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**FILED**

JUL 13 2021

DEPT. OF REAL ESTATE

By *[Signature]*

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of )

No. H-42064 LA

13 EXCEL FUNDING REAL ESTATE )  
14 SERVICES INC )

ACCUSATION

15 and )

16 JEROLD ANTHONY SAUNDERS, )  
17 as designated officer of Excel Funding )  
18 Real Estate Services Inc, )

19 Respondent. )

20 The Complainant, Maria Suarez, a Supervising Special Investigator of the State  
21 of California, for cause of Accusation against EXCEL FUNDING REAL ESTATE SERVICES  
22 INC ("EFRESI") and JEROLD ANTHONY SAUNDERS ("SAUNDERS") (collectively,  
23 "Respondents"), as designated officer of Excel Funding Real Estate Services Inc, alleges as  
24 follows:

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1.

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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.

**DEPARTMENT OF REAL ESTATE LICENSE HISTORY**  
**EXCEL FUNDING REAL ESTATE SERVICES INC. ("EFRESI")**

3.

Respondent EXCEL FUNDING REAL ESTATE SERVICES INC ("EFRESI") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate corporation ("REC"), Department of Real Estate ("Department" or "DRE") license ID 01866188.

4.

According to DRE records to date, EFRESI was originally licensed by the Department as a REC on or about June 13, 2009, and its main office and mailing address of record are the same: 28924 S. Western Ave., Ste. 110, Rancho Palos Verdes, CA 90175 ("RPV address"); its designated officer of record ("D.O.") is JEROLD ANTHONY SAUNDERS; and it has one (1) real estate broker ("REB") associate and six (6) real estate salespersons ("RES") affiliated with its DRE license.

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According to DRE records to date, and pursuant to Executive Order No. N-83-20<sup>1</sup>, EFRESI's REC license will expire on June 30, 2021. Pursuant to Code Section 10201 EFRESI retains renewal rights subsequent to license expiration. Pursuant to Code Section 10103 the Department retains jurisdiction.

6.

**DRE Discipline of EFRESI's License**

On or about November 1, 2018, in DRE Case No. H-40950 LA, EFRESI's REC license was suspended for thirty (30) days, stayed for one (1) year, pursuant to the terms and conditions of the Stipulation and Agreement in Case No. H-40950 LA and Code Sections 10177(d) and 10177(g), for its violation of: Code Sections 10140.6(b), 10145, 10159.5, and Regulation 2731, pursuant to the findings of DRE Audit LA 160207. Said suspension was released on or about January 29, 2019.

**JEROLD ANTHONY SAUNDERS ("SAUNDERS")**

7.

Respondent JEROLD ANTHONY SAUNDERS ("SAUNDERS") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB, DRE license ID 01363730.

8.

According to DRE records to date, SAUNDERS was originally licensed by the Department as a RES on or about December 28, 2002, and as a REB on or about November 2,

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<sup>1</sup> On October 28, 2020, California Governor Gavin Newsom issued Executive Order N-83-20 which, among other things, extended several provisions in prior Executive Orders N-52-20 and N-69-20 pertaining to DRE statutory deadlines. This new order extended the deadlines and timeframes that expired on or after April 16, 2020 through and until June 30, 2021, including timeframes associated with license expiration dates.

1 2004; his main office address of record is EFRESI's RPV address, while his mailing address of  
2 record is: 3179 Peppermint Pl., Newbury Park, CA 91320; and he is the D.O. of EFRESI .

3 9.

4 According to DRE records to date, and pursuant to Executive Order No. N-83-  
5 20<sup>1</sup>, SAUNDERS' REB license and his D.O. license will expire on June 30, 2021. Pursuant to  
6 Code Section 10201 Respondent SAUNDERS retains renewal rights subsequent to license  
7 expiration. Pursuant to Code Section 10103 the Department retains jurisdiction.

8 10.

