



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

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

15                   5.       This Stipulation and Respondents' decision not to contest the Accusation are  
16 made for the purpose of reaching an agreed disposition of this proceeding and are expressly  
17 limited to this proceeding and any other proceeding or case in which the Department, the state or  
18 federal government, an agency of this state, or an agency of another state is involved.

19                   5.       Respondents understand that by agreeing to this Stipulation and  
20 Agreement, Respondents agrees to pay, pursuant to Section 10148 of the California Business  
21 and Professions Code (hereinafter "Code"), the cost of the audit, which resulted in the  
22 determination that Respondents committed the trust fund violation(s) found in Paragraph I of  
23 the Determination of Issues. The amount of said costs is \$5,299.

24                   6.       Respondents further understand that by agreeing to this Stipulation and  
25 Agreement, the findings set forth below in the Determination of Issues become final, and that  
26 the Commissioner may charge said Respondent for the costs of any audit conducted pursuant to  
27 Section 10148 of the Code to determine if the violations have been corrected. The maximum  
costs of said audit shall not exceed \$5,299.

                  7.       It is understood by the parties that the Real Estate Commissioner may  
adopt the Stipulation and Agreement as her decision in this matter thereby imposing the penalty

1 and sanctions on the real estate licenses and license rights of Respondents as set forth in the  
2 below "Order". In the event that the Commissioner in her discretion does not adopt the  
3 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the  
4 right to a hearing and proceeding on the Accusations under all the provisions of the APA and  
5 shall not be bound by any admission or waiver made herein.

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

10 \* \* \*

11 DETERMINATION OF ISSUES

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

15 I

16 The acts and omissions of TRINITY REVERSE MORTGAGE (hereinafter  
17 "TRINITY") as described in the First Cause of Action of the Accusation are grounds for the  
18 suspension or revocation of TRINITY's licenses and license rights under the following sections  
19 of the Code and Title 10 of the California Code of Regulations (hereinafter "Regulations"):

- 20 (1) As to Paragraphs 10(a), under Section 10177(d) of the Code in  
21 conjunction with Section 10145 of the Code;
- 22 (2) As to Paragraph 10(b), under Section 10177(d) of the Code in  
23 conjunction with Section 2832.1 of the Regulations;
- 24 (3) As to Paragraph 10(c), under Section 10177(d) of the Code in conjunction  
25 with Section 2831.2 of the Regulations;
- 26 (4) As to Paragraphs 11 and 12, under Section 10177(d) of the Code in  
27 conjunction with Section 10085 of the Code;
- (5) As to Paragraph 13(a), under Section 10177(d) of the Code in conjunction  
with Section 2831 of the Regulations;

1 (6) As to Paragraph 13(c), under Section 10177(d) of the Code in conjunction  
2 with Section 2753 of the Regulations and Section 10160 of the Code; and

3 (7) As to Paragraph 14, under Section 10177(d) of the Code in conjunction  
4 with Section 10240 of the Code.

5 III

6 The acts and/or omissions of MICHAEL ROBERT FULLAM (hereinafter  
7 "FULLAM") as described in the Second Cause of Action of the Accusation is cause for the  
8 suspension or revocation of FULLAM's license and/or license rights under Section 10177(h) of  
9 the Code.

10 \* \* \*

11 ORDER

12 I

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

16 1) Sixty (60) days of said suspension shall be stayed, upon the condition that TRINITY petition  
17 pursuant to Section 10175.2 of the Business and Professions Code and pays a monetary penalty  
18 pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$75 for each day of  
19 the suspension for a total monetary penalty of \$4,500.

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

23 b) No further cause for disciplinary action against the Real Estate licenses of TRINITY  
24 occurs within two (2) years from the effective date of the decision in this matter.

25 c) If TRINITY fails to pay the monetary penalty as provided above prior to the effective date  
26 of this Order, the stay of the suspension shall be vacated as to that Respondent and the  
27 order of suspension shall be immediately executed, under this Order, in which event the  
said Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,  
for the money paid to the Department under the terms of this Order.

1 d) If TRINITY pays the monetary penalty and any other moneys due under this Stipulation  
2 and Agreement and if no further cause for disciplinary action against the real estate  
3 license of said Respondent occurs within two (2) years from the effective date of this  
4 Order, the entire stay hereby granted this Order, as to said Respondent only, shall become  
5 permanent.

