

1 JAMES DEMUS, Counsel (SBN 225005)  
2 Department of Real Estate  
3 320 West Fourth St., #350  
4 Los Angeles, CA 90013

**FILED**

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DEPARTMENT OF REAL ESTATE  
BY: Russell Valencia

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )  
13 NICOLE PATRICE FUNN, )  
14 Respondent. )

No. H-37908 LA

A C C U S A T I O N

15 The Complainant, Robin Trujillo, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of  
17 Accusation against NICOLE PATRICE FUNN, is informed and alleges  
18 as follows:

19 1.

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

23 2.

24 NICOLE PATRICE FUNN (hereinafter "FUNN") is presently  
25 licensed and/or has license rights under the Real Estate Law,  
26 as a real estate broker.  
27

1 3.

2 On February 25, 2009, FUNN filed a Fictitious Business  
3 Name Statement with the Los Angeles Registrar-Recorder County  
4 Clerk. This Fictitious Business Name Statement listed FUNN as  
5 the registrant for "Home Keepers of America" (hereinafter "HKA")

6 4.

7 At all times material herein, Respondent FUNN was  
8 engaged in the business of, acted in the capacity of,  
9 advertised or assumed to act as a real estate broker in the  
10 State of California, within the meaning of Code Sections  
11 10131(d) and 10131.2, including brokering mortgage loans and  
12 performing loan modification activities and claiming,  
13 demanding, charging, receiving, collecting or contracting for  
14 the collection of an advance fee, within the meaning of Code  
15 Section 10026, including, but not limited to, the following  
16 loan modification activities with respect to loans which were  
17 secured by liens on real property.

18 5.

19 FIRST CAUSE FOR ACCUATION

20 (ADVANCE FEE AGREEMENT)

21 On July 10, 2009, Ronald & Tauni Roster ("the  
22 Rosters") entered into an agreement with HKA, in which HKA  
23 agreed to negotiate a modification of the Rosters' loan, which  
24 was secured by real property located at 2171 Kearney Avenue SW,  
25 Naples FL, in exchange for payment of a \$3,500 advance fee  
26 payment to HKA. On July 10, 2009, the Rosters submitted an  
27 advance fee of \$3,500 to HKA.

1 6.

2 Among the terms and conditions of the agreement  
3 described in paragraph 5 above, was a promise that HKA would  
4 return 35% of the fees if the mortgage note was not purchased  
5 by HKA. The agreement further stated that HKA had 90 days from  
6 termination of the contract to refund any money owed to the  
7 client. HKA never obtained a modification of the Roster's  
8 mortgage loan, nor did HKA purchase the Roster's loan. On  
9 March 5, 2010, the Rosters received a letter from HKA, in which  
10 HKA agreed to refund the Rosters 35% of their fees. The  
11 Roster's did not receive this refund within 90 days of  
12 terminating their contract, or at any other time.

13 7.

14 The agreement made by HKA, as described in Paragraph  
15 5 above, constitutes an advance fee agreement within the  
16 meaning of Code Section 10026. FUNN failed to submit the  
17 advance fee agreement, described in paragraphs 5 above, to the  
18 Commissioner ten days before using it, in violation of Code  
19 Sections 10085 and 10085.5, as well as Section 2970 of Title  
20 10, California Code of Regulations ("Regulations"). This  
21 provides cause for the suspension or revocation of the licenses  
22 and license rights of Respondent FUNN pursuant to Code Sections  
23 10085, 10177(d) and/or 10177(g).

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8.

SECOND CAUSE FOR ACCUASATION

(FICTITIOUS BUSINESS NAMES)

On or about June 20, 2008, FUNN filed a fictitious business name statement with the Auditor/Controller -Recorder for the County of San Bernardino. The fictitious business name filed by FUNN was "U.S. Capital Group Inc. Foreclosure Div." This name was also used in the July 10, 2009 loan modification agreement described in paragraph 5 above.

9.

FUNN never applied with the Department to use the fictitious business name described in paragraphs 8 above. This constitutes a violation of Code Section 10159.5 and Regulation 2731. FUNN also used the fictitious business name described in Paragraph 3 above before obtaining a license with the Department to use it, in violation of Regulation 2731.

10.

The violations described in paragraph 9 above provide cause for the suspension or revocation of the licenses and license rights of FUNN pursuant to Code Sections 10177(d) and/or 10177(g).

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1                   WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all the licenses and license rights of  
5 Respondent NICOLE PATRICE FUNN under the Real Estate Law, that  
6 Complainant be awarded its costs of investigation and  
7 prosecution of this case, and for such other and further relief  
8 as may be proper under other applicable provisions of law.

9  
10 Dated at Los Angeles, California  
11 this 15 day of February, 2012  
12

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15 Robin Trujillo  
16 Deputy Real Estate Commissioner  
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24

25 cc: Nicole Patrice Funn  
26 Robin Trujillo  
27 Sacto.