9 **DRE Discipline of SAUNDERS' License**

10 On or about November 1, 2018, in DRE Case No. H-40950 LA, SAUNDERS'  
11 REB license was suspended for thirty (30) days, stayed for one (1) year, pursuant to the terms  
12 and conditions of the Stipulation and Agreement in Case No. H-40950 LA and Code Sections  
13 10177(d), 10177(g), and 10177(h), for his violation of: Code Sections 10140.6(b), 10145,  
14 10159.2 and 10159.5, and Regulations 2725 and 2731, pursuant to the findings of DRE Audit  
15 LA 160207. Said suspension was released on or about January 29, 2019.

16 11.

17 **SAUNDERS' Mortgage Loan Originator License Endorsement**

18 SAUNDERS also holds a Mortgage Loan Originator ("MLO") license  
19 endorsement, Nationwide Multistate Licensing System and Registry ("NMLS") ID 243695.

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23 <sup>1</sup> On October 28, 2020, California Governor Gavin Newsom issued Executive Order N-83-20 which, among other  
24 things, extended several provisions in prior Executive Orders N-52-20 and N-69-20 pertaining to DRE statutory  
25 deadlines. This new order extended the deadlines and timeframes that expired on or after April 16, 2020 through  
26 and until June 30, 2021, including timeframes associated with license expiration dates.

1 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

2 Trust Fund Handling

3 (Code Section 10145 and Regulation 2831)

4 12.

5 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

6 “(a)(1): A real estate broker who accepts funds belonging to others in  
7 connection with a transaction subject to this part shall deposit all those funds that are not  
8 immediately placed into a neutral escrow depository or into the hands of the broker’s principal,  
9 into a trust fund account maintained by the broker in a bank or recognized depository in this  
10 state. All funds deposited by the broker in a trust account shall be maintained there until  
11 disbursed by the broker in accordance with instructions from the person entitled to the funds.

12 (2) Withdrawals may be made from a trust fund account of an individual  
13 broker only upon the signature of that broker, or in the case of a corporate broker, only upon  
14 the signature of an officer through whom the corporation is licensed pursuant to Section 10158  
15 or 10211, or one, or more, of the following persons if specifically authorized in writing by the  
16 individual broker or officer:

17 (A) A real estate salesperson licensed to the broker.

18 (B) Another broker acting pursuant to a written agreement with the  
19 individual broker that conforms to the requirements of this part and any  
20 regulations promulgated pursuant to this part.

21 (C) An unlicensed employee of the individual broker, if the broker has  
22 fidelity bond coverage equal to at least the maximum amount of the trust  
23 funds to which the unlicensed employee has access at any time. For  
24 purposes of this section, bonds providing coverage may be written with  
25 a deductible of up to 5 percent of the coverage amount. For bonds with  
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1 a deductible, the employing broker shall have evidence of financial  
2 responsibility that is sufficient to protect members of the public against  
3 a loss subject to the deductible amount.

4 Evidence of financial responsibility shall include one or more of the  
5 following:

6 (i) Separate fidelity bond coverage adequate to cover the amount  
7 of the fidelity bond deductible.

8 (ii) A cash deposit held in a separate account, apart from other  
9 funds of the broker, the broker's employees, or the broker's  
10 principals, in a bank or recognized depository in this state  
11 adequate to cover the amount of the fidelity bond deductible and  
12 held exclusively and solely for the purpose of paying the fidelity  
13 bond deductible amount.

14 (iii) Any other evidence of financial responsibility approved by  
15 the commissioner.

16 (3) An arrangement under which a person enumerated in subparagraph  
17 (A),(B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of  
18 a broker shall not relieve an individual broker, nor the broker-officer of a corporate broker  
19 licensee, from responsibility or liability as provided by law in handling trust funds in the  
20 broker's custody.

21 ...

22 (4)(b) A real estate broker acting as a principal pursuant to Section 10131.1<sup>1</sup>  
23 shall place all funds received from others for the purchase of real property sales contracts or  
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25 <sup>2</sup>Code Section 10131.1 states, "(a) A real estate broker within the meaning of this part is also a person who  
26 engages as a principal in the business of making loans or buying from, selling to, or exchanging with the public,  
real property sales contracts or promissory notes secured directly or collaterally by liens on real property..."