6 2) Pursuant to Section 10148 of the Business and Professions Code, TRINITY shall jointly and  
7 severally with FULLAM pay the sum of \$5,299 for the Commissioner's cost of the audit which  
8 led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of  
9 receiving an invoice from the Commissioner. The Commissioner may suspend the Respondent's  
10 license pending a hearing held in accordance with Section 11500, et seq., of the Government  
11 Code, if payment is not timely made as provided for herein, or as provided for in a subsequent  
12 agreement between the Respondent and the Commissioner. The suspension shall remain in  
13 effect until payment is made in full or until Respondent enters into an agreement satisfactory to  
14 the Commissioner to provide for payment, or until a decision providing otherwise is adopted  
15 following a hearing held pursuant to this condition.

16 3) Pursuant to Section 10148 of the Business and Professions Code, TRINITY shall jointly and  
17 severally with FULLAM pay the Commissioner's reasonable cost, not to exceed \$5,299, for an  
18 audit to determine if Respondents have corrected the trust fund violation(s) found in the  
19 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the  
20 Commissioner may use the estimated average hourly salary for all persons performing audits of  
21 real estate brokers, and shall include an allocation for travel time to and from the auditor's place  
22 of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice from the  
23 Commissioner detailing the activities performed during the audit and the amount of time spent  
24 performing those activities. The Commissioner may suspend Respondent's license pending a  
25 hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not  
26 timely made as provided for herein, or as provided for in a subsequent agreement between  
27 Respondent and the Commissioner. The suspension shall remain in effect until payment is made  
in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide  
for payment, or until a decision providing otherwise is adopted following a hearing held pursuant  
to this condition.

II

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

4 1) Thirty (30) days of said suspension shall be stayed, upon the condition that FULLAM petition  
5 pursuant to Section 10175.2 of the Business and Professions Code and pays a monetary penalty  
6 pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$100 for each day  
7 of the suspension for a total monetary penalty of \$3,000.

8 a) Said payment shall be in the form of a cashier's check or certified check made payable to  
9 the Recovery Account of the Real Estate Fund. Said check must be delivered to the  
10 Department prior to the effective date of the Order in this matter.

11 b) No further cause for disciplinary action against the Real Estate licenses of FULLAM  
12 occurs within two (2) years from the effective date of the decision in this matter.

13 c) If FULLAM fails to pay the monetary penalty as provided above prior to the effective  
14 date of this Order, the stay of the suspension shall be vacated as to that Respondent and  
15 the order of suspension shall be immediately executed, under this Order, in which event  
16 the said Respondent shall not be entitled to any repayment nor credit, prorated or  
17 otherwise, for the money paid to the Department under the terms of this Order.

18 d) If FULLAM pays the monetary penalty and any other moneys due under this Stipulation  
19 and Agreement and if no further cause for disciplinary action against the real estate  
20 license of said Respondent occurs within two (2) years from the effective date of this  
21 Order, the entire stay hereby granted this Order, as to said Respondent only, shall become  
22 permanent.

23 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms  
24 and conditions:

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

27 b) That no final subsequent determination be made, after hearing or upon stipulation, that  
cause for disciplinary action occurred within two (2) years from the effective date of this  
Order. 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.

1  
2 3) Pursuant to Section 10148 of the Business and Professions Code, FULLAM shall jointly and  
3 severally with TRINITY pay the sum of \$5,299 for the Commissioner's cost of the audit which  
4 led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of  
5 receiving an invoice from the Commissioner. The Commissioner may suspend the Respondent's  
6 license pending a hearing held in accordance with Section 11500, et seq., of the Government  
7 Code, if payment is not timely made as provided for herein, or as provided for in a subsequent  
8 agreement between the Respondent and the Commissioner. The suspension shall remain in  
9 effect until payment is made in full or until Respondent enters into an agreement satisfactory to  
10 the Commissioner to provide for payment, or until a decision providing otherwise is adopted  
11 following a hearing held pursuant to this condition.

