| ELLIOTT MACLENNAN, SBN 66674 Bureau of Real Estate 320 West 4th Street, Ste. 350 Los Angeles, California 90013-1105 Telephone: (213) 576-6911 (direot) (213) 576-6917 (facsimile) BEFORE THE BUREAU OF REAL ESTATE STATE OF CALIFORNIA BEFORE THE BUREAU OF REAL ESTATE STATE OF CALIFORNIA **** In the Matter of the Accusation of) HOME SECURITY FINANCIAL INC. ;) No. H- 39059 LA RONALD CLINTON DOUGLAS,) individually and as designated officer of) Home Security Financial Inc.,) Respondents.) The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOME SECURITY FINANCIAL INC. and, RONALD CLINTON DOUGLAS, individually and as designated officer of Home Security Financial Inc., alleges as follows: 1. The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation. /// | | |
|--|--|--|
| Bureau of Real Estate 320 West 4th Street, Ste. 350 Los Angeles, California 90013-1105 Telephone: (213) 576-6911 (direct) (213) 576-6917 (facsimile) BEFORE THE BUREAU OF REAL ESTATE STATE OF CALIFORNIA *** In the Matter of the Accusation of HOME SECURITY FINANCIAL INC. ; No. H- 39059 LA RONALD CLINTON DOUGLAS, individually and as designated officer of Home Security Financial Inc., Respondents. The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOME SECURITY FINANCIAL INC. and, RONALD CLINTON DOUGLAS, individually and as designated officer of Home Security Financial Inc., alleges as follows: 1. The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation. /// | | FILED |
| (213) 576-6982 (office) (213) 576-6917 (facsimile) BEFORE THE BUREAU OF REAL ESTATE STATE OF CALIFORNIA *** In the Matter of the Accusation of) HOME SECURITY FINANCIAL INC. ;) No. H- 39059 LA RONALD CLINTON DOUGLAS,) individually and as designated officer of) Home Security Financial Inc.,) Respondents.) The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOME SECURITY FINANCIAL INC. and, RONALD CLINTON DOUGLAS, individually and as designated officer of Home Security Financial Inc., alleges as follows: 1. The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation. | Bureau of Real Estate 320 West 4th Street, Ste. 350 | DEPARTMENT OF REAL ESTATE |
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| The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation. | | and as designated officer of Home Security |
| The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation. | | |
| Estate Commissioner of the State of California, makes this Accusation. | | |
| | | |
| | Estate Commissioner of the State of California, r | nakes this Accusation. |
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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.

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License Status

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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.

¹⁸ C. Michael Paul Hickman ("Hickman"). At all times mentioned, Hickman was
¹⁹ licensed or had license rights issued by the Bureau as a real estate broker. On May 16, 1986,
²⁰ Hickman was originally licensed as a real estate broker. On May 20, 2012, Hickman became the
²¹ 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 | |

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

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Brokerage

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| At all times mentioned, in the City of Tustin, County of Orange, HSFI and |
| DOUGLAS acted as real estate brokers conducting licensed activities within the meaning of: |
| A. Code Section 10131(a). Respondents HSFI and DOUGLAS engaged in the |
| business of, acted in the capacity of, advertised or assumed to act as real estate brokers, including |
| the solicitation for listings of and the negotiation for the sale of real property as the agent of |
| others. |
| B. Code Section 10131(d). Respondents engaged in activities with the public |
| wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on |
| real property, wherein such loans were arranged, negotiated, processed and consummated on |
| behalf of others for compensation or in expectation of compensation and for fees often collected |
| in advance. |
| HSFI solicited borrowers and lenders and negotiated mortgage loans for |
| approximately one-hundred and one (101) loans totaling \$43.5 million during the audit period. |
| C. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and |
| offered to provide loss mitigation and loan modification services to economically distressed |
| homeowners seeking adjustments to the terms and conditions of their home loans including, but |
| not limited to, repayment plans, forbearance plans, partial claims, reduction in principal or |
| interest, extenuations, foreclosure prevention and short sales. |

24 HSFI negotiated approximately seventy-one (71) loan modification transactions 25 and collected fees in advance ranging from \$700 to \$10,000 for each transaction for its loan 26 modification services during the audit period.

- 3 -

| ł | HSFI received its "No Objection" advance fee agreement from the Bureau on |
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| | December 24, 2008. |
| | FIRST CAUSE OF ACCUSATION (Audit Examination) |
| | 5. |

On September 10, 2012, the Bureau completed an audit examination of the books and records of HSFI limited to the mortgage loan, advanced fee and loan modification activities, as described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on July 1, 2009 and ending on May 19, 2012. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in combined Audit Report LA 110268 and LA 110293 and the exhibits and work papers attached to said combined audit report.

