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FILED
AUG 14 2017
BUREAU OF REAL ESTATE
By John Garcia

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8 BEFORE THE BUREAU OF REAL ESTATE
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation against)

CalBRE No. H-40744 LA

12 EQUITY FUNDING RESOURCES, INC. and)
13 ROBERT DAVID BOX, individually and as)
designated officer of Equity Funding Resources,)
14 Inc.,)

ACCUSATION

15 Respondents.)

16 The Complainant, Chika Sunquist, a Supervising Special Investigator for the Bureau of
17 Real Estate ("Bureau") of the State of California, for cause of Accusation against EQUITY
18 FUNDING RESOURCES, INC. and ROBERT DAVID BOX, individually and as designated
19 officer of Equity Funding Resources, Inc. (collectively "Respondents"), alleges as follows:

20 1.

21 The Complainant, Chika Sunquist, acting in her official capacity as a Supervising Special
22 Investigator, makes this Accusation against Respondents.

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1 2.

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

4 3.

5 Respondents are presently licensed and/or have license rights under the Real Estate Law
6 (Part 1 of Division 4 of the Code).

7 4.

8 Respondent EQUITY FUNDING RESOURCES, INC. ("EFRI") has been licensed by the
9 Bureau as a real estate corporation, License ID 01898196, from May 11, 2011, through the
10 present.

11 5.

12 Respondent ROBERT DAVID BOX ("BOX") has been licensed by the Bureau as a real
13 estate broker, License ID 01275915, from July 15, 2011, through the present. Respondent BOX
14 was previously licensed by the Bureau as a real estate salesperson from approximately March 25,
15 2000, through July 14, 2011.

16 6.

17 Code Section 10159.2 states: "(a) [T]he officer designated by a corporate broker licensee
18 pursuant to Section 10211 shall be responsible for the supervision and control of the activities
19 conducted on behalf of the corporation by its officers and employees as necessary to secure full
20 compliance with the provisions of this division, including the supervision of salespersons
21 licensed to the corporation in the performance of acts for which a real estate license is required."

22 7.

23 Code Section 10211 provides, in pertinent part, that "[I]f the licensee is a corporation, the
24 license issued to it entitles one officer thereof, on behalf of the corporation, to engage in the

1 business of real estate broker without the payment of any further fee, such officer to be
2 designated in the application of the corporation for a license.”

3 8.

4 Regulation 2725 states:

5 “A broker shall exercise reasonable supervision over the activities of his
6 or her salespersons. Reasonable supervision includes, as appropriate, the
7 establishment of policies, rules, procedures and systems to review, oversee,
8 inspect and manage:

- 9 (a) Transactions requiring a real estate license.
10 (b) Documents which may have a material effect upon the rights or
11 obligations of a party to the transaction.
12 (c) Filing, storage and maintenance of such documents.
13 (d) The handling of trust funds.
14 (e) Advertising of any service for which a license is required.
15 (f) Familiarizing salespersons with the requirements of federal and state
16 laws relating to the prohibition of discrimination.
17 (g) Regular and consistent reports of licensed activities of salespersons.

18 The form and extent of such policies, rules, procedures and systems shall
19 take into consideration the number of salespersons employed and the number and
20 location of branch offices.

21 A broker shall establish a system for monitoring compliance with such
22 policies, rules, procedures and systems. A broker may use the services of brokers
23 and salespersons to assist in administering the provisions of this section so long as
24 the broker does not relinquish overall responsibility for supervision of the acts of
salespersons licensed to the broker.”

9.

From May 11, 2015, through the present, Respondent BOX as the officer designated for
Respondent EFRI pursuant to Section 10211 of the Code, was responsible for the supervision
and control of the activities conducted on behalf of Respondent EFRI by its officers, agents, and
employees as necessary to secure full compliance with Real Estate Law as set forth in Section
10159.2 of the Code.

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1 CAUSE OF ACCUSATION

2 Broker Reporting Requirements

3 10.

4 On or about May 11, 2015, EFRI notified the Bureau that it met the criteria for threshold
5 broker reporting status as set forth in Code section 10232.

6 11.

7 On or about May 23, 2016, EFRI notified the Bureau that it met the criteria for multi-
8 lender broker reporting status as set forth in Code section 10238.

9 12.

10 EFRI failed to submit the following required reports in a timely manner to the Bureau:

11 A. The quarterly trust fund status report due by June 30, 2015 for the period ending on
12 May 31, 2015. The Bureau received EFRI's report on August 10, 2015.

13 B. The annual business activity report due by November 30, 2015, for the fiscal year
14 ending on August 31, 2015. The Bureau received EFRI's report on April 26, 2016.