1 promissory notes secured directly or collaterally by liens on real property in a neutral escrow  
2 depository unless delivery of the contract or notes is made simultaneously with the receipt of  
3 the purchase funds.

4 ...

5 (4)(g) The broker shall maintain a separate record of the receipt and disposition  
6 of all funds described in subdivisions (a) and (b), including any interest earned on the funds...”

7 13.

8 Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained*:

9 “(a) Every broker shall keep a record of all trust funds received, including  
10 uncashed checks held pursuant to instructions of his or her principal. This record, including  
11 records maintained under an automated data processing system, shall set forth in chronological  
12 sequence the following information in columnar form:

13 (1) Date trust funds received.

14 (2) From whom trust funds received.

15 (3) Amount received.

16 (4) With respect to funds deposited in an account, date of said deposit.

17 (5) With respect to trust funds previously deposited to an account, check  
18 number and date of related disbursement.

19 (6) With respect to trust funds not deposited in an account, identity of other  
20 depository and date funds were forwarded.

21 (7) Daily balance of said account.

22 (b) For each bank account which contains trust funds, a record of all trust funds  
23 received and disbursed shall be maintained in accordance with subdivision (a) or (c).

24 (c) Maintenance of journals of account cash receipts and disbursements, or  
25 similar records, or automated data processing systems, including computer systems and  
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1 electronic storage and manipulation of information and documents, in accordance with  
2 generally accepted accounting principles, shall constitute compliance with subdivision (a)  
3 provided that such journals, records, or systems contain the elements required by subdivision  
4 (a) and that such elements are maintained in a format that will readily enable tracing and  
5 reconciliation in accordance with Section 2831.2.

6 (d) Nothing in this section shall be construed to permit a violation of Section  
7 10145 of the Code.

8 (e) A broker is not required to keep records pursuant to this section of checks  
9 which are written by a principal, given to the broker and made payable to third parties for the  
10 provision of services, including but not limited to escrow, credit and appraisal services, when  
11 the total amount of such checks for any transaction from that principal does not exceed \$1,000.  
12 Upon request of the Department or the maker of such checks, a broker shall account for the  
13 receipt and distribution of such checks. A broker shall retain for three years copies of receipts  
14 issued or obtained in connection with the receipt and distribution of such checks.”

15 **Retention of Records**

16 **(Code Section 10148)**

17 14.

18 Pursuant to Code Section 10148 *Retention of Records – Chargeable Audits –*  
19 *Cost Recovery – Penalties for Unlawful Destruction of Records:*

20 “(a) A licensed real estate broker shall retain for three years copies of all  
21 listings, deposit receipts, canceled checks, trust records, and other documents executed by him  
22 or her or obtained by him or her in connection with any transactions for which a real estate  
23 broker license is required. The retention period shall run from the date of the closing of the  
24 transaction or from the date of the listing if the transaction is not consummated. After notice,  
25 the books, accounts, and records shall be made available for examination, inspection, and  
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1 copying by the commissioner or his or her designated representative during regular business  
2 hours; and shall, upon the appearance of sufficient cause, be subject to audit without further  
3 notice, except that the audit shall not be harassing in nature. This subdivision shall not be  
4 construed to require a licensed real estate broker to retain electronic messages of an ephemeral  
5 nature, as described in subdivision (d) of Section 1624 of the Civil Code.

6 (b) The commissioner shall charge a real estate broker for the cost of any audit,  
7 if the commissioner has found, in a final desist and refrain order issued under Section 10086 or  
8 in a final decision following a disciplinary hearing held in accordance with Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code  
10 that the broker has violated Section 10145 or a regulation or rule of the commissioner  
11 interpreting Section 10145.

12 (c) If a broker fails to pay for the cost of an audit as described in subdivision (b)  
13 within 60 days of mailing a notice of billing, the commissioner may suspend or revoke the  
14 broker's license or deny renewal of the broker's license. The suspension or denial shall remain  
15 in effect until the cost is paid or until the broker's right to renew a license has expired.