12 4) Pursuant to Section 10148 of the Business and Professions Code, FULLAM shall jointly and  
13 severally with TRINITY pay the Commissioner's reasonable cost, not to exceed \$5,299, for an  
14 audit to determine if Respondents have corrected the trust fund violation(s) found in the  
15 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the  
16 Commissioner may use the estimated average hourly salary for all persons performing audits of  
17 real estate brokers, and shall include an allocation for travel time to and from the auditor's place  
18 of work. Respondent shall pay such cost within sixty (60) days of receiving an invoice from the  
19 Commissioner detailing the activities performed during the audit and the amount of time spent  
20 performing those activities. The Commissioner may suspend Respondent's license pending a  
21 hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not  
22 timely made as provided for herein, or as provided for in a subsequent agreement between  
23 Respondent and the Commissioner. The suspension shall remain in effect until payment is made  
24 in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide  
25 for payment, or until a decision providing otherwise is adopted following a hearing held pursuant  
26 to this condition.

27 5) All licenses and licensing rights of FULLAM are indefinitely suspended unless or until  
Respondent provides proof satisfactory to the Commissioner, of having taken and successfully  
completed the continuing education course on trust fund accounting and handling specified in

1 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of this  
2 requirement includes evidence that respondent has successfully completed the trust fund account  
3 and handling continuing education course within 120 days prior to the effective date of the  
4 Decision in this matter.

5 6) FULLAM shall, within six (6) months from the effective date of this Decision, take and pass  
6 the Professional Responsibility Examination administered by the Department including the  
7 payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the  
8 Commissioner may order suspension of the restricted license until Respondent passes the  
9 examination.

10 9-Feb-12



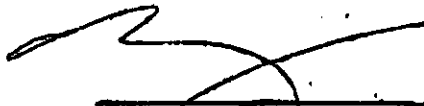
11 DATED

TRULY SUGERUE  
Counsel for Complainant

\*\*\*

13 I have read the Stipulation and Agreement, discussed it with my counsel, and its  
14 terms are understood by me and are agreeable and acceptable to me. I understand that I am  
15 waiving rights given to me by the California Administrative Procedure Act, and I willingly,  
16 intelligently and voluntarily waive those rights, including the right of requiring the  
17 Commissioner to prove the allegations in the Accusations at a hearing at which I would have the  
18 right to cross-examine witnesses against me and to present evidence in defense and mitigation of  
19 the charges.

20 1-7-12



21 DATED

Michael Robert Fullam, on behalf of  
TRINITY REVERSE MORTGAGE  
Respondent

24 1-7-12



25 DATED

MICHAEL ROBERT FULLAM  
Respondent

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*I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.*

2-9-12 Frank M Buda  
DATED FRANK M. BUDA  
Attorney for Respondents

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on \_\_\_\_\_

IT IS SO ORDERED \_\_\_\_\_

BARBARA J. BIGBY  
Acting Real Estate Commissioner

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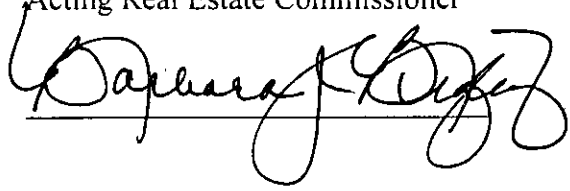
*I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.*

DATED \_\_\_\_\_ FRANK M. BUDA  
Attorney for Respondents

\*\*\*

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on MAY 09 2012

IT IS SO ORDERED 3/23, 2012

BARBARA J. BIGBY  
Acting Real Estate Commissioner  


1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789  
7 -or- (916) 227-0781 (Direct)

FILED

APR 12 2011

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 TRINITY REVERSE MORTGAGE, )  
13 and MICHAEL ROBERT FULLAM, )  
14 Respondents. )

No. H- 11089 SF

FIRST AMENDED  
ACCUSATION

15  
16 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the  
17 State of California, for cause of Accusation against TRINITY REVERSE MORTGAGE and  
18 MICHAEL ROBERT FULLAM (hereinafter "Respondents"), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the  
22 State of California, makes this Accusation in his official capacity.

23 2

24 Respondents are presently licensed and/or have license rights under the Real  
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

26 ///

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1 3

2 At all times mentioned, Respondent TRINITY REVERSE MORTGAGE  
3 (hereinafter "TRINITY") was and is licensed by the State of California Department of Real  
4 Estate (hereinafter "Department") as a real estate broker corporation.

