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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AMERIFUND INC.; AMERIFUND SMART, HOMES INC.; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., Respondents.	No. H-36442 LA

AMENDED ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

(Nunc Pro Tunc)

On January 28, 2010, an Accusation was filed in this matter against Respondent RUSSELL J. MASSRO.

On November 22, 2010, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license and license rights pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent RUSSELL J. MASSRO's petition for voluntary surrender of his real estate broker license and license rights is accepted as of the effective the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated November 22, 2010 (attached as Exhibit "A" hereto). Respondent's license certificate(s), pocket card(s) and any branch office license certificate(s) shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

Department of Real Estate
Atten: Licensing Flag Section
P.O. Box 187000
Sacramento, CA 95818-7000

This Order, nunc pro tunc to December 30, 2010, shall become effective immediately.

3/12/12

BARBARA J. BIGBY
Acting Real Estate Commissioner

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FILED

JAN 20 2011

DEPARTMENT OF REAL ESTATE
BY: ____________

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AMERIFUND INC.; AMERIFUND SMART HOMES INC.; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., Respondents.	No. H-36442 LA

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On February 26, 2010, an Accusation was filed in this matter against Respondent BARAK VOLNER.

On November 22, 2010, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license rights pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent RUSSELL J. MASSRO's petition for voluntary surrender of his real estate broker license rights is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated November 22, 2010, (attached as Exhibit "A" hereto). Respondent's license certificate, pocket card and any branch office license certificate shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

Department of Real Estate
Atten: Licensing Flag Section
P.O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on February 9, 2011.

DATED: 12/30, 2010

JEFF DAVI
Real Estate Commissioner

EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AMERIFUND INC.; AMERIFUND SMART HOMES INC.; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., Respondents.	No. H-36442 LA

DECLARATION

My name is RUSSELL J. MASSRO and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am representing myself.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my license(s), I may be relicensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to Section 11522 of the Government Code. I also understand that by so voluntarily surrendering my license(s), I agree to the following:

1. The filing of this Declaration shall be deemed as my petition for voluntary surrender.

2. It shall also be deemed to be an understanding and agreement by me that I waive all rights I have to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that I also waive other rights afforded to me in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

3. I further agree that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-36642 LA, excluding California Business and Professions Code Sections 10176(a), 10176(b) and 10176(c). may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

4. I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed on Nov 22, 2010, at La Verne, CA, California.

RUSSELL J. MASSRO

Saeth

FILED

JAN 20 2011

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AMERIFUND INC.; AMERIFUND SMART HOMES INC.; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., Respondents.	No. H-36442 LA

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On January 28, 2010, an Accusation was filed in this matter against Respondents AMERIFUND INC. and AMERIFUND SMART HOMES INC.

On November 22, 2010, Respondents petitioned the Commissioner to voluntarily surrender their real estate broker licenses rights pursuant to Section 10100.2 of the Business and Professions Code.

///

IT IS HEREBY ORDERED that AMERIFUND INC. and AMERIFUND SMART HOMES INC. petition for voluntary surrender of their real estate broker license rights is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated November 22, 2010, (attached as Exhibit "A" hereto). Respondents' license certificate, pocket card and any branch office license certificate shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

Department of Real Estate
Atten: Licensing Flag Section
P.O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on February 9, 2011.

DATED: 12/31, 2010

JEFF DAVI
Real Estate Commissioner

EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AMERIFUND INC.; AMERIFUND SMART HOMES INC.; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., Respondents.	)	No. H-36442 LA

DECLARATION

My name is Russell J. Massro and I am the designated officer of AMERIFUND INC. and AMERIFUND SMART HOMES INC. which are licensed as real estate brokers and/or have license rights with respect to said licenses. I am authorized to sign this declaration on behalf of AMERIFUND INC. and AMERIFUND SMART HOMES INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Government Code) AMERIFUND INC.

