

FILED

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DEPARTMENT OF REAL ESTATE
BY: 

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8
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)	
)	
13 LPF HOMES INC.; and)	No. H- H-39353 LA
)	
14 ALFREDO JOSE SOUSA, individually and)	
15 as designated officer of LPF Homes Inc.;)	<u>ACCUSATION</u>
)	
16 Respondents.)	
)	

17 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
18 of California, for cause of Accusation against Respondents LPF HOMES INC. and ALFREDO
19 JOSE SOUSA, individually and as designated officer of LPF Homes Inc., alleges as follows:

20 1.

21 The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real
22 Estate Commissioner of the State of California, makes this Accusation.

23 2.

24 All references to the "Code" are to the California Business and Professions Code
25 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.
26

3.

License Status

A. LPF HOMES INC. ("LPFHI.") At all-times mentioned, Respondent LPFHI was licensed or had license rights issued by the Bureau of Real Estate ("Bureau") as a corporate real estate broker. On April 2, 2008, LPFHI was originally licensed as a corporate real estate broker. Respondent LPFHI was authorized to act by and through Respondent ALFREDO JOSE SOUSA as LPFHI's designated officer pursuant to Business and Professions Code (hereinafter Code) Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law. LPFHI is owned by Rosa E. Pardo-Figueroa Ruiz who is LPFHI's president.

B. ALFREDO JOSE SOUSA ("SOUSA"). At all times mentioned, Respondent SOUSA was licensed or had license rights issued by the Bureau as a real estate broker. On January 13, 1993, SOUSA was originally licensed as a real estate broker. On February 27, 2009, SOUSA became the designated officer of LPFHI until its expiration on March 4, 2013.

Table: Management Structure of LPF Homes Inc.

Name	Title	License	Tenure
Fredrick David Wenzara	Former D.O.	Broker	02/09/10 to 04/11/12
Alfredo Jose Sousa	D.O.	Broker	04/02/12 to date
Rosa E. Pardo-Ruiz	Owner	Salesperson	N/A

Brokerage

4.

At all times mentioned, in the City of Granada Hills, County of Los Angeles, Respondents LPFHI and SOUSA acted as real estate brokers conducting licensed activities within the meaning of:

1 A. Code Section 10131(a). Respondents engaged in the business of, acted in the
2 capacity of, advertised or assumed to act as real estate brokers, including the solicitation for
3 listings of and the negotiation of the sale of real property as the agent of others;

4 B. Code Section 10131(d). Respondents engaged in activities with the public
5 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on
6 real property, wherein such loans were arranged, negotiated, processed and consummated on
7 behalf of others for compensation or in expectation of compensation and for fees often collected
8 in advance; and
9

10 C. Code Section 10131(d) and 10131.2. Respondents engaged in activities and
11 advertised, solicited and offered to provide loss mitigation and loan modification services to
12 economically distressed homeowners seeking adjustments to the terms and conditions of their
13 home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and
14 reduction in principal or interest, extenuations, foreclosure prevention and short sales.
15

16 FIRST CAUSE OF ACCUSATION

17 (Audit)

18 5.

19 On April 9, 2013, the Bureau completed an audit examination of the books and
20 records of LPFHI limited to the real estate sales, mortgage loan brokerage, and advanced fee and
21 loan modification activities, as described in Paragraph 4, which require a real estate license. The
22 audit examination covered a period of time beginning on February 9, 2010 and ending on
23 December 31, 2012. The audit examination revealed violations of the Code and the Regulations
24 as set forth in the following paragraphs, and more fully discussed in Audit Report LA 120164
25 and the exhibits and work papers attached to said audit report.

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10146 and Regulation 2972.

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2 (e) LPFHI. Claimed, charged and collected advance fees after October 10, 2009,
3 the SAFE ACT Initiation Date, for negotiating, arranging and/or offering to broker mortgage
4 loans and loan modifications and other forms of mortgage loan forbearance for fees paid by the
5 applicant-borrower Jose Antonio M. after October 10, 2009. Respondents received and collected
6 advance fees in the amount of \$1,777.77 on April 28, 2010 and \$3,500 on August 31, 2011,
7 before LPFHI had fully performed each and every service for which LPFHI had contracted to
8 perform or represented that would be performed, in violation of Code Sections 10085.6;
9

