


FILED

August 26, 2011

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DEPARTMENT OF REAL ESTATE

By 

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-2664 FR
)	
CENTRAL COAST LENDING, INC., a)	<u>ACCUSATION</u>
California Corporation,)	
JASON WILLIAM GROTE, and)	
RENE MARTINEZ,)	
)	
Respondents.)	

The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the State of California, for Accusation against Respondent CENTRAL COAST LENDING, INC., a California Corporation, JASON WILLIAM GROTE, and RENE MARTINEZ, is informed and alleges as follows:

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The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity.

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Respondent CENTRAL COAST LENDING, INC., (hereinafter "Respondent CCL"), Respondent JASON WILLIAM GROTE (hereinafter "Respondent GROTE"), and Respondent RENE MARTINEZ (hereinafter "Respondent MARTINEZ") was and is licensed

1 and/or presently has license rights under the Real Estate Law, Part 1 of Division 4 of the
2 California Business and Professions Code (hereafter "the Code").

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4 At all times herein mentioned, Respondent CCL was and is licensed by the
5 Department of Real Estate (hereinafter "Department") as a corporate real estate broker.

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7 At all times herein mentioned, Respondent GROTE was and is licensed by the
8 Department as an individual real estate broker.

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10 At all times herein mentioned, Respondent GROTE was and is licensed by the
11 Department as the designated broker/officer of Respondent CCL. As said designated
12 broker/officer, Respondent GROTE was, at all times herein mentioned, responsible pursuant to
13 Sections 10159.2 and 10177(h) of the Code and Section 2725 of Chapter 6, Title 10, California
14 Code of Regulations (hereinafter "Regulations") for the supervision of the activities of the
15 officers, agents, and employees of, and of the real estate licensees employed by Respondent
16 CCL and for supervision of the activities of said corporation for which a real estate license is
17 required.

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19 Whenever reference is made in an allegation in this Accusation to an act or
20 omission of Respondent CCL, such allegation shall be deemed to mean that the officers,
21 directors, employees, agents and real estate licensees employed by or associated with
22 Respondent CCL committed such act or omission while engaged in the furtherance of the
23 business or operations of Respondent CCL and while acting within the course and scope of their
24 corporate authority and employment.

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26 At all times herein mentioned, Respondent GROTE was and is the vice president
27 of, the principal incorporator of, and a principal stockholder owning 50% of the shares of

1 Respondent CCL and, therefore, Respondent CCL was and is the alter ego of Respondent
2 GROTE, and whenever a reference is made to an act, omission or representation of Respondent
3 CCL such allegation shall be deemed to mean that Respondent GROTE was so acting, failing to
4 act, and/or speaking, or that such act, failure to act, and/or representation was done at the
5 direction of or ratified by Respondent GROTE.

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7 At all times herein mentioned, Respondent MARTINEZ was and is licensed by
8 the Department as a real estate salesperson. At all times herein mentioned Respondent
9 MARTINEZ was and is licensed in the employ of Respondent CCL as a real estate salesperson.

10 9

11 At all times herein mentioned, Respondent CCL, Respondent GROTE,
12 Respondent MARTINEZ, collectively and individually and each of them, engaged in the
13 business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within
14 the State of California within the meaning of Section 10131(d) of the Code, including on behalf
15 of others, for compensation or in expectation of compensation, solicited borrowers or lenders
16 for or negotiated loans or collected payments or performed services for borrowers or lenders or
17 note owners in connection with loans secured directly or collaterally by liens on real property or
18 on a business opportunity.

19 FIRST CAUSE OF ACTION

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21 There is hereby incorporated in this First, separate and distinct, Cause of Action,
22 all of the allegations contained in Paragraphs 1 through 9, inclusive, of the Accusation with the
23 same force and effect as if herein fully set forth.

