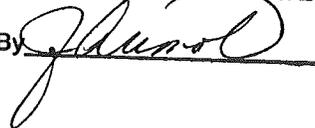


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FILED

JUL 24 2014

BUREAU OF REAL ESTATE

By: 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Order to Desist & Refrain of:)
MICHAEL NAZARINIA,)
Respondent.)

NO. H-4595 SD
OAH No. 2014030906

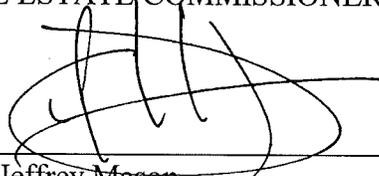
DECISION

The Proposed Decision dated June 25, 2014, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on AUG 07 2014.

IT IS SO ORDERED JULY 16, 2014.

REAL ESTATE COMMISSIONER



By: Jeffrey Mason
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Order to Desist &
Refrain Involving:

MICHAEL NAZARINIA,

Respondent.

Case No. H 04595 SD

OAH No. 2014030906

PROPOSED DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California on June 9, 2014.

Martha J. Rosett, Counsel, represented Complainant Jeffrey Mason, Chief Deputy Commissioner, Bureau of Real Estate, Department of Consumer Affairs, State of California.

Respondent Michael Nazarinia represented himself and was present throughout the administrative proceeding.

The matter was submitted on June 9, 2014.

SUMMARY

Michael Nazarinia controls and operates www.loanmodhelpcenter.com and Loan Mod Help Center (LMHC), which is a business that solicits borrowers for loan modification services in exchange for a fee, which is due at the end of the loan modification process. At no time has Michael Nazarinia held a license as a real estate broker for the State of California, although a broker's license is required to engage in loan modifications.

A preponderance of the evidence supports the Bureau's issuance of its Order to Desist and Refrain. It will protect the public and prevent Nazarinia's continued violations of the real estate laws created to protect consumers as they seek to modify mortgages.

FINDINGS OF FACT

Jurisdictional Matters

1. On February 24, 2014, Jeffrey Mason, Chief Deputy Commissioner, Bureau of Real Estate, State of California (the Bureau), signed an Order to Desist and Refrain (the Order) on behalf of the Real Estate Commissioner.

2. The Order found that respondent Michael Nazarinia solicited consumers for loan modification services in exchange for payment of fees; that he operated www.loanmodhelpcenter.com and Loan Mod Help Center (LMHC), which provided loan modification services; and that such action was unlawful. It ordered Nazarinia to immediately desist and refrain from performing any acts for which a real estate broker's license was required.

3. The Order was served on Nazarinia, who timely appealed and requested a hearing. This hearing followed.

The Bureau's Authority to Investigate

4. The Bureau is the agency responsible for the licensing and enforcement of activity related to real estate transactions in the state of California, including the brokering of real estate loan modifications. Protection of the public is the highest priority for the Bureau in exercising its licensing, regulatory, and disciplinary functions. (Bus. & Prof. Code, § 10050.1.)

5. A person must first be a licensed real estate broker in order to solicit borrowers or lenders for real estate loan modifications, to negotiate such loans, or to collect payments for loan modification services in the State of California. (Bus. & Prof. Code, § 10131.)

6. As part of its authority to enforce the provisions and regulations related to the activities for which a real estate license is required, the Bureau conducts investigations of persons and entities believed to be engaging in such activities to verify that the required real estate licenses are in place. (Bus. & Prof. Code, §§ 10071; 10080.9.)

The Investigation

7. Bureau investigator Sara Knapton (Knapton) was assigned to conduct an investigation involving Nazarinia and testified about her investigation. She reviewed the website www.loanmodhelpcenter.com. The website solicits borrowers for loan modification services in exchange for a fee to be paid after the services are completed. The website states, in part: "[t]here is no need to contact your lender . . . we will be your representative . . . [w]e fight on your behalf . . . we make no money until the loan modification or other offered service has been successfully completed."

8. On November 14, 2012, Knapton telephoned LMHC at the telephone number listed on the website. Knapton testified that after listening to a pre-recorded message, she was connected to a man who answered and stated: "Hello, this is Michael." The man stated that he could help her obtain a loan modification. He requested that she provide him with information such as her loan balance, monthly mortgage payment, property information, and tax information. He stated that he could negotiate the loan modification on Knapton's behalf.

9. The website also listed a mailing address. The address is for a mailbox rental store in San Diego called "Express Center." The mailbox rental agreement was signed by Nazarinia and provides that mail will be received on behalf of LMHC.

10. Knapton conducted a search of California's corporate records for Nazarinia and LMHC. Her search revealed that Nazarinia was president of a fictitious business called "REST Report Matters," which is incorporated in Florida. She did not find any corporate records for LMHC or records to show that LMHC is registered as a fictitious business name in California.