and AMERIFUND SMART HOMES INC. wish to voluntarily surrender the real estate licenses issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that AMERIFUND INC. and AMERIFUND SMART HOMES INC., by so voluntarily surrendering their licenses, can only have them reinstated in accordance with the provisions of Section 11522 of the Government Code. I also understand that by so voluntarily surrendering their license rights, AMERIFUND INC. and AMERIFUND SMART HOMES INC. agree to the following:

The filing of this Declaration shall be deemed as their petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by AMERIFUND INC. and AMERIFUND SMART HOMES INC. that, they waive all rights they have to require the Commissioner to prove the allegations contained in the Accusation ("Accusation") filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedures Act (Government Code Sections 11400 et seq.), and that they also waive other rights afforded to them in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross examine witnesses.

I further agree on behalf of AMERIFUND INC. and AMERIFUND SMART HOMES INC. that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-36442 LA, excluding California Business and Professions Code Sections 10176(a), 10176(b) and 10176(c), may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant reinstatement of AMERIFUND INC. and AMERIFUND SMART HOMES INC.'s licenses pursuant to Government Code Section 11522.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of AMERIFUND INC. and AMERIFUND SMART HOMES INC. to surrender their licenses and all license rights attached thereto.

Nov 22, 2010
Date and Place
LA VERNE, CA

BY: RUSSELL J. MASRO
Designated Officer of
Amerifund Inc. and
Amerifund Smart Homes Inc.

Costs

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED

JUN -7 2010

DEPARTMENT OF REAL ESTATE
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

AMERIFUND INC.; AMERIFUND SMART HOMES INC; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc.,

Respondents.

No. H-36442 LA

FIRST AMENDED

ACCUSATION

The Accusation filed on January 28, 2010 in this matter is amended in its entirety as follows:

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against AMERIFUND INC., AMERIFUND SMART HOMES INC. and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., alleges as follows:

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1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against AMERIFUND INC., AMERIFUND SMART HOMES INC. and RUSSELL J. MASSRO.

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.

3.

License History

A. AMERIFUND INC. ("AI"). At all times mentioned, Respondent AI was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On February 25, 2008, AI was originally licensed as a corporate real estate broker. At all times mentioned herein, Respondent AI was authorized to act by and through Respondent RUSSELL J. MASSRO as AI's broker designated pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring AI's compliance with the Real Estate Law.

B. AMERIFUND SMART HOMES INC. ("ASHI"). At all times mentioned, AI was licensed or had license rights issued by the Department as a real estate broker. On November 17, 2008, AI was originally licensed as a corporate real estate broker. Respondent

AI was authorized to act by and through Respondent RUSSELL J. MASSRO as AI's broker designated pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring AI's compliance with the Real Estate Law.

C. RUSSELL J. MASSRO ("MASSRO"). At all times mentioned, MASSRO was licensed or had license rights issued by the Department as a real estate broker. On June 17, 1993, MASSRO was originally licensed as a corporate real estate broker.

D. AI and ASHI are sister corporations owned in their entirety by MASSRO.

E. AI, ASHI and MASSRO conducted activities requiring a real estate license and an approved advance fee agreement from the Department.

Brokerage

4.

At all times mentioned, in the City of La Verne and County of Los Angeles, AI, ASHI and MASSRO acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(d) and 10131.2. AI, ASHI and MASSRO engaged in the business of a mortgage loan brokerage and a loan modification brokerage collecting advance fees.

Respondents AI, ASHI and MASSRO advertised, solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or interest, foreclosure prevention and short sales.

AI processed the following loan modifications during the audit period:

Total Loan Modifications	Pending Loan Modifications	Completed Loan Modifications	Advance Fees Collected
222	165	57	$228,228.66

AMERIFUND INC.

FIRST CAUSE OF ACCUSATION
(Mortgage Loan and Loan Modification Audit)

5.

On September 3, 2009, the Department completed an audit examination of the books and records of AI pertaining to the mortgage loan, loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on December 1, 2007 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080267 and the exhibits and work papers attached to said audit report.