24 11

25 Within the three-year period prior to the filing of this Accusation, in connection
26 with the real estate activities described in Paragraph 9, above, Respondent CCL, Respondent
27 GROTE and Respondent MARTINEZ, claimed, demanded, charged, received, collected, and

provided a written contract for advance fees from borrowers for services Respondent CCL was to perform thereafter in obtaining modifications of loans secured or to be secured directly or collaterally by liens on the borrowers' real property including, but not limited to, the following transactions:

Borrower	Property	Lender	Advance Fee Received	Date Paid
Kelly Ferguson	17475 Walnut Ave. Atascadero, CA	Indymac	\$1,000.00	7/24/09
Claire Villani	4170 La Posada St. San Luis Obispo, CA	Bank of America	\$2,500.00	7/29/09
Terri L. Gonzalez	1471 Osprey Ct. Templeton, CA	Wells Fargo	\$2,500.00	8/5/09

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In connection with the collection, receipt, and handling of the advance fees as described in Paragraph 11, above, Respondent CCL and Respondent MARTINEZ, at the direction of and under the control of Respondent GROTE, provided to the aforesaid borrowers an advance fee contract that had not been approved by the Department of Real Estate prior to use as required by Section 10085 of the Code (authorizing commissioner to require submission and approval of advance fee contract, materials and advertising prior to use), Section 10085.5 of the Code (unlawful to demand, charge, receive, collect or contract for advance fee for performing services for borrowers or lenders in connection with loans secured directly or collaterally by lien on real property unless licensed as a real estate broker) and Section 2970 of the Regulations (person proposing to collect advance fee shall submit all advance fee materials to commissioner not less than 10 days prior to use or publication).

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Within the three-year period prior to the filing of this Accusation, in connection with the real estate activities described in Paragraph 9, above, Respondent CCL and Respondent MARTINEZ, at the direction of and under the control of Respondent GROTE, claimed,

1 demanded, charged, received, and collected, advance fees from borrowers for services
2 Respondent CCL was to perform thereafter in obtaining modifications of loans secured or to be
3 secured directly or collaterally by liens on the borrowers' real property including, but not limited
4 to, the following transactions:

Borrower	Property	Lender	Advance Fee Received	Date Paid
Juan Gutierrez Micaela Garcia	1807 Belle Vista Ct. Paso Robles, CA	Bank of America	\$4,500.00	10/10/09
Jackie Plaskett	2505 Smith Rd. Paso Robles, CA	Wells Fargo Mortgage	\$ 500.00	11/14/08

10 14

11 The fees described in Paragraphs 11 and 13, above, constituted "advance fees"
12 within the meaning of Section 10026 of the Code (advance fee is a fee, regardless of form,
13 demanded, charged, received or collected from principal before completing each and every
14 service contracted or represented to be performed) and Section 10131.2 of the Code (broker
15 defined as person in the business of demanding, charging, receiving or collecting advance fee in
16 connection licensed acts including obtaining loans secured by real property). Said fees
17 constituted trust funds within the meaning of Section 10145 of the Code (broker who accepts
18 funds belonging to others in connection with a transaction subject to acts requiring a real estate
19 license shall deposit funds not placed into principal's hands or neutral escrow into a trust fund
20 account maintained by broker or direct salesperson employee to place into principal's hands or
21 neutral escrow into a trust fund account maintained by broker) and Section 10146 of the Code
22 (any broker who contracts for or collects an advance fee, such fee is a trust fund, shall deposit
23 such amount into a trust account).

24 15

25 Within the three-year period prior to the filing of this Accusation, in connection
26 with the collection, receipt and handling of advance fees described in Paragraphs 11, 13 and 14,
27 above, Respondent CCL was required to provide to the borrowers a verified accounting of the

1 advance fee trust funds collected and disbursed as required by Section 10146 of the Code (each
2 principal shall be furnished a verified accounting at end of each quarter and at completion of
3 contract) and containing the information required by Section 2972 of the Regulations (verified
4 accounting shall include agent's name, principal's name, description of services rendered or to
5 be rendered, identity of trust fund account, amount of advance fee collected, amounts allocated
6 or disbursed describing services performed, commissions paid, overhead and profit, etc.).

