

FILED

APR 11 2012

DEPARTMENT OF REAL ESTATE
BY: 

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10 DEPARTMENT OF REAL ESTATE

11 STATE OF CALIFORNIA

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13 In the Matter of the Accusation

No. H-38037 LA

14 UNITED PROVIDENCE FUNDING)
15 INC.; and MAURICE IRVING)
16 MITCHELL, individually, and)
17 as designated officer for)
18 United Providence Funding)
19 Inc.,)
20 Respondents.)
21 _____)

ACCUSATION

22 The Complainant, Maria Suarez, a Deputy Real Estate
23 Commissioner of the State of California, for cause of Accusation
24 against UNITED PROVIDENCE FUNDING INC. ("UNITED") and MAURICE
25 IRVING MITCHELL ("MITCHELL"), individually, and as designated
26 officer for UNITED, is informed and alleges as follows:

27 1.

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

1 her official capacity.

2 2.

3 Respondent UNITED is presently licensed and/or has
4 license rights under the Real Estate Law (Part 1 of Division 4 of
5 the Business and Professions Code, hereinafter "Code"), as a real
6 estate corporation.

7 3.

8 Respondent MITCHELL is presently licensed and/or has
9 license rights under the Real Estate Law as a real estate broker.
10 At all times relevant herein MITCHELL was the designated broker-
11 officer of Respondent UNITED.

12 4.

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

20 5.

21 MITCHELL ordered, caused, authorized or participated in
22 the conduct of UNITED, as is alleged in this Accusation.

23 6.

24 At all times material herein, Respondents were engaged
25 in the business of, acted in the capacity of, advertised or
26 assumed to act as real estate brokers and/or real estate
27 corporations in the State of California, within the meaning of

1 Code Sections 10131(a) of the Code. Said activities included
2 soliciting sellers and buyers for the listing, sale and purchase
3 of real property and negotiating the purchase and sale of real
4 property on behalf of buyers and sellers for, or in expectation
5 of, compensation.

6 7.

7 In addition respondents conducted broker-controlled
8 escrows through the escrow division of UNITED, doing business as
9 "UPF Escrow Services," under the exemption set forth in
10 California Financial Code Section 17006(a)(4) for real estate
11 brokers performing escrows incidental to a real estate
12 transaction where the broker is a party and where the broker is
13 performing acts for which a real estate license is required.

14 FIRST CAUSE OF ACCUSATION

15 (Use of Unauthorized Fictitious Business Name)

16 8.

17 Use of a fictitious business name for activities
18 requiring the issuance of a real estate license requires the
19 filing of an application for the use of such name with the
20 Department in accordance with the provisions of Code Section
21 10159.5.

22 9.

23 Respondents acted without Department authorization in
24 using the fictitious business name "UPF Escrow Services" to
25 engage in activities requiring the issuance of a real estate
26 license.
27

10.

The conduct, acts and/or omissions of Respondents, as set forth in Paragraph 9, above, violates Code Section 10159.5 and Section 2731 of the Regulations, and is cause for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10177(d) and/or 10177(g).

SECOND CAUSE OF ACTION
(Suspension of Corporate Powers of UNITED)

11.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 10, above.

12.

On or about December 20, 2011, the Franchise Tax Board of the State of California suspended the powers, rights and privileges of Respondent UNITED pursuant to the provisions of the California Revenue and Taxation Code. The corporate powers, rights and privileges of Respondent UNITED remain suspended to date.

13.

The conduct of Respondent UNITED, as alleged above, is in violation of Section 2742(c) of the Regulations, and subjects its real estate license and license rights to suspension or revocation pursuant to Code Section 10177(d) and (f).

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THIRD CAUSE OF ACCUSATION
(Audit Violations)

14.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 13, above.

15.

On or about October 4, 2011, the Department completed an audit examination of the books and records of Respondent UNITED pertaining to the real estate activities described in Paragraphs 6 and 7, above, covering the period from August 1, 2008, to July 31, 2011.

16.

The audit examination revealed violations of the Code by Respondent UNITED, as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA 100290 and the exhibits and work papers attached to the audit report:

(a) In the course of the transaction activities undertaken by Respondent UNITED during the audit period, Respondent UNITED failed to provide proof to the auditor of retention of any records of its activities requiring a real estate broker license during the past three years including escrow transaction files for Respondent UNITED's real estate clients and further including listings, real estate contracts, canceled checks, escrow and trust records as is required by Code Section 10148.

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PROVISIONS VIOLATED

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Code Section 10148

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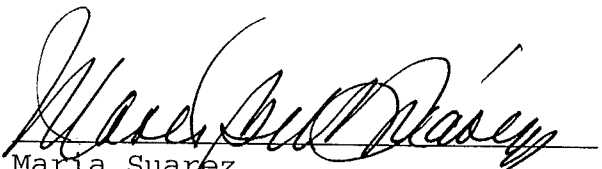
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1 MITCHELL, as the officer designated by a corporate broker
2 licensee, to exercise the supervision and control over the
3 activities of Respondent UNITED, as required by Code Section
4 10159.2, and is cause to suspend or revoke the real estate
5 licenses and license rights of Respondent MITCHELL under Code
6 Sections 10177(d), 10177(g) and/or 10177(h).

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all the licenses and license rights of Respondents
11 UNITED PROVIDENCE FUNDING INC. and MAURICE IRVING MITCHELL under
12 the Real Estate Law (Part 1 of Division 4 of the Business and
13 Professions Code), for the costs of investigation and enforcement
14 as permitted by law, and for such other and further relief as may
15 be proper under other applicable provisions of law.
16

17 Dated at Los Angeles, California

18 this 9th day of April, 2012.

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20
21 
22 Maria Suarez
23 Deputy Real Estate Commissioner
24
25

26 CC: UNITED PROVIDENCE FUNDING
27 MAURICE IRVING MITCHELL
Maria Suarez
Sacto.