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Bank and Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, AI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers for advance fees and loan modifications handled by AI. Thereafter AI made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by AI in this bank account:

"Amerifund Inc.
Account No. 7142331"
Vineyard Bank
La Verne, CA 91750

(B/A #1 - used for deposit of advance fees collected from homeowners for loan modifications)

Audit Violations

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the audit examination period described in Paragraph 5, Respondents AI and MASSRO acted in violation of the Code and the Regulations in which Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from the B/A #1 where the disbursement of said funds B/A #1, where the disbursement of funds reduced the total of aggregate funds in B/A #1, to an amount which, on March 31, 2009, was $228,470.99, less than the existing aggregate trust fund liability to every homeowner-principal who was an owner of said funds, without first obtaining the prior written consent of the owners, in violation of Code Section 10145 and Regulation 2832.1.

(b) Based on a review of web address, www.amerifundsmarthomes.com published on April 14, 2009, Amerifund Smart Homes Inc. (ASHI), AI's sister corporation, solicited home owners and offered to provide loan modification services, under AI's unlicensed fictitious business names, "Amerifund Smart Homes" and "American Smart Loan Modifications" as set forth in Audit LA 080228, below. "Amerifund Smart Homes" is a marketing name designed to generate leads consisting of real estate buyers, sellers, and business contacts and economically distressed borrowers seeking to modify their home loans.

AI is the creator of the marketing system. AI also indicated on AI's and AI's home page websites that AI would provide and in fact did provide loan modification services to the aforesaid homeowners using it own name and the fictitious business name of "American Smart Loan Modifications".

AI and AI's website www.amerifundsmarthomes.com, designed and implemented by AI, advertised for, and solicited loan modification services. The advertised representations are misleading or deceptive in themselves or through the omission of necessary information to make the advertised representations not misleading in the context in which they are used. This conduct by AI is in violation of Code Sections 10176(a), 10235 and Regulation 2848.

(c) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein AI failed to provide homeowners with a pre-approved advance fee agreement from the Department, in violation of Code Section 10085 and Regulation 2970.

(d) With reference to the lack of an advance fee agreement, AI failed to provide a complete description of services to be rendered provided to each homeowner in 10 point type font and failed to provide an allocation and disbursement of the amount collected as the advance fee, in violation of Code Section 10146 and Regulation 2972.

(e) B/A #1 was not designated as a trust account, in violation of Code Section 10145 and Regulation 2832(a). B/A #1 was the general operating account of AI.

(f) Converted trust funds in the amount of $228,228.66, in advance fees collected from homeowners for loan modifications that AI failed to render. Pursuant to its loan modification agreement "Home Affordable Modification Trial Period Plan", AI collected $228,228.66 from homeowners. Abrogating its own agreement with homeowners, AI made unauthorized disbursements to itself in the full amount of $228,228.66, before the agreed to loan modifications services had been rendered. AI then reduced the balance in B/A #1, AI's general account, to an amount that was less than the amount deposited $228,228.66, in violation of Code Section 10145, 10176(a), 10176(i), 10176(b), 10176(c) and/or 10177(g).

(g) Commingled trust funds and personal funds by depositing trust funds in the form of advance fees collected for loan modifications from homeowners into AI's general operating account, B/A #1, instead of depositing trust funds into a properly designated trust account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

(h) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected, deposited and disbursed in connection with loan modifications, in violation of Code Section 10145 and Regulation 2831.

(i) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds in the form of advance fees collected, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.1.

(j)(1) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Jimmy Hughes and Gary Spenser, in violation of Code Section 10240; and

(j)(2) Failed to disclose yield spread premiums from lenders on the approved Mortgage Loan Disclosure Statement for the aforesaid borrowers in violation of Code Section 10240, 10241 and Regulation 2840.

(k) Employed and/or compensated Lisa Pensick, Veronica Villatoro and Norma Lopez, as loan agents and loss mitigation agents who AI knew were not licensed by the Department as a real estate broker or as a real estate salesperson employed by a real estate broker, for performing acts for which a real estate license is required, including soliciting mortgage loans, in violation of Code Section 10137.

