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**FILED**  
AUG - 5 2011  
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-37426 LA
12 WIZARD FINANCIAL, INC. and	)	<u>A C C U S A T I O N</u>
13 BARBARA BOBBY HARVEY,	)	
14 individually and as designated	)	
15 officer of Wizard Financial, Inc.,	)	
	)	
Respondents.	)	

16  
17 The Complainant, Robin Trujillo, a Deputy Real Estate  
18 Commissioner of the State of California, for cause of Accusation  
19 against WIZARD FINANCIAL, INC. and BARBARA BOBBY HARVEY,  
20 individually and as designated officer of Wizard Financial,  
21 Inc., alleges as follows:

22 1.

23 The Complainant, Robin Trujillo, acting in her  
24 official capacity as a Deputy Real Estate Commissioner of the  
25 State of California, makes this Accusation against WIZARD  
26 FINANCIAL, INC. and BARBARA BOBBY HARVEY.

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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.

From March 1, 2006, through the present, Respondent WIZARD FINANCIAL, INC. ("WIZARD") has been licensed by the Department of Real Estate ("Department") as a corporate real estate broker.

4.

From July 12, 1991, through the present, Respondent BARBARA BOBBY HARVEY ("HARVEY") has been licensed by the Department as a real estate broker. From July 16, 2008, through the present, WIZARD was acting by and through Respondent HARVEY as its designated officer pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

5.

At all times mentioned, in the State of California, Respondents engaged in the business of a real estate broker conducting licensed activities within the meaning of Code Section 10131(d). Respondents operated a mortgage and loan brokerage.

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Audit

6.

On March 28, 2011, the Department completed an audit examination of the books and records of Respondent WIZARD pertaining to the real estate activities described in Paragraph 5, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2008 to August 31, 2010. 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 100038 and the exhibits and work papers attached to said Audit Report.

7.

Violations

In the course of activities described in Paragraph 5, above, and during the examination period described in Paragraph 6, Respondent WIZARD acted in violation of the Code and the Regulations as follows:

(A) Failed to set up a trust account for trust funds received in the form of funds from lenders, monthly payments and principal payoffs, in violation of Code Section 10145 and Regulation 2832.

(B) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds collected, in violation of Code Section 10145 and Regulation 2831.1.

(C) Failed to maintain a written monthly reconciliation of the receipts and disbursements record and the

1 total balance of separate beneficiary records for bank account  
2 used to handle loan activity, in violation of Code Section 10145  
3 and Regulation 2831.2.

4 (D) Failed to provide the Mortgage Loan/Trust Deed  
5 Annual Report (Business Activity Report) for aspects of its  
6 business activity for the period ending in December, 2008, in  
7 violation of Code Section 10232.2(c) and Regulation 2846.7.

8 (E) Failed to file its Trust Account Review for the  
9 period ending on December 31, 2009, in violation of Code Section  
10 10232.2(a) and Regulation 2846.5.

11 (F) Failed to file its Quarterly Reports for the  
12 first, second and third quarters of 2010, in violation of Code  
13 Section 10232.25 and Regulation 2846.8.

14 (G) HARVEY failed to exercise reasonable control and  
15 supervision over the activities conducted on behalf of WIZARD  
16 and its licensees and employees as necessary to secure full  
17 compliance with the Real Estate Law, in violation of Code  
18 Section 10159.2 and Regulation 2725.

19 Disciplinary Statutes

20 8.

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

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PARAGRAPH	PROVISIONS VIOLATED
7(A)	Code Section 10145 and Regulation 2832
7(B)	Code Section 10145 and Regulation 2831.1
7(C)	Code Section 10145 and Regulation 2831.2
7(D)	Code Section 10232.2(c) and Regulation 2846.7
7(E)	Code Section 10232.2(a) and Regulation 2846.5
7(F)	Code Section 10232.25 and Regulation 2846.8
7(G)	Code Section 10159.2 and Regulation 2725 (HARVEY)

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondents WIZARD and HARVEY, as aforesaid, under the provisions of Code Sections 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence.

9.

The conduct, acts and/or omissions of Respondent HARVEY in allowing Respondent WIZARD to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent HARVEY, as the officer designated by the corporate broker licensee, to exercise the supervision and control over the activities of Respondent WIZARD, as required by Code Section 10159.2, and is cause to suspend or revoke the real estate licenses and license rights of Respondent HARVEY under Code Sections 10177(h), 10177(d) and/or 10177(g).

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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 all licenses and/or license rights of Respondents WIZARD FINANCIAL, INC. and BARBARA BOBBY HARVEY, individually and as designated officer of Wizard Financial, Inc., 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.

Dated at Los Angeles, California  
this 1 day of August, 2011.

  
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ROBIN TRUJILLO  
Deputy Real Estate Commissioner

cc: Wizard Financial, Inc.  
Barbara Bobby Harvey  
Robin Trujillo  
Sacto  
Audits - Darryl M. Thomas