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8 Within the three-year period prior to the filing of this Accusation, in connection
9 with the collection, receipt and handling of advance fees described in Paragraphs 11, 13, 14 and
10 15, above, Respondents and each of them failed to deposit the advance fees into the principal's
11 hands, into a neutral escrow, or into a trust fund account maintained by broker in violation of
12 Sections 10145 and 10146 of the Code.

13 17

14 Within the three-year period prior to the filing of this Accusation, in connection
15 with the collection, receipt and handling of advance fees described in Paragraphs 11, 13, 14, 15
16 and 16, above, Respondent CCL, at the direction of and under the control of Respondent
17 GROTE, failed to provide to the borrowers the required verified accounting of the advance fee
18 trust funds and failed to provide any accounting expressly representing the amounts of trust
19 funds disbursed, the date of trust fund disbursement, the commission paid, and overhead and
20 profit in violation of Section 10146 of the Code and Section 2972 of the Regulations.

21 18

22 The acts and/or omissions of Respondents as described in Paragraphs 11, 12, 13,
23 14, 15, 16, and 17, above, are grounds for the suspension or revocation of the license and license
24 rights of Respondents as follows:

- 25 a.) As to Respondents CCL, GROTE, and MARTINEZ as alleged in
26 Paragraphs 11 and 12 under Sections 10085 and 10085.5 of the Code and
27 Section 2970 of the Regulations all in conjunction with Section 10177(d)

1 of the Code (suspension or revocation of license for willful disregard or
2 violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of
3 the Code, or of the Regulations);

4 b.) As to Respondent CCL, Respondent GROTE, and Respondent
5 MARTINEZ as alleged in Paragraph 16, under Section Sections 10145
6 and 10146 of the Code all in conjunction with Section 10177(d) of the
7 Code; and,

8 c.) As to Respondent CCL and Respondent GROTE as alleged in Paragraph
9 17, under Section 10146 of the Code and Section 2972 of the Regulations
10 in conjunction with Section 10177(d) of the Code.

11 SECOND CAUSE OF ACTION

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13 There is hereby incorporated in this Second, separate and distinct, Cause of
14 Action, all of the allegations contained in Paragraphs 1 through 18, inclusive, of the Accusation
15 with the same force and effect as if herein fully set forth.

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17 Within the three-year period prior to the filing of this Accusation, in the course
18 and scope of the activities set forth in Paragraphs 11 and 13, above, Respondent CCL and
19 Respondent MARTINEZ, at the direction and under the control of or as ratified by Respondent
20 GROTE, represented to the borrowers Juan Gutierrez, Jackie Plaskett, and Kelly Ferguson, in
21 exchange for the advance fees paid, contrary to fact, as said Respondents knew or should have
22 known at the time through the exercise of reasonable diligence, that Respondents would contact
23 the borrowers' lender to negotiate a modification of the borrowers' existing loans secured by
24 liens on their real property as identified in Paragraphs 11 and 13, for the purpose of reducing the
25 borrowers' monthly loan payments, interest rates, and/or loan balances.

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The representations described in Paragraph 20, above, were false and misleading and were known by Respondents to be false and misleading when made or were made at the direction of and/or under the control of and/or as ratified by Respondents GROTE, and were made with no reasonable grounds for believing said representations to be true, and/or said Respondents should have known at the time through the exercise of reasonable diligence that such representations were false and misleading. In truth and in fact Respondents failed to contact the borrowers' respective lender and failed to negotiate a loan modification on behalf of said borrowers.

The acts and omissions of Respondents as described in Paragraphs 20 and 21, above, constitute misrepresentation, fraud, deceit, and dishonest dealing.

The facts alleged in Paragraphs 20, 21, and 22, above, are grounds for the suspension or revocation of the licenses and licensing rights of Respondents under the following provisions:

- (a) Under Sections 10176(a) of the Code (making a substantial misrepresentation);
- (b) Under Section 10176(b) of the Code (making any false promises of a character likely to influence, persuade or induce);
- (c) Under Section 10176(i) of the Code (any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing); and,
- (d) Under Section 10177(g) of the Code (demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license).

