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DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H- 37098 LA
12	OASIS FUNDING INC.; and ANNA MARIE)	<u>A C C U S A T I O N</u>
13	LIZARRAGA individually and as)	
14	designated officer of Oasis)	
14	Funding Inc.,)	
15)	
15	Respondents.)	
16)	
16)	

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18 The Complainant, Maria Suarez, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against OASIS FUNDING INC., and ANNA MARIE LIZARRAGA individually
21 and as designated officer of Oasis Funding Inc., alleges as
22 follows:

23 1.

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

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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.

Respondent OASIS FUNDING INC. ("OFI") is licensed by the Department of Real Estate ("Department") as a corporate real estate broker. Respondent OFI was originally licensed as a corporate real estate broker on or about April 23, 1999, with Respondent ANNE MARIE LIZARRAGA ("LIZARRAGA"), as its designated officer. To date the designated officer of OFI is LIZARRAGA.

4.

Respondent LIZARRAGA is licensed by the Department as a real estate broker. Respondent LIZARRAGA was originally licensed as a real estate broker on or about April 16, 1990.

5.

At all times herein relevant, OFI was licensed by the Department as a corporate real estate broker by and through Respondent LIZARRAGA as the designated officer and broker responsible, pursuant to Code Section 10159.2 for supervising the activities requiring a real estate license conducted on behalf of OFI by its officers, agents, and employees, as herein set forth.

6.

At all times herein relevant, 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

1 activities included soliciting borrowers or lenders for and/or
2 negotiating loans, collecting payments and/or performing services
3 for borrowers or lenders in connection with loans secured by
4 liens on real property. Their activities also included claiming,
5 demanding, charging, receiving, collecting or contracting for the
6 collection of advance fees within the meaning of Code Sections
7 10026 and 10085. Respondents advertised, solicited and offered
8 to provide loan modification services to economically distressed
9 homeowners seeking adjustments to the terms and conditions of
10 their home loans including, but not limited to, repayment plans,
11 forbearance plans, partial claims, and reduction in principal or
12 interest, extenuations, foreclosure prevention and short sales.

13 (Audit of OFI)

14 7.

15 On December 31, 2009, the Department completed an audit
16 examination of the books and records of OFI pertaining to the
17 mortgage loan brokerage and the loan modification activities
18 described in paragraph 6, above. The audit examination covered
19 the period of time from August 1, 2006 to July 31, 2009. The
20 primary purpose of the examination was to determine Respondent
21 OFI's and Respondent LIZARRAGA's compliance with the Real Estate
22 Law. The audit examination revealed numerous violations of the
23 Code and the Regulations as set forth in the following
24 paragraphs, and more fully discussed in Audit Report LA 090012
25 and the exhibits and work papers attached to said audit report.

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1 Bank and Trust Accounts

2 8.

3 At all times herein relevant, in connection with the
4 activities described in Paragraph 6, above, OFI accepted or
5 received funds including funds in trust (hereinafter "trust
6 funds") from or on behalf of actual or prospective parties,
7 including economically distressed homeowner-borrowers as advance
8 fees for loan modifications handled by OFI and for mortgage
9 loans. Thereafter OFI made deposits and or disbursements of such
10 trust funds. From time to time herein mentioned during the audit
11 period, said trust funds were deposited and/or maintained by OFI
12 in the following trust account:

13 Oasis Funding Inc. dba Imperial Escrow Trust Account
14 Account No. XXXXXXXXX218 (Redacted for security)
15 US Bank
16 Encino, California

17 (T/A #1 - OFI's trust account used for deposit of advance
18 fees collected from homeowners for loan modifications)

19 Violations

20 9.

21 In the course of activities described in Paragraph 6,
22 above, and during the examination period described in Paragraph
23 7, above, Respondents OFI and LIZARRAGA, acted in violation of
24 the Code and the Regulations in that Respondents:

25 (a) Permitted, allowed or caused the disbursement of
26 trust funds from OFI bank account T/A #1 where advance fees
27 collected from homeowner-borrowers seeking modifications to their

1 existing home loans were deposited, and where the disbursement of
2 funds reduced the total of aggregate funds in T/A #1, to an
3 amount which, on July 31, 2009, was \$3,434.92, less than the
4 existing aggregate trust fund liability to every homeowner-
5 borrower who was an owner of said funds, without first obtaining
6 the prior written consent of the owners of said funds, in
7 violation of Code Sections 10145, 10176(i) and/or 10177(g), and
8 Regulation 2832.1.

