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FILED
JAN 17 2013
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

To: LEVERAGE CAPITAL, INC. and DAVID SCHATZLEIN.	NO. H-4448 SD ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Real Estate Commissioner ("the Commissioner") of the California Department of Real Estate ("the Department") caused an investigation to be made of the activities of LEVERAGE CAPITAL, INC. ("LCI") and DAVID SCHATZLEIN ("SCHATZLEIN"), (collectively, "Respondents"). Based on that investigation, the Commissioner has determined that Respondents have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including acting in the capacity of, advertising or assuming to act as a real estate broker in the State of California within the meaning of Section 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by real property), 10131.2 (collection of advance fees), 10085 (advance fee agreements and materials) and 10085.5 (collecting unauthorized advance fees) of the Code, and Section 2944.7 (prohibition of

advance fees) of the Civil Code. Furthermore, based on the investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

FINDINGS OF FACT

1. At no time has LCI been licensed by the Department in any capacity.

2. At no time has SCHATZLEIN been licensed by the Department in any capacity.

3. During the period of time set out below, Respondents performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered.

4. In furtherance of their plan and scheme to solicit advance fees and provide loan modification services, on or about May 27, 2010, Respondents entered into an agreement to provide loan modification services to Elida M. and Ramon L. for their real property located at 6309 East Mano, Fresno, California, in exchange for $3,500. On or about June 8, 2010, Elida M. and Ramon L. paid Respondents $1,750 in advance fees, with additional payments of $850 on or about August 30, 2010, and $900 between June 8, 2010, and August 30, 2010. Respondents failed to obtain a loan modification for Elida M. and Ramon L., and have not returned the $3,500 advance fees paid by Elida M. and Ramon L.

CONCLUSIONS OF LAW

Based on the Findings of Fact contained in Paragraphs 1 through 4, above, LEVERAGE CAPITAL, INC. and DAVID SCHATZLEIN solicited borrowers and/or performed services for those borrowers with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services

and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected advance fees for the services to be provided, which acts require a real estate broker license under Sections 10130 (real estate license requirement), 10131(d) and 10131.2 of the Code.

Respondents used a form of advance fee agreement which had not been provided to the Department for its prior review and consideration, in violation of Sections 10085 and 10085.5 of the Code and Section 2944.7 of the Civil Code, and Section 2970 (submission of advance fee materials) of the Regulations.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, LEVERAGE CAPITAL, INC. and DAVID SCHATZLEIN, whether doing business under your own name, or any other name or fictitious name, IS HEREBY ORDERED to immediately desist and refrain from:

1. Performing any acts within the State of California that require a real estate license unless and until you are properly licensed by the Department.
2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any of the services you offer to others, unless and until you demonstrate and provide evidence satisfactory to the Commissioner that you are properly licensed by the Department and that LEVERAGE CAPITAL, INC. and DAVID SCHATZLEIN:
   (a) Have an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Regulations;
   (b) Have placed all previously collected advance fees into a trust account for that purpose and are in compliance with Section 10146 (deposit of advance fees into trust account) of the Code; and
   (c) Have provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations.

(d) Are in compliance with California law, as amended effective as of October 11, 2009, with respect to loan modification and/or forbearance services. Under the amended law, you can only collect advance fees for loan modification or other mortgage loan forbearance services related to commercial loans and loans for residential properties containing five or more dwelling units.

(e) Have refunded to Elida M. and Ramon L. the advance fees paid to you by them in this matter.

3. Demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and under any conditions, with respect to the performance of loan modification or any other form of mortgage loan forbearance services in connection with loans on residential property containing four or fewer dwelling units.

DATED: 12/14/2012

REAL ESTATE COMMISSIONER

By: By WAYNE S. BELL
Chief Counsel

Notice: Business and Professions Code Section 10139 provides that, "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars ($20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars ($60,000)...."

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cc: DAVID SCHATZLEIN
As Agent for Service of Process
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DAVID SCHATZLEIN
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ATTY JWB/km