



Real Estate Bulletin

Providing Service, Protecting You

COMMISSIONER'S MESSAGE



New Trend: Short Sale Scams

For the past eighteen months, you have heard me speak about loan modification and foreclosure rescue scams. And much has been accomplished.

The Department has investigated over 2,500 complaints involving loan modifications and has issued over 525 Desist and Refrain Orders and Accusations against respondents who have violated the law. We have partnered with the State Bar and with Federal, State and local law enforcement officials to ensure the most egregious offenders are criminally prosecuted. The Department has issued Consumer Alerts and created new consumer brochures to educate consumers on how to avoid falling victim to loan modification scammers.

The current economic trend has given rise

to a new type of potential fraud; the short sale. A typical scam involves short sale flipping, in which the buyer/investor is purchasing the property from a lender at a discounted price and at the same time marketing the property at a higher price. If a buyer is found willing to pay the higher price, the short sale and resale close escrow either simultaneous or within a few days time. And the lender is not told of the second transaction. In most cases, if the buyer/investor can't find a buyer who will pay a

Continued on page 12



Short sales — an overview and warning to licensees re: fraud, legal and ethical minefields*

By Wayne Bell, Chief Counsel, and Mark Tutera, Senior Deputy Commissioner

I. Introduction

In the current distressed California residential real estate environment, where many mortgage loan borrowers owe more on their homes than their properties are worth and some have opted to simply walk away from their homes and mail in their keys, so-called short sales have become favored transactions. For a long time, loan modifications were the primary strategy of the day for financially distressed homeowners. However, the results for loan modifications have been anemic at best.

In April of 2010, the federal government will offer financial incentives to push short sales through a program called Home Affordable Foreclosure Alternatives. The program is designed to spur home sales, and it specifically imposes new requirements on lien holders, including requiring certain debt forgiveness, an abbreviated time frame to respond to short sale offers, and provides government payments to homeowners (for moving and/or relocation expenses), servicers, and lien holders.

*The authors thank Deputy Commissioner Summer Bakotich for her comments and review of this article.

Continued on page 2

When broker handles escrow

Escrow companies are licensed and regulated by the California Department of Corporations under the Escrow Law in Division 6 of the California Financial Code, commencing with Section 17000. The Escrow Law defines "escrow agent" as any person engaged in the business of receiving escrows for deposit or delivery.

The escrow holder acts to ensure that all parties to the transaction comply with the terms and conditions of the agreement as set forth in the escrow instructions. The escrow holder may also coordinate the activities and professional services involved in the transaction, such as the activities of the lender and the title company as well as those between the buyer, seller and broker.

This article briefly discusses the scope of the real estate broker exemption from escrow agent licensing requirements. When a real estate broker acts in the capacity of an escrow holder under the exemption of the Financial Code Section 17006 (a)(4), the broker is subject to all the requirements of the Real Estate Laws and the Commissioner's Regulations.

Financial Code Section 17006(a)(4) — Exemptions from Escrow Law

This Financial Code Section requires that "Any real estate broker licensed by the Real Estate Commissioner **while performing acts in the course of or incidental to a real estate transaction in which the broker is an agent or a party to the transaction** and in which the broker is performing an act for which a real estate license is required" is exempt from the Escrow Law.

Continued on page 11

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Short Sales Continued from page 1**What is a Short Sale?**

Because not all real estate professionals are aware of the mechanics of short sale transactions, the following overview is offered as a quick primer.

A short sale is a pre-foreclosure residential real estate transaction where the owner of the mortgage loan, the lender or lien holder (hereinafter sometimes "Lender"), agrees to (i) allow the home owner to sell his or her property for less than -- or "short" of -- the outstanding amount owed on the mortgage loan, and to (ii) release the property from the mortgage.

Homeowners who are "underwater" or "upside down" with respect to their mortgage loans, seek to sell their homes "short" to avoid the threat of foreclosure action and to lessen the credit damage that would accompany a foreclosure. Because of the "shortage", the transaction may involve "debt forgiveness" by the Lender. But this is often preferable to the Lender compared to a foreclosure -- which has costs and risks for the Lender in terms of lost payments, eviction, property maintenance, insurance, taxes, fees, and the like -- or a loan modification, with the associated lack of certainty. Also, a short sale gets the non-performing mortgage loan asset off of the Lender's financial books.

Is a Real Estate License Required to Represent the Parties to a Short Sale?

The simple answer is YES, with some extremely narrow and limited exceptions and exemptions.

A real estate broker license (or a real estate salesperson license where that person is working under the supervision of his or her broker) is required under § 10131 (d) of the California Business and Professions Code (B&P Code) where a person, in a representative capacity on behalf of another, "negotiates loans...or performs services for borrowers or lenders ...in connection with loans secured directly or collaterally by liens on real property..." for or in expectation of compensation, "regardless of the form or time of payment".

In addition, under B&P §10131(a), a real estate broker license (or salesperson license with appropriate supervision by the broker of record) is required of any person who, as a representative of another, "Sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or exchange of real property..."

The exceptions and exemptions from the licensure requirement are few and narrowly drawn. For example, a California licensed lawyer is exempt when that person renders services in the course and scope of his or her practice as an attorney. Additionally, if a person is acting solely on behalf of himself or herself, or itself in the case of an entity, there is no need for a real estate license since the person or entity is not acting on behalf of another or others.

Because there is or may be mortgage loan "debt forgiveness" in a short sale, some people and entities argue that they can, and attempt to, consummate short sales on behalf of others without a real estate license by asserting that they are "debt negotiators", "debt resolution experts", "loss mitigation practitioners", "foreclosure rescue negotiators", "short sale processors", "short sale facilitators", "short sale coordinators", "short sale expeditors", or some other type of unlicensed short sale or debt specialist.

Yet it is because the loan debt is "secured directly or collaterally by liens on real property" that brings into play the legal mandate for a real estate broker license under California law.

If a real estate licensee wants to take a short sale listing and not conduct the short sale negotiations with the homeowner's lender, then the licensee must seek to ensure that an unlicensed third party is not performing the negotiations on behalf of the seller.

Criminal Penalties for Those Who Participate in Unlicensed Activities

Those who engage in short sale transactions, including the related "negotiations", and who are unlicensed (and do not have the benefit of an exception/exemption), are in violation of

Continued on page 3

Short Sales Continued from page 2

California law. The penalties include fines and/or imprisonment under B&P §10139.

II. Fraud, and Questionable Conduct and Activities

In addition to seeing unlicensed activities in the market with respect to short sales, the California Department of Real Estate (hereinafter “DRE”) has also been alerted to fraudulent short sale transactions. Before discussing an example of short sale fraud that is becoming prevalent, it must be noted that the types and varieties of fraud (some quite elaborate) are many and are limited only by the imaginations of those who commit fraud. Thus, this segment and the succeeding discussion on scenario/scheme variations and legal and ethical minefields, is intended to raise concerns and issues for real estate licensees in California. But it is not intended to be comprehensive in scope.

A. Short Sale Fraud -- Flipping by Unlicensed Entities Using Straw Buyers

In some cases, unlicensed “short sale facilitators” hone in on homes that are on the verge of foreclosure and persuade the lenders to accept “lowball” purchase offers, often times by using “straw buyers”, questionable or self-interested broker price opinions or appraisals, and by failing to disclose that a sale at a higher price has previously been put on the table or negotiated.

In this case example, ABC Short Sale Services (hereinafter “ABC” -- the name has been changed for the purposes of this example), an unlicensed “short sale facilitator”, contacts a distressed homeowner and tells him that ABC will facilitate the sale of underwater property with the best possible economic outcome to the homeowner. Payments to the homeowner may even be promised to entice interest.

ABC then contacts a licensed California real estate broker (hereinafter “Broker”) with little or no knowledge about short sale transactions, and offers to refer a short sale listing to the Broker. For the business, the Broker pays a referral fee to ABC. Once ABC has a Broker on board, ABC requires that the homeowner/seller sign a contract with ABC, in which the homeowner/seller agrees to permit ABC to serve as the homeowner/seller’s “short sale negotiator”. The contract has language like the following: “Seller agrees that he will no longer market the property and grants to ABC all necessary rights to market, negotiate, and enter into an agreement to sell the property to an unrelated third party”.

For its services, ABC charges the homeowner/seller a \$395 upfront fee and then a second \$195 fee for the negotiation services.

In this case, \$480,000 is owed on the mortgage loan to the Lender, a federally insured financial institution, and the fair market value has fallen to \$410,000. The property is listed by the Broker for \$410,000, and the Broker takes no part in the “negotiations”. Because lenders and lien holders do not always require the listing brokers to present to them every single offer made for the short sale property, ABC only presents to the Lender the offer(s) it so chooses. Because ABC controls all of the information provided to the Lender, ABC also decides to withhold legitimate offers from the Lender and convinces the Lender that the home is overpriced at \$410,000.

ABC presents its own \$340,000 offer to the Lender, in the name of a fictitious buyer or “straw person” (hereinafter “SP 1”). Because ABC has controlled all of the information to the Lender during the listing period, and has withheld legitimate higher offers, the Lender is led to conclude that SP 1’s \$340,000 offer is the highest and best, and the Lender accepts SP 1’s offer.

Following acceptance of SP 1’s \$340,000 offer, and once escrow is open, ABC will focus on the primary objective of its scam by finding a second, legitimate buyer for more money as a “flip”. To accomplish this, ABC, through SP 1, will offer the soon to be newly purchased property for sale via the Multiple Listing Service. ABC will also contact the various buyers’ agents who presented offers higher than \$340,000 during the short sale listing process, but whose offers were not presented to and withheld by ABC from the Lender.

ABC will inform all prospective buyers’ agents that “the short sale property is already in escrow”, but that it will be available for immediate sale after the close of escrow.

