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FILED

FEB 27 2014

BUREAU OF REAL ESTATE

By 

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9 BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation) No. H- 39338 LA
13)
14 FREEDOM ENTERPRISES INC.; and) ACCUSATION
15 LOUIS CRUZ, individually, and)
16 as designated officer for)
17 Freedom Enterprises Inc.,)
18)
19 Respondents.)
20 _____)

21 The Complainant, Veronica Kilpatrick, a Deputy Real
22 Estate Commissioner of the State of California, for cause of
23 Accusation against FREEDOM ENTERPRISES INC. ("FREEDOM") and LOUIS
24 CRUZ ("CRUZ"), individually, and as designated officer for
25 FREEDOM, is informed and alleges as follows:

26 1.

27 The Complainant, Veronica Kilpatrick, a Deputy Real
Estate Commissioner of the State of California, makes this
Accusation in her official capacity.

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FREEDOM is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a restricted real estate corporation acting by and through CRUZ as its designated broker-officer.

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CRUZ is presently licensed and/or has license rights under the Real Estate Law as a restricted real estate broker and designated broker-officer of FREEDOM.

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All further references to respondents herein includes FREEDOM and CRUZ, and also includes officers, directors, employees, agents and real estate licensees employed by or associated with FREEDOM and CRUZ, and who at all times herein mentioned were engaged in the furtherance of the business or operations of FREEDOM and CRUZ, and who were acting within the course and scope of their authority and employment.

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At all times relevant herein CRUZ, as the officer designated by FREEDOM, pursuant to Section 10211 of the Code, was responsible for the supervision and control of the activities conducted on behalf of FREEDOM by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

1 6.

2 CRUZ ordered, caused, authorized or participated in the
3 conduct of FREEDOM, as is alleged in this Accusation.

4 7.

5 At all times material herein, Respondents were engaged
6 in the business of, acted in the capacity of, advertised or
7 assumed to act as real estate brokers and/or real estate
8 corporations in the State of California, within the meaning of
9 Code Section 10131(d) of the Code. Said activities included
10 soliciting borrowers and lenders and negotiating the terms of
11 loans secured by real property between borrowers and third party
12 lenders for or in expectation of compensation.

13 PRIOR DISCIPLINE

14 8.

15 On or about March 3, 2009, in Case No. H-34896 LA, the
16 Commissioner of the Department of Real Estate revoked the real
17 estate broker licenses of FREEDOM and CRUZ. The revocation of
18 Respondents' licenses was subject to their right to apply for and
19 be issued restricted real estate broker licenses on the terms and
20 conditions specified in the Decision. On April 24, 2009, both
21 Respondents were issued restricted real estate broker licenses.

22 FIRST CAUSE OF ACCUSATION

23 (Audit Violations)

24 9.

25 On or about March 30, 2012, the Bureau completed an
26 audit examination of the books and records of Respondent FREEDOM
27 pertaining to the real estate activities described in Paragraph

1 7, above, covering a period from May 1, 2009, to November 30,
2 2011.

3 10.

4 The audit examination revealed violations of the Code
5 by Respondent FREEDOM, as set forth in the following paragraphs,
6 and more fully discussed in Audit Report No. SD 110037 and the
7 exhibits and work papers attached to the audit report:

8 (a) Respondents collected, accepted or received funds
9 in trust, including but not necessarily limited to, appraisal
10 fees and credit report fees ("trust funds"), from or on behalf of
11 parties to transactions handled by Respondents. Respondent did
12 not maintain any trust accounts for its mortgage loan activities
13 during the audit period in violation of Code Section 10145 and
14 Section 2831 and 2831.1 of Title 10, Chapter 6, California Code
15 of Regulations ("Regulations").

16 (b) Respondents collected, accepted or received trust
17 funds which were deposited in Respondent's general account and
18 commingled with Respondent's own funds in violation so Code
19 Sections 10145 and 10176(e) and Section 2832 of the Regulations.

20 (c) Respondents received undisclosed compensation and
21 secret profit by overcharging at least one client for credit
22 report fees in violation of Code Section 10176(g).

23 (d) Respondents approved Mortgage Loan Disclosure
24 Statements ("MLDS") were not always provided to borrowers within
25 three (3) business days after receipt of a completed written loan
26 application in violation of Code Section 10240(a) and Section
27 2840 of the Regulations. Additionally, Respondents failed to

1 disclose to the borrower on the MLDS the rebate received from the
2 lender.

3 (e) CRUZ failed to disclose his eight (8) digit real
4 estate license identification number and Mortgage Loan Originator
5 Endorsement ID number on solicitation materials intended to be
6 the first point of contact with consumers in violation of Code
7 Section 10140.6(b) and Section 2773 of the Regulations.

8 (f) CRUZ failed to exercise reasonable control and
9 supervision over the activities conducted on behalf of FREEDOM
10 and by its employees and/or licensees as necessary to secure full
11 compliance with the Real Estate Laws in violation of Code Section
12 10159.2 and Section 2725 of the Regulations.

13 DISCIPLINE STATUTES AND REGULATIONS

14 11.

15 The conduct of Respondents described in Paragraph 10,
16 above, violated the Code and the Regulations as set forth below:

17 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
18 10(a)	Code Section 10145, Sections 2831 19 and 2831.1 of the Regulations
20 10(b)	Code Sections 10145 and 10176(e) 21 and Section 2832 of the Regulations
22 10(c)	Code Section 10176(g)
23 10(d)	Code Section 10240(a) and Section 24 2840 of the Regulations
25 10(e)	Code Section 10140.6(b) and Section 26 2773 of the Regulations

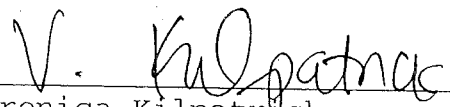
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1 committed a violation of this part to pay a sum not to exceed the
2 reasonable costs of investigation and enforcement of the case.

3 Code Section 10148(b) provides, in pertinent part, that
4 in the event that respondent has violated Code Section 10145, or
5 a regulation interpreting said section, the respondent shall pay
6 the Commissioner's reasonable costs for (a) the audit which led
7 to the disciplinary action, and (b) a subsequent audit to
8 determine if the respondent has corrected the violations found in
9 the original audit.

10 WHEREFORE, Complainant prays that a hearing be
11 conducted on the allegations of this Accusation and that upon
12 proof thereof, a decision be rendered imposing disciplinary
13 action against all the licenses and license rights of Respondents
14 FREEDOM ENTERPRISES INC. and LOUIS CRUZ under the Real Estate Law
15 (Part 1 of Division 4 of the Business and Professions Code), for
16 the costs of investigation and enforcement as permitted by law,
17 for audit costs pursuant to Code Section 10148(b), and for such
18 other and further relief as may be proper under other applicable
19 provisions of law.

20 Dated at San Diego, California
21 this 18 day of February, 2014.

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24 _____
25 Veronica Kilpatrick
26 Deputy Real Estate Commissioner

26 cc: FREEDOM ENTERPRISES INC.
27 ~~LOUIS CRUZ~~
Veronica Kilpatrick
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