

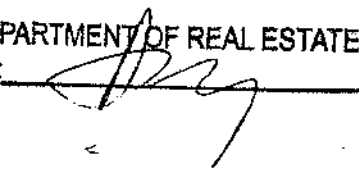


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FILED

DEC 28 2012

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 LIL' WAVE FINANCIAL INC. doing business as)
14 Superior Loan Servicing; and)
15)
16 BARUCH ALON HARARI, individually and as)
17 designated officer of Lil' Wave Financial Inc.,)
18)
19 Respondents.)
20)

No. H- 38634 LA

ACCUSATION

21 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
22 of California, for cause of Accusation against LIL' WAVE FINANCIAL INC. ("LWF") and
23 BARUCH ALON HARARI ("HARARI"), individually and as designated officer of Lil' Wave
24 Financial Inc. (collectively "Respondents"), is informed and alleges as follows:

25 1.

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

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From February 16, 2010, to the present, Respondent LWF has been licensed as a corporate real estate broker. At all times relevant herein, LWF was acting by and through Respondent HARARI 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. From February 16, 2010, HARARI has been the designated officer of LWF.

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On December 30, 2009, HARARI was licensed as a real estate broker.

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LWF, a California corporation, is owned by HARARI, its president and secretary.

5.

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, including HARARI.

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FIRST CAUSE OF ACCUSATION
(Loan Servicing Audit of Lil’ Wave Financial Inc.)

6.

At all times mentioned, in the City of Agoura Hills, and County of Los Angeles, State of California, LWF and HARARI acted as real estate brokers and conducted licensed activities within the meaning of Code Section 10131(d) wherein LWF engaged in a loan servicing brokerage.

LWF is primarily involved in servicing mortgage loans on behalf of private lenders for compensation. LWF serviced one hundred seventy-nine (179) notes with a principal volume of approximately \$31,392,000.00 for two hundred and seventy-six (276) investors during

1 the last twelve months. Approximately \$12,455,000.00 in trust funds was handled through its
2 trust accounts during the last twelve months.

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4 7.

5 Loan Servicing Audit

6 On July 20, 2012, the Department completed an audit examination of the books
7 and records of Respondent LWF pertaining to the loan servicing activities described in Paragraph
8 6, which require a real estate license. The audit examination covered a period of time beginning
9 on February 17, 2010 to March 31, 2012. The audit examination revealed violations of the Code
10 and the Title 10, Chapter 6, California Code of Regulations ("Regulations") set forth in the
11 following paragraphs, and more fully set forth in Audit Report LA 110095 and the exhibits and
12 work papers attached thereto.

13 Loan Servicing Trust Accounts

14 8.

15 At all times mentioned, in connection with the activities described in Paragraph 6,
16 above, LWF accepted or received funds including funds in trust ("trust funds") from or on behalf
17 of actual or prospective parties involved in the loan servicing activities including borrowers and
18 lenders handled by LWF and thereafter made deposits and or disbursements of such funds. From
19 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
20 maintained by LWF in the bank account as follows:

21 "Lil' Wave Financial Inc. dba Superior Loan Servicing Trust Account ("TA 1")
22 *****33059"

23 Comerica Bank
24 Westlake Village, California
25 (Loan Servicing Account)
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1 "Lil' Wave Financial Inc. dba Superior Loan Servicing Trust Account ("TA 2")
2 *****28930"

3 Wells Fargo Bank
4 Calabasas, California

(Loan Servicing Account – closed March 2011)

5 Violations of the Real Estate Law
6 (Loan Servicing Audit of Lil' Wave Financial Inc.)

7 9.

8 In the course of activities described in Paragraphs 6 and 8, above, and during the
9 examination period, described in Paragraph 7, Respondents LWF and HARARI, acted in
10 violation of the Code and the Regulations in that Respondents:

11 (a) Failed to file Annual Trust Account Reports for the year 2010, in violation of
12 Code Section 10232.2(a) and Regulation 2846.7.

13 (b) LWF failed to notify DRE of their multi-lender status within thirty (30) days
14 after collecting \$125,000.00 from borrowers in connection with servicing their loans during three
15 (3) consecutive months, in violation of Code Sections 10238(a) and 10177(p) .

16 (c) Failed to maintain an accurate and complete control record through the
17 instrumentality of a daily journal in chronological order of trust funds received, deposited and
18 disbursed by T/A 1, in violation of Code Section 10145 and Regulation 2831.

19 (d) Mixed and commingled trust funds and personal funds by depositing trust
20 funds received into LWF' general operating account at Comerica Bank, in violation of Code
21 Section 10176(e) and Regulation 2832. \$5,056,917.68 in trust funds was deposited into LWF's
22 operating account which should have been deposited in T/A 1.

23 10.

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25 The conduct of Respondents LWF and HARARI, described in Paragraph 9, above,
26 violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code Section 10232.2(a) and Regulation 2846.7
9(b)	Code Sections 10238(a) and 10177(p)
9(c)	Code Sections 10145 and Regulation 2831
9(d)	Code Section 10145 and 10176(e) and Regulation 2832

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondents LWF and HARARI under the provisions of Code Sections 10176(e), 10177(p), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Negligence)

11.

The overall conduct of Respondents LWF and HARARI 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).

THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

12.

The conduct, acts and omissions of Respondents LWF and HARARI constitute a breach of fiduciary duty, owed to LWF's clients within the scope of their relationship and, in violation of Code Section 10177(g) and constitute 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
(Supervision and Compliance)

13.

The overall conduct of Respondent HARARI constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of LWF and its officers and employees, as required by

1 Code Section 10159.2 and Regulation 2725, and to keep LWF in compliance with the Real Estate
2 Law, with specific regard to trust fund and advance fee handling, mortgage and loan brokering
3 and loan modification services, and is cause for discipline of the real estate license and license
4 rights of Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and
5 10177(h).

6 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
7 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
8 action against all licenses and/or license rights of Respondents LIL' WAVE FINANCIAL INC.
9 and BARUCH ALON HARARI, individually and as designated officer of Lil' Wave Financial
10 Inc. under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions
11 Code) and for such other and further relief as may be proper under other applicable provisions of
12 law, including, but not limited to costs of audit pursuant to Code Section 10148; and costs of
13 investigation and enforcement pursuant to Code Section 10106.

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16 Dated at Los Angeles, California.

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18 this 12 day of December, 2012.

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20 ROBIN TRUJILLO
21 Deputy Real Estate Commissioner

22
23 cc: Lil' Wave Financial Inc.
24 Baruch Alon Harari
25 Robin Trujillo
26 Manijeh Khazrai
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