Buyer 1 is extremely interested in the property, and is willing to pay the fair market value of \$410,000. Buyer 1 then agrees to participate in a double or simultaneous escrow and offers \$410,000. ABC, through SP 1 (ABC’s confederate), concurrently enters into a \$410,000 purchase contract for the property with Buyer 1, conditioned upon SP 1 obtaining title, and that the “second” sale to Buyer 1 go through ABC’s handpicked lender.

After the closing of the second sale, ABC makes over \$70,000, including referral fees from the Broker and fees from the original distressed homeowner/seller.

Brief Analysis of this short sale flipping fraud example: In the case above, ABC has violated the California B&P Code by engaging in real estate licensed activities without a license. Also, they have collected advance fees in violation of California law. Then, they have made a large profit through false pretenses at the expense of a federally insured financial institution, by misrepresenting the value of the home to the Lender. This may constitute federal loan fraud, which is a serious felony offense which is punishable by imprisonment and fines.

The Federal Bureau of Investigation lists variations of short sale flipping as real estate fraud.

B. Short Sale Fraud – Scenario/Scheme Variations and Warnings re: Legal and Ethical Minefields

1. Multiple Lenders and Lien Holders, and Payments Outside of Escrow:

Where more than one Lender or lien holder is involved, the negotiations are complicated. Second and other subordinate lien holders often hold up the short sale transaction, and seek to extract the largest possible payment in consideration for releasing their lien.

Often times there are monies secretly paid outside of escrow, without the knowledge of the senior lien holder. This is a sure

Disciplinary action: September 2009 — November 2009

- A list of actions is not published in this *Bulletin* until the 30-day period allowed for court appeal has expired or, if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.
- Licensees are listed alphabetically by the District Office region of responsibility.
- The license type is listed in parentheses after the licensee's name. [REB – Real Estate Broker; RREB – Restricted Real Estate Broker; RES – Real Estate Salesperson; RRES – Restricted Real Estate Salesperson; PRLS – Prepaid Rental Listing Service; RPRLS – Restricted Prepaid Rental Listing Service; REO – Real Estate Officer; REC – Real Estate Corporation]
- Below are brief summaries of various regulations and code sections. The full text of the sections is available on the DRE Web site www.dre.ca.gov under Real Estate Law and/or Regulations.
- Disciplinary actions that are “stayed” means there is “a delay in carrying out” all or part of the recommended discipline.

COMMISSIONER'S REGULATIONS

2715	Licensee's failure to maintain current business or mailing address with DRE
2725	Failure of broker to exercise reasonable supervision over the activities of his or her salespersons
2726	Failure to have broker-salesperson agreements
2731	Unauthorized use of fictitious business name
2731(a)	Failure to obtain fictitious business name license
2752	Broker's failure to notify DRE of salesperson employment
2753	Broker's failure to retain salesperson's license at main office or return the license at termination of employment
2831	Failure to keep proper trust fund records
2831.1	Inadequate separate trust fund beneficiary records
2831.2	Failure to reconcile trust account
2832	Failure to comply with trust fund handling provisions
2832.1	Failure to obtain permission to reduce trust fund balance in a multiple beneficiary account
2832(a)	Failure of broker to place trust funds into hands of owner, into neutral escrow depository or trust fund account within three business days of receipt
2832(d)	Failure of broker holding trust funds contingent on offer of acceptance to properly place funds within three days of acceptance.
2832.1	Failure to obtain permission to reduce trust fund balance in a multiple beneficiary account
2834	Trust account withdrawals by unauthorized or unbonded person
2835	Retention of broker funds in trust accounts
2840	Failure to give approved borrower disclosure
2840.1	Failure to give approved borrower disclosure
2847.3	Failure to properly disclose license status in mortgage loan advertising
2848	Violation of mortgage loan advertising rules
2950	Violation of broker-controlled escrow requirements
2950(d)	Failure of broker handling escrows to maintain records and accounts
2950(f)	Failure to deposit escrow trust funds
2950(g)	Broker-handled escrow disbursement without written instructions
2950(h)	Failure to disclose interest in the agency holding the escrow
2951	Improper record keeping for broker handled escrows
2972	Advance fee accounting

BUSINESS AND PROFESSIONS CODE

475(a)(1)	Making false statement in license application
480(c)	Denial of license on grounds of false statement in license application
490	Substantially related criminal conviction
498	License obtained by fraud or misrepresentation
10085	Failure to submit advance fee materials
10085.5	Illegal advance fees
10130	Acting without license
10137	Unlawful employment or payment of compensation
10140.6	Failure to disclose license status in advertising of acts for which a license is required
10145	Trust fund handling
10146	Advance fee handling
10148	Failure to retain records and make available for inspection
10159.2	Failure by designated officer to supervise licensed acts of corporation
10159.5	Failure to obtain license with fictitious business name
10160	Failure to maintain salesperson licenses in possession of broker
10161.8	Failure of broker to notify Commissioner of salesperson employment
10162	Failure to maintain a place of business
10165	Failure to comply with specified B&P code sections
10176(a)	Making any substantial misrepresentation
10176(b)	Making false promise
10176(c)	Continued & flagrant course of misrepresentations through salespersons
10176(e)	Commingling trust funds with brokers funds
10176(g)	Secret profit or undisclosed compensation
10176(i)	Fraud or dishonest dealing in licensed capacity
10177(a)	Procuring a real estate license by misrepresentation or material false statement
10177(b)	Conviction of crime
10177(d)	Violation of real estate law or regulations
10177(f)	Conduct that would have warranted denial of a license
10177(g)	Negligence or incompetence in performing licensed acts
10177(h)	Failure to supervise salespersons or licensed acts of corporation
10177(j)	Fraud or dishonest dealing as principal
10177(k)	Violation of restricted license condition
10177.5	Civil fraud judgment based on licensed acts
10178	Failure of broker to notify Commissioner of salesperson termination
10232	Failure to notify DRE of threshold status
10232.2(a)	Failure to provide independent audit reports
10232.2(c)	Failure to provide trust fund reports
10232.25	Failure to file trust fund status reports
10234(a)	Failure to record trust deed in name of beneficiary
10235	False advertising in mortgage loan activities
10235.5	Lender purchaser disclosure violation
10236.4	Failure to include license number or DRE License Information telephone number in documents
10238(a)	Failure of broker to notify Commissioner within 30 days of 1st mortgage transaction or of any material change in required notice
10238(g)	Sale of notes with illegal terms
10238(h)	Exceeding loan-to-value limits
10240	Failure to provide mortgage loan disclosure statement
10241	Improper mortgage loan disclosure statement
10236.4	Failure to include license number or DRE license information telephone number in documents
11018.1	Failure to give public report
11018.2	Sale of subdivision lots without a public report
14702	Illegal use of loan number/amount in solicitation material
17533.6	Misleading advertising
17539.4	Misleading advertising

REVOKED LICENSES

FRESNO REGION

Alexander, Gregory P. (REB)
3716 Whirlaway Dr., Modesto
Effective: 10/21/09
Violation: 2731(a), 10148, 10159.5, 10176(a)(b)(c), 10176(g)(i), 10177(d)(g)(h)(j), 10240, 10241

Avina & Hageman, Inc. (REC)
1141 W. Shaw Ave. #101, Fresno
Effective: 10/7/09
Violation: 10165, 10177(d)

Avina, Raymond Charles (REB)
1141 W. Shaw Ave. #101, Fresno
Effective: 10/7/09
Violation: 10176(a)

Creekside Financial, Inc. (REC)
6760 El Camino Real, Atascadero
Effective: 11/20/09
Violation: 2832.1, 10145, 10177(d), 10232, 10232.2(a)(c), 10232.25, 10238(a)(g), 10238(h)(4)(A), 10238(h)(4)(B), 10238(h)(4)(D), 10234(a)

Dalal, Meghna (RES)
3518 Deanes Lane, Capitola
Effective: 11/30/09
Violation: 490, 10177(b)

Laprade, Hubert Wayne (REB)
6760 El Camino Real, Atascadero
Effective: 11/20/09
Violation: 10159.2, 10177(d)(g)(h)

Large, Richard Michael (RES)
12396 E. Paul St., Clovis
Effective: 10/12/09
Violation: 490(a), 10177(b)

Loveall, Clyna Marie (RES)
1970 Acacia Dr., Merced
Effective: 9/8/09
Violation: 490, 10177(b)

Olive Branch Mortgage, Inc. (REC)
400 N. Gateway, Madera
Effective: 10/7/09
Violation: 10165, 10177(d)

Parker, Keith James (RES)
14006 Raphael Ave., Bakersfield
Effective: 10/5/09
Violation: 490, 10177(b)

Rangel, Esau (RES)
3001 Mammoth Way, Modesto
Effective: 9/23/09
Violation: 10176(i), 10177(j)

Rosales, Gloria (RES)
PO Box 578584, Modesto
Effective: 11/10/09
Violation: 10176(i), 10177(g)(j)

Silva, Fred L. (RES)
502 N. Mercy Springs Rd., Los Banos
Effective: 9/1/09
Violation: 10176(a)(i), 10177(d)(j)

Silva, Neomi A. (RES)
502 N. Mercy Springs Rd., Los Banos
Effective: 9/1/09
Violation: 10176(a)(i), 10177(d)(j)

Smith, Morris E. (RES)
2309 Eicher Ave., Modesto
Effective: 10/8/09
Violation: 490, 10177(b)

Taylor Mortgage, Inc. (REC)
1758 W. Robertson Blvd., Chowchilla
Effective: 10/7/09
Violation: 10165, 10177(d)

Walls, Nichole Antionett (RES)
602 Grant Terrace, Taft
Effective: 11/17/09
Violation: 490, 10177(b)

LOS ANGELES REGION

Aburto, Juan Carlos (RES)
7411 Main St., Westminster
Effective: 9/1/09
Violation: 490, 10177(b)

Barron, Lizbeth (RES)
3476 Milton St., Pasadena
Effective: 9/30/09
Violation: 10177(f)(j)