16 (d) The commissioner may maintain an action for the recovery of the cost of an  
17 audit in any court of competent jurisdiction. In determining the cost incurred by the  
18 commissioner for an audit, the commissioner may use the estimated average hourly cost for all  
19 persons performing audits of real estate brokers.

20 (e) The Department may suspend or revoke the license of any real estate broker,  
21 real estate salesperson, or corporation licensed as a real estate broker, if the real estate broker,  
22 real estate salesperson, or any director, officer, employee, or agent of the corporation licensed  
23 as a real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the  
24 books, papers, writings, documents, or tangible objects that are required to be maintained by  
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1 this section or that have been sought in connection with an investigation, audit, or examination  
2 of a real estate licensee by the commissioner.”

3 **Written Disclosure Statement**

4 **(Code Section 10240 and Regulation 2840)**

5 15.

6 Pursuant to Code Section 10240 *Written Disclosure Statement*:

7 “(a) Every real estate broker, upon acting within the meaning of subdivision  
8 (d) of Section 10131, who negotiates a loan to be secured directly or collaterally by a lien on  
9 real property shall, within three business days after receipt of a completed written loan  
10 application or before the borrower becomes obligated on the note, whichever is earlier, cause  
11 to be delivered to the borrower a statement in writing, containing all the information required  
12 by Section 10241. It shall be personally signed by the borrower and by the real estate broker  
13 negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan.  
14 When so executed, an exact copy thereof shall be delivered to the borrower at the time of its  
15 execution. The real estate broker negotiating the loan shall retain on file for a period of three  
16 years a true and correct copy of the statement as signed by the borrower. No real estate  
17 licensee shall permit the statement to be signed by a borrower if any information required by  
18 Section 10241 is omitted.

19 (b) For the purposes of applying the provisions of this article, a real estate  
20 broker is acting within the meaning of subdivision (d) of Section 10131 if he or she solicits  
21 borrowers, or causes borrowers to be solicited, through express or implied representations  
22 that the broker will act as an agent in arranging a loan, but in fact makes the loan to the  
23 borrower from funds belonging to the broker.

1 (c) In a federally regulated residential mortgage loan transaction in which the  
2 principal loan amount exceeds the principal loan levels set forth in Section 10245, a real  
3 estate broker satisfies the requirements of this section if the borrower receives (1) a "good  
4 faith estimate" that satisfies the requirements of the Real Estate Settlement Procedures Act of  
5 1974 (12 U.S.C.A. 2601 et seq.), and that sets forth the broker's real estate license number  
6 and a clear and conspicuous statement on the face of the document stating that the "good faith  
7 estimate" does not constitute a loan commitment, (2) all applicable disclosures required by  
8 the Truth in Lending Act (15 U.S.C.A. 1601 et seq.), and (3) if the loan contains a balloon  
9 payment provision, the disclosure described in subdivision (h) of Section 10241, the balloon  
10 disclosure required for that loan by Fannie Mae or Freddie Mac, or an alternative disclosure  
11 determined by the commissioner to satisfy the requirements of the Truth in Lending Act.  
12 Prior to becoming obligated on the loan the borrower shall acknowledge, in writing, receipt of  
13 the "good faith estimate" and all applicable disclosures required by the Truth in Lending Act.  
14 The real estate broker shall retain on file for a period of three years a true and correct copy of  
15 the signed acknowledgment and a true and correct copy of the "good faith estimate" and all  
16 applicable disclosures required by the Truth in Lending Act as acknowledged by the  
17 borrower."

18 16.

19 Pursuant to Regulation 2840 *Approved Borrower Disclosure Statements*:

20 "(a) The Commissioner shall publish and make available to interested persons  
21 as official forms of the Bureau of Real Estate Forms RE 882 (Rev. 8/08) and RE 883 (Rev.  
22 8/08) which are incorporated by reference. Forms RE 882 and RE 883 contain approved  
23 format and content for the disclosure statement required by subdivision (a) of Section 10240  
24 of the Code and Section 10241 of the Code.  
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1 (b) The publication of the forms pursuant to subdivision (a) hereof is for the  
2 purpose of aiding real estate licensees in providing the disclosure of material information to  
3 prospective borrowers in a uniform and effective manner.

