

MAR 24 2011

DEPARTMENT OF REAL ESTATE
BY: James B. Olson

1 2.

2 PACIFIC LOAN SOLUTIONS INC, (hereinafter "PLSI") is
3 presently licensed and/or has license rights under the Real
4 Estate Law (Part 1 of Division 4 of the Business and
5 Professions Code, hereinafter "Code"), as a corporate real
6 estate broker. PLSI's corporate real estate broker license was
7 initially issued on December 13, 2008.

8 3.

9 PACIFIC RESIDENTIAL INC, (hereinafter "PRI") is
10 presently licensed and/or has license rights under the Real
11 Estate Law, as a corporate real estate broker. PLSI's
12 corporate real estate broker license was initially issued on
13 October 18, 2004.

14 4.

15 JEFFREY TORREZ, (hereinafter "TORREZ") is presently
16 licensed and/or has license rights under the Real Estate Law,
17 as a real estate broker. TORREZ has been the designated
18 officer of PLSI since December 13, 2008. TORREZ has been the
19 designated officer of PRI since October 18, 2008.

20 5.

21 ANDREW JONATHAN HUXHOLD, (hereinafter "HUXHOLD") is
22 presently licensed and/or has license rights under the Real
23 Estate Law, as a real estate salesperson. Huxhold was
24 initially licensed as a real estate salesperson on February 9,
25 2010. From May 11, 2010 to July 2, 2010, HUXHOLD was employed
26 as a salesperson by PRI.

1 FIRST CAUSE OF ACCUSATION

2 (Advance Fee Violations)

3 6.

4 On January 21, 2009, the Department of Real Estate
5 ("Department") issued a letter to PRI claiming no objection to
6 PRI's use of an advance fee agreement, as submitted by PRI.
7 PLSI was not mentioned in the agreement submitted by PRI. Nor
8 has PLSI ever submitted an advance fee agreement to the
9 Department.

10 7.

11 Neither Zachary Gonzalez, nor "Zachary Gonzalez, LLC"
12 have ever been licensed by the Department in any capacity.
13 Neither PLSI nor PRI ever submitted an advance fee agreement to
14 the Department for Zachary Gonzalez or Zachary Gonzalez, LLC.

15 8.

16 At all relevant times herein, PLSI and PRI engaged in
17 the business of real estate brokers in the State of California
18 within the meaning of Code Sections 10131(d) and 10131.2,
19 including brokering mortgage loans and performing loan
20 modification activities and claiming, demanding, charging,
21 receiving, collecting or contracting for the collection of an
22 advance fee, within the meaning of Code Section 10026,
23 including, but not limited to, the following loan modification
24 activities with respect to loans which were secured by liens on
25 real property.

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27 ///

9.

James McNamara Transaction

On or about January 31, 2009, James McNamara signed a Loan Modification Contract, in which he agreed to pay PLSI \$6,400 in advance fees for PLSI to negotiate a loan modification on his behalf. Also included in this contract was an Authorization to Release Credit Information to PRI/PLSI. On September 3, 2009, PLSI sent Mr. McNamara a Notice of Cancellation, which claimed Mr. McNamara had entered into a contract with PLSI on January 31, 2009 for \$4,600 and offered to refund 50% of this amount (\$2,300).

10.

Jerry Barton Transaction

On or about February 10, 2009, Jerry Barton signed a Loan Modification Contract, in which he agreed to pay PLSI \$11,600 in advance fees for PLSI to negotiate a loan modification on his behalf. Also included in this contract was an Authorization to Release Credit Information to PRI. Between February 10, 2009 and April 15, 2009, at the request of PLSI, Mr. Barton sent three checks for a total of \$11,600 in advance fees to PLSI for loan modification services.

11.

Victor Salaiza Transaction

On or about February 12, 2009, Victor Salaiza signed a Loan Modification Contract, in which he agreed to pay PLSI \$8,000 in advance fees for PLSI to negotiate a loan modification on his behalf. Some pages on this contract

1 contained a heading for PRI. On September 28, 2009, PLSI sent
2 Mr. Salaiza a Notice of Cancellation, which promised to refund
3 half of the \$8,000 in advance fees paid by Mr. Salaiza.

4 12.