Barsana, Delia Garillo (RES)
17121 Janell Ave., Cerritos
Effective: 9/22/09
Violation: 490, 10177(b)

Blueleaf Financial, Inc. (REC)
3435 Wilshire Blvd., Ste. 1103, Los Angeles
Effective: 9/14/09
Violation: 10137, 10177(d)

Brandeis, Cynthia Lisette (RES)
17401 Marilla St., Northridge
Effective: 10/5/09
Violation: 490, 10177(b)

Bruns, Eric Martin (REB)
25202 Crenshaw Blvd. #200, Torrance
Effective: 11/3/09
Violation: 490, 10177(b)

Butcher, Jeron Lamar (RES)
4049 Van Baren Pl, Culver City
Effective: 9/1/09
Violation: 490, 10177(b)

Chong, Julietta Gladys (RES)
19930 Vanowen St., Winnetka
Effective: 9/8/09
Violation: 490, 10177(b)

Chung, Johnny (RES)
201 S. Atlantic Blvd. #C, Alhambra
Effective: 11/2/09
Violation: 490, 10177(b)

Crawford, Evon Beatrice (RES)
6707 Springpark Ave. #9, Los Angeles
Effective: 9/29/09
Violation: 490, 10177(b)

Dancy, Linda J. (REB)
4000 Barranca Parkway, Ste. 250, Irvine
Effective: 10/23/09
Violation: 10177(f)

Davis, Neal Evan (RES)
9461 Charleville Blvd. #345, Beverly Hills
Effective: 9/16/09
Violation: 490, 10177(b)

Equity Income (REC)
827 E. Colorado St., Glendale
Effective: 9/9/09
Violation: 2832, 2832.1, 2950, 10145, 10159.5, 10160, 10161.8, 10177(d)(g)

Farag, Antwan John (RES)
44307 57th St. West, Lancaster
Effective: 9/16/09
Violation: 490, 10177(b)

Financial Investments Solutions Corp. (REC)
17034 Bellflower Blvd., Bellflower
Effective: 9/22/09
Violation: 2831, 2831.1, 2831.2, 2970, 2972, 10085, 10137, 10145, 10146, 10177(d)

Gomez, Yimi Gemer (REB, REO)
16376 Mallory Dr., Fontana
Effective: 9/22/09
Officer of: Financial Investments Solutions Corp.
Violation: 2831, 2831.1, 2831.2, 2970, 2972, 10085, 10137, 10145, 10146, 10177(d)

Gonzales, James (RES)
523 Signal Rd., Newport Beach
Effective: 11/10/09
Violation: 10177(k)

Grayson, Letha Maria (RES)
6423 Deep Dell Pl., Los Angeles
Effective: 11/3/09
Violation: 490, 10177(b)(k)

Gutierrez, Ivan (RES)
11450 Potter St., Norwalk
Effective: 11/18/09
Violation: 490, 10177(b)

Harrill, Brett Evan (RES)
3005 N. Pinewood St., Orange
Effective: 10/5/09
Violation: 490, 10177(b)(k)

Hartmann, Beth Susan (RES)
28705 Crestridge Rd., Rancho Palos Verdes
Effective: 9/1/09
Violation: 490, 10177(b)

Haworth, Anthony Joseph (RES)
9461 Charleville Blvd., Beverly Hills
Effective: 10/5/09
Violation: 10177(f)

Helsing, Mark Alan (REB, REO)
12341 Newport Ave., Ste. B-100, Santa Ana
Effective: 9/21/09
Officer of: HLHS Financial Services, Inc.
Violation: 10176(a)(c)(i)

HLHS Financial Services, Inc. (REC)
12341 Newport Ave., Ste. B-100, Santa Ana
Effective: 9/21/09
Violation: 10176(a)(c)(i), 10177.5

Ho, Chanh Trung (RES)
9353 Bolsa Ave. #K53, Westminster
Effective: 11/18/09
Violation: 490, 498, 10177(a)(b)

Ho, Mike (REB)
14541 Brookhurst St. #C-11, Westminster
Effective: 9/14/09
Violation: 490, 10177(b)

International Mortgage Company, Inc. (REC)
450 N. Brand Blvd., Ste.150, Glendale
Effective: 11/18/09
Violation: 2715, 2742, 2831, 2831.1, 2831.2, 2832, 2832.1, 2835, 2950, 2951, 10130, 10145, 10162, 10165, 10176(a)(b)(c)(i), 10177(d)(g)

Kelter, Buster Lee (RES)
121 22nd St., Huntington Beach
Effective: 11/12/09
Violation: 490, 10177(b)

Keys, Tammy Denise (RES)
13210 Harper #110, Garden Grove
Effective: 9/14/09
Violation: 490, 10177(b)

Kingsley, Mark Richard (RES)
8141 East 2nd St., Ste. 208, Downey
Effective: 11/9/09
Violation: 490, 10177(b)

Lenda, Rhonda (RES)
2422 Wailea Ct., Santa Maria
Effective: 11/2/09
Violation: 490, 10177(b)

Li, Jianghui (RES)
19 Via Del Macci Ct., Lake Elsinore
Effective: 9/14/09
Violation: 490, 10177(b)

Lin, Jao-Hung (RES)
8809 Jaylee Dr., San Gabriel
Effective: 11/4/09
Violation: 490, 10177(b)

Lopez, Julio Cesar (RES)
1949 Kemper Cir., Los Angeles
Effective: 9/29/09
Violation: 490, 10177(b)

Marquez, Renato David (RES)
912 Timberwood, Irvine
Effective: 9/16/09
Violation: 490, 10177(b)

McVey, Michael John (RES)
5361 Berkley, Westminster
Effective: 9/29/09
Violation: 490, 10177(b)

Mendoza, Maribel (RES)
3452 E. Florence Ave., Huntington Park
Effective: 9/21/09
Violation: 490, 10177(b)

Miguel, Monalisa (RES)
1323 N LaBrea Ave. #145, Inglewood
Effective: 9/14/09
Violation: 490, 10177(b)

Mordoki, Mirella (RES)
1038 E. Bastanchury Rd. #293, Fullerton
Effective: 10/5/09
Violation: 490, 10177(b)

Najeb, Aliasgar Shabbir (RES)
22708 Criswell St., West Hills
Effective: 9/16/09
Violation: 490, 10177(b)

Nataren, Susana (RES)
4415 Clara St. #B, Cudahy
Effective: 9/29/09
Violation: 490, 10177(b)

Navarro, Javier (RES)
17046 Devonshire St., Northridge
Effective: 11/2/09
Violation: 490, 10177(b)

Navarro, Sonia H. (RES)
1290 Skeel Dr., Camarillo
Effective: 10/28/09
Violation: 490, 10177(b)

Nguyen, Anthony Thanh (RES)
10635 La Alondra Ave., Fountain Valley
Effective: 9/14/09
Violation: 490, 10177(b)

Perez, Robert Escalera (REB)
4315 E. Lowell St., Ste. A, Ontario
Effective: 10/7/09
Violation: 2832.1, 2834, 2950(d)(g), 2951, 10145, 10148, 10176(a)(e)(g)(i), 10177(d)(g)(h)

Pesin, Alexander (REB)
23623 Ladrillo St., Woodland Hills
Effective: 10/21/09
Violation: 490, 10177(b)

Ramirez, Andrea Raquel (RES)
10782 Wilson Ave., Rancho Cucamonga
Effective: 10/21/09
Violation: 490, 10177(b)

Reynoso, Eliseo (RES)
222 East H Street, Ontario
Effective: 10/5/09
Violation: 490, 10177(b)

Romero, Gabriel Roberto (RES)
847 W. Palmdale Blvd., Palmdale
Effective: 9/22/09
Violation: 490, 10177(b)(k)

Saldana, Angel Carbajal (RES)
850 N. Center Ave. #3E, Ontario
Effective: 10/14/09
Violation: 490, 10177(b)

Serdio, Maria Anne (RES)
43 Greenwell, Santa Barbara
Effective: 9/2/09
Violation: 490, 10177(b)

Shelby, Les (RES)
1403 N. Tustin Ave., Ste. 380, Santa Ana
Effective: 11/3/09
Violation: 490, 10177(b)

Stull, Daniel John (RES)
10385 Beaumont, Cherry Valley
Effective: 9/1/09
Violation: 490, 10177(b)(k)

Taylor, Trina Marie (RES)
8723 Olivine Rd., Victorville
Effective: 10/5/09
Violation: 490, 10177(b)

Tevanyan, Vagram (RES)
1225 N. Serrano Ave. #1, Los Angeles
Effective: 9/8/09
Violation: 490, 10177(b)

Tristar Realty & Investments, Inc. (REC)
14515 Valley View Ave., Ste. G, Santa Fe Springs
Effective: 10/30/09
Violation: 2831, 10145, 10177(g)

Tubbiola, Michael (REB)
18350 Mount Langley St. #210, Fountain Valley
Effective: 9/9/09
Violation: 2731, 2970, 10085.5, 10137, 10159.5, 10176(a)(b)(c)(i), 10177(d)(g)

Turner, Ryan TJ (RES)
2455 W. Serene Ave 734, Las Vegas, NV
Effective: 11/3/09
Violation: 490, 10177(b)