4 (c) A real estate broker must obtain the prior written approval of the  
5 Commissioner if he/she wishes to use forms different than those referred to in (a). Forms that  
6 do not adequately provide the information required by the forms in subsection (a) above, as  
7 appropriate, and in a format that is easily used by the Bureau will not be approved.”

8 False or Fictitious Business Name – Code Section 10159.5 and Regulation 2731

9 **Fictitious Name**

10 **(Code Section 10159.5 and Regulation 2731)**

11 17.

12 Pursuant to Code Section 10159.5(a)(1) *Fictitious Name*:

13 “Every person applying for a license under this chapter who desires to have the  
14 license issued under a fictitious business name shall file with his or her application a certified  
15 copy of his or her fictitious business name statement filed with the county clerk pursuant to  
16 Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.”

17 18.

18 Pursuant to Regulation 2731(a) Use of False or Fictitious Name:

19 “A licensee shall not use a fictitious name in the conduct of any activity for  
20 which a license is required under the Real Estate Law unless the licensee is the holder of a  
21 license bearing the fictitious business name.”

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1 guilty plea, the commissioner may suspend the license of a real estate  
2 licensee upon the entry by the licensee of a guilty plea to any of the  
3 crimes described in paragraph (1). If the guilty plea is withdrawn, the  
4 suspension shall be rescinded and the license reinstated to its status prior  
5 to the suspension. The department shall notify a person whose license is  
6 subject to suspension pursuant to this paragraph of that person's right to  
7 have the issue of the suspension heard in accordance with Section  
8 10100.

9 (c) Knowingly authorized, directed, connived at, or aided in the  
10 publication, advertisement, distribution, or circulation of a material false  
11 statement or representation concerning their designation or certification  
12 of special education, credential, trade organization membership, or  
13 business, or concerning a business opportunity or a land or subdivision,  
14 as defined in Chapter 1 (commencing with Section 11000) of Part 2,  
15 offered for sale.

16 (d) Willfully disregarded or violated the Real Estate Law (Part 1  
17 (commencing with Section 10000)) or Chapter 1 (commencing with  
18 Section 11000) of Part 2 or the rules and regulations of the  
19 commissioner for the administration and enforcement of the Real Estate  
20 Law and Chapter 1 (commencing with Section 11000) of Part 2.

21 (e) Willfully used the term "realtor" or a trade name or insignia of  
22 membership in a real estate organization of which the licensee is not a  
23 member.  
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(f) Acted or conducted themselves in a manner that would have warranted the denial of their application for a real estate license, or either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked, surrendered, or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, surrender, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

(g) Demonstrated negligence or incompetence in performing an act for which the officer, director, or person is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of that licensee's salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

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(i) Used their employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

(j) Engaged in any other conduct, whether of the same or of a different character than specified in this section, that constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

(l) (1) Solicited or induced the sale, lease, or listing for sale or lease of residential property on the grounds, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons having a characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those characteristics are defined in Sections 12926 and 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section



1 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p)  
2 of Section 12955 of the Government Code shall apply to paragraph (1).

3 (m) Violated the Franchise Investment Law (Division 5 (commencing  
4 with Section 31000) of Title 4 of the Corporations Code) or regulations  
5 of the Commissioner of Business Oversight pertaining thereto.

6 (n) Violated the Corporate Securities Law of 1968 (Division 1  
7 (commencing with Section 25000) of Title 4 of the Corporations Code)  
8 or the regulations of the Commissioner of Business Oversight pertaining  
9 thereto.

10 (o) Failed to disclose to the buyer of real property, in a transaction in  
11 which the licensee is an agent for the buyer, the nature and extent of a  
12 licensee's direct or indirect ownership interest in that real property. The  
13 direct or indirect ownership interest in the property by a person related  
14 to the licensee by blood or marriage, by an entity in which the licensee  
15 has an ownership interest, or by any other person with whom the  
16 licensee has a special relationship shall be disclosed to the buyer.

