

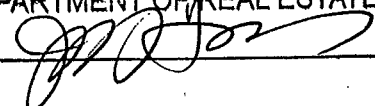
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FILED

AUG - 6 2009

DEPARTMENT OF REAL ESTATE

BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation

No. H-36161 LA

13 NEWPORT LENDING CORPORATION,)
14 and MATT SHANE GREEN, indi-)
15 vidualy, and as designated)
16 broker officer for Newport)
17 Lending Corporation,)
Respondents.)

A C C U S A T I O N

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against NEWPORT LENDING CORPORATION ("NEWPORT LENDING") and MATT
21 SHANE GREEN ("GREEN"), individually, and as designated broker
22 officer for NEWPORT, is informed and alleges as follows:
23

24 1.

25 The Complainant, Robin Trujillo, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27 her official capacity.

2.

NEWPORT LENDING is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate corporation.

3.

GREEN is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. GREEN is the designated broker officer of NEWPORT LENDING.

4.

Whenever acts referred to below are attributed to NEWPORT LENDING, those acts are alleged to have been done by NEWPORT LENDING, acting by itself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including but not limited to GREEN, and using the name NEWPORT LENDING or any fictitious name unknown at this time.

FIRST CAUSE OF ACCUSATION

(Advance Fee Violation)

5.

NEWPORT LENDING and GREEN engaged in the business of real estate brokers in the State of California within the meaning of Code Sections 10131(d) and 10131.2 including brokering mortgage loans and performing loan modification activities and claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, within the meaning of Code Section 10026, including, but not limited to, the

1 following loan modification activities with respect to loans
2 which were secured by liens on real property.

3 6.

4 On or about June 6, 2008, NEWPORT LENDING and GREEN
5 entered into an agreement with Timothy Doran ("Doran") to
6 negotiate a loan modification with respect to a loan secured by a
7 lien(s) on the real property located at 1826 Lancewood Avenue,
8 Hacienda Heights, California 91745 in exchange for an advance fee
9 payment by Doran of \$2,995.

10 7.

11 NEWPORT LENDING and GREEN collected the advance fees
12 described in Paragraphs 5 and 6, above, pursuant to the
13 provisions of a document entitled "Loan Modification - Home Saver
14 Program," which constitutes an advance fee agreement within the
15 meaning of Code Section 10026.

16 8.

17
18 NEWPORT LENDING and GREEN failed to submit the advance
19 fee agreement referred to in Paragraphs 6 and 7, above, to the
20 Commissioner ten days before using it in violation of Code
21 Section 10085 and Section 2970 of Title 10, California Code of
22 Regulations ("Regulations").

23 9.

24 The conduct, acts and/or omissions of Respondents
25 NEWPORT LENDING and GREEN, as set forth above, are cause for the
26 suspension or revocation of the licenses and license rights of
27

1 Respondent NEWPORT LENDING and Respondent GREEN pursuant to Code
2 Sections 10085, 10177(d) and/or 10177(g).

3
4 SECOND CAUSE OF ACCUSATION

5 (Trust Fund Violations)

6 10.

7 Complainant hereby incorporates by reference the
8 allegations set forth in Paragraphs 1 through 9, above.

9 11.

10 On or about March 11, 2009, the Department completed an
11 audit examination of the books and records of NEWPORT LENDING
12 pertaining to the real estate activities described in Paragraphs
13 5 and 6, above, covering a period from March 1, 2006, to February
14 28, 2009. The audit examination revealed violations of the Code
15 and the Regulations, as set forth in the following paragraphs,
16 and more fully discussed in Audit Report No. LA 080213 along with
17 the exhibits and work papers attached to the audit report:

18 (a) Failed to establish and maintain a trust account at
19 a bank or other recognized financial institution in the name of
20 the broker for deposit of advance fees collected by NEWPORT
21 LENDING, in violation of Code Section 10146.

22 (b) Failed to deposit the advance fees described in
23 Paragraphs 5 and 6, above, into a real estate broker trust
24 account in violation of Code Section 10146.

25 (c) Failed to maintain a control record in the form of
26 a columnar record in chronological order of all trust funds
27

1 including advance fees received, deposited and disbursed, in
2 violation of Code Section 10145 and Section 2831 of the
3 Regulations.

4 (d) Failed to maintain a separate record for each
5 beneficiary or transaction, thereby failing to account for all
6 advance fees collected, in violation of Code Section 10145 and
7 Section 2831.1 of the Regulations.

8 (e) Failed to maintain a monthly reconciliation of the
9 balance of all separate beneficiary or transaction records
10 maintained pursuant to Section 2831.1 of the Regulations with the
11 record of all trust funds received and disbursed from the general
12 account for loan modification services, in violation of Code
13 Section 10145 and Section 2831.2 of the Regulations.

14 (f) Failed to provide a complete description and
15 accounting of the services to be rendered to each borrower in
16 ten (10) point type font and failed to provide an allocation and
17 disbursement of the amount collected as an advance fee in
18 violation of Code Section 10146 and Section 2972 of the
19 Regulations.
20

21 DISCIPLINE STATUTES AND REGULATIONS

22 12.

23 The conduct of Respondents NEWPORT LENDING and GREEN
24 described in Paragraph 11, above, violated the Code and the
25 Regulations as set forth below:

26 PARAGRAPH

PROVISIONS VIOLATED

27 11(a)

Code Section 10146

- 1 11(b) Code Section 10146
- 2 11(c) Code Section 10145 and Section 2831
- 3 of the Regulations
- 4 11(d) Code Section 10145 and Section
- 5 2831.1 of the Regulations
- 6
- 7 11(e) Code Sections 10145 and Section
- 8 2831.2 of the Regulations
- 9 11(f) Code Section 10146 and Section 2972
- 10 of the Regulations

11 The foregoing violations constitutes cause for the

12 suspension or revocation of the real estate license and license

13 rights of NEWPORT LENDING and GREEN under the provisions of Code

14 Sections 10177(d) for violation of the Real Estate Law and/or

15 10177(g) for negligence or incompetence.

16

17 THIRD CAUSE OF ACCUSATION

18 (Failure to Supervise)

19 13.

20 Respondent GREEN ordered, caused, authorized or

21 participated in the conduct of Respondent NEWPORT LENDING, as is

22 alleged in this Accusation.

23

24 14.

25 The conduct, acts and/or omissions, of Respondent

26 GREEN, in allowing Respondent NEWPORT LENDING to violate the Real

27 Estate Law, as set forth above, constitutes a failure by GREEN,

1 as the officer designated by a corporate broker licensee, to
2 exercise the supervision and control over the activities of
3 NEWPORT LENDING, as required by Code Section 10159.2, and is
4 cause to suspend or revoke the real estate licenses and license
5 rights of GREEN under Code Sections 10177(d), 10177(g) and/or
6 10177(h).

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all the licenses and license rights of Respondent
11 NEWPORT LENDING CORPORATION, and Respondent MATT SHANE GREEN,
12 individually, and as designated broker-officer of Respondent
13 NEWPORT LENDING CORPORATION, under the Real Estate Law (Part 1 of
14 Division 4 of the Business and Professions Code), and for such
15 other and further relief as may be proper under other applicable
16 provisions of law.

17 Dated at Los Angeles, California

18 this 3 day of August, 2009.

19
20
21 
22 _____
23 Robin Trujillo
24 Deputy Real Estate Commissioner

25
26 cc: NEWPORT LENDING CORPORATION
27 MATT SHANE GREEN
Robin Trujillo
Sacto.