Vazquez, Angel Ricardo (RES) 13965 Herron St., Sylmar Effective: 10/26/09 Violation: 490, 10177(b)	Hamilton Financial Mortgage Corp. (REC) 17015 Walnut Grove, Ste. 103, Morgan Hill Effective: 11/15/09 Violation: 10176(i), 10177(j)	Wong, Gilbert M. (RES) PO Box 361805, Milpitas Effective: 10/29/09 Violation: 490, 10177(b)	Tindill, Teri Lynn (RES) 5936 Tanus Cir., Rocklin Effective: 10/8/09 Violation: 490, 10177(b)
Vega, Ericka Kyra (RES) 8430 Glendola Dr., Pico Rivera Effective: 11/3/09 Violation: 490, 10177(b)	Huynh, Cindy Tuyet (REB) 37553 Fremont Blvd., Fremont Effective: 11/23/09 Violation: 10176(a)(i), 10177(j)	SACRAMENTO REGION	Walker, Ray Brian (RES) 546 Sangiovese Court, Fairfield Effective: 9/9/09 Violation: 490, 10177(b)
World Financial Funding, Inc. (REC) 120 S. Victory Blvd. #203, Burbank Effective: 9/23/09 Violation: 2715, 10162, 10165, 10177(d)(g)	Jones, Alton L. (RES) 6055 Wood Dr., Oakland Effective: 9/9/09 Violation: 490, 10177(b)	Alforque, Lulu Bardonado (REB) 4600 S. Tracy Blvd., Ste. 114, Edgewood Corporate Center, Tracy Effective: 10/9/09 Violation: 10176(a)(i), 10177(g)(j)	Wheatley, Yvonne Marie (REB) 15 Marty Cir., Roseville Effective: 11/30/09 Violation: 490, 10177(b)
Yoo, James (REB, REO) 3435 Wilshire Blvd., Ste. 1103, Los Angeles Effective: 9/14/09 Officer of: Blueleaf Financial, Inc. Violation: 10137, 10159.2, 10177(d)	Mendoza, Stephen Aquino (RES) 1302 Southgate Ave., Daly City Effective: 11/25/09 Violation: 490, 10177(b)	Apostol, Winston Villanueva (RES) 8909 Clancy Ct., Elk Grove Effective: 9/8/09 Violation: 490, 10177(b)	Worden, Terry Stephen (RES) 2036 Nevada City Hwy. #319, Grass Valley Effective: 11/25/09 Violation: 490, 10177(b)
OAKLAND REGION	Moein, Ali R. (RES) 20605 Ashley Way, Saratoga Effective: 10/29/09 Violation: 10130, 10137, 10177(d)	Arce, Hector Abayan (RES) PO Box 580532, Elk Grove Effective: 11/25/09 Violation: 490, 10177(b)	Yanez, Deanne Marie (RES) 119 Rockbolt Cir., Folsom Effective: 11/18/09 Violation: 490, 10177(b)
Almasi, Azita (RES) 965 Laurel Glen Dr., Palo Alto Effective: 9/7/09 Violation: 10177(b)	Nitsch, Graill Marie (RES) 18660 Paseo Tierra, Saratoga Effective: 9/9/09 Violation: 490, 10177(b)	Balalis, Emanuel Michael (RES) 898 San Ramon Way, Sacramento Effective: 9/3/09 Violation: 10176(i), 10177(d)	SAN DIEGO REGION
Anthony, Manequa Shavaughn (REB) 4900 Canada Valley Rd. #237, Antioch Effective: 11/30/09 Violation: 490, 10177(b)	Noble, Roosevelt Jr. (RES) 2 North Market St. #200, San Jose Effective: 9/9/09 Violation: 490, 10177(b)	Blanchard, Donald Mark (RES) 873 S. Artistic Cir., Springville, UT Effective: 10/28/09 Violation: 490, 10177(b)	Behnke, Steve M. (RES) 9776 Rimpark Way, San Diego Effective: 11/13/09 Violation: 490, 10177(b)
Avenmos Financial Group, Inc. (REC) 968 Mowry Ave., Fremont Effective: 11/2/09 Violation: 2970, 2972, 10085, 10130, 10137, 10146, 10177(d)	Palm Tree Financial & Realty, Inc. (REC) 22211 Foothill Blvd., Hayward Effective: 11/20/09 Violation: 2752, 2753, 2831, 10130, 10137, 10160, 10161.8, 10176(a)(b)(c)(i), 10177(d) (g)(j)	Hale, Keith Aaron (RES) 5779 Westchester Cir., Stockton Effective: 10/5/09 Violation: 490, 10177(b)	Costales, Melecia Esperon (RES) 1228 Corte Bello, San Marcos Effective: 10/30/09 Violation: 490, 10177(b)
Barajas, Alfredo (REB) 1652 Alum Rock Ave., San Jose Effective: 11/16/09 Violation: 2725, 2726, 2731(a), 2753, 2832, 10159.5, 10160, 10176(a)(b)(c)(i), 10177(d) (g)(j)	Palmieri, Marco Steven (REB) 10 Skylark Dr., Ste. 80, Larkspur Effective: 11/25/09 Violation: 490, 10177(b)	Johnson, Jan A. (RES) PO Box 768, Clements Effective: 9/30/09 Violation: 490, 10177(b)	Crawford, Shane Anthony (RES) 4611 Judson Way, Unit B, La Mesa Effective: 9/15/09 Violation: 490, 10177(b)
Barajas, Juan Manuel (RES) 4914 Wellington Park Dr., San Jose Effective: 11/16/09 Violation: 10176(a)(b)(c)(i), 10177(d) (g)(j)	Rashidifar, Amir (RES) 2308 Samoa Way, San Jose Effective: 11/18/09 Violation: 490, 10177(b)	Kalsbeek, Charles Joseph (RES) PO Box 70, Arbuttle Effective: 11/25/09 Violation: 490, 10177(b)	Deocampo, Honorato D. (RES) 452 Newhall Dr., Corona Effective: 11/4/09 Violation: 490, 10177(b)
Barclays Pacific Lending Corp. (REC) 605 E. Tennant Ave., Unit F, Morgan Hill Effective: 11/15/09 Violation: 10176(i), 10177(j)	Sandoval, Adan (RES) 2368 Hickory Dr., Concord Effective: 11/30/09 Violation: 490, 10177(b)	Lewis, Ronald Francis (RES) 2301 W. Alpine Ave. #2, Stockton Effective: 11/24/09 Violation: 490, 10177(b)	Devera, James (REB) 4425 Eastgate Mall Dr., #130, San Diego Effective: 9/15/09 Violation: 10159.2, 10177(d)(g)(h)
Bossaller, Jeffrey Carey (RES) 1050 Camino Coronado, Rohnert Park Effective: 11/20/09 Violation: 10177(j)	Savage, Marcus Troy (REB) 671 San Ramon Valley Dr., Danville Effective: 11/2/09 Violation: 2731, 2847.3, 2848(16) (17), 10130, 10140.6, 10145, 10159.5, 10176(a)(b)(c)(e)(i), 10177(d)(g)(j), 10235, 10235.5, 10236.4, 17539.4	Monaco, Justin Paul (REB) 2851 Vistamont Way, Chico Effective: 9/7/09 Violation: 490, 10177(b)	Frerichs, Clemens (RES) 1562 Calle Ryan, Encinitas Effective: 11/30/09 Violation: 490, 10177(b)
Buaron, Rocio Espayos (REB) 4197 Watkins Way, San Jose Effective: 10/22/09 Violation: 2715, 10162, 10177(d)	Singh, Pritpal (RES) 2709 Highland Meadows Ct., Dublin Effective: 9/22/09 Violation: 490, 10177(b)	Oskiera, Chris John (REB) 6025 Southernness Dr., El Dorado Hills Effective: 9/8/09 Violation: 480(c), 10177(a)(b)	Gallegos, Edwin E. (RES) 1560 San Pedro Point Ct., Chula Vista Effective: 10/30/09 Violation: 490, 10177(b)
Carrasco, Martin Jr. (RES) 3182 Dovel Way, San Jose Effective: 11/16/09 Violation: 10130, 10176(a)(b)(c)(i), 10177(d)(g)(j)	Stoneridge Financial Services (REC) 671 San Ramon Valley Dr., Danville Effective: 11/2/09 Violation: 10145, 10176(e)(i), 10177(d)(g)	Puthuff, Jeffrey S. (RES) 1062 Eastburg Ct., Ripon Effective: 10/21/09 Violation: 2731(a), 10159.5, 10176(a)(b) (c), 10176(g)(i), 10177(d)(g)(j), 10240, 10241	Gray-Medina, Robin Lynn (RES) 510 First Ave. #703, San Diego Effective: 10/5/09 Violation: 490, 10177(b)
Chavis, Darrick J. (RES) 983 Centennial Dr., Brentwood Effective: 11/5/09 Violation: 490, 10177(a)(b)	Tran, Yem Dang (REB) 289 Ascente Commons, San Jose Effective: 11/30/09 Violation: 490, 10177(b)	Rodriguez, Paul Anthony (RES) 5400 Sitka Ct., Elk Grove Effective: 9/23/09 Violation: 490, 10177(b)	Herrmann, Frederick III (REB) 4455 Twain Ave. #A, San Diego Effective: 10/30/09 Violation: 490, 10177(b)
Feldman, Harry Warren (REB) 6834 Jarvis Ave., Newark Effective: 10/6/09 Violation: 490, 10177(b)	Vasallo, Joseph Deguzman (RES) 33161 Fifth St., Union City Effective: 11/25/09 Violation: 490, 10177(b)	Silva, Sandra E. (RES) 9355 E. Stockton Blvd. #210, Elk Grove Effective: 9/7/09 Violation: 490, 10177(b)	Joyner, Gregory Thames (RES) 8322 Clairemont Mesa Blvd. #106, San Diego Effective: 10/5/09 Violation: 490, 10177(b)
Foxworthy, Kathleen Marie (RES) 6 1/2 Willowmere Rd., Danville Effective: 9/22/09 Violation: 490, 10177(b)	White, Derrick (REB) 1723 Hamilton Ave. #K, San Jose Effective: 10/22/09 Violation: 2715, 10162, 10177(d)	Skaria, Zaki Siwan (RES) 1804 Dorset Ln., Modesto Effective: 10/13/09 Violation: 490, 10177(b)	Khuu, Tiffany (RES) 11211 Hunter Green Ct., San Diego Effective: 10/5/09 Violation: 490, 10177(b)
Guiten, Zandra Dee (REB) 580 Grand Ave. #J, Oakland Effective: 10/5/09 Violation: 10177.5		Smead, Dustin Wyatt (RES) 5544 Crestline Dr., Foresthill Effective: 11/30/09 Violation: 490, 10177(b)	McCarter, Tony-Curtis (RES) 29250 Annadale Rd., Sun City Effective: 9/15/09 Violation: 490, 10177(b)
		Stercl, Tony Oscar (RES) 3872 Chimney Rock Way, Sacramento Effective: 11/17/09 Violation: 490, 10177(b)	McMurray, Randy Alan (RES) 879 Lehigh Ave., Chula Vista Effective: 9/15/09 Violation: 490, 10177(b)