5 4

6 At all times mentioned, Respondent MICHAEL ROBERT FULLAM (hereinafter  
7 "FULLAM") was and is licensed by the Department individually as a real estate broker, and as  
8 the designated broker officer of TRINITY. As said designated officer-broker, FULLAM was  
9 responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the  
10 officers, agents, real estate licensees and employees of TRINITY for which a license is required.

11 5

12 Whenever reference is made in an allegation in this Accusation to an act or  
13 omission of TRINITY, such allegation shall be deemed to mean that the officers, directors,  
14 employees, agents and real estate licensees employed by or associated with TRINITY committed  
15 such acts or omissions while engaged in furtherance of the business or operation of TRINITY  
16 and while acting within the course and scope of their corporate authority and employment.

17 6

18 At all times mentioned Respondents engaged in the business of, acted in the  
19 capacity of, advertised or assumed to act as a real estate broker in the State of California within  
20 the meaning of:

21 (a) Section 10131(a) of the Code, including the operation and conduct of a  
22 real estate resale brokerage with the public wherein, on behalf of others, for compensation or in  
23 expectation of compensation, Respondents sold and offered to sell, bought and offered to buy,  
24 solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated  
25 the purchase and resale of real property; and

26 (b) Section 10131(d) of the Code, including the operation and conduct of a  
27 mortgage loan brokerage business with the public wherein Respondents solicited lenders and

1 borrowers for loans secured directly or collaterally by liens on real property or a business  
2 opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by  
3 Respondents on behalf of others for compensation or in expectation of a compensation.

4 FIRST CAUSE OF ACTION

5 7

6 Each and every allegation in Paragraphs 1 through 6, inclusive, above are  
7 incorporated by this reference as if fully set forth herein.

8 8

9 In acting as a real estate broker, as described in Paragraph 6, TRINITY accepted  
10 or received funds in trust (hereinafter "trust funds") from or on behalf of lenders, investors, note  
11 purchasers, borrowers, and others in connection with the servicing, solicitation, negotiation,  
12 processing, and/or consummation of mortgage loan investments by TRINITY.

13 9

14 Beginning on or before January 1, 2008 through March 31, 2010, TRINITY  
15 maintained the following trust fund accounts:

16 TITLE AND ACCOUNT NUMBERS

BANK

17 Trinity Reverse Mortgage dba  
18 Trinity Mutual Trust Account  
19 Account No. xxxxx-68309  
(hereinafter "Trust #1")

Bank of America  
1959 Mountain Blvd.  
Oakland, CA 94611

20  
21 10

22 In connection with the receipt and disbursement of trust funds, TRINITY:

23 (a) Failed to deposit and maintain trust funds in Trust #1 in such manner that  
24 as of March 11, 2010, there was a shortage of \$1,633.90 of trust funds.

25 (b) Failed to obtain prior written consent from each of the principals for the  
26 reduction of the aggregate balance of trust funds in Trust #1 to an amount less than the existing  
27 aggregate trust fund liability to the owners of said funds in violation of Section 2832.1 of the

1 Commissioner's Regulations (Title 10 of the California Code of Regulations) (hereinafter  
2 "Regulations").

3 (c) Failed to reconcile for Trust #1 the balance of separate beneficiary or  
4 transaction records with the control record of trust funds received and disbursed at least once a  
5 month and/or failed to maintain a record of such reconciliations for each account as required by  
6 Section 2831.2 of the Regulations.

7 11

8 In connection with the operation and conduct of the real estate activities  
9 described in Paragraph 6, TRINITY engaged in the business of claiming, demanding, charging,  
10 receiving, collecting or contracting for the collection of advance fees within the meaning of  
11 Sections 10026 and 10131.2 (hereinafter "advance fee") of the Code including, but not limited  
12 to, the following:

13 HOMEOWNER	14 DATE	15 AMOUNT
16 Gonzalo Alvarado	17 7/6/09, 8/19/09, & 1/7/10	\$3,000
18 Marcial Perez	19 5/23/09	\$4,000
20 Saturnino Razo-Camargo	21 6/8/09	\$3,500

22 12

23 In connection with the collection and handling of said advance fee, TRINITY  
24 failed to cause the advance fee contract and all materials used in obtaining the advance fee  
25 agreement to be submitted to the Department of Real Estate prior to use as required by Section  
26 10085 of the Code.

