

FILED

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August 15, 2011

DEPARTMENT OF REAL ESTATE

By 

8
9 BEFORE THE
10 DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of) NO. H-4221 SD
14)
15 SPRINTER REALTY GROUP, INC., and) ACCUSATION
16 JAMES A. TALLMAN,)
17 Respondents.)

18 The Complainant, JOSEPH AIU, in his official capacity as a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation against SPRINTER REALTY
20 GROUP, INC. (hereinafter "SRGI"), and JAMES A. TALLMAN (hereinafter "TALLMAN")
21 (collectively referred to herein as "Respondents"), is informed and alleges as follows:

22 1

23 SRGI is presently licensed by the Department of Real Estate (hereinafter "the
24 Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
25 Business and Professions Code (hereafter "the Code"), as a real estate corporation acting by and
26 through TALLMAN as its designated officer broker.
27

At all times herein mentioned, SRGI conducted business under its own licensed name and the following fictitious business names registered with the Department: "Archstone Realty Group," "Mortgage Modification Consultants" and "Shoreline Home Mortgage".

TALLMAN is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker.

At all times herein mentioned, TALLMAN conducted business under his own licensed name and the following fictitious business names registered with the Department: "Archstone Lending Group," "Archstone Realty Group" and "Your Lending Experts".

At all times herein mentioned, TALLMAN was licensed by the Department as the designated officer broker of SRGI. As the designated officer broker, TALLMAN was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of SRGI for which a real estate license is required.

Gregory Alan Moser (hereinafter "MOSER") is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate salesperson, and at all times herein mentioned was under the employ of TALLMAN. At no time relevant herein was MOSER licensed by the Department as a real estate broker or licensed under SRGI.

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2 Whenever reference is made in an allegation in this Accusation to an act or omission
3 of SRGI, such allegation shall be deemed to mean that the employees, agents and real estate
4 licensees employed by or associated with SRGI committed such act or omission while engaged in
5 furtherance of the business or operations of SRGI and while acting within the course and scope of
6 their authority and employment.
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9 At all times relevant herein, SRGI engaged in the business of, acted in the capacity
10 of, advertised, or assumed to act as a corporate real estate broker within the State of California on
11 behalf of others, for compensation or in expectation of compensation within the meaning of:
12

- 13 (a) Section 10131(d) of the Code, including the solicitation of borrowers or lenders
14 for or negotiation of loans or collection of payments or performance of services
15 for borrowers or lenders or note owners in connection with loans secured
16 directly or collaterally by liens on real property or on a business opportunity;
17 and
18 (b) Section 10131.2 of the Code, including the operation and conduct of a
19 real estate brokerage business with the public that included the claiming,
20 demanding, charging, receiving, collecting or contracting for the
21 collection of an advance fee in connection with any employment
22 undertaken to promote the sale or lease of real property or of a business
23 opportunity by advance fee listing, advertisement or other offering to
24 sell, lease, exchange, or rent property or a business opportunity, or to
25 obtain a loan or loans thereon.
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FIRST CAUSE OF ACTION

As Against SRGI

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Each and every allegation in Paragraphs 1 through 8, inclusive, above, is incorporated by this reference as if fully set forth herein.

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Beginning on or about January 14, 2010, and continuing intermittently until February 16, 2010, an audit was conducted at SRGI's main office location at 950 Boardwalk, No. 105, San Marcos, California, wherein the Auditor examined SRGI's records for the period of June 1, 2008 through December 31, 2009 (hereinafter "the audit period").

11

While acting as a corporate real estate broker as described in Paragraph 8, above, and within the audit period, SRGI accepted or received funds in trust (hereinafter "trust funds") from or on behalf of sellers, buyers, borrowers, lenders, and/or others in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

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The trust funds accepted or received by SRGI as described in Paragraph 11, above, were deposited or caused to be deposited by SRGI into a bank account maintained by SRGI for the handling of trust funds, and thereafter from time-to-time SRGI made disbursements of said trust funds, said bank account identified as follows:

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TRUST ACCOUNT # 1 (Identified by the Auditor as "TA1")	
Bank Name and Location:	Bank of America, 4S Ranch Branch, 10511 Craftsman Way, San Diego, California 92127
Account No.:	XXXXXX2375
Entitled:	"Mortgage Modification Consultant Inc."
Signatories:	James Tallman (REB/DO) and Gregory A. Moser (RES)
Withdrawal Requirements:	One signature.

In the course of the activities described in Paragraph 8, above, and within the audit period, SRGI:

- (a) failed to properly designate Trust Account #1 as a trust account in the name of SRGI or its registered fictitious business name, as trustee, in violation of Sections 10145 and 10146 of the Code, and Section 2832 Title 10 of the California Code of Regulations (hereafter "the Regulations");
- (b) failed to provide principals with advance fee accountings on a quarterly basis and when contracts were completed in violation of Section 10146 of the Code and Section 2972 of the Regulations;
- (c) failed to maintain records of all trust funds received and disbursed, including but not limited to information identifying from whom trust funds were received and the date of receipt, for Trust Account #1, in violation of Section 10145 of the Code and Section 2831 of the Regulations;
- (d) failed to maintain separate records for each beneficiary of funds held in Trust Account #1, in violation of Section 10145 of the Code and Section 2831.1 of the Regulations;

