

FILED

FEB 13 2013

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-38299 LA
)	
PATRIOT FINANCIAL SERVICING)	
GROUP, INC.; ZACH CHRISTOPHER)	
SOUTHALL, individually and as)	
former designated officer of)	
Patriot Financial Servicing)	
Group, Inc.; and CLINTON W.)	
PHIPPS,)	
)	
Respondents.)	
)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on January 11, 2013, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On July 25, 2012, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, return receipt requested, to Respondents' on July 26, 2012, and September 12, 2012.

On January 11, 2013, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default were entered herein.

2.

From August 11, 2008, through August 9, 2012, Respondent PATRIOT FINANCIAL SERVICING GROUP, INC. ("PATRIOT") was licensed by the Department of Real Estate ("Department") as a corporate real estate broker, Department ID 01850412. From August 17, 2009, through December 16, 2009, PATRIOT was licensed to do business as US Loan Assistance Center. PATRIOT was formerly licensed as PFS Financial Corp. PATRIOT's license expired on August 10, 2012. PATRIOT has renewal rights under Business and Professions Code ("Code") Section 10201. The Department retains jurisdiction pursuant Code Section 10103.

3.

From October 15, 2004, through October 13, 2012, Respondent ZACH CHRISTOPHER SOUTHALL ("SOUTHALL") was licensed by the Department as a real estate broker, Department ID 01254722. SOUTHALL's license expired on October 14, 2012. SOUTHALL has renewal rights under Code Section 10201. The Department retains jurisdiction pursuant Code Section 10103.

4.

From August 11, 2008 through January 28, 2010, Respondent PATRIOT was acting by and through Respondent SOUTHALL as its officer pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

5.

From April 25, 2003, through April 24, 2011, Respondent CLINTON W. PHIPPS, aka Clint Phipps ("PHIPPS") was licensed by the Department as a real estate salesperson, Department ID 01352267. Respondent PHIPPS' license expired on April 24, 2011. Respondent PHIPPS has renewal rights under Code Section 10201. The Department retains jurisdiction pursuant Code Section 10103.

6.

Respondent PATRIOT is a California corporation formed on or about May 30, 2008. Respondent PHIPPS is the president and a director of PATRIOT.

7.

US Loan Assistance Corp., Deanna Martin and Omar Adwar have never been licensed in any capacity by the Department.

8.

On or about February 13, 2009, on behalf of Respondent PATRIOT, Respondent SOUTHALL submitted an advance fee agreement and accounting format to the Department for approval. On March 5, 2009, the Department issued a "no objection" letter of approval of the advance fee agreement and accounting format submitted by Respondent PATRIOT. Said advance fee agreement included a provision that the advance fee paid was fully refundable until earned by the broker. Furthermore, if any of the agreed upon services were not completed by the broker by the agreed upon completion dates, the unearned portion of the advance fee would be refunded to the principal within 5 business days.

9.

For an unknown period of time beginning no later than October 15, 2009, Respondents, while doing business as US Loan Assistance Corp. or USLAC, solicited and offered loan services to consumers, including services to assist them in negotiating with lenders, foreclosure forbearance, or obtaining a loan modification through national advertisements on television, radio or the internet. Respondents, while licensed to do business in California, engaged in the business of claiming, demanding, charging receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026 including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property.

10.

On or about October 15, 2009, Deanna Martin, an unlicensed person working on behalf of USLAC, solicited and offered to assist borrower Larry D. Smith ("Smith") with loan modification and negotiation services. Smith entered into a written advance fee agreement with USLAC for loan modification

and negotiation services in connection with a loan secured by a lien on real property. Smith paid an advance fee of \$1,725 to USLAC for loan modification and negotiation services. Deanna Martin and Omar Adwar made misrepresentations to Smith in order to induce Smith to enter into the advance fee agreement including, among others, that USLAC could obtain a loan modification for Smith and possibly obtain a lower fixed interest rate on Smith's mortgage. Respondents failed to perform the loan modification and negotiation services that had been promised to Smith. Respondents failed to provide an accounting of any services done for Smith or an accounting of the advance fees collected from Smith.

11.

The written advance fee agreement provided to Smith was not the agreement reviewed by the Department described in Paragraph 8, above. Respondents provided Smith with a different written agreement in an effort to circumvent existing laws prohibiting the collection of advance fees for loan modification and foreclosure forbearance services.

12.

Respondents collected the advance fees described in Paragraph 9, above, pursuant to the provisions of a written agreement which constitutes an advance fee agreement within the meaning of Code Section 10085.

13.

Respondents PATRIOT and SOUTHALL failed to comply with the requirements for handling of advance fees, in violation of Code Section 10146.

14.

The activities described in Paragraph 10, above, require a real estate license under Code Sections 10131(d) and 10131.2. Respondents PATRIOT, PHIPPS and SOUTHALL violated Code Section 10137 by employing and/or compensating Deanna Martin and Omar Adwar, individuals who were not licensed as real estate salespersons or as brokers, to perform activities requiring a license.