11. When she conducted a search of the real estate licenses for Nazarinia, REST Report Matters, and LMHC, none of these entities were licensed by the Bureau.

Nazarinia's Testimony

12. Nazarinia testified that he would like to become a real estate broker, has never held a real estate salesperson license or a real estate broker's license in any state, and has yet to apply for a real estate license. However, he has purchased school materials and has taken classes for the purpose of ultimately taking the exam necessary to be a licensed real estate broker in California. He has not yet finished this coursework because of financial reasons.

13. Respondent explained his involvement with LMHC. In essence, he stated he did not control or operate the website www.loanmodhelpcenter.com or LMHC, and that he had no knowledge about whether or not a licensed real estate broker was involved. He asserted that other individuals from other entities were in control.

14. Years prior to the issuance of the Order in this matter Nazarinia had knowledge of the Bureau's regulations regarding loan modification services. Sometime prior to 2010, Nazarinia worked for Haffar & Associates and Mohamed Fouzi Haffar (Haffar). Nazarinia testified that his duties included scheduling appointments and phone calls with customers, emailing customers, reviewing documents, and providing general management of the office. Haffar & Associates was sued in 2010 in a class action lawsuit under multiple causes of action related to the asserted improper payment of advance fees for loan modification services. Nazarinia was named individually as a defendant in that lawsuit. Nazarinia settled this lawsuit by payment of \$60,000 to plaintiffs, and the claims against Nazarinia were dismissed without any findings having been made with regard to him.

15. Nazarinia testified that sometime after 2010, he began working for REST Report Matters, Inc., a Florida corporation. He testified that REST Report Matters is also doing business as LMHC and is using the website www.loanmodhelpcenter.com. He claimed that he is only a shareholder in REST Report Matters, Inc. and not in a position of authority to make decisions for the company. Nazarinia testified that another man, Charles Rose, controlled the company and that he (Nazarinia) followed orders from Rose. Nazarinia also testified that LMHC is not a corporation.

16. Charles Rose was also named as a co-defendant with Nazarinia in the class-action lawsuit regarding Haffar & Associates.

17. Nazarinia further testified about other entities that he claims controlled LMHC. He testified that from June, 2011, to November 27, 2011 Rose was operating REST Report Matters and www.loanmodhelpcenter.com along with Christopher Nelson Beard (Beard), a California licensed real estate broker affiliated with a corporation named Secured Marketing Concepts Corp. doing business as Pacific One Lending.

18. Nazarinia testified that his relationship with Rose deteriorated after November 2011 because of an incident involving an employee named Leonard Bruno (Bruno) that resulted in an outcome adverse to LMHC from a dispute before the Labor Commissioner of the State of California.

19. Nazarinia believed that Rose's conduct caused the adverse ruling from the Labor Commissioner and resulted in a loss to the company and Nazarinia as a shareholder. Nazarinia threatened to file a civil lawsuit against Rose but did not do so. Instead, he entered into a settlement agreement with Rose entitled "Mediation Agreement between Charlie Rose and Michel [sic] Nazarinia dated 3/5/12" (Mediation Agreement). Ultimately, Nazarinia testified that he feels that he is required to maintain the www.loanmodhelpcenter.com website as a result of the Mediation Agreement and because he fears that Rose will physically harm or kill him if he stops paying to maintain the website.

20. According to Nazarinia, the website is hosted by GoDaddy.com under Nazarinia's name, and he pays the \$15.00 per month fee to host the website. Nazarinia has been paying the \$15.00 fee since the beginning of 2012, and he continues to do so today.

21. During the hearing, Nazarinia acknowledged that he has never informed Rose about the Order to Desist and Refrain and has made no effort to do so.

22. Nazarinia testified that he has received compensation for loan modifications pursuant to the Mediation Agreement and that the last such payment to him was in late 2012.

Documentary Evidence

23. The documentary evidence in this matter tells a different story of Nazarinia's involvement in LMHC. The Articles of Incorporation from the State of Florida indicate that

there are two officers of REST Report Matters: Nazarinia and Rose. In California, REST Report Matters is registered as a fictitious business name with the San Diego County Clerk's office. The recording shows that Nazarinia is the President of REST Report Matters.

24. In the dispute before the Labor Commissioner Bruno brought an action against REST Report Matters, Inc. and LMHC, Inc., which is listed in the resulting order from the Labor Commission as a Delaware corporation. According to that order, the only person making an appearance on behalf of both REST Report Matters, Inc. and LMHC, Inc. was Nazarinia. The Labor Commissioner order of July 31, 2012, provided that Nazarinia was "part owner" and Vice President of both named defendants.