MD Mortgage Group, Inc. (REC)

4435 Eastgate Mall Dr., #130,
San Diego
Effective: 9/15/09
Violation: 2831.2, 2832, 2832.1, 2834,
2835, 2950(f), 2951, 10145,
10176(e), 10177(d), 10240

Ogwo, Anthony I. (RES)

1307 West 6th St., Ste. 217, Corona
Effective: 9/9/09
Violation: 490, 10177(b)

Peoples First Financial, Inc. (REC)

10179 Huennekens St. #200, San Diego
Effective: 9/16/09
Violation: 2970, 2972, 10085, 10130,
10137, 10146, 10177(d)

Phung, Kieu Thi Thuy (RES)

7717 Forrester Rd., San Diego
Effective: 9/15/09
Violation: 490, 10177(b)

Ritter, James R. (RES)

PO Box 2353, El Cajon
Effective: 10/30/09
Violation: 490, 10177(b)

Sani, Amir (REB)

10179 Huennekens St. #200, San Diego
Effective: 9/16/09
Violation: 10159.2, 10177(d)(g)(h)

Stillwell, Blaize Charles (RES)

PO Box 662, Carlsbad
Effective: 10/5/09
Violation: 490, 10177(b)

Voigt, Mark Douglas (RES)

PO Box 3602, Vista
Effective: 10/5/09
Violation: 490, 10177(b)

White, Todd Raymond (RES)

1250 Barrett Lake Rd. D 6, Dulzura
Effective: 11/12/09
Violation: 490, 10177(b)

REVOKED WITH RIGHT TO RESTRICTED LICENSE

FRESNO REGION**Bartow, Alicia Tanya (RES)**

711 12th St., Paso Robles
Effective: 9/1/09
Violation: 10176(a), 10177(g)
Right to RRES license on terms and
conditions

Williams, David John (REB)

2004 Dallons Dr., Ste. 100, Paso Robles
Effective: 11/2/09
Violation: 10177(g)
Right to RRES license on terms and
conditions

LOS ANGELES REGION**Ahmed, Afaq (REB, REO)**

305 N. Brookhurst St., Anaheim
Effective: 9/16/09
Officer of: Comfort Sales & Services, Inc.
Violation: 10177(g)
Right to RRES license on terms and
conditions

Arenas, Reyes (RES)

770 W. Hemlock St., Port Hueneme
Effective: 10/28/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Armienta, Frank Raul (RES)

1235 Kwis Ave., Hacienda Heights
Effective: 10/14/09
Violation: 475(a)(1), 480(c), 490(b),
10177(a)(b)
Right to RRES license on terms and
conditions

Arzate, Vicente R. (RES)

641 Ensign Pl., Oxnard
Effective: 9/8/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Bath, Samuel William (REB)

83 Vermillion, Irvine
Effective: 11/18/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Briscoe, Virginia Ann (RES)

2949 W. Skywood Cir., Anaheim
Effective: 10/27/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Bush, Stephen C. (REB)

2467 Middlesex Pl., Fullerton
Effective: 10/28/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Chen, Gang (RES)

11151 Elliott Ave., El Monte
Effective: 9/1/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Cole, Gregory (RES)

21115 Devonshire St. #343, Chatsworth
Effective: 10/5/09
Violation: 10130, 10177(d)
Right to RRES license on terms and
conditions

Downing, Peter Michael (REB, REO)

5561 Lockhaven Dr., Buena Park
Effective: 9/14/09
Officer of: Fidelity National Mortgage
Corporation
Violation: 10177(g)
Right to RRES license on terms and
conditions

Fidelity National Mortgage Corp. (REC)

2001 East 4th Street, Ste. 120, Santa Ana
Effective: 9/14/09
Violation: 10177(g)
Right to RREC license on terms and
conditions

Gellersen, Richard Allen (REB)

16300 Crenshaw Blvd., Ste. 209, Torrance
Effective: 10/27/09
Officer of: Oretre USA, Inc.
Violation: 490, 10177(b)(h)
Right to RRES license on terms and
conditions

Lin, Yan-Liang (REB, REO)

790 The City Drive South #100, Orange
Effective: 10/15/09
Officer of: SBL Professional Realty, Inc.
Violation: 10159.2, 10177(h)
Right to RRES license on terms and
conditions

Locsin, Maria Elena (RES)

6721 Kurl Way, Reseda
Effective: 10/5/09
Violation: 10130, 10177(d)
Right to RRES license on terms and
conditions

Moreno, Edson J. (RES)

2732 Live Oak St., Huntington Park
Effective: 11/12/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Perkins, James Robert (REB)

44041 Orchard Rd., Hinkley
Effective: 11/25/09
Violation: 2831, 2831.1, 2831.2, 2832.1,
10145, 10177(d)(g)
Right to RRES license on terms and
conditions

Rangel, Steven Raul (RES)

15300 Ventura Blvd. #101, Sherman Oaks
Effective: 10/20/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Repstad, John David (RES)

2764 Calaris Rd., San Marino
Effective: 9/1/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions; Suspended for 60 days

Satsuta, Andrei (REB)

4454 Ventura Canyon Ave. #208, Sherman
Oaks
Effective: 11/4/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

SBL Professional Realty, Inc. (REC)

790 The City Drive South #100, Orange
Effective: 10/15/09
Violation: 2715, 2831, 2831.1, 2832(a),
2832.1, 2834, 2835, 10145,
10177(d)

Right to RREC license on terms and
conditions

Schwimer, Brien Steven (RES)

32126 Harborview Ln., Westlake Village
Effective: 10/7/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Smyth, Peter Michael (REB)

4316 Marina City Dr., Marina Del Rey
Effective: 11/12/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Townsend, Jane Hamburger (RES)

2810 Warner Ave., Apt. 254, Irvine
Effective: 10/28/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Yousri, Bassem (RES)

PO Box 8671, Northridge
Effective: 9/14/09
Violation: 10177(j)
Right to RRES license on terms and
conditions

Zheng, Mei (RES)

10140 Lynrose St., Temple City
Effective: 10/27/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

OAKLAND REGION**Gravelle, David George (REB)**

548 Silver Lake Dr., Danville
Effective: 10/5/09
Violation: 10177(d)(g)(h)
Right to RRES license on terms and
conditions

III Create, Inc. (REC)

1686 Second St., Livermore
Effective: 10/5/09
Violation: 10176(a)(c)(i)
Right to RREC license on terms and
conditions

Khan, Christopher Hamilton (REB)

605 E. Tennant Ave., Unit F, Morgan Hill
Effective: 11/15/09
Violation: 10176(i), 10177(j)
Right to RRES license on terms and
conditions

Kremer, Dustin N. (RES)

22093 Redwood Rd., Castro Valley
Effective: 11/5/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Sargent, Leonard Daenele (RES)

499 Jackie Dr., San Jose
Effective: 11/4/09
Violation: 490(a), 10177(b)
Right to RRES license on terms and
conditions

Schaeffer, Russell Keith (REB)

4990 Forest Hill Dr., Pleasanton
Effective: 11/25/09
Violation: 10159.2
Right to RRES license on terms and
conditions

Swenson, Eric Stephen (RES)

PO Box 8553, San Jose
Effective: 10/15/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

SACRAMENTO REGION**Art, Susan Evette (RES)**

4053 Robertson Ave., Sacramento
Effective: 11/10/09
Violation: 10176(a)(i), 10177(g)(j)
Right to RRES license on terms and
conditions

Cline, Jeanette Ann (RES)

10090 Tuzza Ct., Elk Grove
Effective: 9/23/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Girod, Anna R. (REB)

904 S. Main St., Lakeport
Effective: 11/4/09
Violation: 2731, 2831, 2831.1, 2832,
2832.1, 10145, 10148,
10159.5, 10176(g), 10177(d)
(g)

Right to RRES license on terms and
conditions; Restricted license suspended for
60 days—30 days stayed for 4 years on terms
and conditions

Sheiring, Paul Scott (RES)

2575 Celtic Dr., Lincoln
Effective: 11/19/09
Violation: 490, 10177(b)

SAN DIEGO REGION**Cruz, Jorge Ricardo (REB)**

6185 Magnolia Ave., Ste. 340, Riverside
Effective: 9/16/09
Violation: 10137, 10177(g)
Right to RRES license on terms and
conditions

Dimesa, Frederick Raymond Sr. (REB)

12900 Frederick St., Ste. D, Moreno Valley
Effective: 10/15/09
Violation: 2715, 10148, 10162, 10165,
10177(d)(g)
Right to RRES license on terms and
conditions

Dutt, Karla (RES)

11326 Vista Sorrento Pkwy. #L209, San Diego
Effective: 11/19/09
Violation: 490, 10177(b)

Madison, Carol A. (RES)

40145 Baltusrol Cir., Palm Desert
Effective: 11/9/09
Violation: 490, 10177(b)
Right to RRES license on terms and
conditions

Vera, Ulises (RES)

694 Myra Ave., Chula Vista
 Effective: 11/30/09
 Violation: 2970, 10085, 10130, 10146,
 10177(d)

Right to RRES license on terms and conditions

SUSPENDED**LOS ANGELES REGION****Minassian, Ronald (REB, REO)**

411 N. Central Ave., #100, Glendale
 Effective: 10/16/09
 Officer of: U S Capital Funding Corporation
 Violation: 2831, 2831.1, 2831.2,
 2832(d), 2840, 10145,
 10159.2, 10177(d)(h), 10240