17 (p) Violated Article 6 (commencing with Section 10237).

18 (q) Violated or failed to comply with Chapter 2 (commencing with  
19 Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code,  
20 relating to mortgages.  
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22  
23 If a real estate broker that is a corporation has not done any of the foregoing acts, either  
24 directly or through its employees, agents, officers, directors, or persons owning or controlling  
25 10 percent or more of the corporation's stock, the commissioner may not deny the issuance or  
26 delay the renewal of a real estate license to, or suspend or revoke the real estate license of, the  
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1 corporation, provided that any offending officer, director, or stockholder, who has done any of  
2 the foregoing acts individually and not on behalf of the corporation, has been completely  
3 disassociated from any affiliation or ownership in the corporation. A decision by the  
4 commissioner to delay the renewal of a real estate license shall toll the expiration of that  
5 license until the results of any pending disciplinary actions against that licensee are final, or  
6 until the licensee voluntarily surrenders the licensee's license, whichever is earlier."

7 **APPLICABLE SECTIONS OF [NON-REAL ESTATE] LAW**

8 **Fair Lending Notice**

9 **(Health and Safety Code Section 35800 et seq.)**

10 20.

11 Pursuant California Health and Safety Code Sections 35800 et seq. *The*  
12 *Housing Financial Discrimination Act of 1977 (Holden Act)* [as relayed to DRE licensees via  
13 DRE Form RE 329 (Rev. 12/18) "Course Guidelines"], financial institutions are prohibited  
14 from discrimination of financial assistance, including but not limited to the following  
15 prohibited acts with respect to one- to four-dwelling unit properties to be used as an owner-  
16 occupied residence and with respect to home improvement loans: refusing to lend due to  
17 neighborhood trends; discriminating in the availability of financing; and appraising using  
18 neighborhood trends based on changes in race, color, etc.  
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1 **CAUSE FOR DISCIPLINE**

2 **DRE AUDIT LA 190161/LA 20005: EFRESI**

3 **(MORTGAGE LOAN AND PROPERTY MANAGEMENT ACTIVITIES)**

4 21.

5 Included in the terms and conditions of the November 1, 2018 Stipulation and  
6 Agreement in DRE Case No. H-40950 LA is the condition that EFRESI and SAUNDERS be  
7 subject to a subsequent audit to determine if Respondents have corrected the violations  
8 described above in Paragraphs 6 and 10.

9 22.

10 On October 9, 2020, the DRE completed its subsequent audit examination of  
11 the books and records of Respondent EFRESI pertaining to its licensed mortgage loan  
12 brokerage and property management activities, pursuant to Code Section 10131. The audit  
13 examination covered a period of time beginning on November 1, 2018 and ending on April 30,  
14 2020 ("audit examination period"). The field work on the audit examination period records  
15 was performed intermittently July 1, 2020 and October 8, 2020 ("field work period").

16 23.

17 The final report dated October 29, 2020 revealed violations of the Code and the  
18 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report  
19 LA 190161/LA 200005.

20 24.

21 **Corporate Ownership and Activities of EFRESI**

22 According to the DRE auditor's discussions with SAUNDERS and EFRESI's  
23 sole owner on May 22, 2020, EFRESI engaged in real estate sales, property management, and  
24 mortgage loan brokerage activities from November 1, 2018 to May 22, 2020.

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1 25.

2 EFRESI's Mortgage Loan Activities

3 According to SAUNDERS and the records examined for the audit, EFRESI  
4 solicits and negotiates loans for borrowers and had a warehouse line of credit to make  
5 purchase or refinance mortgage loans for residential properties. EFRESI negotiated mortgage  
6 loan transactions and closed approximately forty-seven (47) loan transactions valued at  
7 \$15,427,035 during the audit period. EFRESI did not maintain any trust accounts for its  
8 mortgage loan activities. Based on an examination of sampled transactions, EFRESI paid  
9 credit report fees before the close of escrow and collected credit report fees at the close of  
10 escrow.