15 C. The annual report of a review of trust fund financial statements, also known as the
16 trust account review report, for the fiscal year ending on August 31, 2015 and due by
17 November 30, 2015. The Bureau received EFRI's report on September 20, 2016.

18 D. The quarterly trust fund status report due by December 31, 2015 for the period ending
19 on November 30, 2015. The Bureau received EFRI's report on May 4, 2016.

20 E. The quarterly trust fund status report due by March 31, 2016 for the period ending on
21 February 29, 2016. The Bureau received EFRI's report on May 4, 2016.

22 F. The quarterly trust fund status report due by June 30, 2016 for the period ending on
23 May 31, 2016. The Bureau received EFRI's report on August 18, 2016.

24

- 1 G. The quarterly trust account report for multi-lender transactions due by June 30, 2016,
2 for the period ending on May 31, 2016. The Bureau received EFRI's report on
3 October 31, 2016.
- 4 H. The annual business activity report due by November 30, 2016 for the fiscal year
5 ending on August 31, 2016. The Bureau received EFRI's report on January 18, 2017.
- 6 I. The annual report of a review of trust fund financial statements, also known as the
7 trust account review report, due by November 30, 2016 for the fiscal year ending on
8 August 31, 2016. The Bureau received EFRI's report on January 30, 2017.
- 9 J. The quarterly trust account report for multi-lender transactions due by December 31,
10 2016 for the period ending on November 30, 2016. The Bureau received EFRI's
11 report on February 8, 2017.
- 12 K. The quarterly trust fund status report due by December 31, 2016 for the period ending
13 on November 30, 2016. The Bureau received EFRI's report on March 23, 2017.
- 14 L. The quarterly trust fund status report due by March 31, 2017 for the period ending on
15 February 28, 2017. The Bureau received EFRI's report on May 8, 2017.

16 13.

17 On or about May 8, 2017, EFRI notified the Bureau that EFRI no longer met the criteria
18 for multi-lender reporting status as set forth in Code section 10238.

19 Audit LA 160015

20 14.

21 On October 27, 2016, the Bureau completed an audit examination of the books and
22 records of Respondent EFRI's mortgage loan negotiation and loan servicing activities, which
23 require a real estate license pursuant to Code section 10131, subdivisions (d) and (e), and Code
24 section 10131.1. The audit examination period was from January 1, 2015, through June 30,

1 2016. The audit examination revealed violations of the Code and the Regulations, as set forth in
2 the following paragraphs and more fully discussed in Audit Report LA 160015 and the exhibits
3 and work papers attached to said audit report.

4 15.

5 An entrance interview with Respondent BOX took place on August 25, 2016. According
6 to Respondent BOX, he owns and controls Respondent EFRI. During the audit period, EFRI
7 was primarily involved in servicing private investors' loans on behalf of private lenders for
8 compensation. EFRI serviced approximately 67 loans for approximately 51 private investors
9 during a twelve-month period. According to the examination of the audit working papers, EFRI
10 handled approximately \$5,447,598.37 in trust funds through its two trust accounts.

11 16.

12 According to Respondent BOX, EFRI maintained the following two bank accounts for
13 EFRI's loan servicing activities during the audit period:

14 Trust Account #1 (T/A-1)

15 Bank: City National Bank

16 Account Name: Equity Funding Resources, Inc., A CA Corporation

17 Account #: xxxxx4823

18 Signer: Respondent BOX

19 # of signatures required: One (1)

20 Description: T/A-1 was used to handle receipts and disbursements of monthly payments
21 and payoffs received from borrowers on behalf of beneficiaries (lenders/investors).

22 T/A-1 was not designated as a trust account in EFRI's name as trustee.

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1 Trust Account #2 (T/A-2)

2 Bank: City National Bank

3 Account Name: Equity Funding Resources, Inc.

4 Real Estate Broker's Trust Account

5 Account #: xxxxx5510

6 Signer: Respondent BOX

7 # of signatures required: One (1)

8 Description: T/A-2 was used to handle receipts and disbursements of trust funds received
9 in connection with EFRI's rehabilitation loans (holdback) activities for multiple
10 loans/investors.

11 Violations

12 17.

13 In the course of its loan servicing activities during the audit examination period described
14 above in Paragraph 14, Respondent EFRI acted in violation of the Code and the Regulations as
15 follows:

16 17(A). Issue One. Code Section 10145 and Regulation 2832.1. Trust fund handling for
17 multiple beneficiaries

18 Bank reconciliations were prepared for T/A-1 and T/A-2 as of June 30, 2016. The
19 accountabilities were based on bank statements and separate beneficiary records provided by
20 Respondent BOX. As of June 30, 2016, T/A-1 had a shortage of <\$29,537.50>. The shortage
21 was caused by a negative balance in investor K.L.¹'s account. Disbursements related to K.L.'s
22 Loan No. 151480 were made when there were insufficient funds to cover the amounts.

