

**FILED**

JAN 10 2012

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DEPARTMENT OF REAL ESTATE  
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7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 TMG FINANCIAL SERVICES INC, and )  
14 KIRK LAWRENCE CONRAD, )  
15 individually, and as designated )  
16 officer of TMG Financial Services )  
17 Inc, )  
18 Respondents. )

No. H-37778 LA

A C C U S A T I O N

17 The Complainant, Maria Suarez, a Deputy Real Estate  
18 Commissioner of the State of California, for cause of Accusation  
19 against TMG FINANCIAL SERVICES INC and KIRK LAWRENCE CONRAD,  
20 individually and as designated officer of TMG Financial Services  
21 Inc, alleges as follows:

22 1.

23 The Complainant, Maria Suarez, acting in her official  
24 capacity as a Deputy Real Estate Commissioner of the State of  
25 California, makes this Accusation against TMG FINANCIAL SERVICES  
26 INC and KIRK LAWRENCE CONRAD.

27 ///

1 2.

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

5 LICENSE HISTORY

6 3.

7 A. At all times mentioned, TMG FINANCIAL SERVICES INC  
8 ("TMG") and KIRK LAWRENCE CONRAD ("CONRAD") were licensed or had  
9 license rights issued by the Department of Real Estate  
10 ("Department") as real estate brokers.

11 B. At all times mentioned, TMG was licensed by the  
12 Department as a corporate real estate broker by and through  
13 CONRAD, as the designated officer and broker responsible,  
14 pursuant to Code Section 10159.2 for supervising the activities  
15 requiring a real estate license conducted on behalf TMG of by  
16 TMG's officers, agents and employees, including CONRAD. TMG was  
17 originally licensed on April 20, 1992.

18 C. At all times mentioned, KIRK LAWRENCE CONRAD  
19 ("CONRAD") was licensed or had license rights issued by the  
20 Department as a real estate broker. On February 21, 1992, CONRAD  
21 was originally licensed as a real estate broker. On March 28,  
22 2000, CONRAD was licensed as the designated officer of TMG.

23 BROKERAGE

24 TMG FINANCIAL SERVICES INC

25 4.

26 At all times mentioned, in the City of Anaheim, County  
27 of Orange, TMG and CONRAD acted as real estate brokers conducting

1 licensed activities within the meaning of Code Section 10131(d)  
2 by soliciting borrowers and lenders and negotiating loans secured  
3 by real property.

4 AUDIT

5 TMG FINANCIAL SERVICES INC

6 5.

7 On January 31, 2011, the Department completed an audit  
8 examination of the books and records of TMG pertaining to the  
9 mortgage and loan activities described in Paragraph 4 which  
10 require a real estate license. The audit examination covered a  
11 period of time beginning on September 1, 2007 to August 31, 2010.  
12 The audit examination revealed violations of the Code and the  
13 Regulations as set forth in the following paragraphs, and as more  
14 fully discussed in Audit Report LA100037 and the exhibits and  
15 workpapers attached to said audit report.

16 TRUST ACCOUNT

17 6.

18 During the audit period TMG did not maintain a trust  
19 account.

20 VIOLATIONS OF THE REAL ESTATE LAW

21 7.

22 In the course of activities described in Paragraph 4  
23 above, and during the examination period described in Paragraph  
24 5, Respondents TMG and CONRAD acted in violation of the Code and  
25 the Regulations in that:

26 (a) Credit report fees charged to borrowers at the  
27 close of escrow and advance fees charged for loan modifications

1 were both deposited into TMG's general business account, in  
2 violation of Code Section 10176(e), and not under any exception  
3 listed in Regulation 2835.

4 (b) TMG failed to keep a record of all trust funds  
5 received and disbursed for credit report fees and advance fees,  
6 in violation of Code Section 10145 and Regulation 2831.

7 (c) With respect to credit report fees and advance  
8 fees received, there were no separate records kept and no  
9 reconciliation with records of all trust funds received and  
10 disbursed, in violation of Code Section 10145 and Regulation  
11 2831.2.

12 (d) TMG failed to maintain separate records for each  
13 beneficiary of credit reports received and deposited into TMG's  
14 general business account, in violation of Code Section 10145 and  
15 Regulation 2831.1.

16 (e) TMG collected advance fees from borrowers and  
17 deposited them into a general account, instead of a trust  
18 account, in violation of Code Section 10146.

19 (f) TMG collected advance fees from borrowers in  
20 connection with loan modification transactions without having an  
21 advance fee agreement approved by the Department, in violation of  
22 Code Section 10085 and Regulation 2970.

23 (g) TMG collected advance fees from borrowers without  
24 providing an accounting of the fees to its clients, in violation  
25 of Code Section 10146 and Regulation 2972.

26 (h) TMG failed to provide an approved Mortgage Loan  
27 Disclosure Statement to borrowers in three (3) out of five (5)

1 loan files examined. TMG also failed to disclose to the  
2 borrowers that it received a yield spread premium from the lender  
3 in one file. Good Faith Estimates provided to borrowers failed  
4 to state that they did not constitute a loan commitment and did  
5 not disclose TMG's corporate license number, in violation of Code  
6 Section 10240 and Regulation 2840.

7 8.

8 The conduct of Respondents TMG and CONRAD, described in  
9 Paragraph 7, above, violated the Code and the Regulations as set  
10 forth below:

11	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12		
13	7(a)	Code Section 10176(e) and
14		Regulation 2835
15		
16	7(b)	Code Section 10145 and Regulation
17		2831
18		
19	7(c)	Code Section 10145 and Regulation
20		2831.2
21		
22	7(d)	Code Section 10145 and Regulation
23		2831.1
24		
25	7(e)	Code Section 10146
26		
27		

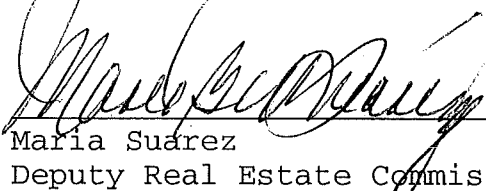


1 license and license rights to suspension or revocation pursuant  
2 to Code Section 10177(d), 10177(g) and/or 10177(f).

3 WHEREFORE, Complainant prays that a hearing be  
4 conducted on the allegations of this Accusation and that upon  
5 proof thereof, a decision be rendered imposing disciplinary  
6 action against the license and license rights of Respondents TMG  
7 FINANCIAL SERVICES INC and KIRK LAWRENCE CONRAD, individually and  
8 as designated officer of TMG Financial Services Inc, under the  
9 Real Estate Law (Part 1 of Division 4 of the Business and  
10 Professions Code) and for such other and further relief as may be  
11 proper under other applicable provisions of law.

12 Dated at Los Angeles, California

13  
14 this 22<sup>nd</sup> day of November, 2011.

15  
16   
17 Maria Suarez  
18 Deputy Real Estate Commissioner

19  
20  
21  
22  
23  
24 cc: TMG FINANCIAL SERVICES INC  
25 c/o KIRK LAWRENCE CONRAD D.O.  
26 Maria Suarez  
27 Sacto  
Audits