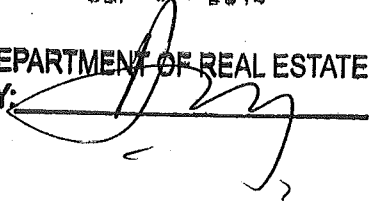


FILED

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DEPARTMENT OF REAL ESTATE
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8
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

In the Matter of the Accusation of)	
)	
HOME SECURITY FINANCIAL INC. ;)	No. H- 39059 LA
)	
RONALD CLINTON DOUGLAS,)	
individually and as designated officer of)	<u>ACCUSATION</u>
Home Security Financial Inc.,)	
)	
Respondents.)	
)	

18 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
19 of California, for cause of Accusation against HOME SECURITY FINANCIAL INC. and,
20 RONALD CLINTON DOUGLAS, individually and as designated officer of Home Security
21 Financial Inc., alleges as follows:

22 1.

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

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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

License Status

A. HOME SECURITY FINANCIAL INC. ("HSFI"). At all times mentioned, Respondent HSFI was licensed or had license rights issued by the Bureau of Real Estate ("Bureau") as a corporate real estate broker. On December 1, 1995, HSFI was originally licensed as a corporate real estate broker. Respondent HSFI was authorized to act by and through Respondent RONALD CLINTON DOUGLAS as HSFI's designated broker pursuant to Business and Professions Code (hereinafter Code) Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. RONALD CLINTON DOUGLAS ("DOUGLAS"). At all times mentioned, Respondent DOUGLAS was licensed or had license rights issued by the Bureau as a real estate broker. On January 15, 1986, DOUGLAS was originally licensed as a real estate broker. On May 14, 2007, DOUGLAS became the designated officer of HSFI until his cancellation on May 20, 2012.

C. Michael Paul Hickman ("Hickman"). At all times mentioned, Hickman was licensed or had license rights issued by the Bureau as a real estate broker. On May 16, 1986, Hickman was originally licensed as a real estate broker. On May 20, 2012, Hickman became the designated officer of HSFI. Hickman is not a Respondent in this Accusation.

Table: Designated Officer Tenure

Designated Officer	Tenure
Ronald Clinton Douglas	May 14, 2007 to May 20, 2012
Michael Paul Hickman	May 20, 2012 to date

D. HSFI is owned by DOUGLAS, HSFI's President.

1 HSF1 did not maintain a trust account for its real estate sales activity during the
2 audit period.

3 Audit Violations

4 7.

5 In the course of activities described in Paragraphs 4 and 6, above, and during the
6 examination period described in Paragraph 5, Respondents HSF1 and DOUGLAS acted in
7 violation of the Code and the Regulations in which Respondents:

8 (a) Permitted, allowed or caused the disbursement of trust funds from trust
9 account TA 1 where the disbursement of funds reduced the total of aggregate funds in TA 1, to
10 an amount which, on May 19, 2012, was \$6,6812.50, and on October 10, 2009 was \$8,018.75,
11 less than the existing aggregate trust fund liability to every principal who was an owner of said
12 funds, without first obtaining the prior written consent of the owners of said funds, in violation of
13 Code Section 10145 and Regulation 2832.1. These shortages were caused by the unauthorized
14 disbursement of unearned fees for (8) borrowers which HSF1 partially provided or purported to
15 provide loss mitigation and loan modification services for borrowers Weston, Garcia, Bianchi,
16 Ruiz, Schear, Vickers, Clark, and Lopez;
17

18
19 (b) Collected advance fees within the meaning of Code Section 10026 from
20 homeowners seeking loss mitigation and loan modification services wherein HSF1 failed to
21 provide loan modification applicants with a pre-approved advance fee agreement from the
22 Bureau in the form of a no objection letter, in violation of Code Sections 10085, 10176(i), and
23 110177(g) and Regulation 2970;
24

25 A minimum of five (5) loan modification transactions revealed that the amount of
26 the advance fees HSF1 charged to a borrower appearing on the advance fee agreement contained
27

1 in the transaction files, and the amount appearing on the no objection advance fee agreement on
2 file with the Bureau were not the same.

3 A minimum of ten (10) loan modification transaction files examined revealed that
4 the percentage HSFI charged for the completion of the Phase II work was twenty five percent
5 (25%). However, the percentage HSFI charged for the completion of Phase II work appeared on
6 the no objection advance fee agreement was seventy five-percent (75%).

7
8 In addition, a minimum of two (2) loan modification transactions revealed that the
9 borrowers' signatures appearing on the loan modification agreement and the signatures that
10 appeared on the checks for borrowers Olshi and Soto paid to HSFI for the services rendered or
11 purported to be rendered were not identical.