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1 THIRD CAUSE OF ACTION

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3 There is hereby incorporated in this Third, separate and distinct, Cause of Action,
4 all of the allegations contained in Paragraphs 1 through 23, inclusive, of the Accusation with the
5 same force and effect as if herein fully set forth.

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7 Within the three-year period prior to the filing of this Accusation, in connection
8 with the mortgage lending activities described in Paragraph 9, above, Respondent CCL
9 originated loans secured by real property on behalf of borrowers in the following transactions:

10 Borrower	Property	Loan Amount	Close Date
11 William 12 Barkhuff	240 Anita Ave. Grover Beach, CA	\$152,000.00	11/6/09
13 Debra Louise 14 Binder	3484 San Pablo Ln. Paso Robles, CA	\$224,000.00	3/6/09
15 Brent & Christine 16 Ghourley	427 Montebello Oaks Dr. Paso Robles, CA	\$351,750.00	8/21/09
17 Holly Mortone 18 John Bogle	98946 Steelhead Rd. Paso Robles, CA	\$280,000.00	1/28/09
19 Ubaldo Pulido	1479 N. Refugio Rd. Santa Ynez, CA	\$417,000.00	4/15/09
20 Nancy J. Wolf	1588 Oceanaire Dr. San Luis Obispo, CA	\$417,000.00	9/24/09

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22 Within the three-year period prior to the filing of this Accusation, and at all times
23 herein mentioned, in the course and scope of soliciting borrowers and negotiating loans secured
24 by real property as set forth in Paragraph 25, above, Respondent CCL was required to provide to
25 borrowers a Mortgage Lender Disclosure Statement (hereinafter "MLDS") and/or a Good Faith
26 Estimate (hereinafter "GFE") pursuant to Section 10240 of the Code (within 3 business days
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after receipt of written loan application or before borrower becomes obligated on the note, whichever is earlier, broker negotiating a loan secured by real property shall deliver to borrower as signed by borrower a copy of the disclosure containing information required by Section 10241 of the Code) showing the name of the broker negotiating the loan, the broker license number, and/or showing the license number of the broker's representative, and as signed by the borrower, and containing a statement that the MLDS and/or GFE does not constitute a loan commitment, in conformance with and containing the information required by Section 10241 of the Code (requiring MLDS or GFE to disclose: all costs and expenses of loan; commissions, points and bonuses paid to broker; liens encumbering the property; amounts to be paid by borrower to others; loan balance; funds due to borrower; principal; interest rate; balloon payments; name, address and license number of broker; inclusion of broker controlled funds; prepayment terms; etc.).

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Within the three-year period prior to the filing of this Accusation, in connection with the mortgage lending activities described in Paragraph 25, above, Respondent CCL provided to the borrowers in the aforesaid transactions an MLDS and/or GFE that failed to conform to the requirements set forth in Sections 10240 and 10241 of the Code as follows:

Borrower	Property	Information Not Disclosed To Borrower on MLDS/GFE
William Barkhuff	240 Anita Ave. Grover Beach, CA	No MLDS in Broker's file and/or MLDS not provided to borrower.
Debra Louise Binder	3484 San Pablo Ln. Paso Robles, CA	MLDS failed to disclose Yield Spread Premium paid to Broker; Broker fees not recited in proper column on MLDS.
Holly Mortone John Bogle	98946 Steelhead Rd. Paso Robles, CA	MLDS failed to disclose Yield Spread Premium paid to Broker; Broker fees not recited in proper column on MLDS.
Ubaldo Pulido	1479 N. Refugio Rd. Santa Ynez, CA	No MLDS in Broker's file and/or MLDS not provided to borrower.
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1 Nancy J. Wolf

1588 Oceanaire Dr.
San Luis Obispo, CA

No MLDS in Broker's file and/or MLDS
not provided to borrower.