27 13

28 In course of the activities described in Paragraph 6, TRINITY:

29 (a) Failed to maintain a written control record of all trust funds received and  
30 not placed in broker's trust account containing all information required by Section 2831 of the  
31 Regulations.

1 (b) Employed real estate salespersons, to engage in activities requiring a real  
2 estate salesperson license without first entering into the broker-salesperson relationship  
3 agreement with such salespersons as required by Section 2726 of the Regulations.

4 (c) Failed to retain the real estate salesperson license certificate of Charlie An  
5 at his main office as required by Section 10160 of the Code and Section 2753 of the  
6 Regulations.

7 14

8 In connection with the mortgage loan brokerage business described in  
9 Paragraph 6, TRINITY violated and/or willfully failed to comply with Section 10240 of the  
10 Code by:

11 (a) Failing to cause to be delivered to the borrowers the written Mortgage  
12 Loan Disclosure Statement as required by Section 10241 of the Code;

13 (b) Failing to obtain the signature of the borrowers on written Mortgage Loan  
14 Disclosure Statements; and/or

15 (c) Failing to retain on file for a period of three years a true and correct copy  
16 of a written Mortgage Loan Disclosure Statements signed by the borrowers.

17 15

18 The facts alleged in the First Cause of Action are grounds for the suspension or  
19 revocation of Respondents' licenses and license rights under the following sections of the Code  
20 and Regulations:

21 (1) As to Paragraph 10(a), under Section 10177(d) of the Code in conjunction  
22 with Section 10145 of the Code;

23 (2) As to Paragraph 10(b), under Section 10177(d) of the Code in  
24 conjunction with Section 2832.1 of the Regulations;

25 (3) As to Paragraph 10(c), under Section 10177(d) of the Code in conjunction  
26 with Section 2831.2 of the Regulations;

27 ///

1 (4) As to Paragraphs 11 and 12, under Section 10177(d) of the Code in  
2 conjunction with Section 10085 of the Code;

3 (4) As to Paragraph 13(a), under Section 10177(d) of the Code in conjunction  
4 with Section 2831 of the Regulations;

5 (5) As to Paragraph 13(b), under Section 10177(d) of the Code in  
6 conjunction with Section 2726 of the Regulations;

7 (6) As to Paragraph 13(c), under Section 10177(d) of the Code in conjunction  
8 with Section 2753 of the Regulations and Section 10160 of the Code; and

9 (7) As to Paragraph 14, under Section 10177(d) of the Code in conjunction  
10 with Section 10240 of the Code.

11 SECOND CAUSE OF ACTION

12 16

13 Each and every allegation in Paragraphs 1 through 15, inclusive, above, is  
14 incorporated by this reference as if fully set forth herein.

15 17

16 Respondent FULLAM failed to exercise reasonable supervision over the acts of  
17 TRINITY in such a manner as to allow the acts and events described in the First Cause of Action  
18 to occur.

19 18

20 The acts and/or omissions of FULLAM described in Paragraph 17, constitute  
21 failure on the part of FULLAM, as designated broker-officer for TRINITY, to exercise  
22 reasonable supervision and control over the licensed activities of TRINITY as required by  
23 Section 10159.2 of the Code.

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1  
2 The facts described above as to the Second Cause of Accusation constitute cause  
3 for the suspension or revocation of the licenses and license rights of Respondent FULLAM under  
4 Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in  
5 conjunction with Section 10177(d) of the Code.

6 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
7 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
8 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of  
9 Division 4 of the Business and Professions Code), and for such other and further relief as may be  
10 proper under other provisions of law.

11  
12   
13 \_\_\_\_\_  
14 E. J. HABERER II  
15 Deputy Real Estate Commissioner

16 Dated at Oakland, California,  
17 this 11<sup>th</sup> day of April, 2011  
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FILED  
MAR 17 2011

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE  
By *[Signature]*

6 Telephone: (916) 227-0789  
7 (916) 227-0781 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 TRINITY REVERSE MORTGAGE, )  
13 and ROBERT MICHAEL FULLAM, )  
14 Respondents. )

No. H- 11089 SF  
ACCUSATION

15  
16 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the  
17 State of California, for cause of Accusation against TRINITY REVERSE MORTGAGE and  
18 ROBERT MICHAEL FULLAM (hereinafter "Respondents"), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, E. J. Haberer II, a Deputy Real Estate Commissioner of the  
22 State of California, makes this Accusation in his official capacity.