Suspended for 30 days

Shabou, Arthur Joseph (REB, REO)

411 N. Central Ave. #100, Glendale
 Effective: 11/20/09
 Officer of: US Capital Funding Corporation
 Violation: 2831, 2831.1, 2831.2,
 2832(d), 2840, 10145,
 10159.2, 10177(d)(h), 10240

Suspended for 30 days

U S Capital Funding Corporation (REC)

12441 Nedra Dr., Granada Hills
 Effective: 10/16/09
 Violation: 2831, 2831.1, 2831.2,
 2832(d), 2840, 10145,
 10177(d), 10240

Suspended for 30 days

OAKLAND REGION**Foppiano, Peter Carl (REB)**

16001 Healdsburg Ave., Healdsburg
 Effective: 11/23/09
 Violation: 2725, 2726, 10137,
 10161.8(a), 10176(i),
 10177(d)(h), 10178, 10240

Suspended for 30 days

Gonzales, Gerald Steven (RES)

565 Clark St., Crockett
 Effective: 11/12/09
 Violation: 10177(g)

Suspended for 30 days

SUSPENDED WITH STAY**FRESNO REGION****Bor, Joan Marie (REB)**

16439 Curtis Trail, Frazier Park
 Effective: 9/9/09
 Violation: 2831, 2831.1, 2831.2, 2832,
 2905, 2950(f), 10145, 10148,
 10177(d), 10240

Suspended for 60 days—30 days stayed for 2 years on terms and conditions

RCA Properties, Inc. (REC)

711 12th St., Paso Robles
 Effective: 9/1/09
 Violation: 10176(a), 10177(g)

Suspended for 60 days—stayed for 2 years on terms and conditions

Williams, Elissa K. (REB)

711 12th St., Paso Robles
 Effective: 9/1/09
 Violation: 10176(a), 10177(g)

Suspended for 60 days—stayed for 2 years on terms and conditions

LOS ANGELES REGION**Brown, Patricia Gail (REB)**

56100 29 Palms Hwy., Yucca Valley
 Effective: 11/6/09
 Violation: 2831, 2831.1, 2831.2, 10145,
 10177(d), 10232.2(c), 10240

Suspended for 90 days—45 days stayed for 2 years on terms and conditions

Capital Direct Lending Corporation (REC)

3 San Joaquin Plaza, Ste. 250, Newport Beach
 Effective: 10/16/09
 Violation: 2731, 2840, 10159.5,
 10177(d)(g), 10236.4, 10240

Suspended for 60 days—stayed for 2 years on terms and conditions

Gateway Funding Corporation (REC)

25255 Cabot Rd. #208, Laguna Hills
 Effective: 11/20/09
 Violation: 2832.1, 2834, 2840, 2950(h),
 10145, 10177(d)(g), 10240

Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Gomez, David William (REB)

621 W. Beverly Blvd., Montebello
 Effective: 11/25/09
 Violation: 2831, 2831.1, 2840, 10145,
 10176(g), 10177(d)(g),
 10240, 10236.4

Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Hernandez, Francisco Guillermo (REB, REO)

8141 East 2nd St., Ste. 620, Downey
 Effective: 10/30/09
 Officer of: Tristar Realty & Investments, Inc.
 Violation: 2831, 10145, 10177(g)

Suspended for 60 days—stayed for 2 years on terms and conditions

Hulbert, Michael (REB, REO)

3 San Joaquin Plaza, Ste. 250, Newport Beach
 Effective: 10/16/09
 Officer of: Capital Direct Lending Corporation
 Violation: 2731, 2840, 10159.5,
 10177(d)(g), 10236.4, 10240

Suspended for 60 days—stayed for 2 years on terms and conditions

Hwang, Simon Jaeyun (REB)

116 Soco Dr., Fullerton
 Effective: 9/23/09
 Violation: 10130, 10131.1(c), 10177(d)
 (g)(h), 10240(c)

Juniper, David Allen (REB, REO)

26250 Enterprise Ct. #230, Lake Forest
 Effective: 11/2/09
 Officer of: Capital Home Corporation
 Violation: 10177(g)

Suspended for 120 days—70 days stayed for 2 years on terms and conditions

Lewis, Stuart Gwynn (REB)

1240 Yale St. #229, Santa Monica
 Effective: 9/9/09
 Violation: 10130, 10177(d)

Suspended for 30 days—stayed for 1 year on terms and conditions

New Century Pacifcom, Inc. (REC)

8320 Florence Ave., Downey
 Effective: 10/14/09
 Violation: 2726, 2731, 2831.2, 2832.1,
 2832(d), 2834, 2840, 2840.1,
 2950(d)(g)(h), 2951, 10145,
 10159.5, 10177(g), 10240

Suspended for 90 days—stayed for 2 years on terms and conditions

Ogami, Tsuneo (REB, REO)

8320 Florence Ave., Downey
 Effective: 10/14/09
 Officer of: New Century Pacifcom, Inc.
 Violation: 2726, 2731, 2831.1, 2832.2,
 2832(d), 2834, 2840, 2840.1,
 2950(d)(g)(h), 2951, 10145,
 10159.5, 10177(g), 10240

Suspended for 90 days—stayed for 2 years on terms and conditions

Osorno, Bertha Margarita (RES)

2515 E. Chestnut Ave., Orange
 Effective: 9/17/09
 Violation: 10130, 10177(d)

Suspended for 45 days—25 days stayed for one year on terms and conditions

Pellizzon, Paul Anthony (REB, REO)

25255 Cabot Rd. #208, Laguna Hills
 Effective: 11/20/09
 Officer of: Gateway Funding Corp.
 Violation: 2832.1, 2834, 2840, 2950(h),
 10145, 10177(d)(g), 10240

Suspended for 60 days—stayed for 2 years on terms and conditions

Reed, Paul Henry (REB)

2855 E. Coast Hwy., Ste. A, Corona Del Mar
 Effective: 11/16/09
 Violation: 2715, 10148, 10162, 10177(d)

Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Sauder Real Estate, Inc. (REC)

940 W. Foothill Blvd., Claremont
 Effective: 10/19/09
 Violation: 10177(g)

Suspended for 90 days—60 days stayed for 2 years on terms and conditions

Sauder-Ruest, Nanci J. (REB, REO)

940 W. Foothill Blvd., Claremont
 Effective: 10/19/09
 Officer of: Sauder Real Estate, Inc.
 Violation: 10177(g)

Suspended for 90 days—60 days stayed for 2 years on terms and conditions

Spear, John B. (REB, REO)

1940 Orange Tree Lane, Redlands
 Effective: 9/14/09
 Officer of: Fidelity National Mortgage Corporation
 Violation: 10177(g)

Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Yalvezian, Paul B. (REB, REO)

827 E. Colorado St., Glendale
 Effective: 9/9/09
 Officer of: Equity Income
 Violation: 2832, 2832.1, 2950, 10145,
 10159.5, 10160, 10161.8,
 10177(d)(g)

Suspended for 60 days—30 days stayed for 2 years on terms and conditions

OAKLAND REGION**Brooks, Judith (REB)**

2920 Woodside Rd., Woodside
 Effective: 9/15/09
 Violation: 10177(h)

Suspended for 30 days—stayed for one year on terms and conditions

Isola, Albert John (REB)

4049 First St., Ste. 141, Livermore
 Effective: 9/14/09
 Violation: 2831, 2832(d), 10177(d)(h),
 10240

Suspended for 60 days—stayed for 2 years on terms and conditions

Litewater, Inc. (REC)

20480 Blauer Dr., Ste. C, Saratoga
 Effective: 9/15/09
 Violation: 10137, 10177(d)

Suspended for 30 days—stayed for one year on terms and conditions

Mayr, Lin W. (REB)

655 W. Evelyn Ave., Ste. 9, Mountain View
 Effective: 11/30/09
 Violation: 2725, 10159.2, 10177(d)

Suspended for 60 days—stayed for 2 years on terms and conditions

Prime Vest Realty (REC)

1600 Los Gamos Dr., Ste. 345, San Rafael
 Effective: 11/19/09
 Violation: 10177(d), 11018.1, 11018.2

Suspended for 20 days—stayed for 2 years on terms and conditions

SACRAMENTO REGION**Johnson, Louise Ellen (REB)**

778 East Ave., Chico
 Effective: 9/9/09
 Violation: 2831, 2831.2, 2832.1, 10145,
 10148, 10177(d)

Suspended for 60 days—stayed for 2 years on terms and conditions

**SAN DIEGO REGION****Pyeatt, Lester L. (REB)**

631 14th Street, Poway
 Effective: 10/26/09
 Officer of: Airway Lending, Inc.
 Violation: 10148, 10159.2

Suspended for 90 days—60 days stayed for 2 years on terms and conditions

Robe, Michael Wesley (RES)

810 Jamacha Rd., Ste. 101, El Cajon
 Effective: 9/15/09
 Violation: 10177(g)

Suspended for 30 days—stayed for 2 years on terms and conditions

Vaca, Eric William (REB)

1525 Kettner Blvd., San Diego
 Effective: 10/6/09
 Violation: 2731, 2847.3, 2848(2), 2848(4),
 2848(6), 2848(12), 2848(16),
 2848(17), 2848(18), 10159.2,
 10159.5, 10177(d), 10235,
 14702, 17533.6

Suspended for 50 days—stayed for 2 years on terms and conditions

LICENSE SURRENDERED**LOS ANGELES REGION****Canyon Capital Funding Corp. (REC)**

151 Yorba, Tustin
 Effective: 9/21/09

Capital Home Corporation (REC)

30021 Tomas St., Ste. 300,
 Rancho Santa Margarita
 Effective: 11/2/09

Cirson, Eugene (REB)

5281 Dartmouth Ave., Westminster
 Effective: 9/2/09

Gano, James Stephen Jr. (RES)

PO Box 3705, San Dimas
 Effective: 11/16/09

Grimes, James Wray (REB, REO)

