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FILED

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DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 1ST INVESTMENTS INC.;)
14 and BRENDA PATRICIA SOLANO)
15 individually and as designated)
16 officer of 1st Investments Inc.,)
17 Respondents.)

No. H- 37854 LA

ACCUSATION

18 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
19 of California, Department of Real Estate ("Department") for cause of Accusation against 1ST
20 INVESTMENTS INC. ("1ST INVESTMENTS") and BRENDA PATRICIA SOLANO
21 ("SOLANO"), individually and as designated officer of 1st Investments Inc. (collectively
22 "Respondents"), is informed and alleges as follows:

23 1.

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

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2.

From May 8, 2009, through the present, Respondent 1ST INVESTMENTS has been licensed as a real estate corporation. At all times relevant herein, 1ST INVESTMENTS was acting by and through Respondent SOLANO as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. On May 24, 2010, 1ST INVESTMENTS became Non Broker Affiliated by the cancellation of SOLANO's tenure as designated officer.

3.

Respondent SOLANO was originally licensed as a real estate salesperson from February 28, 1996. From October 10, 2000 through the present, Respondent SOLANO has been licensed as a real estate broker. SOLANO has been the designated officer of 1ST INVESTMENTS since its original licensure. On May 24, 2010, SOLANO cancelled his tenure as designated officer.

4.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment.

Table: Designated Officer Tenure

Designated Officer	Tenure
Brenda Solano	May 8, 2009 to January 1, 2010
Alex Martinez	January 26, 2010 to April 5, 2010
Brenda Solano	April 5, 2010 to May 24, 2010

1 FIRST CAUSE OF ACCUSATION

2 (Audit)

3 5.

4 At all times mentioned, in the State of California, Respondent 1ST
5 INVESTMENTS acted as a corporate real estate broker and conducted licensed activities within
6 the meaning of:

7 A. Code Section 10131(a) wherein 1ST INVESTMENTS and SOLANO
8 engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate
9 broker, including the solicitation for listings of and the negotiation of the sale of real property as
10 the agent of others; and

11 B. Code Section 10131.2. LOP/LOB Program (Lease with Option to
12 Purchase/Lease with Option to Buy). Respondents 1ST INVESTMENTS and SOLANO
13 advertised, solicited and offered to promote the sale of real property via Respondent's 1ST
14 INVESTMENTS "LOP/LOB Program". Prospective home buyers were solicited and would be
15 offered a residence to purchase within ninety (90) days of payment of said advance fee, in the
16 form of an "Finders Fee", for services to be rendered.

17 Audit Examination

18 6.

19 On June 14, 2011, the Department completed an audit examination of the books
20 and records of Respondent 1ST INVESTMENTS pertaining to the real estate activities
21 described in Paragraph 5, which require a real estate license. The audit examination covered a
22 period of time beginning on February 1, 2009 to August 31, 2009. The audit examination
23 revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations
24 ("Regulations") as alleged in the following paragraphs, and more fully set forth in Audit Report
25 LA 100039 and the exhibits and work papers attached thereto.

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BANK ACCOUNTS

7.

At all times mentioned, in connection with the activities described in Paragraph 6, above, 1st Investments accepted or received funds including funds in trust (“trust funds”) from or on behalf of actual or prospective parties to transactions including prospective home buyers handled by 1ST INVESTMENTS and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, during the audit period and thereafter, said trust funds were deposited and/or maintained by 1ST INVESTMENTS in the bank account described below. 1ST INVESTMENTS did not maintain a trust fund during the audit period.

“1st Investments Inc. XXXXXX1277”

East West Bank

Ontario, CA 91761

(General operating account)

(“B/A 1”)

Violations Of The Real Estate Law

8.

In the course of activities described in Paragraph 5, above, and during the examination period, described in Paragraph 6, Respondents 1ST INVESTMENTS and SOLANO acted in violation of the Code and the Regulations in which Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from B/A 1, 1ST INVESTMENTS' general operating account, where the disbursement of funds reduced the total of aggregate funds in B/A 1, to an amount which, on August 31, 2009, was at a minimum accountability of \$94,146.33, less than the existing aggregate trust fund accountability of 1ST INVESTMENTS to every principal who was an owner of said funds, without first obtaining the

1 prior written consent of the owners of said funds, in violation of Code Section 10145(a) and
2 Regulation 2832.1. The shortage was caused by unauthorized disbursements from B/A 1.