Trust Account

At all times mentioned, in connection with the activities described in Paragraph 5, above, HSFI accepted or received funds including funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions including lenders and borrowers handled by HSFI and thereafter made deposits and disbursements of such funds. HSFI maintained a trust account for its mortgage loan, advanced fee and loan modification activity during the audit period. From time to time herein mentioned, during the audit period, said trust funds were deposited and/or maintained by HSFI in the trust account set forth below:

6.

| | <u>TA 1:</u> | |
|---|-------------------------------|--|
| | Bank: | California Bank and Trust |
| | Bank Address: | 11752 E. 17 th St. Tustin, CA 92780-1996 |
| • | Account Name: Account No.: | Home Security Financial Inc. Trust Account *****0372 |

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

Audit Violations

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

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

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

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

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

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

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

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

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

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| | Date of | Fees Charged on |
|----------------------|-----------------------|--|
| Borrower | | Agreement |
| 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 \$ 500.00 |
| Brunke | 09/03/09 | \$ 500.00 |
| The p | percentage HSFI cha | arged for the following borrowers when completing of |
| Phase II work to obt | ain the loan modific | cation was twenty-five percent (25%) instead of the |
| | | at some on the neighborhood advance for a groom ont |
| approved seventy-fiv | ve percent (75%) as | s shown on the no objection advance fee agreement. |
| Borrower | Agreement Date | % Charged on Phase II |
| 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 | |
| Ruiz | 7/30/2009 | |
| Schear | 9/24/2009 | |
| Vickers | 4/16/2009 | |
| Clark | 10/1/2009 | 25% |
| The | amount of the adva | nce fees along with the percentage HSFI charged for the |
| completion of Phase | e II work appeared (| on the advance fee agreement contained in the transaction |
| | | ed on the "no objection" advance fee agreement on file |
| | | |
| with the Bureau we | re not the same; | |
| (d) V | With reference to the | e lack of an advance fee agreement, HSFI failed to provide |
| a complete descript | ion of services to be | e rendered provided to each homeowner-borrower in 10 |
| point type font and, | an allocation and d | disbursement of the amount collected as the advance fee |
| for each loan modif | ication transaction, | , in violation of Code Section 10146 and Regulation 2972; |
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- 7 -

HSFI failed to provide an adequate verified accounting to at least twenty (20) homeownerborrowers;

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(e)(1) Claimed, charged and collected advance fees after October 10, 2009, the 3 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 HSFI had fully 8 performed each and every service for which HSFI 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 11 in violation of Code Sections 10085.6, 10146, 10145 and Regulation 2832; 12 13 Unearned Fee Agreement Collected Borrower Date Date Collected 14 06/04/09 11/09/09 500.00 Akins \$ Jensen 07/27/09 01/04/10 \$ 1,000.00 15 Lopez 04/09/09 02/04/10 \$ 500.00 16 2.000.00 Total: \$ 17 (f) The aforementioned shortages of \$6,612.50 and \$8,018.75, respectively, were 18 caused by the unauthorized disbursement of unearned fees for in violation of Code Sections 19 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 24borrowers after October 10, 2009. Respondents received and collected advance fees totaling 25 \$13,225.00 from seven (7) borrowers, as tabled below, before HSFI had fully performed each 26 27

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and every service for which HSFI had contracted to perform or represented that would be

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performed during the period of October 11, 2009 to date, in violation of Code Sections 10085.6,

3 10146, 10145 and Regulation 2832: 4 5 Agreement Unearned Fee Collected Borrower Date Collected Date 6 Long 10/29/09 10/29/09 1,000.00 \$ Olshi 2,500.00 03/25/11 03/25/11 \$ 7 12/23/09; 8 Budzyn 12/20/09 1/7/11 \$ 500.00 01/08/10; 9 Farkas 11/2/10 5,000.00 01/07/10 \$ Mardrid Jr. 11/30/10 11/30/10 \$ 1,500.00 10 Soto 07/05/10 07/08/10 750.00 \$ 11 1,975.00 Galasso 09/27/10 01/14/11 \$ TOTAL: \$ 13,225.00 12 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); 16 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 20 (g)(2) HSFI engaged in the business of negotiating loan modifications without 21 first obtaining and maintaining a real estate Nationwide Mortgage Licensing System and Registry 22 (NMLS) license endorsement as a Mortgage Loan Originator, in violation of Code Section 23 24 10166.02(b); 25 /// 26 27 9