23
24 ¹ Initials are used in place of the individual's full name to protect their privacy. Documents containing individual's full name will be provided during the discovery phase of this case to Respondents and/or their attorney, after service of a timely and proper request for discovery on Complainant's counsel.

1 Respondents failed to provide any evidence that the owners of the trust funds had given
2 their written consent to allow Respondents to reduce the balance of the funds in T/A-1 to an
3 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
4 and Regulation 2832.1.

5 T/A-2 was in balance as of June 30, 2016.

6 17(B). Issue Two. No violations cited. Delinquent 3rd Quarter Threshold Reports
7 ending in May 31, 2016/Business Activity Report/Trust Accounting Report

8 EFRI failed to timely submit the required Quarterly Trust Fund Status Report to the
9 Bureau within 30 days after the end of EFRI's fiscal year for the quarter ending on May 31,
10 2016. The report should have been filed with the Bureau by June 30, 2016. EFRI's 3rd Quarter
11 Threshold report was received by the Bureau on August 18, 2016.

12 EFRI failed to timely submit an Initial Multi-Lender Transaction notice to the Bureau
13 within 30 days from the first multi-lender loan transaction of February 3, 2015.

14 EFRI failed to timely file the Annual Trust Accounting Report (TAR) for the fiscal year
15 ending on August 31, 2015, which should have been filed by November 30, 2015. The Bureau
16 received EFRI's TAR report on September 20, 2016.

17 17(C). Issue Three. Code Section 10145 and Regulation 2831. Trust fund records to be
18 maintained

19 Respondent EFRI failed to maintain accurate or complete records of trust funds received
20 and disbursed (control records) for T/A-1, in violation of Code section 10145 and Regulation
21 2381. The ending balance for EFRI's control records for T/A-1 was not accurate.

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1 17(D). Issue Four. Code Section 10145 and Regulation 2831.1. Separate records for
2 each beneficiary or transaction

3 Respondent EFRI failed to maintain complete and accurate separate records for T/A-1 of
4 all trust funds received and disbursed related to its loan servicing activities, in violation of Code
5 section 10145(g) and Regulation 2831.1. The T/A-1 separate records were created during the
6 audit examination.

7 17(E). Issue Five. Code Section 10145 and Regulation 2831.2. Trust account
8 reconciliation

9 During the audit period, Respondent EFRI failed to maintain a complete and accurate
10 monthly reconciliation comparing the balance of all separate beneficiary or transaction records
11 (separate records) to the balance of all trust funds received and disbursed (control record) for
12 T/A-1 and T/A-2, in violation of Code section 10145 and Regulation 2831.2.

13 17(F). Issue Six. Code Section 10232.25(e) and Regulation 2846.8. Trust Fund Status
14 Reports –Contents/Quarterly Trust Fund Status Report

15 EFRI failed to timely submit the required Quarterly Trust Fund Status Report to the
16 Bureau within 30 days after the end of EFRI's fiscal year for the quarters ending on November
17 30, 2015, February 29, 2016, and May 31, 2016. The reports should have been filed with the
18 Bureau by December 31, 2015, March 31, 2016, and June 30, 2016, respectively. EFRI's 1st
19 Quarter, 2nd Quarter, and 3rd Quarter Threshold reports were received by the Bureau on May 4,
20 2016, May 4, 2016, and August 18, 2016, respectively, in violation of Code Section 10232.25(e)
21 and Regulation 2846.8.

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1 17(G). Issue Seven. Code Section 10238(a). Initial Notification of Multi-Lender Loan
2 Activity.

3 EFRI failed to timely submit an Initial Multi-Lender Transaction notice to the Bureau
4 within 30 days from the first multi-lender loan transaction of February 3, 2015, in violation of
5 Code section 10238(a).

6 Examples of multi-lender loans include, without limitation, Loan Nos. 151360, 151316,
7 and 151448.

8 17(H). Issue Eight. Code Section 10232.2 and Regulation 2846.5. Filing Fiscal Year
9 Reports-Accounting Criteria/Report of Annual Trust Fund Accounts Review

10 EFRI failed to timely file the Annual Trust Accounting Report (TAR) for the fiscal year
11 ending on October 31, 2015, which should have been filed by November 30, 2015, in violation
12 of Code section 10232.2 and Regulation 2846.5. The Bureau received EFRI's TAR report on
13 September 20, 2016.

14 17(I). Issue Nine. Code Section 10238(h)(4)(A). Multi-lender loans, loan-to-value, and
15 other requirements/construction/rehabilitation loans

16 EFRI failed to use a neutral third-party escrow holder to handle all receipts and
17 disbursements for the multi-lender construction/rehabilitation loans related to disbursement
18 draws from the escrow in accordance with the draw schedule. EFRI held loan funds and made
19 disbursements of loan funds from T/A-2. Said acts are in violation of Code section
20 10238(h)(4)(A).

