

FILED

1 JAMES DEMUS, Counsel (SBN 225005)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

JAN 10 2012

DEPARTMENT OF REAL ESTATE
BY: *Thomase M. Lewis*

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6910
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-37778 LA
12)	
13 TMG FINANCIAL SERVICES INC, and)	<u>A C C U S A T I O N</u>
14 KIRK LAWRENCE CONRAD,)	
15 individually, and as designated)	
16 officer of TMG Financial Services)	
17 Inc,)	
18 Respondents.)	

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 PARAGRAPH

PROVISIONS VIOLATED

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 7(f) Code Section 10085 and Regulation
2 2970

3
4 7(g) Code Section 10146 and Regulation
5 2972

6
7 7(h) Code Section 10240 and Regulation
8 2840

9 The foregoing violations constitute cause for the
10 suspension or revocation of the real estate license and license
11 rights of TMG and CONRAD, under the provisions of Code Sections
12 10085, 10176(e), 10177(d) and/or 10177(g).

13 SUPERVISION AND COMPLIANCE

14 9.

15 The overall conduct of Respondent CONRAD constitutes a
16 failure on his part, as officer designated by a corporate broker
17 licensee, to exercise the reasonable supervision and control over
18 the licensed activities of TMG as required by Code Section
19 10159.2, and to keep TMG in compliance with the Real Estate Law,
20 and is cause for the suspension or revocation of the real estate
21 license and license rights of CONRAD pursuant to the provisions
22 of Code Sections 10177(d), 10177(g) and 10177(h).

23 CORPORATE STANDING

24 10.

25 On February 16, 2011, the California Secretary of State
26 suspended the domestic corporation license of TMG. This is in
27 violation of Regulation 2742, and subjects TMG's real estate

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 22nd 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