12 (c) With respect to Code Section 10085 and Regulations 2970, HSFI collected
13 advance fees within the meaning of Code Section 10026 from homeowners seeking loan
14 modification services wherein HSFI failed to provide loan modification applicants with a pre-
15 approved advance fee agreement from the Bureau in the form of a no objection letter, in violation
16 of said Code Sections 10085, 10176(i), and 110177(g) and Regulation 2970;

17
18 As heretofore mentioned, HSFI received a "no objection" advance fee agreement
19 from the Bureau on December 24, 2008. The amount of the advance fees appeared on the "no
20 objection" agreement was \$2,775.00. The advance fees which appeared said agreement
21 contained in the loan modification transaction files examined and the which amount appeared
22 on the "no objection" advance fee agreement on file with the Bureau were not the same, as
23 described below:

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<u>Borrower</u>	<u>Date of Agreement</u>	<u>Fees Charged on Agreement</u>
Akins	06/04/09	\$ 2,500.00
Sheehan	09/15/09	\$ 2,295.00
Ruiz	07/30/09	\$ 3,200.00
Vickers	04/16/09	\$ 1,775.00
Brunke	09/03/09	\$ 500.00

The percentage HSFI charged for the following borrowers when completing of Phase II work to obtain the loan modification was twenty-five percent (25%) instead of the approved seventy-five percent (75%) as shown on the no objection advance fee agreement.

<u>Borrower</u>	<u>Agreement Date</u>	<u>% Charged on Phase II</u>
Weston	7/10/2009	25%
E. Garcia	8/29/2009	25%
Bianchi	9/21/2009	25%
Overcast	7/23/2009	25%
Sheehan	9/15/2009	25%
Jensen	7/27/2009	25%
Ruiz	7/30/2009	25%
Schear	9/24/2009	25%
Vickers	4/16/2009	25%
Clark	10/1/2009	25%

The amount of the advance fees along with the percentage HSFI charged for the completion of Phase II work appeared on the advance fee agreement contained in the transaction files examined and the amount appeared on the "no objection" advance fee agreement on file with the Bureau were not the same;

(d) With reference to the lack of an advance fee agreement, HSFI failed to provide a complete description of services to be rendered provided to each homeowner-borrower in 10 point type font and, an allocation and disbursement of the amount collected as the advance fee for each loan modification transaction, in violation of Code Section 10146 and Regulation 2972;

1 HSF1 failed to provide an adequate verified accounting to at least twenty (20) homeowner-
2 borrowers;

3 (e)(1) Claimed, charged and collected advance fees after October 10, 2009, the
4 SAFE ACT Initiation Date, for negotiating, arranging and/or offering to broker mortgage loans
5 and loan modifications and other forms of mortgage loan forbearance for fees paid by the
6 borrowers after said date. Respondents received and collected advance fees totaling \$2,000 from
7 three (3) borrowers, to wit Akins, Jensen and Lopez, as tabled below, before HSF1 had fully
8 performed each and every service for which HSF1 had contracted to perform on behalf of the
9 borrowers or represented that would be performed during the period of October 11, 2009 to date,
10 in violation of Code Sections 10085.6, 10146, 10145 and Regulation 2832;
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12

	<u>Agreement</u>		<u>Unearned Fee</u>
<u>Borrower</u>	<u>Date</u>	<u>Date Collected</u>	<u>Collected</u>
Akins	06/04/09	11/09/09	\$ 500.00
Jensen	07/27/09	01/04/10	\$ 1,000.00
Lopez	04/09/09	02/04/10	\$ 500.00
Total:			<u>\$ 2,000.00</u>

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18 (f) The aforementioned shortages of \$6,612.50 and \$8,018.75, respectively, were
19 caused by the unauthorized disbursement of unearned fees for in violation of Code Sections
20 10145 and 10176(i) and/or/10177(j) and 10177(g).

21 (e)(2) Claimed, charged and collected advance fees after October 10, 2009, the
22 SAFE ACT Initiation Date, for negotiating, arranging and/or offering to broker mortgage loans
23 and loan modifications and other forms of mortgage loan forbearance for fees paid by the
24 borrowers after October 10, 2009. Respondents received and collected advance fees totaling
25 \$13,225.00 from seven (7) borrowers, as tabled below, before HSF1 had fully performed each
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1 and every service for which HSFI had contracted to perform or represented that would be
 2 performed during the period of October 11, 2009 to date, in violation of Code Sections 10085.6,
 3 10146, 10145 and Regulation 2832:

<u>Borrower</u>	<u>Agreement</u> <u>Date</u>	<u>Date Collected</u>	<u>Unearned Fee</u> <u>Collected</u>
Long	10/29/09	10/29/09	\$ 1,000.00
Olshi	03/25/11	03/25/11 12/23/09;	\$ 2,500.00
Budzyn	12/20/09	1/7/11 01/08/10;	\$ 500.00
Farkas	01/07/10	11/2/10	\$ 5,000.00
Mardrid Jr.	11/30/10	11/30/10	\$ 1,500.00
Soto	07/05/10	07/08/10	\$ 750.00
Galasso	09/27/10	01/14/11	\$ 1,975.00
TOTAL:			<u>\$ 13,225.00</u>

