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FILED

JAN 25 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
HARVARD & HAMPTON FINANCIAL; and,)	No. H- 37809 LA
RAUL MUNOZ, individually and as designated)	
officer of Harvard & Hampton Financial,)	
)	<u>ACCUSATION</u>
Respondents.)	
)	

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HARVARD & HAMPTON FINANCIAL and RAUL MUNOZ, individually and as designated officer of Harvard & Harvard Financial, alleges as follows:

1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation.

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.

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1 3.

2 License Status

3 A. HARVARD & HAMPTON FINANCIAL ("H&H"). At all times mentioned,
4 Respondent H&H was licensed or had license rights issued by the Department of Real Estate
5 (Department) as a real estate broker. On June 5, 2008; H&H was originally licensed as a
6 corporate real estate broker. Respondent H&H is authorized to act by and through Respondent
7 RAUL MUNOZ as H&H's designated broker pursuant to Business and Professions Code
8 (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring compliance with
9 the Real Estate Law.

10 B. RAUL MUNOZ ("MUNOZ"). At all times mentioned, Respondent MUNOZ
11 was licensed or had license rights issued by the Department as a real estate salesperson. On
12 February 22, 2008, MUNOZ was originally licensed as a real estate broker. On June 5, 2008,
13 MUNOZ became the designated officer of H&H.

14 C. MUNOZ is H&H's president.

15 Brokerage

16 4.

17 At all times mentioned, in the City of Whittier, County of Los Angeles, H&H and
18 MUNOZ acted as real estate brokers conducting licensed activities within the meaning of:

19 A. Code Section 10131(a). Respondents engaged in the business of, acted in the
20 capacity of, advertised or assumed to act as a real estate broker, including the solicitation for
21 listings of and the negotiation of the sale of real property as the agent of others.

22 B. Code Section 10131(d). Respondents engaged in activities with the public
23 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on
24 real property, wherein such loans were arranged, negotiated, processed and consummated on
25 behalf of others for compensation or in expectation of compensation and for fees often collected
26 in advance.

27

1 C. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and
2 offered to provide loss mitigation and loan modification services to economically distressed
3 homeowners seeking adjustments to the terms and conditions of their home loans including, but
4 not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or
5 interest, extenuations, foreclosure prevention and short sales.

6 FIRST CAUSE OF ACCUSATION
7 (Audit Examination)

8 5.

9 On May 26, 2011, the Department completed an audit examination of the books
10 and records of H&H limited to the residential resale and mortgage loan brokerage activities only,
11 as described in Paragraph 4, which require a real estate license. The audit examination covered a
12 period of time beginning on June 5, 2008 and ending on September 30, 2010. The audit
13 examination revealed violations of the Code and the Regulations as set forth in the following
14 paragraphs, and more fully discussed in Audit Report LA 100062 and the exhibits and work
15 papers attached to said audit report.

16 Trust Account

17 6.

18 During the audit period, H&H did not maintain a trust account for advance fees
19 collected for loan modifications services.

20 Audit Violations

21 7.

22 In the course of activities described in Paragraphs 4 and 6, above, and during the
23 examination period described in Paragraph 5, Respondents H&H and MUNOZ, acted in violation
24 of the Code and the Regulations in which Respondents:

25 (a) Failed to maintain an accurate and complete control record in chronological
26 order for each beneficiary or transaction, thereby failing to account for advance fees collected for
27 loan modification services, in violation of Code Section 10145 and Regulation 2831.

1 (b) Failed to maintain a separate record for each beneficiary or transaction,
2 thereby failing to account for all advance fees collected for loan modification services, in
3 violation of Code Section 10145 and Regulation 2831.1.

4 (c) Failed to perform a monthly reconciliation of the balance of all separate
5 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all
6 trust funds received and disbursed by the bank accounts that contain trust funds for advance fees
7 collected for loan modification services, in violation of Code Section 10145 and Regulation
8 2831.2.