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3 The acts and/or omissions of Respondent CCL as alleged in Paragraphs 25, 26,
4 and 27, above, constitute cause for the suspension or revocation of the licenses and license
5 rights of said Respondent CCL under the following provisions:

- 6 (a) Under Section 10240 and Section 10241 of the Code (requiring MLDS or
7 GFE to disclose: all costs and expenses of loan; commissions, points and
8 bonuses paid to broker; liens encumbering the property; amounts to be
9 paid by borrower to others; loan balance; funds due to borrower;
10 principal; interest rate; balloon payments; name, address and license
11 number of broker; inclusion of broker controlled funds; prepayment
12 terms; etc.) all in conjunction with Section 10177(d) of the Code
13 (suspension or revocation of license for willful disregard or violation of
14 the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code,
15 or of the Regulations);
- 16 (b) Under Section 10240 (within 3 business days after receipt of written loan
17 application or before borrower becomes obligated on the note, whichever
18 is earlier, broker negotiating a loan secured by real property shall deliver
19 to borrower as signed by borrower a copy of the disclosure containing
20 information required by Section 10241 of the Code) in conjunction with
21 Section 10177(d) of the Code; and,
- 22 (c) Under Section 10148 of the Code (broker shall retain for 3 years copies of
23 all listings, deposit receipts, canceled checks, trust records and other
24 documents obtained or executed by him or her in connection with
25 transactions for which license is required, and, after notice, shall make
26 records available to Commissioner's representative for examination,
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1 inspection and copying) in conjunction with Section 10177(d) of the
2 Code.

3 FOURTH CAUSE OF ACTION

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5 There is hereby incorporated in this Fourth, separate and distinct, Cause of
6 Action, all of the allegations contained in Paragraphs 1 through 28, inclusive, of the Accusation
7 with the same force and effect as if herein fully set forth.

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9 At all times herein mentioned Respondent GROTE was responsible, as the
10 designated broker officer of Respondent CCL, for the supervision and control of the activities
11 conducted on behalf of the corporation by its officers and employees and of the corporate
12 activities requiring a real estate license. Respondent GROTE failed to exercise reasonable
13 supervision and control over the loan services, mortgage brokering, and advance fee collection
14 activities of Respondent CCL and its employees. In particular, Respondent GROTE participated
15 in, permitted, ratified, and/or caused the conduct described in the First, Second and Third
16 Causes of Action, above, to occur, and failed to take reasonable steps to insure, including, but
17 not limited to, that approval for advance fee contracts would be obtained prior to use, insure that
18 no false representations would be made to borrowers, insure that quarterly accounting for
19 advance fees would be provided to borrowers, insure delivery of properly completed and
20 executed MLDS to borrowers, insure maintenance of proper record keeping, insure proper
21 supervision of employees, and to insure the implementation of policies, rules, procedures, and
22 systems to ensure the compliance of the corporation and its employees with the Real Estate Law
23 (Business and Professions Code Sections 10000 et seq. and Sections 11000 et seq.) and the
24 Commissioner's Regulations (Chapter 6, Title 10, California Code of Regulations).

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26 The acts and/or omissions of Respondent GROTE as described in Paragraph 25,
27 above, constitute grounds for the suspension or revocation of the licenses and license rights of

1 Respondent GROTE under the provisions Section 10159.2 of the Code (designated
2 broker/officer responsible for supervision and control of activities conducted on behalf of
3 corporation by officers, licensed salespersons and employees to secure compliance with the Real-
4 Estate Law) and Section 2725 of the Regulations (broker shall exercise reasonable supervision
5 over: licensed employees; establish policies and procedures for compliance with Real Estate
6 Law; supervise transactions requiring a real estate license; trust fund handling; etc.) in
7 conjunction with Section 10177(d) of the Code and/or of Section 10177(h) of the Code
8 (suspension or revocation for broker or designated broker/officer who fails to exercise
9 reasonable supervision of licensed employees or licensed activities of broker corporation).

10 WHEREFORE, Complainant prays that a hearing be conducted on the
11 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
12 disciplinary action against all licenses and license rights of Respondents under the Real Estate
13 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
14 relief as may be proper under other provisions of law, including the payment of restitution.

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18 LUKE MARTIN
19 Deputy Real Estate Commissioner

20 Dated at Fresno, California,

21 this 22nd day of August, 2011.
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