30112 Pixie, Running Springs
 Effective: 11/16/09
 Officer of: Foshees High Country, Inc.

Loan Processing Center, Inc. (REC)

5440 Trabuco Rd., Ste. 200, Irvine
 Effective: 9/21/09

McMillen, Kelly Jo (RES)

4333 Inez Ave., Yucca Valley
 Effective: 9/23/09

Nuell, Gary (RES)

843 Euclid St. #105, Santa Monica
 Effective: 11/1709

Sarpas, Hakimullah (RES)

17267 Santa Lucia St., Fountain Valley
 Effective: 10/28/09

Worldwide Brokers, Inc. (REC)

3541 Van Wig Ave., Baldwin Park
 Effective: 9/15/09

OAKLAND REGION

Constantino, David Michael (REB)
1650 Borel Pl., Ste. 214, San Mateo
Effective: 11/12/09

Gorman & Mayr, Inc. (REC)
811 Washington St., Oakland
Effective: 11/30/09

SACRAMENTO REGION

Miller, Joan Arlene (REB)
2525 Lafayette Dr., Davis
Effective: 9/23/09

Stevenson, Mark B. (RES)
12851 Powerhouse Rd., PO Box 455, Potter Valley
Effective: 10/28/09

SAN DIEGO REGION

American Premier Funding, Inc. (REC)
6150 Mission Gorge Rd., Ste. 140, San Diego
Effective: 10/6/09

Comfort Sales & Services, Inc. (REC)
268 N. Lincoln Ave. #9B, Corona
Effective: 9/16/09

Cortez, Brenda (RES)
29481 Camino Cristal, Menifee
Effective: 9/2/09

Malik, Azher (RES)
505 C L Fleming Cir., Corona
Effective: 9/16/09

Weimortz, Joseph Alexander Sr. (REB)
9312 Twin Mountain Cir., San Diego
Effective: 9/2/09

Zollinger, Tyler Brent (RES)
17037 Silvercrest Dr., San Diego
Effective: 11/20/09

PUBLIC APPROVAL**LOS ANGELES REGION**

Alvidrez, Guadalupe (REB, REO)
3541 Van Wig Ave., Baldwin Park
Effective: 9/15/09
Officer of: Worldwide Brokers, Inc.
Violation: 10177(g)

Ghaemi, Mohammad (REB)
2081 Business Center Dr., Ste. 175, Irvine
Effective: 9/23/09
Violation: 2970, 2972, 10146, 10177(d)

OAKLAND REGION

Gates, Scott John (RES)
235 Posada Del Sol, Novato
Effective: 11/19/09
Violation: 11077(d), 11018.1, 11018.2

Hevia, Nancy Lee (REB)
21 Castle Rock Dr., Mill Valley
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

Larsen, Glenn Harvey (REB)
300 Drakes Landing Rd., Ste. 155, Greenbrae
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

Massoumi-Madjlessi, Biganeh Lily (REB)
1100 Larkspur Landing Cir. #300, Larkspur
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

McLaughlin, Jack (REB)
47-E Tamal Vista, Corte Madera
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

McLaughlin, Pamela (REB)
998 Magnolia Ave., Larkspur
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

O'Mohundro, Karyn Sue (REB)
12772 Saratoga-Sunnyvale Rd., Saratoga
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

Pacific Union Real Estate Group, Ltd. (REC)
One Letterman Dr. Bldg. C Ste. 300, San Francisco
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

S I R E Enterprises, Ltd. (REC)
235 Posada Del Sol, Novato
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

Scarpa, Steven Joseph (REB)
235 Posada Del Sol, Novato
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

Schaefer, Sandra K. (REB)
663 2nd St. East, Sonoma
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

Zarkoub, Afshin (REB)
817 Vega Cir., Foster City
Effective: 11/19/09
Violation: 10177(d), 11018.1, 11018.2

SAN DIEGO REGION

Alkire, Richard Leonard (REB, REO)
24947 Truman Place, Murrieta
Effective: 9/29/09
Officer of: Trinity Financial, Inc.
Violation: 2832(a), 10177(d)(g)

Trinity Financial, Inc. (REC)
41707 Winchester Rd. #301, Temecula
Effective: 9/29/09
Violation: 2832(a), 10145, 10177(d)(g)

**INDEFINITE
SUSPENSIONS**
(under Recovery Act provisions)

LOS ANGELES REGION

J P Capital Markets, Inc. (REC)
626 20th St., Huntington Beach
Effective: 09/08/09

Oganesyan, Elita (REB)
12107 Gerald Ave., Granada Hills
Effective: 09/01/09

Stevens, Freddie Jr., (REB)
P.O. Box 5605, Long Beach
Effective: 09/01/09

OAKLAND REGION

Bercovich, Clifford D. (REB)
P.O. Box 102, Kentfield
Effective: 10/07/09

Guiten, Zandra Dee (REB)
580 Grand Ave. #J, Oakland
Effective: 10/5/09

SACRAMENTO REGION

Dore, Mary Avora (REB)
1406 Stonehollow, #600, Kingwood TX
Effective: 09/01/09

SAN DIEGO REGION

Beard, Jeremy E. (REB)
601 E. Palomar St., #C253, Chula Vista
Effective: 09/04/09

Gordin, Scott Edward (REB)
1451 S. Rimpau Ave., #214, Corona
Effective: 09/01/09

Schmidt, Jack Anthony (RES)
1386 Tremella Ct., Beaumont
Effective: 09/04/09

Short Sales Continued from page 3
sign of fraud. Such undisclosed payments are likely illegal. The economic substance of and all payments in the short sale transaction should be disclosed on the HUD 1 statement. There should never be dual or multiple contracts, only one of which shows the true purchase price.

Added Twist re: Payments Outside of Escrow – some short sale listing contracts have a provision in an addendum for payments outside of escrow for some amount of money (usually \$1,000 up to 1 percent of the sales price) to a third party short sale negotiator, processor, or facilitator, for some unknown or unspecified service. The money is sometimes to be paid by the seller, and other times by the buyer. These may be payments to a confederate of the real estate broker, some affiliate of the broker, and/or an unlicensed short sale entity. It is not known from a review of the addendum whether these fees are paid for a real service, or whether they are “junk” fees paid to increase the monies payable to the real estate licensee. If they are paid for a legitimate purpose, they must be disclosed to all parties to the transaction, including the senior Lender. If they are “junk” fees, or fees paid to an unlicensed entity, they are problematic from a legal perspective.

All such payments may violate RESPA, the Real Estate Law, and other federal and/or State laws.

2. Sometimes the End or Retail Buyer is the Only One Putting Money into the Short Sale Transaction.

Here the end buyer's money is used to close the transaction, without any or proper disclosure.

3. The Ownership of the Underwater Property is Transferred to Some Sort of Trust.

This may be done to keep the chain of title intact and to hide the true owner of the property. In many cases, the homeowner seller is listed as the beneficiary of the trust.

4. Additional Things to Consider (A Word to the Wise):

- (a) Your fiduciary duties are to your principal(s), which cannot be signed away. The duties include honesty, loyalty, confidentiality, full disclosure of all material and relevant facts, skill, care, and diligence, and placing your client's interests ahead of yours. For a more complete discussion of fiduciary duties that are imposed on California real estate licensees, please see DRE's Real Estate Bulletin of Summer 2007.

If you are the listing agent, you have a number of fiduciary duties to the seller imposed on you. You certainly cannot delegate your real estate license and fiduciary duties to an unlicensed third party who shuts you off from communication with the short sale Lender.

Dual Agency Considerations: Consider also if you are an agent of the third party investor/short sale facilitator. You may have a dual agency situation which raises a whole host of issues. If you are a dual agent, you may have an irrevocable conflict that a dual agency disclosure cannot remedy.

By getting the best price for the first buyer/investor, you most assuredly cannot get the best sales price for the seller. If you have listed the home for the seller, your duty should run to that seller. How can it also run to the third party?

- (b) Your legal obligations under the California real estate law regarding disclosures, including agency relationships, and the prohibitions against fraud and secret profits.

- (c) Real estate licensees wishing to collect an advance fee in

Short Sales Continued from page 9

connection with performing short sales must first submit an advance fee contract to the DRE for review and then receive from the DRE the issuance of a no-objection letter relative to that contract. All advance fees collected thereafter under the terms of that contract must be placed in a trust account and handled as client trust funds under the California Real Estate Law and regulations of the Real Estate Commissioner.

- (d) By entering into an agreement with a person who is engaged in mortgage fraud (even unwittingly or innocently), you can be held liable both civilly and criminally, and may be the subject of administrative discipline by the DRE.
- (e) RESPA's anti-kickback and unearned fee provisions. The U.S. Department of Housing and Urban Development has many informative materials on RESPA and the prohibitions against giving or receiving any fee, kickback, or any thing of value for the referral of settlement service business.
- (f) By participating in a short sale fraud, with artificially deflated offers for the short sale property, you may be defrauding the new lender on the retail sale – in addition to the fraud committed against the short sale Lender. In a typical simultaneous sale transaction, a property is stated as having two different values to two separate lenders – the short sale Lender, and the new retail lender. While one of the values may represent a “distressed” property value, and the other a “non-distressed” property value, an issue regarding fraud is presented.
- (g) There is potential harm to the short sale home seller. In addition to not obtaining the highest price for the seller, which is or may be a violation of the law and or your fiduciary duty, the Lender may still require the seller (the original borrower) to pay off the remaining debt. In this case, there is no debt forgiveness. Even where the holder of the first lien allows for debt forgiveness, the holder of the second or subordinate liens might not forgive that debt. A deficiency judgment may then be pursued and obtained by the lien holder(s) for the deficiency. Moreover, the greater the debt forgiveness, the greater the potential tax liability. While the federal government has imposed a freeze on taxing the forgiven amount, State tax law may not do the same. Thus, if the short sale property is sold for the most amount of money that the market will bear, the potential tax consequence to the seller is diminished. Conversely, by accepting an artificially deflated offer, the seller's potential tax liability is increased.