9 (d) Mixed, commingled and converted trust funds and H&H's funds by depositing
10 advance fees received for loan modification service fees into H&H's general operating accounts,
11 in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

12 (e) Collected advance fees within the meaning of Code Section 10026 from
13 homeowners seeking loan modification services wherein H&H failed to provide loan
14 modification applicants with a pre-approved advance fee agreement from the Department in the
15 form of a no objection letter, in violation of Code Section 10085 and Regulation 2970.

16 (f) With reference to the lack of an advance fee agreement, H&H failed to provide
17 a complete description of services to be rendered provided to each homeowner-borrower in 10
18 point type font and, an allocation and disbursement of the amount collected as the advance fee
19 for each loan modification, in violation of Code Section 10146 and Regulation 2972.

20 (g)(1) Failed to retain a true and correct copy of a Department of Real Estate
21 approved California Mortgage Loan Disclosure Statements signed by the broker for borrower
22 M.C., in violation of Code Section 10240 and Regulation 2840; and

23
24 (g)(2) Failed to disclose yield spread premiums from lenders on the approved
25 Mortgage Loan Disclosure Statement for borrower M.C., in violation of Code Section 10241 and
26 Regulation 2840.1.
27

1 (h) Failed to display the H&H's license number on the on the Mortgage Loan
2 Disclosure Statements for borrowers Ramez/Mary S., Fausto/Guadalupe M. and Florentina G., in
3 violation of Code Section 10236.4.

4 (i) Changed its address in dated October 4, 2010 from 6808 S. Atlantic, Bell, CA
5 90201 to 15827 Russell St., Suite 201, Whittier, CA 90603, without notification to the
6 Department, in violation of Code Section 10162 and Regulation 2715.

7 (j) After notice and subpoena on November 16, 2010. H&H and MUNOZ failed to
8 retain all records of H&H's activity during the audit period requiring a real estate broker license,
9 including but not limited to loan modification Log, invoices for loan modification services
10 provided, slip deposit and bank statements related to loan modification payments received from
11 clients, and trust fund records for the loan modification activity, in violation of Code Section
12 10148.
13

14 (k) MUNOZ failed to exercise reasonable control and supervision over the
15 activity of H&H to secure full compliance with the Real Estate Law, in violation of Code
16 Sections 10159.2, 10177(h) and Regulation 2725.
17

18 Discipline Statutes and Regulations

19
20 8.

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

23 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
24 7(a)	Code Sections 10145 and Regulation 2831
25 7(b)	Code Section 10145 and Regulation 2831.1
26 7(c)	Code Section 10145 and Regulation 2831.2

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FIFTH CAUSE OF ACCUSATION
(Supervision and Compliance)

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The overall conduct of Respondent MUNOZ constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of H&H as required by Code Section 10159.2 and Regulation 2725, and to keep H&H in compliance with the Real Estate Law, with specific regard to trust fund including credit and appraisal fees, earnest money deposits and advance fees collected for loan modification services, and is cause for discipline of the real estate license and license rights of Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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 the license and license rights of Respondents HARVARD & HAMPTON FINANCIAL and RAUL MUNOZ, 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 including but not limited to restitution of advanced fees paid for unearned and unrefunded loan modifications/short sales pursuant to Government Code Section 11519; for costs of audit (\$5,206.00) pursuant to Code Section 10148; for costs of investigation and enforcement in this matter in an amount to be determined at Hearing and paid within six (6) months of the effective date of the Decision and Order. Payments may be made in equal monthly installments beginning thirty (30) days from the effective date of the Decision and Order. Failure to submit to the Department each payment of cost recovery shall automatically

1 terminate the stay of the order and Respondent's real estate license shall be suspended effective
2 thirty (30) days from the due date of the delinquent payment without further notice or hearing.
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4 Dated at Los Angeles, California

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6 this 25 day of January 2012 Robin Trujillo
7 Deputy Real Estate Commissioner
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24 cc: Harvard & Hampton Financial
25 c/o Raul Munoz D.O.
26 Robin Trujillo
27 Sacto
Enforcement Audits - Isabel Beltran