9 (b) Failed to maintain a columnar record of the
10 receipt and disbursement of trust funds handled through T/A #1
11 for each homeowner-borrower for loan modifications and for each
12 party to a mortgage loan transaction, in violation of Code
13 Section 10145 and Regulation 2831.

14 (c) Failed to maintain a separate record for each
15 beneficiary of trust funds collected from each homeowner-
16 borrower, thereby failing to account for all advance fees
17 collected for loan modification services and for mortgage loan
18 brokerage activities, in violation of Code Section 10145 and
19 Regulation 2831.1.

20 (d) Failed to perform a monthly reconciliation of the
21 balance of all separate homeowner-borrower records maintained
22 pursuant to Regulation 2831.1 with the record of all trust funds
23 received and disbursed by T/A #1, in violation of Code Section
24 10145 and Regulation 2831.2.

25 (e) Mixed and commingled trust funds with OFI's
26 general funds by depositing trust funds in the form of collected
27 advance fees solicited from homeowner-borrowers for loan

1 modification services into B/A #1, and B/A #2, in violation of
2 Code Sections 10145, 10176(e) and Regulation 2832; and

3 (f) Converted trust funds by depositing trust funds in
4 the form of advance fees solicited from homeowner-borrowers for
5 loan modification services into OFI's general account, T/A #1, in
6 violation of Code Sections 10145, 10176(i), and/or 10177(g). OFI
7 reduced the amount in OFI's trust account to an amount less than
8 the amount of the trust funds deposited constituting conversion,
9 congruent with Paragraph 9(a), above.

10 (g) As to Respondent LIZARRAGA, failed to exercise
11 adequate supervision over the activities of OFI to ensure
12 compliance with the Real Estate Laws, in violation of Code
13 Sections 10159.2 and 10177(h), and Regulation 2725.

14 Disciplinary Statutes

15 10.

16 The conduct of Respondents OFI and LIZARRAGA described
17 in Paragraph 9, above, violated the Code and the Regulations as
18 set forth below:

19 <u>PARAGRAPH</u>	20 <u>PROVISIONS VIOLATED</u>
21 9(a)	22 Code Sections 10145, 10176(i) 23 and/or 10177(g), and 24 Regulation 2832.1
25 9(b)	26 Code Sections 10145 and 27 Regulation 2831

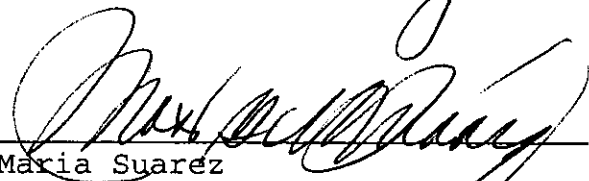
- 1 9(c) Code Sections 10145 and
- 2 Regulation 2831.1
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- 5 9(d) Code Section 10145 and
- 6 Regulation 2831.2
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- 9 9(e) Code Sections 10145, 10176(e) and
- 10 Regulation 2832
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- 12
- 13 9(f) Code Sections 10145, 10176(i)
- 14 and/or 10177(g)
- 15
- 16
- 17 9(g) Code Sections 10159.2, 10177(h) and
- 18 Regulation 2725 (as to LIZARRAGA)
- 19

21 The foregoing violations constitute cause for
22 discipline of the real estate license and license rights of
23 Respondents OFI and LIZARRAGA, as aforesaid, under the provisions
24 of Code Sections 10176(e), 10176(i), 10177(d), and/or 10177(g).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 OASIS FUNDING INC., and ANNA MARIE LIZARRAGA individually and as
6 designated officer of Oasis Funding Inc., under the Real Estate
7 Law and for such other and further relief as may be proper under
8 other applicable provisions of law including restitution of
9 advanced fees paid for unearned loan modifications, and for costs
10 of audit.

11 Dated at Los Angeles, California, 25 February, 2011.

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15 Maria Suarez
16 Deputy Real Estate Commissioner
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24 cc: Oasis Funding Inc.
25 Anne Marie Lizarraga
26 Maria Suarez
27 Sacto
Audits - Justin Park