10 (f) LPFHI. Mixed and commingled trust funds and personal funds by depositing
11 advanced fees collected from loan modification applicants into LPFHI' general operating
12 accounts, BA1 and BA2, in violation of Code Sections 10145 and 10176(e) and Regulation 2832;
13

14 (g) LPFHI and SOUSA. Converted trust funds by depositing trust funds in the
15 form of advance fees solicited from homeowner-borrowers for loan modification services into
16 LPFHI's general operating account, BA 2, in violation of Code Sections 10145 and 10176(i)
17 and/or 10177(j). LPFHI reduced the amount in LPFHI's general account BA2 to an amount
18 \$3,500 less than the amount of the trust funds deposited by Jose M., constituting conversion;
19

20 (h) LPFHI and SOUSA. Used the fictitious name of "LPF Homes" and "Lenny
21 General Services" to conduct licensed activities including a loan modification and advanced fee
22 brokerage, without first obtaining from the Bureau a license bearing said fictitious business
23 name, in violation of Code Section 10159.5 and Regulation 2731; and

24 (i) SOUSA. Failed to disclose SOUSA's real estate license identification number
25 and Mortgage Loan Originator number(s) on the Nationwide Mortgage Licensing System
26 Registry identification numbers on his Residential Purchase Agreement(s), in violation of Code
27

1 Section 10140.6(b)(1).

2 Discipline Statutes and Regulations

3 8.

4 The conduct of Respondents LPFHI and SOUSA, described in Paragraph 7,
5 above, violated the Code and the Regulations as set forth below:

6 <u>Paragraph</u>	<u>Provisions Violated</u>
7 7(a)	Code Section 10145
8 7(b)	Code Section 10145 and Regulation 2831
9 7(c)	Code Section 10085 and Regulation 2970
10 7(d)	Code Section 10146 and Regulation 2972
11 7(e)	Code Section 10085.6
12 7(f)	Code Sections 10145 and 10176(e) and Regulation 2832
13 7(g)	Code Sections 10145 and 10176(i)/10177(h)
14 7(h)	Code Sections 10159.5 and Regulation 2731
15 7(i)	Code Sections 10140.6(b)
16 7(j)	Code Sections 10159.2 and 10177(h) and Regulation 2725

17
18 The foregoing violations constitute cause for discipline of the real estate license and license rights
19 of Respondents LPFH and SOUSA, as the case may be, under the provisions of Code Sections
20 10176(e), 10176(i), 10177(d), 10177(g) and/or 10177(j).

21 SECOND CAUSE OF ACCUSATION
22 (Negligence)

23 9.

24 The overall conduct of Respondents LPFHI and SOUSA constitutes negligence or
25 incompetence and is cause for discipline of the real estate license and license rights of said
26 Respondents pursuant to the provisions of Code Section 10177(g).

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THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

10.

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

FOURTH CAUSE OF ACCUSATION
(Supervision and Compliance)

11.

The overall conduct of Respondent SOUSA constitutes a failure on said Respondents' part, as officer and former designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of LPFHI as required by Code Section 10159.2 and Regulation 2725, and to keep LPFHI in compliance with the Real Estate Law, with specific attentivity to trust fund handling for advance fees collected for loan modification services, and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

12.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

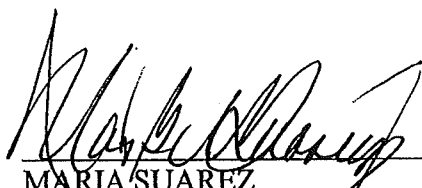
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2 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge
3 a real estate broker for the cost of any audit, if the commissioner has found in a final decision
4 following a disciplinary hearing that the broker has violated Code Section 10145 or a regulation
5 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 LPF HOMES INC. and
10 ALFREDO JOSE SOUSA, under the Real Estate Law (Part 1 of Division 4 of the Business and
11 Professions Code) and for such other and further relief as may be proper under other applicable
12 provisions of law, including but not limited to, restitution, costs of investigation, enforcement,
13 and audit.
14

15 Dated at Los Angeles, California

16 this 14th day of January, 2014.

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19 MARIA SUAREZ
20 Deputy Real Estate Commissioner
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23
24 cc: LPF Homes Inc.,
25 c/o Alfredo Jose Sousa D.O.
26 Maria Suarez
27 Sacto
Audits – Benilda Emery