15.

Respondents PATRIOT and SOUTHALL acted without Department authorization in using unlicensed branch offices located at 3500 Barranca Parkway, Suite 240, Irvine, California 92606 and 438 E. Katella, Suite H, Orange, California 92867, to engage in activities requiring the issuance of a real estate license.

16.

Respondents PATRIOT and SOUTHALL acted without Department authorization in using the unlicensed business names US Loan Assistance Corp. and USLAC to engage in activities requiring the issuance of a real estate license.

DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondents as set forth in Paragraphs 1 through 12, above, are in violation of Code Sections 10085, 10085.5, 10085.6 and 10146 and Regulation Section 2970 and constitute grounds for the suspension or revocation of the license and license rights of Respondents PATRIOT, SOUTHALL, and PHIPPS pursuant to Code Section 10177(d).

2.

Respondents' conduct, acts and/or omissions as set forth in Paragraphs 1 through 12, above, constitute grounds for the suspension or revocation of the license and license rights of Respondents PATRIOT, SOUTHALL, and PHIPPS pursuant to Code Sections 10176(a) (making any substantial misrepresentation), 10176(b) (making any false promises of a character likely to influence, persuade or induce), 10176(i) (conduct...which constitutes fraud or dishonest dealing), and 10177(d) (violation of the Real Estate Law).

3.

The conduct, acts and/or omissions of Respondents PATRIOT and SOUTHALL as set forth in Paragraph 13, above, violate Code Section 10146, and are cause for the suspension or revocation of the licenses and license rights of Respondents PATRIOT and SOUTHALL pursuant to Code Section 10177(d).

4.

The conduct, acts and/or omissions of Respondents PATRIOT, SOUTHALL, and PHIPPS as set forth in Paragraph 14, above, violate Code Section 10137, and are cause for the suspension or revocation of the licenses and license rights of Respondents PATRIOT, SOUTHALL, and PHIPPS pursuant to Code Sections 10137 and 10177(d).

5.

The conduct, acts and/or omissions of Respondents PATRIOT and SOUTHALL as set forth in Paragraph 15, above, violate Code Section 10163 and are cause for the suspension or revocation of the licenses and license rights of Respondents PATRIOT and SOUTHALL pursuant to Code Sections 10177(d) and/or 10177(g).

6.

The conduct, acts and/or omissions of Respondents PATRIOT and SOUTHALL as set forth in Paragraph 16, above, violate Code Section 10159.5 and Regulation 2731 and are cause for the suspension or revocation of the licenses and license rights of Respondents PATRIOT and SOUTHALL pursuant to Code Section 10177(d).

7.

The conduct, acts and/or omissions of Respondent SOUTHALL, in allowing Respondent PATRIOT to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent SOUTHALL, as the officer designated by the corporate broker licensee, to exercise the supervision and control over the activities of Respondent PATRIOT, as required by Code Section 10159.2 and Regulation 2725, and is cause to suspend or revoke the real estate license and license rights of Respondent SOUTHALL under Code Section 10177(h).

8.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

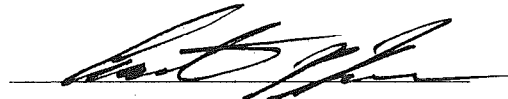
ORDER

The license and license rights of Respondents PATRIOT FINANCIAL SERVICING GROUP, INC., ZACH CHRISTOPHER SOUTHALL, individually and as designated officer of Patriot Financial Servicing Group, Inc., and CLINTON W. PHIPPS under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on March 5, 2013.

DATED: 2/1, 2013.

REAL ESTATE COMMISSIONER



By AWET P. KIDANE
Chief Deputy Commissioner

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

FILED

JAN 11 2013

4 DEPARTMENT OF REAL ESTATE
5 BY: CR

6
7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * * *

10 In the Matter of the Accusation of)
11 PATRIOT FINANCIAL SERVICING GROUP) NO. H-38299 LA
12 INC., ZACH CHRISTOPHER SOUTHALL,) DEFAULT ORDER
13 individually and as former designated)
14 officer of Patriot Financial Servicing)
15 Group, Inc., and CLINTON W. PHIPPS,)
Respondents.)

16 Respondents, PATRIOT FINANCIAL SERVICING GROUP INC.,
17 ZACH CHRISTOPHER SOUTHALL and CLINTON W. PHIPPS, having failed
18 to file a Notice of Defense within the time required by Section
19 11506 of the Government Code, is now in default. It is,
20 therefore, ordered that a default be entered on the record in
21 this matter.

22 IT IS SO ORDERED

January 11, 2013

24 Real Estate Commissioner

25 Dolores Weeks

26 By: DOLORES WEEKS
27 Regional Manager