11 26.

12 EFRESI's Property Management Activities

13 According to SAUNDERS and the records examined for the audit, EFRESI  
14 conducted property management activities during the audit period. Based on an examination  
15 of EFRESI's property management agreements, property management addendum, lease  
16 agreements, invoices and copies of checks provided for the audit examination, EFRESI  
17 collects rents from tenants and deposits said rents received into the respective property owner's  
18 account for compensation. EFRESI managed approximately five (5) properties for five (5)  
19 property owners and charged a management fee of six percent (6%) of monthly rent collected.  
20 EFRESI did not maintain any trust accounts for its property management activities.

21 27.

22 Trust Accounts

23 During the audit period, EFRESI maintained no trust accounts for its mortgage  
24 loan activities. During the audit period, EFRESI maintained no trust accounts for its property  
25 management activities either.



1 31.

2 **Audit LA 200005:**

3 **Use of False or Fictitious Name – Property Management Activity**

4 **(Code Section 10159.5 and Regulation 2731)**

5  
6 Based on property management records provided by EFRESI, the unlicensed  
7 fictitious business name (“FBN”) “Excel Funding RES Inc” was used on EFRESI’s invoices  
8 during the audit period, in violation of **Code Section 10159.5 and Regulation 2731.**

9 32.

10 **Audit LA 200005:**

11 **Trust Fund Records to be Maintained – Property Management Activity**

12 **(Code Section 10145 and Regulation 2831)**

13 Based on an examination of “Property Management Agreement – Addendum  
14 No. 1” dated August 19, 2016 for property owner Tobenna and Eunice O., said agreement  
15 specified that EFRESI would “collect monthly rents from tenants and deposit in landlord’s  
16 account – Pacific Western Bank at 2200 Sepulveda Blvd., Torrance, CA 90501 with deposit  
17 slip provided by landlord.” Based on an examination of records provided for the audit  
18 examination, EFRESI collected monthly rents from tenants and deposited said rents to the  
19 property owner’s bank account, and did not maintain a Record of All Trust Funds Received –  
20 Not Placed in Broker’s Trust Account” during the audit period, in violation of **Code Section**  
21 **10145 and Regulation 2831.**

22 ///

23 ///

24 ///

1 33.

2 (Aggravation)

3 **Additional Code Sections and Regulations Discussed with D.O. SAUNDERS**

4 The following Code sections and Regulations were also discussed with D.O.  
5 SAUNDERS during the DRE's audit examination of EFRESI: **Code Section 10166.02(b)**  
6 (notice of loan activities); **Code Section 10145 and Regulation 2832** (trust fund handling)  
7 **Code Section 10145 and 10176(e) and Regulation 2835** (commingling); **Code Section**  
8 **10176(g)** (undisclosed compensation); **and Code Section 10159.2 and Regulation 2725**  
9 (responsibility of corporate officer in charge/broker supervision).

10 **Additional Violations of the Real Estate Law**

11 34.

12 The overall conduct of Respondents is in violation of the Real Estate Law and  
13 constitutes cause for the suspension or revocation of the real estate licenses and license rights  
14 of EXCEL FUNDING REAL ESTATE SERVICES INC and JEROLD ANTHONY  
15 SAUNDERS under the provisions of **Code Sections 10177(g)** for negligence and **10177(d)** for  
16 willful disregard of the Real Estate Law.

17 **COSTS**

18 **Investigation & Enforcement Costs**

19 35.

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

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**Audit Costs**

36.

**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 EXCEL FUNDING REAL ESTATE SERVICES INC and JEROLD ANTHONY SAUNDERS under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law, and for costs of audit.

Dated at Los Angeles, California

this 7<sup>TH</sup> day of JULY, 2021.

  
\_\_\_\_\_  
Maria Suarez  
Deputy Real Estate Commissioner

cc: Excel Funding Real Estate Services Inc  
Jerold Anthony Saunders  
Maria Suarez  
Sacto.  
Audits – J. Lin