25. The Mediation Agreement was signed on March 5, 2012, by Rose and Nazarinia. It provides that Nazarinia will be paid "\$40,000 or best efforts from the files in process". The Mediation Agreement further states that Nazarinia "will continue to process only the following files . . . and will receive 17.14% additional compensation on those cases as the case manager when the client pays Pacific One Lending."

26. The Mediation Agreement provides that Nazarinia "on behalf of LMHC will have the ability to solicit the consumer for his own well-being without having to pay out anyone on that file." Further, it provides that Nazarinia "on behalf of LMHC will have first right of refusal to any of the 271 files in process"

Discussion

27. Nazarinia testified that Beard, who is a licensed real estate broker, was associated with LMHC, and Nazarinia made several statements about several entities related to Beard. However, Nazarinia failed to provide any corroborating evidence that Beard was overseeing loan modification services provided by LMHC through www.loanmodhelpcenter.com. Also, Nazarinia failed to provide any evidence that Beard or any of the entities related to Beard own or control LMHC and www.loanmodhelpcenter.com. On the contrary, the weight of the evidence establishes that Nazarinia is the only person who owns, operates, and controls LMHC and www.loanmodhelpcenter.com.

28. Nazarinia claimed that REST Report Matters is doing business as LMHC. There was no corroborating evidence to support this. LMHC is not registered as a fictitious business name and is not otherwise incorporated or registered in the state of California. A preponderance of the evidence established that Nazarinia is the President of REST Report Matters, and, from his own admission, is President of LMHC. Despite Nazarinia's position as President of REST Report Matters, doing business as LMHC, he claims to have had no knowledge as to whether a licensed real estate broker is affiliated with REST Report Matters, Inc. dba LMHC. His assertions were unreasonable and inconsistent with the documentary evidence, and as a result, lacked credibility.

29. Nazarinia relied upon the Mediation Agreement to assert that his obligations thereunder relieved him of responsibility with regard to LMHC and

www.loanmodhelpcenter.com. However, the Mediation Agreement stated that Nazarinia was acting as LMHC, at least as of March 5, 2012. Nothing in the Mediation Agreement obligated him to continue to operate www.loanmodhelpcenter.com. Indeed, Nazarinia admitted that he is in complete control of the payment for the hosting services provided by GoDaddy for the website, and he obtains a financial benefit from doing so.

30. The preponderance of the evidence establishes that Nazarinia exercises complete control over the operation of LMHC and the website www.loanmodhelpcenter.com.

LEGAL CONCLUSIONS

The Bureau's Authority

1. Business and Professions Code section 10086 gives the Bureau the authority to issue orders to desist and refrain from unlawful activity and provides in relevant part:

(a) If the commissioner determines through an investigation that . . . a person has engaged or is engaging in an activity which is a violation of a provision of this part . . . the commissioner may direct the person to desist and refrain from such activity by issuance of 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.

(b) The respondent may, within 30 days after service of the order to desist and refrain, file a request for a hearing . . .

(c) The administrative hearing shall be commenced by the commissioner within 30 days after receipt of respondent's request unless the respondent agrees to a postponement. If the hearing is not commenced within 30 days after receipt of respondent's request or on the date to which continued with respondent's consent, or if the commissioner does not render a decision within 15 days after receipt of the proposed decision following the hearing, the order shall be deemed rescinded.

(a) The provision related to the brokering of real estate loan modifications is Business and Professions Code section 10131, subdivision (d). It states in relevant part:

A real estate broker within the meaning of this part is a person who, for a compensation or in expectation of a compensation,

regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others: . . .

. . . Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

The Burden and Standard of Proof

(b) Each party has the burden of proving the elements essential to his or her claim or defense. (Evid. Code, § 500.) The Bureau bears the burden of proving that Nazarinia should be ordered to desist and refrain from activities licensed by the Bureau.

(c) The preponderance of the evidence standard applies to administrative actions that do not seek revocation or suspension of a professional license. (*Owen v. Sands* (2009) 176 Cal.App.4th 985, 993-994.) Preponderance of the evidence means that the evidence on one side outweighs, preponderates over, is more than, the evidence on the other side. (*People v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Cause Exists to Affirm the Desist and Refrain Order

(d) Cause exists under Business and Professions Code section 10086 to affirm the issuance of the Bureau's Order to Desist and Refrain and to deny Nazarinia's request to dismiss the Order. A preponderance of the evidence established that Nazarinia violated Business and Professions Code section 10131, subdivision (d), by acting as a real estate broker without having a real estate broker's license. A preponderance of the evidence established that Nazarinia solicited borrowers to negotiate loan modifications in expectation of compensation through the operation and control of www.loanmodhelpcenter.com and LMHC.