III. Conclusion

Real estate and mortgage fraud hurts everyone. Those who engage in short sale flipping fraud through the use of misrepresented valuations and/or manipulated prices make profits at the expense of lenders, which often times means at the expense of taxpayers. This takes money out of the system that is designed to assist home owners and lenders. Furthermore, it manipulates the value of the real estate market, harms communities, innocent buyers, sellers, and lenders, and may ultimately scare off lenders from doing short sales, or from lending to purchasers of short sale properties.

While this publication addresses one particular type of short sale flipping transaction, and some varying related and other scenarios, California real estate licensees would be well-advised to be completely transparent and to fully disclose, and document the disclosure of, all material information, side-deals, and concurrent and related transactions to all parties to short sale transactions, including, without limitation, all involved third party participants and payments.

Licensees would also be wise to advise their clients to contact and consult with a qualified attorney or tax professional regarding the potential tax consequences of a short sale transaction.

Further, if you are considering engaging in short sale transactions, you should fully educate yourself about the mechanics of the process and the related legal and ethical issues, and work only with legitimate professionals.

Finally, if you become aware of information about fraudulent short sale activity, please contact the DRE's Enforcement section in Sacramento or at the office closest to you, or via the Internet at http://www.dre.ca.gov/cons_complaint.html. In addition, you may want to contact the California Attorney General's Office, the U.S. Department of Housing and Urban Development, and the Federal Bureau of Investigation. 

Golf course disclosures

Residents of homes located adjacent to or near a golf course may enjoy the benefit of the enhanced value of their residences as well as favorable views. However, the proximity of a golf course can also produce negative impacts on adjacent homes, which may result in disputes. This article will address some of the issues that a developer or a real estate agent may wish to disclose to purchasers in a project affected by a golf course.

These disclosures may apply whether the golf course is privately owned, controlled by the developer, or is part of the homeowners' association's common area. If applicable, the disclosures may be made in a Transfer Disclosure Statement, Subdivision Public Report, and if a more detailed disclosure that provides an explanation unique to the property, a separate document is appropriate. Some suggestions for disclosures may include:

Stray golf balls – Any resident near a golf course may be affected by errant golf balls, resulting in personal injury or destruction to property. Golfers may attempt to trespass on adjacent property to retrieve golf balls even though the project restrictions may expressly prohibit such retrieval.


Noise and lighting – The noise of lawn mowers and utility vehicles may create disturbances to homeowners. Maintenance operations may occur in the early morning hours. Residents living near the clubhouse may be affected by extra lighting, noise, and traffic.

Pesticides and fertilizer use – A golf course may be heavily fertilized, as well as subjected to other chemicals during certain periods of the year.

Irrigation system – Golf course sprinkler systems may cause water overspray upon adjacent property and structures. Also the irrigation system of a golf course may use reclaimed and retreated wastewater.

Golf carts – Certain lots may be affected more than others by the use of golf carts. Lots adjacent to a tee or putting green may be subject to noise disturbances and loss of privacy.

Access to golf course from residences – It is likely that most residences will not have direct access from their lots to the golf course. The project restrictions may disclaim any right of access or other easements from a resident's lot onto the golf course.

View obstruction – Residents living near a golf course may have their views over the golf course impacted by maturing trees and landscaping or by changes to the course's configuration. 

When Broker Handles Escrow Continued from page 1

Financial Code Section 17403.4 – License Disclosure Required of Person Preparing Written Instructions

This Financial Code Section requires that “All written escrow instructions and all escrow instructions transmitted electronically over the Internet executed by a buyer or seller, whether prepared by a person subject to this division or by a person exempt from this division under Section 17006, shall contain a statement in not less than 10-point type which shall include the license name and the name of the department issuing the license or authority under which the person is operating...”

Business and Professions Code Section 10086 (a) – Engaging in Prohibited Activity – Order to Desist and Refrain

“If the commissioner determines through an investigation that ... a real estate broker has engaged in or is engaging in an activity which is a violation of a provision of Division 6 (commencing with Section 17000) of the Financial Code, and which is not exempt pursuant to paragraph (4) of subdivision (a) of Section 17006, the commissioner may direct the person to desist and refrain from such activity by issuance an order specifying the nature of the activity and the factual and legal basis for his or her determination. The respondent to whom the order is directed shall immediately, upon receipt of the order, cease the activity described in the order.”

Real estate brokers and salespersons received trust funds in the normal course of doing business. They received these funds on behalf of others, thereby creating a fiduciary responsibility to the owners of the funds. The brokers and salespersons must handle, control, and account for the trust funds according to the requirements of the Real Estate Laws and the Commissioner’s Regulations. Improper handling of trust funds is a cause for disciplinary action.

The Audit Section of the Department of Real Estate has encountered numerous broker escrow operations with inadequate record keeping and mishandling of escrow trust funds. In many cases, the audit

reveals a trust fund shortage in the escrow trust account. Most shortages are due to overdrawn escrow balances, unauthorized disbursements/conversion of trust funds and bank service charges.


When handling escrows under the exemption of the Financial Code Section 17006 (a)(4), a real estate broker is required to follow the requirements of trust funds handling in accordance with the Business and Professions Code Section 10145 and the Commissioner’s Regulations 2830.1, 2831, 2831.1, 2831.2, 2832, 2832.1, 2834, 2835, and 2951.

When handling escrows, a real estate broker must ensure that the escrow receipts and disbursements are handled and accounted for properly, and they should be disclosed in the escrow instructions and the final closing statement accordingly. All escrow disbursements should be made according to the written authorization of the party or parties to the transaction. The final closing statement includes the amount of escrow receipts and disbursements and it should include the name of the person to whom the escrow disbursement is made.

Furthermore, Commissioner’s Regulation 2950 stipulates that the following acts in the handling of an escrow by a real estate broker exempt from the provisions of the Escrow Law (by Section 17006(a)(4) of the Financial Code) are prohibited and may be considered grounds for disciplinary action:

- (a) Soliciting or accepting an escrow instruction (or amended or supplemental escrow instruction) containing any blank to be filled in after signing or initialing of such escrow instruction (or amended or supplemental escrow instructions).
- (b) Permitting any person to make any addition to, deletion from, or alteration of an escrow instruction (or amended or supplemental escrow instruction) received by such licensee, unless such addition, deletion or alteration is signed or initialed by all persons who had signed or initialed such escrow instruction (or amended or supplemental escrow instruction) prior to such addition, deletion or alteration.
- (c) Failing to deliver at the time of execution of any escrow instruction or amended or supplemental escrow instruction a copy thereof to all persons executing the same.

- (d) Failing to maintain books, records and accounts in accordance with accepted principles of accounting and good business practice.
- (e) Failing to maintain the office, place of books, records, accounts, safes, files and papers relating to such escrows freely accessible and available for audit, inspection and examination by the commissioner.
- (f) Failing to deposit all money received as an escrow agent and as part of an escrow transaction in a bank, trust account, or escrow account on or before the close of the next full working day after receipt thereof.
- (g) Withdrawing or paying out any money deposited in such trustee account or escrow account without the written instruction of the party or parties paying the money into escrow.
- (h) Failing to advise all parties in writing if he has knowledge that any licensee acting as such in the transaction has any interest as a stockholder, officer, partner or owner of the agency holding the escrow.
- (i) Failing upon closing of an escrow transaction to render to each principal in the transaction a written statement of all receipts and disbursements together with the name of the person to whom any such disbursement is made.
- (j) Delivering or recording any instrument which purportedly transfers a party’s title or interest in or to real property without first obtaining the written consent of that party to the delivery or recording.

Lastly, concerning broker supervision, a real estate broker or an officer designated by a corporate broker licensee shall be responsible for the supervision and control of the activities conducted by his or her employees and salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage as required by the Commissioner’s Regulation 2725 and B&P Code Section 10159.2. When operating an escrow division, real estate brokers should exercise caution to ensure that they comply with all applicable provisions of the Real Estate Law and the Financial Code. 



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Commissioner's Message Continued from page 1

higher price, the buyer/investor will not close the transaction with the lender and simply walk away. While there are many variations on the theme, the one constant is the lack of transparency by licensees involved in facilitating these scams. There is no doubt in some cases this lack of transparency could lead to license disciplinary action.

In this edition of the bulletin, you will find an excellent discussion of the potential perils of short sales and how these perils may affect a licensee. In addition, the DRE has posted a Consumer Alert on short sales with key information for sellers considering a short sale. The alert can be found at: http://www.dre.ca.gov/cons_alerts.html.

As the market and economic environment changes, so will the schemes that take advantage consumers and harm the industry. Just as the Department shifted focus and resources to address loan modification scams, the Department will do so again to combat the emerging scams such as short sale flipping that take advantage of market aberrations. The Department intends to drum out of the business those who look to take advantage of others and breach their legal and ethical duties. Licensees who approach the ever changing market with honesty and integrity and do what is right by all those involved in the transaction will continue to thrive as the market recovers. 🏠

Real Estate Bulletin

SPRING 2010

INSIDE THIS ISSUE:

- Commissioner's Message
- Short Sales -- An Overview and Warning to Licensees re: Fraud, Legal and Ethical Minefields
- When Broker Handles Escrow
- Golf Course Disclosures

DEPARTMENT OF REAL ESTATE—PRINCIPAL OFFICE
 We're located at: 2201 Broadway, Sacramento, 95818-2500
 Mailing Address: P.O. Box 187000, Sacramento, 95818-7000

Primary Telephone Numbers

Consumer Information	916-227-0864
Mortgage Loan Activities	916-227-0770
General Licensing Information	877-373-4542
Examinations	877-373-4542

CALIFORNIA RELAY TELEPHONE SERVICE
 (For the deaf and hearing impaired)

From TDD phone.....	1-800-735-2929
From voice phone.....	1-800-735-2922