23 2

24 Respondents are presently licensed and/or have license rights under the Real  
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code").

26 ///

27 ///

1  
2 At all times mentioned, Respondent TRINITY REVERSE MORTGAGE  
3 (hereinafter "TRINITY") was and is licensed by the State of California Department of Real  
4 Estate (hereinafter "Department") as a real estate broker corporation.

5  
6 At all times mentioned, Respondent ROBERT MICHAEL FULLAM (hereinafter  
7 "FULLAM") was and is licensed by the Department individually as a real estate broker, and as  
8 the designated broker officer of TRINITY. As said-designated officer-broker, FULLAM was  
9 responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the  
10 officers, agents, real estate licensees and employees of TRINITY for which a license is required.

11  
12 Whenever reference is made in an allegation in this Accusation to an act or  
13 omission of TRINITY, such allegation shall be deemed to mean that the officers, directors,  
14 employees, agents and real estate licensees employed by or associated with TRINITY committed  
15 such acts or omissions while engaged in furtherance of the business or operation of TRINITY  
16 and while acting within the course and scope of their corporate authority and employment.

17  
18 At all times mentioned Respondents engaged in the business of, acted in the  
19 capacity of, advertised or assumed to act as a real estate broker in the State of California within  
20 the meaning of:

21 (a) Section 10131(a) of the Code, including the operation and conduct of a  
22 real estate resale brokerage with the public wherein, on behalf of others, for compensation or in  
23 expectation of compensation, Respondents sold and offered to sell, bought and offered to buy,  
24 solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated  
25 the purchase and resale of real property; and

26 (b) Section 10131(d) of the Code, including the operation and conduct of a  
27 mortgage loan brokerage business with the public wherein Respondents solicited lenders and

1 borrowers for loans secured directly or collaterally by liens on real property or a business  
2 opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by  
3 TRINITY and FULLAM on behalf of others for compensation or in expectation of a  
4 compensation.

5 FIRST CAUSE OF ACTION

6 7

7 Each and every allegation in Paragraphs 1 through 6, inclusive, above are  
8 incorporated by this reference as if fully set forth herein.

9 8

10 In acting as a real estate broker, as described in Paragraph 6, TRINITY accepted  
11 or received funds in trust (hereinafter "trust funds") from or on behalf of lenders, investors, note  
12 purchasers, borrowers, and others in connection with the servicing, solicitation, negotiation,  
13 processing, and/or consummation of mortgage loan investments by TRINITY.

14 9

15 Beginning on or before January 1, 2008 through March 31, 2010, TRINITY  
16 maintained the following trust fund accounts:

17 TITLE AND ACCOUNT NUMBERS

BANK

18 Trinity Reverse Mortgage dba  
19 Trinity Mutual Trust Account  
20 Account No. xxxxx-68309  
21 (hereinafter "Trust #1")

Bank of America  
1959 Mountain Blvd.  
Oakland, CA 94611

22 10

23 In connection with the receipt and disbursement of trust funds, TRINITY:

24 (a) Failed to deposit and maintain trust funds in Trust #1 in such manner that  
25 as of March 11, 2010, there was a shortage of \$1,633.90 of trust funds.

26 (b) Failed to obtain prior written consent from each of the principals for the  
27 reduction of the aggregate balance of trust funds in Trust #1 to an amount less than the existing

1 aggregate trust fund liability to the owners of said funds in violation of Section 2832.1 of the  
2 Commissioner's Regulations (Title 10 of the California Code of Regulations) (hereinafter  
3 "Regulations").

4 (c) Failed to reconcile for Trust #1 the balance of separate beneficiary or  
5 transaction records with the control record of trust funds received and disbursed at least once a  
6 month and/or failed to maintain a record of such reconciliations for each account as required by  
7 Section 2831.2 of the Regulations.

