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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 AVILA VENTURE PARTNERS INC.,) NO. H- 2477 FR
14 a Corporation, and)
15 PEDRO GALVAN, JR.,) ACCUSATION
16 Respondents.)

17 The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the
18 State of California, for Accusation against AVILA VENTURE PARTNERS INC. (herein
19 "AVPI") dba 21st Colonial Real Estate (herein "21 CRE") and also dba 21st Colonial Mortgage
20 (herein "21 CM"), and PEDRO GALVAN, JR. (herein "GALVAN") (herein collectively
21 "Respondents"), is informed and alleges as follows:

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23 The Complainant makes this Accusation against Respondents in his official
24 capacity.

25 2

26 At all times herein mentioned, AVPI was and now is licensed by the State of
27 California Department of Real Estate (herein the "Department") as a corporate real estate broker

1 by and through GALVAN as designated officer-broker of AVPI to qualify said corporation and
2 to act for said corporation as a real estate broker.

3 3

4 At all times herein mentioned, GALVAN was and now is licensed by the
5 Department as a real estate broker, individually and as designated officer-broker of AVPI. As
6 said designated officer-broker, GALVAN was at all times mentioned herein responsible pursuant
7 to Section 10159.2 of the California Business and Professions Code (herein the "Code") for the
8 supervision of the activities of the officers, agents, real estate licensees, and employees of AVPI
9 for which a license is required.

10 4

11 At all times herein mentioned, Respondents engaged in the business of, acted in
12 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
13 within the meaning of Section 10131(d) of the Code, including the operation and conduct of a
14 mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in
15 expectation of compensation, Respondents solicited lenders or borrowers for or negotiated loans
16 or collected payments or performed services for borrowers or lenders or note owners in
17 connection with loans secured directly or collaterally by liens on real property or on a business
18 opportunity.

19 FIRST CAUSE OF ACCUSATION

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21 On about January 29, 2009, AVPI, acting through Heriberto Avila, Jr. (herein
22 "Avila"), an unlicensed individual, and AVPI's dba 21 CM, met with Jose L. Ponce (herein
23 "Ponce") in order to provide loan modification services in cooperation with National Mortgage
24 Bailout Inc. (herein "NMBOI") and Singer & Ventura, LLP (herein "S & V"), to save Ponce's
25 home on 1375 E. Millard Way, Dinuba, CA, from being lost in foreclosure, assuring Ponce
26 that AVPI would obtain a loan modification within 30 to 90 days, when in fact, AVPI failed
27 to provide a successful and sustainable loan modification to Ponce, in violation of Sections

1 10130 (unlicensed activity), 10176(a) (misrepresentation), (b) (false promises), (c) (continued
2 and flagrant course of misrepresentation and/or making false promises), and (i) (fraud and
3 dishonest dealing by licensee), and/or 10177(g) (negligence) and/or (j) (fraud and dishonest
4 dealing) of the Code.

5 6

6 At all times mentioned herein, AVPI, acting through Avila, in the furtherance of
7 its plan and scheme to provide loan modification services to Ponce as described in Paragraph 5,
8 above, requested and collected the following advance fees from Ponce, in violation of Sections
9 10131.2 (advance fees), 10085 (advanced fee agreements), and 10085.5 (advance fee payments)
10 of the Code and Section 2970 (advance fee materials) of Title 10, Chapter 6, of the California
11 Code of Regulations (herein "the Regulations"):

<u>Date</u>	<u>Amount</u>	<u>On Behalf of</u>
1/29/09	\$3,500	NMBOI;
1/29/09	\$1,500	S & V;
2/8/09	\$1,500	S & V; and
3/27/09	\$250	S & V.

17 7

18 Between about March 28, 2009 and March 31, 2009, Ponce requested a return of
19 the advanced fees, upon discovering that AVPI failed to provide a successful and sustainable
20 loan modification; however, AVPI refused to return the advanced fees, in violation of Sections
21 10176(i) and/or 10177(g) and/or (j) of the Code.

22 SECOND CAUSE OF ACCUSATION

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24 The allegations of Paragraphs 1 through 7 are incorporated herein by reference.

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26 On about August 25, 2009, Avila on behalf of AVPI dba 21 CM, Fresno,
27 California, solicited Department employee, Rene Esquivel (herein "Esquivel") to engage AVPI

1 and its employees and agents to represent Esquivel in negotiating with his lender, a loan
2 modification of one or more loans which was represented to Avila to be in arrears or in default,
3 in violation of Section 10130 of the Code.

4 10

5 In connection with the solicitation described in Paragraph 9, above, Avila
6 represented to Esquivel that he had obtained hundreds of loan modifications and that an advance
7 fee in the amount of \$3,500 would be charged and collected from him for services to be
8 performed on behalf of AVPI and S & V regarding obtaining a modification of loan terms for
9 one or more loans secured by real property owned by Esquivel, in violation of Sections 10131.2,
10 10085, and 10085.5 of the Code and Section 2970 of the Regulations.

11 THIRD CAUSE OF ACCUSATION

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13 The allegations of Paragraphs 1 through 10 are incorporated herein by reference.

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15 At all times mentioned herein, Respondent GALVAN failed to exercise
16 reasonable supervision over the acts of Respondent AVPI and its agents and employees in such a
17 manner as to allow the acts and omissions on the part of AVPI, described above, to occur, in
18 violation of Sections 10177(g) and (h), and 10159.2 of the Code, and Section 2725 of the
19 Regulations.

20 13

21 MATTER IN AGGRIVATION

22 Effective March 25, 2009, in Case No. H-2305 FR, the Real Estate Commissioner
23 denied Avila's application for a real estate salesperson license.

24 14

25 The facts alleged above are grounds for the suspension or revocation of the
26 licenses and license rights of Respondents under the following provisions of the Code and/or the
27 Regulations:

- 1 (a) as to Paragraph 5 and Respondent AVPI under Sections 10130,
2 10176(a), (b), (c), and (i) and/or 10177(g) and/or (j) of the Code in
3 conjunction with Section 10177(d) of the Code;
- 4 (b) as to Paragraph 6 and Respondent AVPI under Sections 10131.2,
5 10085, and 10085.5 of the Code and Section 2970 of the Regulations,
6 in conjunction with Section 10177(d) of the Code;
- 7 (c) as to Paragraph 7 and Respondent AVPI under Sections 10176(i)
8 and/or 10177(g) and/or (j) of the Code;
- 9 (d) as to Paragraph 9 and Respondent AVPI under Section 10130 of the
10 Code, in conjunction with Section 10177(d) of the Code;
- 11 (e) as to Paragraph 10 and Respondent AVPI under Sections 10131.2,
12 10085, 10085.5 of the Code and Section 2970 of the Regulations, in
13 conjunction Section 10177(d) of the Code; and,
- 14 (f) as to Paragraph 12 and Respondent GALVAN under Sections
15 10177(g) and (h), and 10159.2 of the Code, and Section 2725 of the
16 Regulations, in conjunction with Section 10177(d) of the Code.

17 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
18 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
19 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of
20 Division 4 of the Business and Professions Code) and for such other and further relief as may be
21 proper under other applicable provisions of law.

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LUKE MARTIN
25 Deputy Real Estate Commissioner

26 Dated at Fresno, California,
27 this 13th day of April, 2010.