- 1 (e) failed to reconcile the total of separate beneficiary records with a control
2 record on a monthly basis for Trust Account #1, in violation of Section 10145
3 of the Code and Section 2831.2 of the Regulations;
- 4 (f) allowed MOSER, a licensed real estate salesperson affiliated with
5 TALLMAN's real estate broker license, to appear as a signatory on Trust
6 Account #1, without written authorization from TALLMAN as the
7 Designated Officer of SRGI, in violation of Section 10145 of the Code, and
8 Section 2834 of the Regulations;
- 9 (g) failed to include the real estate license numbers of TALLMAN and MOSER
10 on advertisements in the form of business cards, in violation of Section
11 10140.6 of the Code;
- 12 (h) claimed, demanded, charged, received, collected and/or contracted for
13 advance fees in connection with loan modification services without first
14 obtaining a "No Objection Letter" as required by Sections 10085 and 10085.5
15 of the Code, and Section 2970 of the Regulations, for transactions including,
16 but not limited to, the following:
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Name	Property	Advance Fee Amount Received	Advance Fee Received Date
L. Montgomery	600 Highway 182, North Sunset, Los Angeles, CA	\$3,500	5/28/09
Z. Balanquit	620 Allison Lane, San Marcos, CA	\$1,750 \$1,750	3/24/09 5/27/09
J. Reyes	45 Livingston, Novato, CA	\$1,750 \$1,750	1/16/09 2/3/09
A. Samaniego	1531 Loma Lane, Chula Vista, CA	\$800 \$800	3/13/09 5/27/09
G. Malcolm	3726 Mira Pacific Dr., Oceanside, CA	\$1,250.00	10/27/09
E. Chappell	3563 Rock Ridge Rd., Carlsbad, CA	\$1,500 \$1,500	10/27/09 11/30/09
T. Stark	41 Calle Akelia, San Clemente, CA	\$1,500	10/14/09
J. Rome	2151 Cherry Blossom Ct., #201, Chula Vista, CA	\$1,250	6/18/09
J. Grady	2757 Sula Way, San Diego, CA	\$1,125	3/19/09

(i) after October 11, 2009, collected advanced fees in connection with mortgage loan modification activities, in violation of Section 10085.6 of the Code, and Section 2944.7 of the California Civil Code, for transactions including, but not limited to, the following:

Name	Property	Advance Fee Amount Received	Advance Fee Received Date
G. Malcolm	3726 Mira Pacific Dr., Oceanside, CA	\$1,250.00	10/27/09
E. Chappell	3563 Rock Ridge Rd., Carlsbad, CA	\$1,500 \$1,500	10/27/09 11/30/09
T. Stark	41 Calle Akelia, San Clemente, CA	\$1,500	10/14/09

(j) failed to provide and/or provided incomplete and/or inaccurate Mortgage Loan Disclosure Statements (MLDS) to borrowers containing all of the information required by Section 10241 of the Code, in violation of Section

1 10240(a) of the Code, for transactions, including, but not limited to the
2 following: for borrowers Sands (MLDS signed by Sands on 6/9/09) and
3 Ferouz (MLDS signed by Ferouz on 4/8/09), the MLDS were not signed or
4 dated by SRGI, its agents or employees, current liens were listed as "none"
5 even though both transactions were refinancing of mortgage loans, MLDS did
6 not contain SRGI's name or license number, the agent's license number, the
7 anticipated liens, or whether broker-controlled funds might be used to fund
8 the loan, and for borrower Sands the MLDS did not disclose any fees.

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11 The acts and/or omissions of SRGI as alleged in Paragraph 13, above, constitute
12 grounds for discipline of all licenses and license rights of SRGI pursuant to Sections 10177(d)
13 (Willful Disregard/Violation of Real Estate Law) and/or Section 10177(g)
14 (Negligence/Incompetence in Performing Act Requiring License) of the Code.
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17 The acts and/or omissions of SRGI as alleged in Paragraph 13, above, entitle the
18 Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement
19 for Cost of Audit for Trust Fund Handling Violation) of the Code.
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21 SECOND CAUSE OF ACTION
22 As Against TALLMAN

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24 Each and every allegation in Paragraphs 1 through 15, inclusive, above, is
25 incorporated by this reference as if fully set forth herein.

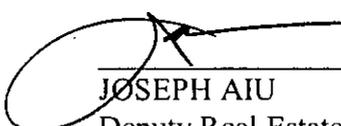
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2 TALLMAN, as the designated officer broker of SRGI, was required to exercise
3 reasonable supervision and control over the activities of SRGI and its employees pursuant to
4 Section 10159.2 (Reasonable Supervision by Designated Officer) of the Code and Section 2725 of
5 the Regulations (Reasonable Supervision by Broker).
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8 TALLMAN failed to exercise reasonable supervision over the acts and/or omissions
9 of SHH and its employees in such a manner as to allow the acts and/or omissions as described in
10 Paragraph 13, above, to occur, which constitutes cause for the suspension or revocation of the
11 licenses and license rights of TALLMAN under Sections 10177(d) (Willful Disregard/Violation of
12 Real Estate Law) and/or 10177(g) (Negligence/Incompetence in Performing Act Requiring License)
13 of the Code, and Sections 10177(h) (Failure to Exercise Reasonable Supervision) and 10159.2
14 (Reasonable Supervision by Designated Officer) of the Code.
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16 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
17 this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action
18 against all licenses and license rights of all Respondents named herein under the Real Estate Law
19 (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as
20 may be proper under other provisions of law.
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25 JOSEPH AIU
26 Deputy Real Estate Commissioner
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Dated at San Diego, California

this 9 day of August, 2011.