(l) Used the fictitious name of "Amerifund Smart Homes" to conduct licensed activities including mortgage loans and loan modifications without holding a license bearing said fictitious business name, in violation of Code Section 10159.5 and Regulation 2731.

(m) Failed to notify the Department of the termination of salesperson Nancy Marchiola, in violation of Code Section 10161.8 and Regulation 2752; and

(n) MASSRO failed to exercise adequate supervision over AI's activities requiring a real estate license to ensure AI's compliance the Real Estate Laws and Regulations and had no system in place for regularly monitoring AI's compliance with the Real Estate Law, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725.

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Discipline Statutes

8.

The conduct of Respondents AI and MASSRO described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10145 and Regulation 2832.1
7(b)	Code Sections 10176(a) 10235 and Regulation 2848
7(c)	Code Section 10085 and Regulation 2970
7(d)	Code Section 10146 and Regulation 2972
7(e)	Code Section 10145 and Regulation 2832(a)
7(f)	Code Sections 10145, 10176(a), 10176(b), 10176(c), 10176(i) and/or 10177(g)
7(g)	Code Section 10145 and 10176(e) and Regulation 2832
7(h)	Code Section 10145 and Regulation 2831
7(i)	Code Section 10145 and Regulation 2831.1
7(j)	Code Section 10240 and 2840
7(k)	Code Section 10137

7(l)	Code Section 10159.5 and Regulation 2731
7(m)	Code Sections 10161.8 and Regulation 2752
7(n)	Code Sections 10159.2, 10177(h) and Regulation 2725

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents AI and MASSRO under the provisions of Code Sections 10176(a), 10176(b), 10176(c), 10176(e), 10176(i), 10177(d) and/or 10177(g).

AMERIFUND SMART HOMES INC.

9.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 8, above.

SECOND CAUSE OF ACCUSATION
(Mortgage Loan and Loan Modification Audit)

10.

On April 23, 2009, the Department completed an audit examination of the books and records of ASHI pertaining to the mortgage loan, loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on November 29, 2007 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080228 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

11.

No trust account was maintained during the audit period.

Audit Violations

12.

In the course of activities described in Paragraph 4 above, and during the audit examination period described in Paragraph 10, Respondents ASHI and MASSRO acted in violation of the Code and the Regulations in which Respondents:

(a) Based on a review of web address, www.amerifundsmarthomes.com published on April 14, 2009, Amerifund Smart Homes Inc. solicited home owners and offered to provide loan modification services, under ASHI's unlicensed fictitious business name, "Amerifund Smart Homes" as set forth in Audit LA 080228, below. "Amerifund Smart Homes" is a marketing name designed to generate live leads consisting of real estate buyers, sellers and business contacts.

ASHI is the creator of the marketing system. ASHI also indicated on ASHI's and ASHI's home page website that ASHI would provide and in fact did provide loan modification services to distressed homeowners.

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ASHI's website www.amerifundsmarthomes.com, designed and implements by ASHI, advertises for and solicits loan modification services that are misleading or deceptive in themselves or through the omission of necessary information to make the representations not misleading in the context in which they are used. This conduct by ASHI and ASHI is in violation of Code Section 10235 and Regulation 2848; and

(b) Used the fictitious names of "Amerifund Smart Homes," and "Amerifund Smart Loan Modifications" to conduct licensed activities including loan modifications without holding a license bearing said fictitious business names, in violation of Code Section 10159.5 and Regulation 2731.

Discipline Statutes

13.

The conduct of Respondents ASHI and MASSRO described in Paragraph 12, above, violated the Code and the Regulations below:

PARAGRAPH	PROVISIONS VIOLATED
12(a)	Code Sections 10176(a) and 10235 and Regulation 2848
12(b)	Code Section 10159.5 and Regulation 2731

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents ASHI and MASSRO under the provisions of Code Sections 10176(a), 10177(d) and/or 10177(g).

AMERIFUND INC.

14.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 13, above.