21 EFRI withheld more than \$100,000.00 for construction or rehabilitation loans at the start
22 of the project. Examples of related loans include, without limitation, Loan Nos. 151460, 151486,
23 and 151378.

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1 17(J). Issue Ten. Code section 10231.1. Retention of loan funds

2 EFRI held lender funds for more than 25 days with no written authorization from lenders.
3 The lenders' funds were interest payments that were due to lenders/investors and were left in the
4 account by error. Said acts are in violation of Code section 10231.1.

5 Examples of investors' funds for related Loan No. 151360 include, without limitation,
6 Check Nos. 1710, 1709, 1708, 1707, 1706, 1705, 1704, and 1703, which were each held for 408
7 days.

8 17(K). Issue Eleven. Code section 10140.6(b). Disclosure of License Status in
9 Advertising.

10 EFRI's license identification number was not disclosed on some of the loan applications
11 intended to be the first point of contact with customers, in violation of Code section 10140.6(b).

12 Examples of related loans include, without limitation, Loan Nos. 151316, 151330,
13 151360, 151394, 151466, 151406, and 151432.

14 17(L). Issue Twelve. Code sections 10232.4, 10232.5 and Regulation 2846. Disclosure
15 Statement, Delivery Exception-Funds Handling/Incomplete Lender/Purchaser Disclosure
16 Statement

17 In at least eight (8) out of twelve (12) private lender funded loan files examined, the
18 Lender Purchaser Disclosure Statement (LPDS) contained in the loan files was inadequate and
19 incomplete. In some of the LPDS statements provided for examination, there was no signature
20 by the broker or a designated representative. Some of the LPDS statements required
21 information, such as the property's description, age, square footage, and type of construction that
22 was left blank, in Part 8 of the LPDS. Said acts or omissions are in violation of Code sections
23 10232.4, 10232.5 and Regulation 2846.

24 Examples of related single-lender loan transactions include, without limitation, Loan

1 Nos. 151394 (borrower A.W.), 151330 (borrower A.W.), 151466 (borrower G.G.), and 151406
2 (borrower A.W.). Examples of related multi-lender loan transactions include, without limitation,
3 Loan Nos. 151360 (borrower D.B.), 151316 (borrowers S.L. and C.I.), 151448 (borrower G.G.),
4 and 151432 (borrowers M.E. and G.G.).

5 18.

6 The conduct of Respondent EFRI as described above in Paragraphs 17(A) through 17(L),
7 violated the Code and the Regulations as set forth below:

8 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9 17(A)/Issue 1	Code Section 10145 and Regulations 2832.1
10 17(B)/Issue 2	No violation cited
11 17(C)/Issue 3	Code Section 10145 and Regulation 2831
12 17(D)/Issue 4	Code Section 10145 and Regulation 2831.1
13 17(E)/Issue 5	Code Section 10145 and Regulation 2831.2
14 17(F)/Issue 6	Code Section 10232.25(e) and Regulation 2846.8
15 17(G)/Issue 7	Code Section 10238(a)
16 17(H)/Issue 8	Code Section 10232.2 and Regulation 2846.5
17 17(I)/Issue 9	Code Section 10238(h)(4)(A)
18 17(J)/Issue 10	Code Section 10231.1
19 17(K)/Issue 11	Code Section 10140.6(b)
20 17(L)/Issue 12	Code Sections 10232.4, 10232.5, and Regulation 2846

21 19.

22 The foregoing violations constitute cause for the suspension or revocation of the real
23 estate licenses and license rights of Respondent EFRI under the provisions of Code Sections
24 10177(d) and/or 10177(g).

20.

The conduct, acts and/or omissions of Respondent BOX, in allowing EFRI to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent BOX to exercise the supervision and control over the activities of Respondent EFRI as required by Code Section 10159.2 and Regulation 2725, and are cause to suspend or revoke the real estate license and license rights of Respondent BOX under Code Sections 10177(h), 10177(d), and/or 10177(g).

Audit Costs

21.

Code Section 10148(b) provides, in pertinent part, that 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.

Investigation/Enforcement Costs

22.

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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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all licenses and/or license rights of Respondents under the Real Estate Law (Part 1 of
4 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
5 enforcement as permitted by law, and for such other and further relief as may be proper under
6 other provisions of law.

7 Dated at Sacramento, California this 4th day of August, 2017.

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CHIKA SUNQUIST
Supervising Special Investigator

cc: Equity Funding Resources, Inc. and Robert David Box
 Chika Sunquist
 Sacto
 Audits/Anna Hartoonian