5 Shahla O'Sullivan Transaction

6 On or about April 8, 2009, Shahla O'Sullivan
7 submitted a Loan Modification Application to PLSI. In
8 response, PLSI supplied Ms. O'Sullivan with a Residential Loan
9 Modification Retainer Agreement for "Zachary Gonzalez, LLC".
10 This agreement arranged for Ms. O'Sullivan to pay \$10,925 in
11 advance fees. Between April 8, 2009 and June 2, 2009, Ms.
12 Sullivan paid \$10,926 in advance fees to "Pacific Loan
13 Solutions." Ms. O'Sullivan was subsequently issued a Loan
14 Modification Update from PLSI.

15 13.

16 Robert Moreno Transaction

17 In Response to a solicitation from PLSI, Robert
18 Moreno arranged a meeting with HUXHOLD to discuss loan
19 modification services. PLSI supplied Mr. Moreno with a
20 Residential Loan Modification Retainer Agreement for "Zachary
21 Gonzalez, LLC", which Moreno signed on May 4, 2009. This
22 agreement arranged for Mr. Moreno to pay \$5,317 in advance
23 fees. On or about May 15, 2009, Mr. Moreno received a Loan
24 Modification Update from PLSI. After paying \$5,317 in advance
25 fees to Zachary Gonzalez, Mr. Moreno issued \$1,000 checks to
26 "Pacific Loan Solution" as advance fees for a loan modification
27 on September 5, 2009 and September 19, 2009.

14.

Klara Melman Transaction

On or about September 10, 2009, Klara Melman was solicited by PLSI regarding loan modification services. PLSI supplied Ms. Melman with a Residential Loan Modification Retainer Agreement for "Zachary Gonzalez, LLC", which Moreno signed on September 16, 2009. This agreement arranged for Ms. Melman to pay \$7,859 in advance fees. Ms. Melman subsequently received a letter from PLSI which stated "we will be processing your file along with Zachary Gonzalez Jr. LLC".

15.

Enrique Saavedra Transaction

On or about September 5, 2009 Enrique Saavedra made an appointment to discuss loan modification with HUXHOLD, in response to a solicitation mailed by PLSI. PLSI supplied Mr. Saavedra with a Residential Loan Modification Retainer Agreement for "Zachary Gonzalez, LLC", which Mr. Saavedra signed on September 5, 2009. This agreement arranged for Mr. Saavedra to pay \$7,724 in advance fees. Mr. Saavedra subsequently received a letter from PLSI which stated "we will be processing your file along with Zachary Gonzalez Jr. LLC".

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16.

Javier Garcia Transaction

In or about April 2009, Javier Garcia received a solicitation regarding loan modification from PLSI. PLSI supplied Mr. Garcia with a Residential Loan Modification Retainer Agreement for "Zachary Gonzalez, LLC", which Mr. Garcia signed on April 18, 2009. This agreement arranged for Mr. Garcia to pay \$4,020 in advance fees.

17.

The conduct of PLSI and PRI, as described in Paragraph 9 above, constitutes a substantial misrepresentation, providing cause for the suspension or revocation of the licenses and license rights of PLSI and PRI pursuant to Code Section 10176(a).

18.

The agreements described in Paragraphs 9 through 16 above, constitute advance fee agreements within the meaning of Code Section 10026. PLSI failed to submit the advance fee agreements referred to in Paragraphs 9 through 16 above, to the Commissioner ten days before using them, in violation of Code Section 10085 and Section 2970 of Title 10, California Code of Regulations ("Regulations"). The conduct, acts and/or omissions of PLSI, are cause for the suspension or revocation of the licenses and license rights of PLSI, pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

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19.

PRI failed to submit the advance fee agreements, described in paragraphs 9 through 11 above, to the Commissioner ten days before using them, in violation of Code Section 10085 and Regulation 2970. The conduct, acts and/or omissions of PRI, as set forth in paragraphs 9 through 11 above, is cause for the suspension or revocation of the licenses and license rights of PRI, pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

20.

HUXHOLD negotiated the advance fee agreements, described in paragraphs 13 and 15 above, prior to being licensed as a real estate salesperson, in violation of Code Sections 10130 and 10131(d). HUXHOLD also failed to submit the advance fee agreements to the Commissioner ten days before using them, in violation of Code Section 10085 and Regulation 2970. The conduct, acts and/or omissions of HUXHOLD, as set forth in paragraphs 13 and 15 above, is cause for the suspension or revocation of the licenses and license rights of PRI, pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

(AUDIT VIOLATIONS)

21.