13 (f) The shortages of \$6,612.50 and \$8,018.75, in Paragraph 7(a), above,
 14 respectively, were cause by the unauthorized disbursement of unearned fees, in violation
 15 of Code Sections 10145, 10176(a), 10176(i) and/or 10177(j), and 10177(g);

17 (g)(1) HSFI did not notify the Bureau within 30 days of commencing HSFI's
 18 Mortgage loan activity by which to obtain an Mortgage Loan Originator endorsement, in
 19 violation of Code Section 10166.02(a) & (b); and

21 (g)(2) HSFI engaged in the business of negotiating loan modifications without
 22 first obtaining and maintaining a real estate Nationwide Mortgage Licensing System and Registry
 23 (NMLS) license endorsement as a Mortgage Loan Originator, in violation of Code Section
 24 10166.02(b);

25 ///

1 (h)(1) Mortgage Loan Activity: Used the fictitious names of "HSF, Inc." and
2 "HSF," to conduct licensed activities including a loan modification and advanced fee brokerage,
3 without first obtaining from the Bureau a license bearing said fictitious business names, in
4 violation of Code Section 10159.5 and Regulation 2731; and

5 (h) (2) Real Estate Sales Activity: Used the fictitious name of "Home Security
6 Financial," to conduct licensed activities including a real estate sales brokerage, without first
7 obtaining from the Bureau a license bearing said fictitious business name, in violation of Code
8 Section 10159.5 and Regulation 2731.

9 (i) Failed to retain all records of Respondents HSFI's activity during the audit
10 period requiring a real estate broker license, in violation of Code Section 10148. HSFI failed to
11 provide proof of submission of loan modification packages to the lenders for borrowers Weston,
12 Garcia, Bianchi, Ruiz, Schear, Vickers Clark, Brunke and Lopez; and

13 (j) DOUGLAS failed to exercise reasonable control and supervision over the
14 activity of HSFI to secure full compliance with the Real Estate Law. Additionally, DOUGLAS
15 had no system in place for regularly monitoring his compliance with the Real Estate Law
16 particularly in regard to establishing, systems, policies and procedures to review trust fund
17 handling especially including loss mitigation, loan modification and advance fee documentation
18 and collections, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725.
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1 amount with financially advantageous to Respondents and prejudicial to said homeowner-
2 borrowers.

3 FOURTH CAUSE OF ACCUSATION
4 (Fiduciary Duty)

5 10.

6 The conduct, acts and omissions of Respondents HSFI and DOUGLAS constitute
7 a breach of fiduciary duty, owed the homeowners, borrowers and loan modification applicants, of
8 good faith, trust, confidence and candor, within the scope of their brokerage relationship, in
9 violation of Code Sections 10176(a), 10176(i) and/or 10177(g) and constitutes cause for
10 discipline of the real estate license and license rights of Respondents pursuant to the provisions
11 of Code Section 10177(g).

12 FIFTH CAUSE OF ACCUSATION
13 (Supervision and Compliance)

14 11.

15 The overall conduct of Respondent DOUGLAS constitutes a failure on
16 Respondent's part, as officer designated by a corporate broker licensee, to exercise reasonable
17 supervision and control over the licensed activities of HSFI as required by Code Section 10159.2
18 and Regulation 2725, and to keep HSFI in compliance with the Real Estate Law, with specific
19 regard to trust fund handling procedures for advance fees collected with respect to loan
20 modification services, and is cause for discipline of the real estate license and license rights of
21 Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

22 12.

23 Code Section 10106 provides, in pertinent part, which in any order issued in
24 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
25 administrative law judge to direct a licensee found to have committed a violation of this part to
26 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
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1
2 Code Section 10148(b) provides, in pertinent part the Commissioner shall
3 charge a real estate broker for the cost of any audit, if the commissioner has found in a final
4 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
5 regulation or rule of the commissioner interpreting said section.

6
7 WHEREFORE, Complainant prays that a hearing be conducted on the
8 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
9 disciplinary action against the license and license rights of Respondents HOME SECURITY
10 FINANCIAL INC. and RONALD CLINTON DOUGLAS, under the Real Estate Law (Part 1 of
11 Division 4 of the Business and Professions Code) and for such other and further relief as may
12 be proper under other applicable provisions of law including (1) restitution to homeowner-
13 borrowers pursuant to applicable provisions of the California Administrative Procedure Act
14 including Government Code Section 11519(d), (2) costs of audit \$6,811.50 pursuant to Code
15 Section 10148(b); (3) costs of investigation and enforcement pursuant to Code Section 10106,
16 and (4) restoration of the trust fund shortage(s) \$6,612.50, as pursuant to applicable provisions
17 of the California Administrative Procedure Act.
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20 Dated at Los Angeles, California

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22 this 17 day of September, 2013.

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Deputy Real Estate Commissioner

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cc: Home Security Financial Inc.
c/o Ronald Clinton Douglas former D.O.
c/o Michael Hickman D.O.
Robin Trujillo
Sacto
Audits – Gina King