THIRD CAUSE OF ACCUSATION
(Broker Escrow Audit Examination)

15.

On September 15, 2009, the Department completed an audit examination of the books and records of AI pertaining to the broker escrow activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on December 01, 2007 to April 30, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080304 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

16.

At all times mentioned, in connection with the activities described in Paragraph 4, above, AI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties including buyers and sellers, title companies, lenders and borrowers, for sales and loan and loan modification transactions brokered and escrowed by AI and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by AI as follows:

Amerifund Inc. Escrow Trust Account (VEI4T)
Account No. 165717829916"
US Bank
P.O. Box 1800
St. Paul, Minnesota 55101-0800 (B/A #1)

Amerifund Inc. Escrow Trust Account (VEI4T)
Account No. 0001-782991"
Mellon 1st Business Bank
601 West Fifth St.
Los Angles, Ca 90071
(Mellon 1st Business Bank merged with US Bank) (B/A #1)

Amerifund Inc. Escrow Trust Account (VEI)
Account No. 254066478"
Citizens Business Bank
1010 E. Colorado Ave.
Pasadena, CA 91106 (B/A #2)

///

Audit Violations

17.

In the course of activities described in Paragraph 4 above, and during the audit examination period described in Paragraph 15, Respondents AI doing business as Homelife Smart Homes and MASSRO acted in violation of the Code and the Regulations in which Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from B/A #1, where the disbursement of funds reduced the total of aggregate funds in escrow trust account B/A #1 (Mellon 1st Business Bank), to an amount which, on December 31, 2008, was $1,179, less than the existing aggregate trust fund liability of AI to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145 and Regulations 2832.1, 2950(g) and 2951.

(b) While acting in the capacity of an escrow holder, failed to place trust funds, accepted on behalf of another into the hands of the owner of the funds, a neutral escrow depository or into a trust fund account in the name of the broker at a bank or other financial institution not later than the next business day following receipt of the funds by the broker or by the broker's salesperson, in violation of Code Section 10145 and Regulations 2832(e) and 2951.

///

(c) Failed to maintain an accurate and complete control record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed for B/A #1, including appraisal fees, in violation of Code Section 10145 and Regulations 2831, 2950(d) and 2951.

(d) Failed to maintain an accurate and complete separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed for B/A #1, including appraisal fees, in violation of Code Section 10145 and Regulations 2831.1, 2950(d) and 2951.

Discipline Statutes

18.

The conduct of Respondents AI and MASSRO described in Paragraph 12, above, violated the Code and the Regulations below:

PARAGRAPH	PROVISIONS VIOLATED
17(a)	Code Section 10145 and Regulations 2832.1, 2950(g) and 2951
17(b)	Code Section 10145 and Regulations 2832(e), 2950(d) and 2951
17(c)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
17(d)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents AI and MASSRO under the provisions of Code Sections 10177(d) and/or 10177(g).

Negligence

19.

The overall conduct of Respondents AI, ASHI and MASSRO, constitutes negligence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents, pursuant to Code Section 10177(g).

Supervision And Compliance

20.

The overall conduct of Respondent MASSRO constitutes a failure on their part, as officers designated by corporate broker licensees AI and ASHI, to exercise the reasonable supervision and control over the licensed activities of said corporate licensees, as required by Code Section 10159.2 and Regulation 2725, and to keep AI and AI in compliance with the Real Estate Law. Said conduct, acts and omissions are cause for the suspension or revocation of the real estate license and license rights of MASSRO pursuant to the provisions of Code Sections 10177(d) and 10177(h). MASSRO failed to exercise reasonable care and supervision over AI and ASHI. Nor did MASSRO have policies and procedures in place to maintain and monitor AI and ASHI's compliance with the Real Estate Law.

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 AMERIFUND INC., AMERIFUND SMART HOMES INC. and RUSSELL J. MASSRO, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 3 day of June 2010.

