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FILED

NCV - 3 2011

DEPARTMENT OF REAL ESTATE
BY: *Handwritten signature*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H- 37642 LA
)	
BRITTINGHAM REAL ESTATE, INC.,)	
and ROBERT BRITTINGHAM,)	<u>ACCUSATION</u>
individually and as a designated)	
officer of Brittingham Real)	
Estate, Inc.,)	
)	
Respondents.)	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California for cause of Accusation against BRITTINGHAM REAL ESTATE, INC. and ROBERT BRITTINGHAM, individually and as designated officer of Brittingham Real Estate, Inc. (collectively "Respondents") is informed and alleges as follows:

1.

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

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1 2.

2 From March 29, 2007 through the present, Respondent
3 ROBERT BRITTINGHAM ("Respondent BRITTINGHAM") was and still is
4 licensed and/or has license rights under the Real Estate Law
5 (Part 1 of Division 4 of the California Business and Professions
6 Code) as a real estate broker.

7 3.

8 From September 27, 2007 through September 26, 2011,
9 BRITTINGHAM REAL ESTATE, INC. ("Respondent BREI") was licensed
10 or had license rights issued by the Department of Real Estate as
11 a real estate corporation acting by and through Respondent
12 BRITTINGHAM as its designated officer.

13 4.

14 Respondent BRITTINGHAM, as the designated officer of
15 Respondent BREI pursuant to California Business and Professions
16 Code Section 10211, was responsible for the supervision and
17 control of the activities conducted on behalf of Respondent BREI
18 by its officers and employees as necessary to secure full
19 compliance with the Real Estate Law as set forth in California
20 Business and Professions Code Section 10159.2.

21 5.

22 At all time herein mentioned, Respondents, on behalf
23 of others, and in expectation of compensation, engaged in the
24 business of, acted in the capacity of, advertised or assumed to
25 act as real estate brokers in the State of California within the
26 meaning of California Business and Professions Code Section
27

1 10131(d), including soliciting borrowers and lenders and
2 negotiating loans on real property.

3 6.

4 During the period of time set out below, Respondents,
5 while doing business as Respondent BREI, solicited borrowers
6 (including, but not necessarily limited to, those noted below)
7 and negotiated to do one or more of the following acts for
8 another or others, for or in expectation of compensation:
9 negotiate the purchase, sale, or exchange of real property;
10 negotiate one or more loans for, or perform services for,
11 borrowers and/or lenders in connection with loans secured
12 directly or collaterally by one or more liens on real property;
13 and charge, demand, or collect an advance fee for any of the
14 services offered.

15 7.

16 Sims Transaction: On or about December 10, 2008,
17 Respondents and a Thomas Cook, while using the fictitious
18 business name Brittingham Financial Group and name New Mortgage
19 Solutions, solicited loan modification and negotiation services
20 to borrower Sean Sims ("Sims") in connection with loans secured
21 by real property. Respondents charged and collected an advance
22 fee of \$2,995.00 from Sims pursuant to an advance fee agreement
23 for loan modification and negotiation services. Respondents
24 instructed Sims to make the \$2,995.00 advance fee payable to New
25 Mortgage Solutions. Respondents and Thomas Cook made
26 substantial misrepresentations to Sims, including, but not
27 limited to, assuring Sims that a licensed attorney would be

1 handling the modification or negotiation of his mortgage loan.
2 Respondents failed to perform the loan modification and
3 negotiation services that had been promised to Sims.

4 8.

5 Bender Transaction: On or about December 5, 2008,
6 Respondents, a Jared Wagner, a Hugo, and a Frank, while using
7 the fictitious business name Brittingham Financial Group and
8 name Nationwide Loan Modification, solicited loan modification
9 and negotiation services to borrower Deborra Bender ("Bender")
10 in connection with loans secured by real property. Respondents
11 charged and collected an advance fee of \$1,995.00 from Bender
12 pursuant to an advance fee agreement for loan modification and
13 negotiation services. Respondents instructed Bender to make the
14 \$1,995.00 advance fee payable to Brittingham Financial Group.
15 Respondents and Jared Wagner made substantial misrepresentations
16 to Bender, including, but not limited to, assuring Bender that a
17 licensed attorney would be handling the modification or
18 negotiation of her mortgage loan. Respondents failed to perform
19 the loan modification and negotiation services that had been
20 promised to Bender.

21 9.

22 In both the Sims Transaction and Bender Transaction,
23 Respondents used an advance fee agreement that was not approved
24 by the Department of Real Estate to charge or collect advance
25 fees within the meaning of California Business and Professions
26 Code Sections 10026 and 10085.

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10.

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2 The conduct, acts, and/or omissions of Respondents, as
3 set forth above, in collecting advance fees from prospective
4 borrowers pursuant to a written fee agreement, which was not
5 submitted to the Department of Real Estate for review prior to
6 use was in violation of California Business and Professions Code
7 Sections 10085 and 10085.5 and Regulation 2970, and constitutes
8 grounds for the suspension or revocation of the license and
9 license rights of Respondents pursuant to California Business
10 and Professions Code Sections 10177(d) and/or 10177(g).

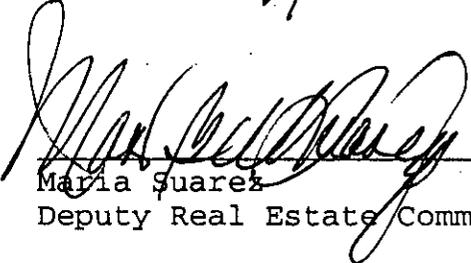
11 11.

12 The conduct, acts, and/or omissions of Respondent
13 BRITTINGHAM, in allowing Respondent BREI to violate the Real
14 Estate Law, as set forth above, constitutes a failure by
15 Respondent BRITTINGHAM, as the officer designated by the
16 corporate broker licensee, to exercise the supervision and
17 control of the activities conducted on behalf of Respondent BREI
18 by its offices and employees as required by California Business
19 and Professions Code Section 10159.2 and Regulation 2725, and is
20 cause to suspend or revoke the real estate license and license
21 rights of Respondent BRITTINGHAM pursuant to California Business
22 and Professions Code Sections 10177(h), 10177(d), and/or
23 10177(g).

24 WHEREFORE, Complainant prays that a hearing be
25 conducted on the allegations of this Accusation and that upon
26 proof thereof, a decision be rendered imposing disciplinary
27 action against all licenses and/or license rights of Respondents

1 BRITTINGHAM REAL ESTATE, INC. and ROBERT BRITTINGHAM,
2 individually and as designated officer of Brittingham Real
3 Estate, Inc. under the Real Estate Law (Part 1 of Division 4 of
4 the California Business and Professions Code) and for such other
5 and further relief as may be proper under other applicable
6 provisions of law.

7 Dated at Los Angeles, California November 2, 2011.

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11 Maria Suarez
12 Deputy Real Estate Commissioner
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25 cc: Brittingham Real Estate, Inc.
26 Robert Brittingham
27 Maria Suarez
Sacto.
OAH