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DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-38793 LA
12 HOMESMART REALTY and LOUIS WILLIAM) ACCUSATION
13 PALAFOX, individually,)
14 and as designated officer)
15 of HOMESMART REALTY,)
Respondents.)

16
17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against HOMESMART REALTY and LOUIS WILLIAM PALAFOX, individually
20 and as designated officer of HOMESMART REALTY, alleges as
21 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 HOMESMART REALTY and
26 LOUIS WILLIAM PALAFOX.

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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, HOMESMART REALTY
8 ("HOMESMART") was licensed and/or has license rights issued by
9 the Department of Real Estate ("Department") as a corporate real
10 estate broker. HOMESMART was originally licensed as a corporate
11 real estate broker on July 30, 2009.

12 B. At all times mentioned, LOUIS WILLIAM PALAFOX
13 ("PALAFOX") was licensed and/or had license rights issued by the
14 Department as a real estate broker. PALAFOX was originally
15 licensed as a real estate broker on December 21, 2005.

16 C. From July 30, 2009, through the present, HOMESMART
17 has been licensed by the Department as a corporate real estate
18 broker by and through PALAFOX, as the designated officer and
19 broker responsible, pursuant to Code Section 10159.2 for
20 supervising the activities requiring a real estate license
21 conducted on behalf of HOMESMART, or by HOMESMART's officers,
22 agents and employees.

23 BROKERAGE

24 HOMESMART REALTY

25 4.

26 At all times mentioned, in the City of Ontario, County
27 of San Bernardino, HOMESMART and PALAFOX acted as real estate

1 brokers, conducting licensed activities within the meaning of
2 Code Sections 10131(a) and 10131(d): selling or offering to sell
3 real property for others and soliciting borrowers or lenders,
4 negotiating loans, collecting payments or performing services for
5 borrowers, in connections with loans secured by real property.

6 AUDIT

7 HOMESMART REALTY

8 5.

9 On September 27, 2012, the Department completed an
10 audit examination of the books and records of HOMESMART
11 pertaining to the activities described in Paragraph 4 which
12 require a real estate license. The audit examination covered a
13 period of time from July 1, 2009 to June 30, 2012. The audit
14 examination revealed violations of the Code and the Regulations
15 as set forth in the following paragraphs, and as more fully
16 discussed in Audit Report LA 110296 and the exhibits and
17 workpapers attached to said audit report.

18 TRUST ACCOUNT

19 6.

20 During the audit period HOMESMART did not maintain a
21 trust account in connection with its loan modification
22 activities.

23 VIOLATIONS OF THE REAL ESTATE LAW

24 7.

25 In the course of activities described in Paragraph 4
26 above and during the examination period described in Paragraph 5,
27

1 Respondents HOMESMART and PALAFOX acted in violation of the Code
2 and the Regulations in that:

3 (a) HOMESMART commingled advance fees collected from
4 loan modification transactions into its general business account,
5 in violation of Code Sections 10145 and 10176(e) and Regulation
6 2832.

7 (b) HOMESMART did not maintain an accurate and complete
8 record of trust funds received and disbursed for its loan
9 modification activities, in violation of Code Section 10145 and
10 Regulation 2831.

11 (c) HOMESMART did not maintain separate records for
12 each beneficiary of trust funds received and disbursed for loan
13 modification activities, in violation of Code Section 10145 and
14 Regulation 2831.1.

15 (d) HOMESMART failed to maintain a written monthly
16 reconciliation of all trust funds received and disbursed with the
17 separate records for the account used to handle advance fees, in
18 violation of Code Section 10145 and Regulation 2831.2.

19 (e) HOMESMART collected advance fees from borrowers
20 for loan modifications services before it had fully performed the
21 services promised to borrowers, during the period of October 11,
22 2009 to June 30, 2012, in violation of Code Sections 10085.5 and
23 10085.6.

24 (f) HOMESMART did not provide a verified accounting to
25 principals, describing the services rendered, indentifying the
26 trust account into which advance fees were deposited, and
27

1 describing who the advance fees were disbursed, in violation of
2 Code Section 10146 and Regulation 2972.

3 (g) HOMESMART used the fictitious business names
4 "HomeSmart Forensics" and "HomeSmart Financial" which were not
5 licensed with the Department, in violation of Code Section
6 10159.5 and Regulation 2731.

7 8.

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

11	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12		
13	7(a)	Code Sections 10145 and 10176(e)
14		and Regulation 2832
15	7(b)	Code Section 10145 and Regulation
16		2831
17	7(c)	Code Section 10145 and Regulation
18		2831.1
19	7(d)	Code Section 10145 and Regulation
20		2831.2
21	7(e)	Code Sections 10085.5 and 10085.6.
22	7(f)	Code Section 10146 and Regulation
23		2972
24	7(g)	Code Section 10159.5 and Regulation
25		2731

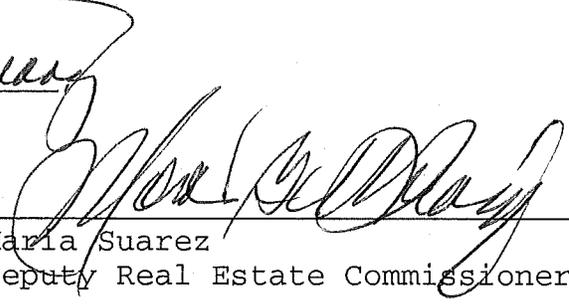
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents
5 HOMESMART REALTY and LOUIS WILLIAM PALAFOX, individually and as
6 designated officer of HOMESMART REALTY, under the Real Estate
7 Law, that Complainant be awarded its costs of investigation and
8 prosecution of this case, and for such other and further relief
9 as may be proper under the provisions of law.

10 Dated at Los Angeles, California

11
12 this 5th day of February

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15 
16 Maria Suarez
17 Deputy Real Estate Commissioner
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23

24 cc: HOMESMART REALTY
25 LOUIS WILLIAM PALAFOX
26 Maria Suarez
27 Sacto
Audits