R. Trujillo
Deputy Real Estate Commissioner

cc: Amerifund Inc.
Amerifund Smart Homes Inc.
c/o Russell J. Massro D.O.
Robin Trujillo
Sacto
Audits - Chona Soriano

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED

JAN 28 2010

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AMERIFUND INC.; AMERIFUND SMART HOMES INC; and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., Respondents.	No. H-36442 LA <u>ACCUSATION</u>

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against AMERIFUND INC., AMERIFUND SMART HOMES INC. and RUSSELL J. MASSRO, individually and as designated officer of Amerifund Inc. and Amerifund Smart Homes Inc., alleges as follows:

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1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against AMERIFUND INC., AMERIFUND SMART HOMES INC. and RUSSELL J. MASSRO.

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.

3.

License History

a. AMERIFUND INC. ("AI"). At all times mentioned, Respondent AI was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On February 25, 2008, AI was originally licensed as a corporate real estate broker. At all times mentioned herein, Respondent AI was authorized to act by and through Respondent RUSSELL J. MASSRO as AI's broker designated pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring AI's compliance with the Real Estate Law.

b. AMERIFUND SMART HOMES INC. ("ASHI"). At all times mentioned, ASHI was licensed or had license rights issued by the Department as a real estate broker. On November 17, 2008, ASHI was originally licensed as a corporate real estate broker.

Respondent ASHI was authorized to act by and through Respondent RUSSELL J. MASSRO as ASHI's broker designated pursuant to Business and Professions Code (hereinafter "Code") Sections 10159.2 and 10211 to be responsible for ensuring ASHI's compliance with the Real Estate Law.

c. RUSSELL J. MASSRO ("MASSRO"). At all times mentioned, MASSRO was licensed or had license rights issued by the Department as a real estate broker. On June 17, 1993, MASSRO was originally licensed as a corporate real estate broker.

d. AI and ASHI are sister corporations owned in their entirety by MASSRO.

e. AI, ASHI and MASSRO conducted activities requiring a real estate license and an approved advance fee agreement from the Department.

Brokerage

4.

At all times mentioned, in the City of La Verne and County of Los Angeles, AI, ASHI and MASSRO acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(d) and 10131.2. AI, ASHI and MASSRO engaged in the business of a mortgage loan brokerage and a loan modification brokerage collecting advance fees.

Respondents AI, ASHI and MASSRO advertised, solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or interest, foreclosure prevention and short sales.

AI processed the following loan modifications during the audit period:

Total Loan Modifications	Pending Loan Modifications	Completed Loan Modifications	Advance Fees Collected
222	165	57	$228,228.66

AMERIFUND INC.

FIRST CAUSE OF ACCUSATION
(Audit Examination)

5.

On September 3, 2009, the Department completed an audit examination of the books and records of AI pertaining to the mortgage loan, loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on December 1, 2007 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080267 and the exhibits and work papers attached to said audit report.

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Bank and Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, AI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers for advance fees and loan modifications handled by AI. Thereafter AI made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by AI in this bank account:

"Amerifund Inc.
Account No. 7142331
Vineyard Bank
La Verne, CA 91750

(B/A #1 - used for deposit of advance fees collected from homeowners for loan modifications)

Audit Violations

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the audit examination period described in Paragraph 5, Respondents AI and MASSRO acted in violation of the Code and the Regulations in which Respondents:

(a) Permitted, allowed or caused the disbursement of trust funds from the B/A #1 where the disbursement of said funds B/A #1, where the disbursement of funds reduced the total of aggregate funds in B/A #1, to an amount which, on March 31, 2009, was $228,470.99, less than the existing aggregate trust fund liability to every homeowner-principal who was an owner of said funds, without first obtaining the prior written consent of the owners, in violation of Code Section 10145 and Regulation 2832.1.

(b) Based on a review of web address, www.amerifundsmarthomes.com published on April 14, 2009, Amerifund Smart Homes Inc. (ASHI), AI's sister corporation, solicited home owners and offered to provide loan modification services, under ASHI's unlicensed fictitious business names, "Amerifund Smart Homes" and "American Smart Loan Modifications" as set forth in Audit LA 080228, below. "Amerifund Smart Homes" is a marketing name designed to generate leads consisting of real estate buyers, sellers, and business contacts and economically distressed borrowers seeking to modify their home loans.