3 (b) B/A 1 was not in the name of the broker as trustee at a bank or other financial
4 institution, nor designated as a trust account, in violation of Code Section 10145 of the Code and
5 Regulation 2832(a).

6 (c) Failed to maintain a control record in the form of a columnar record in
7 chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", in
8 violation of Code Section 10145 and Regulation 2831.

9 (d) Failed to maintain a separate record for each beneficiary or transaction,
10 thereby failing to account for all advance fees collected for aforementioned LOP/LOB Program,
11 in violation of Code Section 10145 and Regulation 2831.1.

12 (e) Failed to perform a monthly reconciliation of the balance of all separate
13 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of
14 all trust funds received and disbursed by B/A 1, in violation of Code Section 10145 and
15 Regulation 2831.2.

16 (f) (1) Allowed Victor Rosales Jr., Chief Financial Officer and Mazen Al Zaubi,
17 Chief Executive Officer of 1ST INVESTMENTS, to be a signatories on B/A 1, when they was
18 not licensed by the Department in any capacity nor were they covered by a fidelity bond, in
19 violation of Code Section 10145 and Regulation 2834(a);

20 (f) (2) SOLANO was not a signatory on B/A 1, in violation of Code Section
21 10145 and Regulation 2834(b).

22 (g) Mixed and commingled trust funds and personal funds by depositing advance
23 fees collected for 1ST INVESTMENTS' LOP/LOB Programs into B/A 1, in violation of Code
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1 Sections 10145 and 10176(e) and Regulation 2835.

2 (h) Converted trust funds by paying of 1ST INVESTMENTS' operating
3 expenses, personal expenses and payroll transactions that were disbursed from B/A1, during the
4 audit period from B/A 1, in violation of Code Sections 10145 and 10176(i), as tabled below,
5

6 Table: Converted Home Buyers Trust Funds

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8 <u>Check</u>	<u>Date</u>	<u>Reference</u>	<u>Disbursed</u>	<u>Bank Account</u>
9 <u>Number</u>			<u>Amount</u>	
10 10639	6/5/09	Cash / ok by Victor	\$ 8,000.00	xxxx1277
11 10626	6/8/09	Christina Rolando / pay	\$ 275.03	xxxx1277
12 10689	6/10/09	East West Bank	\$ 20,006.00	xxxx1277
13 10766	6/30/09	Luis A Trejo	\$ 500.00	xxxx1277
14 10681	6/22/09	MGR Services	\$ 5,387.20	xxxx1277
15 10637	6/8/09	Salem Abbady	\$ 2,000.00	xxxx1277
16 10791	6/30/09	Victor Rosales Jr.	\$ 1,000.00	xxxx1277
17 10873	7/17/09	Victor Rosales Sr.	\$ 700.00	xxxx1277
18 1460	7/17/09	Wisam Zoubi	\$ 2,000.00	xxxx1277
19 10991	7/31/09	Yasin El Turkey	\$ 2,000.00	xxxx1277
20 1583	8/11/09	Salem Abbady	\$ 500.00	xxxx1277
21 1584	8/11/09	Wisam Zoubi	\$ 1,000.00	xxxx1277
22 Total			\$43,368.03	

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1 (i) Collected advance fees within the meaning of Section 10026 of the Code
2 between, including 'Finders Fees' from prospective home purchasers by and through 1ST
3 INVESTMENTS' LOP/LOB Program. IST INVESTMENTS and SOLANO failed to provide to
4 the prospective purchasers a pre-approved advance fee agreement by the Department. The
5 failure of 1ST INVESTMENTS and SOLANO to submit an advance fee agreement to the
6 Department ten days prior to its use in violation of Code Section 10085 and Regulation 2970, is
7 in violation of Code Section 10177(d).

