 10177(h) of the Code and/or Section 10159.2 of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code.

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 license(s) and license rights of Respondents 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 provisions of law.



E. J. HABERER II
Deputy Commissioner

Dated at Oakland, California

this 6th day of August, 2009