AI is the creator of the marketing system. AI also indicated on AI's and ASHI's home page websites that AI would provide and in fact did provide loan modification services to the aforesaid homeowners using it own name and the fictitious business name of "American Smart Loan Modifications".

AI and ASHI's website www.amerifundsmarthomes.com, designed and implemented by AI, advertised for, and solicited loan modification services. The advertised representations are misleading or deceptive in themselves or through the omission of necessary information to make the advertised representations not misleading in the context in which they are used. This conduct by ASHI is in violation of Code Sections 10176(a), 10235 and Regulation 2848.

(c) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein AI failed to provide homeowners with a pre-approved advance fee agreement from the Department, in violation of Code Section 10085 and Regulation 2970.

(d) With reference to the lack of an advance fee agreement, AI failed to provide a complete description of services to be rendered provided to each homeowner in 10 point type font and failed to provide an allocation and disbursement of the amount collected as the advance fee, in violation of Code Section 10146 and Regulation 2972.

(e) B/A #1 was not designated as a trust account, in violation of Code Section 10145 and Regulation 2832(a). B/A #1 was the general operating account of AI.

(f) Converted trust funds in the amount of $228, 228.66, in advance fees collected from homeowners for loan modifications that AI failed to render. AI collected $228,228.66 from homeowners pursuant to its loan modification agreement " Home Affordable Modification Trial Period Plan". Abrogating its own agreement with homeowners, AI made unauthorized disbursements to itself in the full amount of $228,228.66, before the agreed to loan modifications services had been rendered. AI then reduced the balance in B/A #1, AI's general account, to an amount that was less than the amount deposited $228,228.66, in violation of Code Section 10145, 10176(a), 10176(i), 10176(b), 10176(c) and/or 10177(g).

(g) Commingled trust funds and personal funds by depositing trust funds in the form of advance fees collected for loan modifications from homeowners into AI's general operating account, B/A #1, instead of depositing trust funds into a properly designated trust account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

(h) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected, deposited and disbursed in connection with loan modifications, in violation of Code Section 10145 and Regulation 2831.

(i) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds in the form of advance fees collected, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.1.

(j)(1) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Jimmy Hughes and Gary Spenser, in violation of Code Section 10240; and

(j)(2) Failed to disclose yield spread premiums from lenders on the approved Mortgage Loan Disclosure Statement for the aforesaid borrowers in violation of Code Section 10240, 10241 and Regulation 2840.

(k) Employed and/or compensated Lisa Pensick, Veronica Villatoro and Norma Lopez, as loan agents and loss mitigation agents who AI knew were not licensed by the Department as a real estate broker or as a real estate salesperson employed by a real estate broker, for performing acts for which a real estate license is required, including soliciting mortgage loans, in violation of Code Section 10137.

(l) Used the fictitious name of "Amerifund Smart Homes" to conduct licensed activities including mortgage loans and loan modifications without holding a license bearing said fictitious business name, in violation of Code Section 10159.5 and Regulation 2731.

(m) Failed to notify the Department of the termination of salesperson Nancy Marchiola, in violation of Code Section 10161.8 and Regulation 2752; and

(n) MASSRO failed to exercise adequate supervision over AI's activities requiring a real estate license to ensure AI's compliance the Real Estate Laws and Regulations and had no system in place for regularly monitoring AI's compliance with the Real Estate Law, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725.

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Discipline Statutes

8.