8 (j) Failed to establish and maintain a trust account at a bank or other recognized
9 financial institution in the name of the broker for deposit of advance fees collected by 1ST
10 INVESTMENTS, in violation of Code Section 10146, for the aforesaid prospective purchasers.

11 (k) With reference to the lack of an advance fee agreement, 1ST
12 INVESTMENTS and SOLANO, failed to provide a complete description of services to be
13 rendered provided to each prospective purchaser; 10 point type font; and, an allocation and
14 disbursement of the amount collected as the advance fee, in violation of Code Section 10146
15 and Regulation 2972, in violation of Code Section 10177(d).

16 (l) Employed and/or compensated Victor Rosales Jr. (Alfred Ortiz transaction)
17 and Manez Al Zoubi (Claudia Calderon transaction), as sales agents for the LOP/LOB Program,
18 who IST INVESTMENTS and SOLANO knew were not licensed by the Department as real
19 estate brokers or as real estate salespersons employed by a real estate broker, for performing acts
20 for which a real estate license is required, including soliciting, negotiating and signing
21 LOP/LOB agreements, in violation of Code Section 10137.

22 (m) 1ST INVESTMENTS, whose corporate real estate broker license was issued
23 on May 8, 2009, performed acts before said licensure, to wit, between February 2009 and May
24 7, 2009, for which a real estate license is required, including soliciting for prospective home
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1 purchasers, negotiating and executing LOP/LOB agreements with consumers, prior to obtaining
2 a license from the Department, in violation of Code Section 10130.

3 (n) Failed to notify the Department of 1ST INVESTMENTS' main office address
4 and to maintain its current address on file with the Department, in violation of Code Section
5 10162 and Regulation 2715.

6 (o) The conduct, acts and/or omissions of Respondents 1ST INVESTMENTS and
7 SOLANO, in causing, allowing, or permitting 1ST INVESTMENTS to violate the Real Estate
8 Law, as described, herein above, constitutes failure on the part of Respondent SOLANO, as the
9 officer designated by a corporate broker licensee, to exercise the reasonable supervision and
10 control over the licensed activities of 1ST INVESTMENTS, in violation of Code Section
11 10159.2. Said conduct is cause to suspend or revoke the real estate licenses and license rights of
12 1ST INVESTMENTS and SOLANO pursuant to the provisions of Code Sections 10177(d) or
13 10177(g) and/or 10177(h).

14 (p) After notice and subpoena on March 11, 2011, failed to retain all records of
15 1ST Investments' activity during the audit period requiring a real estate broker license, in
16 violation of Code Section 10148.

17 9.

18 The conduct of Respondents 1ST INVESTMENTS and SOLANO, described in
19 Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
20 8(a)	Code Section 10145 and Regulation 2832.1
21 8(b)	Code Section 10145 and Regulation 2832(a)

1	8(c)	Code Section 10145 and Regulation 2831
2		
3	8(d)	Code Section 10145 and Regulation 2831.1
4		
5	8(e)	Code Section 10145 and Regulation 2831.2
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7	8(f)	Code Section 10145 and Regulation 2834
8		
9	8(g)	Code Sections 10145 and 10176(e) and Regulation 2835
10		
11	8(h)	Code Sections 10145 and 10176(i)
12		
13	8(i)	Code Section 10085 and Regulation 2970
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15	8(j)	Code Section 10146
16		
17	8(k)	Code Section 10146 and Regulation 2972
18		
19	8(l)	Code Section 10137
20		
21	8(m)	Code Section 10130
22		
23	8(n)	Code Section 10162 and Regulation 2715
24		
25	8(o)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (SOLANO)
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	8(p)	Code Section 10148
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10.

The foregoing violations constitute cause for the discipline of the real estate licenses and license rights of Respondents 1ST INVESTMENTS and SOLANO under the provisions of Code Sections 10130, 10137, 10145, 10176(e), 10176(i) 10177(d) and/or 10177(g) and 10177(h) for (SOLANO).

SECOND CAUSE OF ACCUSATION
(Lease Option Purchase-Lease Option Buy)
(LOP/LOB Program)

11.