(h)(1) Mortgage Loan Activity: Used the fictitious names of "HSF, Inc." and 1 "HSF," to conduct licensed activities including a loan modification and advanced fee brokerage, 2 without first obtaining from the Bureau a license bearing said fictitious business names, in 3 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 10 (i) Failed to retain all records of Respondents HSFI's activity during the audit 11 period requiring a real estate broker license, in violation of Code Section 10148. HSFI failed to 12 provide proof of submission of loan modification packages to the lenders for borrowers Weston, 13 Garcia, Bianchi, Ruiz, Schear, Vickers Clark, Brunke and Lopez; and 14 (j) DOUGLAS failed to exercise reasonable control and supervision over the 15 activity of HSFI to secure full compliance with the Real Estate Law. Additionally, DOUGLAS 16 17 had no system in place for regularly monitoring his compliance with the Real Estate Law 18 particularly in regard to establishing, systems, policies and procedures to review trust fund 19 handling especially including loss mitigation, loan modification and advance fee documentation 20 and collections, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725. 21 /// 22 23 /// 24 /// 25 /// 26 27

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| Discipline | Statutes | and Reg | gulations |
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| 3 | The conduct of Respondents HSFI and DOUGLAS, described in Paragraph 7, | | | |
| 4 | above, violated the Code and the Regulations as set forth below: | | | |
| 5 | PARAGRAPH PROVISIONS VIOLATED | | | |
| 6 | 7(a) | Code Section 10145 and Regulation 2832.1 | | |
| 7 | 7(b) | Code Sections 10085, 10176(i) and 10177(g) and Regulation 2970 | | |
| 8 | 7(c) | Code Sections 10085, 10176(i) and 10177(g) and Regulation 2970 (again) | | |
| 9 | 7(d) | Code Section 10146 and Regulation 2972 | | |
| 10 | 7(e) | Code Sections 10085.6 and 10146 | | |
| 11 | 7(f) | Code Sections 10145, 10176(a), 10176(i)/10177(j) and 10177(g) | | |
| 12 | 7(g) | Code Section 10166.02(a) & (b) | | |
| 13 | 7(h) | Code Section 10159.5 and Regulation 2731 | | |
| 14 | 7(i) | Code Section 10148 | | |
| 15 | 7(j) | Code Sections 10159.2 and 10177(h) and 2725 (DOUGLAS) | | |
| 16 | The foregoing violation | ons constitute cause for discipline of the real estate license and license rights | | |
| 17 | · · · | and DOUGLAS, as the case may be, under the provisions of Code Sections | | |
| 18 | | 0177(d), 10177(g), 10177(j) and 10177(h)(DOUGLAS) | | |
| 19 | | | | |
| 20 | <u>SECOND CAUSE OF ACCUSATION</u> (Negligence) | | | |
| 21 | | 9. | | |
| 22 | The o | verall conduct of Respondents HSFI and DOUGLAS constitutes negligence | | |
| 23 | or incompetence and | is cause for discipline of the real estate license and license rights of said | | |
| 24 | Respondents pursuar | nt to the provisions of Code Section 10177(g) particularly with respect to | | |
| 25 | | agreed to with the Bureau for the No Objection letter regarding collection of | | |
| 26 | advance fees for loan modification activity and charging homeowner-borrowers a different | | | |
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- 11 -

| 1 | amount with financially advantageous to Respondents and prejudicial to said homeowner- | |
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| 2 | borrowers. | |
| 3 | FOURTH CAUSE OF ACCUSATION (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 (Supervision and Compliance) | |
| 13 | | |
| 14 | The overall conduct of Respondent DOUGLAS constitutes a failure on | |
| 15 | Respondent's part, as officer designated by a corporate broker licensee, to exercise reasonable | |
| 16 | supervision and control over the licensed activities of HSFI as required by Code Section 10159.2 | |
| 17 | and Regulation 2725, and to keep HSFI in compliance with the Real Estate Law, with specific | |
| 18 | regard to trust fund handling procedures for advance fees collected with respect to loan | |
| 19 | modification services, and is cause for discipline of the real estate license and license rights of | |
| 20 | Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h). | |
| 21 | 12. | |
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| 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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Code Section 10148(b) provides, in pertinent part the Commissioner shall charge a real estate broker for the cost of any audit, if the commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or rule of the commissioner interpreting said section.

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

Dated at Los Angeles, California

this I7 day of September, 2013

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Home Security Financial Inc. c/o Ronald Clinton Douglas former D.O. c/o Michael Hickman D.O. cc: Robin Trujillo Sacto Audits – Gina King - 14 -