The conduct of Respondents AI and MASSRO described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10145 and Regulation 2832.1
7(b)	Code Sections 10176(a) 10235 and Regulation 2848
7(c)	Code Section 10085 and Regulation 2970
7(d)	Code Section 10146 and Regulation 2972
7(e)	Code Section 10145 and Regulation 2832(a)
7(f)	Code Sections 10145, 10176(a), 10176(b), 10176(c), 10176(i) and/or 10177(g)
7(g)	Code Section 10145 and 10176(e) and Regulation 2832
7(h)	Code Section 10145 and Regulation 2831
7(i)	Code Section 10145 and Regulation 2831.1
7(j)	Code Section 10240 and 2840
7(k)	Code Section 10137

7(l)	Code Section 10159.5 and Regulation 2731
7(m)	Code Sections 10161.8 and Regulation 2752
7(n)	Code Sections 10159.2, 10177(h) and Regulation 2725

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents AI and MASSRO under the provisions of Code Sections 10176(a), 10176(b), 10176(c), 10176(e), 10176(i), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Loan Modification Services)

9.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 8, above.

AMERIFUND INC.

SECOND CAUSE OF ACCUSATION
(Audit Examination)

10.

On April 23, 2009, the Department completed an audit examination of the books and records of ASHI pertaining to the mortgage loan, loan modification and advance fee activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on November 29, 2007 to March 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080228 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

11.

No trust account was kept during the audit period.

Audit Violations

12.

In the course of activities described in Paragraph 4 above, and during the audit examination period described in Paragraph 10, Respondents ASHI and MASSRO acted in violation of the Code and the Regulations in which Respondents:

(a) Based on a review of web address, www.amerifundsmarthomes.com published on April 14, 2009, Amerifund Smart Homes Inc. (ASHI) solicited home owners and offered to provide loan modification services, under ASHI's unlicensed fictitious business name, "Amerifund Smart Homes" as set forth in Audit LA 080228, below. "Amerifund Smart Homes" is a marketing name designed to generate live leads consisting of real estate buyers, sellers and business contacts.

AI is the creator of the marketing system. AI also indicated on AI's and ASHI's home page website that AI would provide and in fact did provide loan modification services to distressed homeowners.

ASHI's website www.amerifundsmarthomes.com, designed and implements by AI, advertises for and solicits loan modification services that are misleading or deceptive in themselves or through the omission of necessary information to make the representations not misleading in the context in which they are used. This conduct by AI and ASHI is in violation of Code Section 10235 and Regulation 2848; and

(b) Used the fictitious names of "Amerifund Smart Homes," and "Amerifund Smart Loan Modifications" to conduct licensed activities including loan modifications without holding a license bearing said fictitious business names, in violation of Code Section 10159.5 and Regulation 2731.

Discipline Statutes

13.

The conduct of Respondents ASHI and MASSRO described in Paragraph 12, above, violated the Code and the Regulations below:

PARAGRAPH	PROVISIONS VIOLATED
12(a)	Code Sections 10176(a) and 10235 and Regulation 2848
12(b)	Code Section 10159.5 and Regulation 2731

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents AI and MASSRO under the provisions of Code Sections 10176(a), 10177(d) and/or 10177(g).

Negligence

14.

The overall conduct of Respondents AI, ASHI and MASSRO, constitutes negligence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents, pursuant to Code Section 10177(g).

Supervision And Compliance

15.

The overall conduct of Respondent MASSRO constitutes a failure on their part, as officers designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of AI and ASHI, as required by Code Section 10159.2 and Regulation 2725, and to keep AI and ASHI in compliance with the Real Estate Law. Said conduct, acts and omissions are cause for the suspension or revocation of the real estate license and license rights of MASSRO pursuant to the provisions of Code Sections 10177(d) and 10177(h). MASSRO failed to exercise reasonable care and supervision over AI and ASHI, particularly with respect to the trust fund handling monitoring and procedures of Choice Escrow. Nor did MASSRO have policies and procedures in place to maintain and monitor AI and ASHI's compliance with the Real Estate Law.

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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 AMERIFUND INC., AMERIFUND SMART HOMES INC. and RUSSELL J. MASSRO, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 26 day of January 2010

R J Trujillo
Deputy Real Estate Commissioner

cc: Amerifund Inc.
Amerifund Smart Homes Inc.
c/o Russell J. Massro D.O.
Robin Trujillo
Sacto
Audits - Chona Soriano
Summer Bakotich