At all times mentioned herein, Respondents 1ST INVESTMENTS and SOLANO engaged in the business of a LOP/LOB program services and an advance fee brokerage requiring a real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2.

General Allegations

12.

During the audit period and continuing thereafter to date, 1ST INVESTMENTS and SOLANO, solicited consumers wherein Respondents received a Finder's Fee ranging between \$3,000 and \$5,000 ostensibly to search for a residence within three (3) months from contracting with the consumers.

Specific Allegations

13.

After collecting said Finders Fee, Respondents failed to obtain the sought after residence for their clientele, as tabled below:

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Table: LOP/LOB Program Services - Audit Related

Complainant:	Contract Date	Advance Fee Paid	D.O.	Services/Refund?
C. Valenciano	4-30-09	\$3,000	Solano	None
E. Hernandez	3-9-09	\$5,000	Solano	None
D. Castaneda	8-14-09	\$3,000	Solano	None
F. Mendez	8-10-09	\$3,000	Solano	None
Total		\$ 14,00.00		

Table: LOP/LOB Program Services - Non Audit Related

Complainant:	Contract Date	Advance Fee Paid	D.O.	Services/Refund?
G. Lopez	10-5-09	\$3,000	Solano	None
Total		\$3,00.00		

LOP/LOB Violations and Disciplinary Statutes

14.

The conduct of Respondents 1ST INVESTMENTS and SOLANO violated the Code and the Regulations as set forth below.

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15.

13(a) Code Section 10176(a) for substantial misrepresentation of LOP/LOB services contracted for but not provided nor refunded.

13(b) Code Section 10176(b) for making false promises of a character likely to influence, persuade or induce the tabled homeowner-applicants to pay advance fees for loan modification services contracted for but not provided.

13(c) Code Section 10176(i) for conversion, fraud and dishonest dealing.

13(d) Code Section 10177(g) for negligence.

THIRD CAUSE OF ACCUSATION

(Negligence)

16.

The overall conduct of Respondents 1ST INVESTMENTS and SOLANO constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION

(Fiduciary Duty)

17.

The conduct, acts and omissions of Respondents 1ST INVESTMENTS and SOLANO constitute a breach of fiduciary duty, owed to 1ST INVESTMENTS' clients, of good faith, trust, confidence and candor, within the scope of their contractual relationship with prospective purchasers. Respondents unnecessarily exposed funds held in trust by 1ST INVESTMENTS to taxing authorities including but not limited to the (1) Internal Revenue Service and Franchise Tax Board; and (2) exposed prospective purchasers' trust funds to their general creditors of said trust funds, in violation of Code Section 10177(g) and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

FIFTH CAUSE OF ACCUSATION
(Supervision and Compliance)

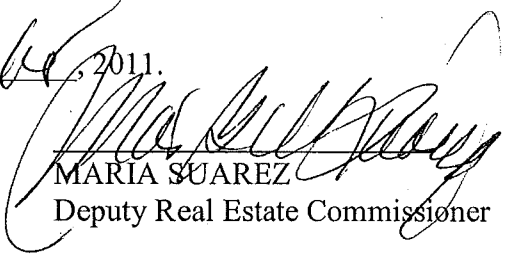
18.

The overall conduct of Respondent SOLANO 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 1ST INVESTMENTS and its officers and employees, as required by Code Section 10159.2 and Regulation 2725, and to keep 1ST INVESTMENTS in compliance with the Real Estate Law, with specific regard to trust fund and property management 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 all licenses and/or license rights of Respondents 1ST INVESTMENTS INC. and BRENDA PATRICIA SOLANO, individually and as designated officer of 1st Investments Inc., under the Real Estate Law (Part 1 of Division 4 of the California 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, cure shortage of \$94,146.33, restitution and costs of audit.

Dated at Los Angeles, California.

this 12th day of December, 2011.


MARIA SUAREZ
Deputy Real Estate Commissioner

cc: 1st Investments Inc.
Brenda Patricia Solano
Maria Suarez
Audits - Anna Hartoonian
Sacto