8 11

9 In connection with the operation and conduct of the real estate activities  
10 described in Paragraph 6, TRINITY engaged in the business of claiming, demanding, charging,  
11 receiving, collecting or contracting for the collection of advance fees within the meaning of  
12 Sections 10026 and 10131.2 (hereinafter "advance fee") of the Code including, but not limited  
13 to, the following:

14 HOMEOWNER	15 DATE	16 AMOUNT
17 Gonzalo Alvarado	18 7/6/09, 8/19/09, & 1/7/10	\$3,000
Marcial Perez	5/23/09	\$4,000
Saturnino Razo-Camargo	6/8/09	\$3,500

19 12

20 In connection with the collection and handling of said advance fee, TRINITY  
21 failed to cause the advance fee contract and all materials used in obtaining the advance fee  
22 agreement to be submitted to the Department of Real Estate prior to use as required by Section  
23 10085 of the Code.

24 ///

25 ///

26 ///

27 ///

In course of the activities described in Paragraph 6, TRINITY:

(a) - Failed to maintain a written control record of all trust funds received and not placed in broker's trust account containing all information required by Section 2831 of the Regulations.

(b) Employed real estate salespersons, to engage in activities requiring a real estate salesperson license without first entering into the broker-salesperson relationship agreement with such salespersons as required by Section 2726 of the Regulations.

(c) Failed to retain the real estate salesperson license certificate of Charlie An at his main office as required by Section 10160 of the Code and Section 2753 of the Regulations.

In connection with the mortgage loan brokerage business described in Paragraph 6, TRINITY violated and/or willfully failed to comply with Section 10240 of the Code by:

(a) Failing to cause to be delivered to the borrowers the written Mortgage Loan Disclosure Statement as required by Section 10241 of the Code;

(b) Failing to obtain the signature of the borrowers on written Mortgage Loan Disclosure Statements; and/or

(c) Failing to retain on file for a period of three years a true and correct copy of a written Mortgage Loan Disclosure Statements signed by the borrowers.

The facts alleged in the First Cause of Action are grounds for the suspension or revocation of Respondents' licenses and license rights under the following sections of the Code and Regulations:

(1) As to Paragraph 10(a), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code;

1 (2) As to Paragraph 10(b), under Section 10177(d) of the Code in  
2 conjunction with Section 2832.1 of the Regulations;

3 (3) As to Paragraph 10(c), under Section 10177(d) of the Code in conjunction  
4 with Section 2831.2 of the Regulations;

5 (4) As to Paragraphs 11 and 12, under Section 10177(d) of the Code in  
6 conjunction with Section 10085 of the Code;

7 (4) As to Paragraph 13(a), under Section 10177(d) of the Code in conjunction  
8 with Section 2831 of the Regulations;

9 (5) As to Paragraph 13(b), under Section 10177(d) of the Code in  
10 conjunction with Section 2726 of the Regulations;

11 (6) As to Paragraph 13(c), under Section 10177(d) of the Code in conjunction  
12 with Section 2753 of the Regulations and Section 10160 of the Code; and

13 (7) As to Paragraph 14, under Section 10177(d) of the Code in conjunction  
14 with Section 10240 of the Code.

15 SECOND CAUSE OF ACTION

16 16

17 Each and every allegation in Paragraphs 1 through 15, inclusive, above, is  
18 incorporated by this reference as if fully set forth herein.

19 17

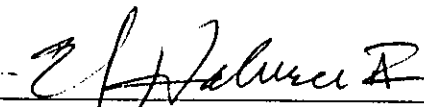
20 Respondent FULLAM failed to exercise reasonable supervision over the acts of  
21 TRINITY in such a manner as to allow the acts and events described in the First Cause of Action  
22 to occur.

23 18

24 The acts and/or omissions of FULLAM described in Paragraph 17, constitute  
25 failure on the part of FULLAM, as designated broker-officer for TRINITY, to exercise  
26 reasonable supervision and control over the licensed activities of TRINITY as required by  
27 Section 10159.2 of the Code.

1  
2 The facts described above as to the Second Cause of Accusation constitute cause  
3 for the suspension or revocation of the licenses and license rights of Respondent FULLAM under  
4 Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in  
5 conjunction with Section 10177(d) of the Code.

6 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
7 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
8 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of  
9 Division 4 of the Business and Professions Code), and for such other and further relief as may be  
10 proper under other provisions of law.

11  
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13 \_\_\_\_\_  
14 E. J. HABERER II  
15 Deputy Real Estate Commissioner

16 Dated at Oakland, California,

17 this 11<sup>th</sup> day of March, 2011  
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