On February 26, 2010, the Department completed audit examinations of the books and records of PLSI pertaining to the mortgage and loan activities described in Paragraph 8 that require a real estate license. The audit examination covered a period of time beginning from September 1, 2008 to October 31,

1 2009. The audit examinations revealed violations of the Code
2 and the Regulations as set forth in the following paragraphs,
3 and more fully discussed in Audit Report SD090016 and the
4 exhibits and workpapers attached to said audit report.

5 TRUST ACCOUNT

6 22.

7 During the audit period, PLSI did not maintain a
8 trust account.

9 VIOLATIONS OF THE REAL ESTATE LAW

10 23.

11 In the course of activities described in Paragraph 8
12 above and during the examination period described in Paragraph
13 21, PLSI acted in violation of the Code and the Regulations in
14 that it:

15 (a) deposited advance fees collected from borrowers
16 for loan modifications into PLSI's general operating account,
17 in violation of Code Sections 10145 and 10146 and Regulation
18 2832.

19 (b) did not provide itemized accounting of advance
20 fees collected, in violation of Code Section 10146 and
21 Regulation 2972.

22 (c) did not maintain a columnar record for the
23 advance fees PLSI collected and handled through its general
24 accounts, in violation of Code Section 10145 and Regulation
25 2831.

26 (d) did not maintain a separate record for the
27 advance fees PLSI collected and handled through its general

1 accounts, in violation of Code Section 10145 and Regulation
2 2831.1.

3 (e) allowed an unlicensed individual to perform acts
4 requiring a real estate license, in violation of Code Section
5 10130.

6 (f) claimed to have a "general trust account" in its
7 loan modification agreement, when it only had a general
8 operating account, in violation of Code Section 10176(a)

9 (g) failed to retain records of loan modification
10 transactions, trust fund records, bank statements, deposit and
11 disbursement records, transaction flow sheets and fax
12 confirmation sheets for loan modification activity, in
13 violation of Code Section 10148

14 24.

15 The conduct of PLSI, as described in Paragraph
16 23, above, violated the Code and the Regulations as set forth
17 below:

18	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
19		
20	23(a)	Code Sections 10145/10146 and
21		Regulation 2832
22		
23	23(b)	Code Section 10146 and Regulation
24		2972
25	23(c)	Code Section 10145 and Regulation
26		2831
27		

1 23(d) Code Section 10145 and Regulation
2 2831.1
3 23(e) Code Section 10130
4 23(f) Code Section 10176(a)
5 23(g) Code Section 10148

7 The foregoing violations constitute cause for the
8 suspension or revocation of the real estate license and license
9 rights of PLSI, under the provisions of Code Sections 10176(a),
10 10177(d) and/or 10177(g).

11 NEGLIGENCE

12 25.

13 The overall conduct of PLSI and TORREZ constitutes
14 negligence or incompetence. This conduct and violation are
15 cause for the suspension or revocation of the real estate
16 license and license rights of PLSI and TORREZ pursuant to Code
17 Section 10177(g).

18 SUPERVISION AND COMPLIANCE

19 26.

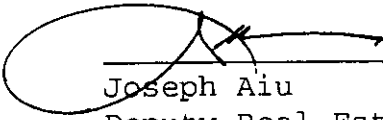
20 The overall conduct of TORREZ constitutes a failure
21 on his part, as officer designated by a corporate broker
22 licensee, to exercise the reasonable supervision and control
23 over the licensed activities of PLSI as required by Code
24 Section 10159.2, and to keep PLSI in compliance with the Real
25 Estate Law, and is cause for the suspension or revocation of
26 the real estate license and license rights of TORREZ pursuant
27

1 to the provisions of Code Sections 10177(d), 10177(g) and
2 10177(h).

3 WHEREFORE, Complainant prays that a hearing be
4 conducted on the allegations of this Accusation and that upon
5 proof thereof, a decision be rendered imposing disciplinary
6 action against all the licenses and license rights of
7 Respondents PACIFIC LOAN SOLUTIONS INC, PACIFIC RESIDENTIAL INC
8 JEFFREY TORREZ and ANDREW JONATHAN HUXHOLD under the Real
9 Estate Law, and for such other and further relief as may be
10 proper under other applicable provisions of law.

11 Dated at San Diego, California

12 this 11 day of December

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15 
16 Joseph Aiu

17 Deputy Real Estate Commissioner
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23

24 CC: PACIFIC LOAN SOLUTIONS INC
25 PACIFIC RESIDENTIAL INC
26 JEFFREY TORREZ
27 ANDREW JONATHAN HUXHOLD
Joseph Aiu-SDDO
Sacto.
S.D. Audits - Gina King