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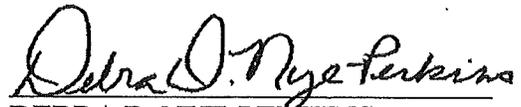
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ORDER

1. Respondent's appeal is denied.
2. The Order to Desist and Refrain is affirmed.

DATED: June 25, 2014



DEBRA D. NYE-PERKINS

Administrative Law Judge

Office of Administrative Hearings

1 Bureau of Real Estate
2 320 West Fourth St. #350
3 Los Angeles, CA 90013

4 (213) 576-6982

FILED

FEB 28 2014

BUREAU OF REAL ESTATE

By *J. Amodeo*

7
8 BEFORE THE BUREAU¹ OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 To:) No. H-4595 SD
12)
13 MICHAEL NAZARINIA, dba) ORDER TO DESIST
14 Loan Mod Help Center) AND REFRAIN
15)
16) (B&P Code Section 10086)

17 The Real Estate Commissioner of the State of California ("Commissioner") has
18 caused an investigation to be made of the activities of MICHAEL NAZARINIA, doing business
19 as Loan Mod Help Center. Based on that investigation, the Commissioner has determined that
20 MICHAEL NAZARINIA has engaged in, is engaging in, or is attempting to engage in, acts or
21 practices constituting violations of the California Business and Professions Code ("Code"),
22 including acting in the capacity of, advertising and/or assuming to act as a real estate broker in
23 the State of California within the meaning of Code Sections 10131(d) (advertising, soliciting
24 borrowers for, and offering to perform loan modification services for distressed homeowners).

25
26
27 ¹ Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate, Department of Consumer Affairs ("Bureau"). All references herein are to the successor agency.

1 Based on that investigation, the Commissioner hereby issues the following Findings of Fact,
2 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the
3 Code.

4 FINDINGS OF FACT

5 1. MICHAEL NAZARINIA (“NAZARINIA”) is not now, and has never been,
6 licensed by the Bureau of Real Estate of the State of California (“Bureau”) as a real estate broker
7 or as a real estate salesperson employed by a real estate broker.

8 2. NAZARINIA has advertised and engaged in activities requiring a real estate
9 license in California under the following unlicensed fictitious business names: Loan Mod Help
10 Center, www.loanmodhelpcenter.com, and LMHC.
11

12 3. All references to NAZARINIA and Loan Mod Help Center include that
13 individual and entity, using their own names, or any other fictitious business names, as well as
14 their representatives, agents and employees.

15 4. Beginning at a time on or before April 24, 2012, and continuing through the
16 present time, NAZARINIA advertised on the internet and solicited distressed homeowners and
17 offered to provide them with assistance in modifying the terms of their mortgage loans and/or
18 otherwise avoiding foreclosure in exchange for payment of fees.

19 5. The services NAZARINIA, and Loan Mod Help Center advertises include
20 negotiating the terms of mortgage loans and related services, which are activities requiring a real
21 estate license pursuant to Business and Professions Code Section 10131(d).
22

23 CONCLUSIONS OF LAW

24 The conduct, acts and/or omissions of MICHAEL NAZARINIA, doing business
25 as Loan Mod Help Center, as set forth in the Findings of Fact above, when not licensed by the
26 Bureau as a real estate broker or as a salesperson employed by a real estate broker licensed by
27

1 the Bureau, was in violation of Code Section 10130.

2 DESIST AND REFRAIN ORDER

3 Based on the Findings of Fact and Conclusions of Law stated herein,

4 MICHAEL NAZARINIA, whether doing business under your own names, or any other names,
5 or fictitious names, IS HEREBY ORDERED to immediately desist and refrain from performing
6 any acts which require a real estate broker license until properly licensed. Such acts include,
7 but are not limited to:

8 (i) soliciting borrowers and/or performing services for borrowers or lenders in
9 connection with loans secured directly or collaterally by one or more liens on real property, and
10

11 (ii) charging, demanding, or collecting a fee for any of the services you offer to
12 others, unless and until you obtain a real estate broker license issued by the Bureau, and until you
13 demonstrate and provide evidence satisfactory to the Commissioner that you are in full
14 compliance with all of the requirements of the Code and Commissioner's Regulations relating to
15 charging, collecting, and accounting for fees.
16

17 DATED: **FEB 24 2014**

18
19 Real Estate Commissioner
20 
21

22 **By: JEFFREY MASON**
23 **Chief Deputy Commissioner**

24 **Notice:** Business and Professions Code Section 10139 provides that "Any person acting as a
25 real estate broker or real estate salesperson without a license or who advertises using words
26 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
27 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)."