

FILED

DEC 18 2013

BUREAU OF REAL ESTATE

By J. Ahmed

BEFORE THE BUREAU¹ OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation against)	No. H-36361 LA
)	L-2010030250
INFINITY GROUP SERVICES, a corporate)	
real estate broker; and)	
KAHRAM ZAMANI, individually and)	
as designated broker-officer for)	
Infinity Group Services,)	
)	
Respondents.)	

DECISION AFTER REJECTION

Procedural History of Case

This matter was heard on January 24-27, and 31, 2011, in Los Angeles, by Chris Ruiz, Administrative Law Judge (“ALJ”), Office of Administrative Hearings, State of California.

KAHRAM ZAMANI (“Respondent” or “ZAMANI”), owner of Infinity Group Services (“INFINITY”) was present. ZAMANI and INFINITY (collectively “Respondents”) were represented by Jami D. Berdelis Esq. of the Law Offices of Michael J. Khouri.

¹ On July 1, 2013, “The Department of Real Estate” became “The Bureau of Real Estate, Department of Consumer Affairs.” For consistency purposes, and because the initial proposed decision was issued before the change in title, this decision will continue to use the term “Department” rather than “Bureau” in the body of the decision.

1 Complainant Maria Suarez, Deputy Real Estate Commissioner ("Complainant"), was
2 represented by Cheryl D. Keily, Staff Counsel.

3 Oral and documentary evidence was presented. The record was held open to allow
4 both parties to submit closing briefs. Closing briefs were received on March 2, 2011, thereafter, the
5 matter was submitted for decision on March 3, 2011. A decision in this matter was delayed because
6 the ALJ became unavailable from approximately March 1 through August 1, 2011.

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8 On October 24, 2011, Respondents filed a "Motion to Re-Open the Record" ("motion").
9 The motion was granted and the record was re-opened. The "Findings of Fact and Conclusions of Law,"
10 issued by the United States District Court in *Federal Trade Commission v. Infinity Group Services, et al.*,
11 case number SACV 09-0977- DOC (MLGx) ("District Court Order"), was marked as exhibit 36 and it was
12 admitted into evidence. The ALJ found that the District Court Order is relevant. However, the ALJ also
13 found that Complainant's contention that the District Court Order should not result in a finding of collateral
14 estoppel is correct, as set forth in more detail in the Findings of Fact and Conclusions of Law set forth
15 below.
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17 On April 5, 2012, ALJ Ruiz issued a Proposed Decision in this matter.

18 On May 10, 2012 the Department's Commissioner, through Wayne S. Bell, Chief Counsel,
19 issued a notice that the Proposed Decision was not adopted and that the Commissioner himself would issue
20 a decision in the matter after reviewing the record, including the transcript of the proceedings, and after
21 allowing Respondents an opportunity to submit written argument.
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1 6. At hearing Respondents contended that they were attempting to perform
2 refinances with Hope, and thus they could rely solely on their CFL license and did not need to
3 comply with Department rules. However, the overall evidence established that "loan
4 modifications" were being offered. Whether the "modification" was to be achieved via a
5 refinance into a new loan or via a modification of an existing loan, Respondents were licensed by
6 the Department at that time and were responsible for complying with Department regulations
7 regarding activities conducted under Business and Professions Code Sections 10131(d) and
8 10131.2

9 7. Under the Real Estate Law, advance fees may only be collected by real estate
10 brokers pursuant to written agreements and related materials submitted to the Department for
11 approval. Brokers must obtain a "No Objection Letter" from the Department at least ten days
12 prior to use. Although Respondents began collecting advance fees from consumers as early as
13 November of 2008, they did not submit their proposed advance fee materials to the Commissioner
14 for review until December of 2008, and did not receive a No Objection letter for the materials
15 they wanted to use until January 27, 2009.² According to Respondents' Loan Modification Log
16 provided to the Department, INFINITY collected advance fees for in excess of 700 loan
17 modification transactions prior to January 27, 2009.

18 8. The Department received approximately sixty-five (65) to seventy (70)
19 consumer complaints in late 2008 and 2009 concerning Respondents' loan modification activities.
20 The majority of the consumers objected to their payment of the \$995 advance fee to Respondents
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23 ² As the ALJ pointed out in his Proposed Decision, the fact that Respondents sought a "no objection" letter in December
24 2008, further establishes that they were utilizing their Department licenses in order to process the loan modifications.
25 Otherwise, Respondents would not have applied for a "no objection" letter at that time had they truly believed they
26 were utilizing only their CFL license.
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1 without receiving Respondent's performance of services, an accounting for the fees paid, or a
2 refund.

3 9. In May of 2009, the Department commenced an audit examination of
4 INFINITY's books and records to determine whether it conducted its real estate activities in
5 accordance with the Real Estate Law and the Commissioner's Regulations. Audit No. LA080299
6 ("the audit") covered a period going back three years, from May 1, 2006 to July 31, 2009.
7 Respondents reported to the auditor that they commenced loan modification activities in
8 November of 2008, and so the audit focused on the period from November 2008 through July 31,
9 2009. During that period of time, Respondents accepted or received funds, including advance
10 fees to be held in trust ("trust funds") from loan modification clients of INFINITY, and thereafter
11 made deposits and/or disbursements of such funds.

12 10. The audit was conducted intermittently between May 20, 2009 and October 20,
13 2009. Respondents provided the auditor with documents relating to their real estate activities,
14 including license records, trust account bank statements and related records, a loan modification
15 log, and loan modification transaction files, among other documents. The auditor also
16 interviewed Respondent ZAMANI, designated broker-officer and president of INFINITY, as well
17 as unlicensed chief financial officer Brian Goshert. According to ZAMANI, INFINITY
18 maintained one trust account in connection with its loan modification activities, and two general
19 accounts (business account). The advance fees INFINITY collected from borrowers in
20 connection with the loan modification transactions were deposited into INFINITY's trust account.

21 11. The audit revealed violations of the Business and Professions Code ("Code")
22 and related regulations contained in Title 10, Chapter 6 of the California Code of Regulations
23 ("Regulations") including the following:

1 (a) As of July 31, 2009, the trust account had a shortage of \$79,347.80.

2 Respondents permitted, allowed, or caused the withdrawal or disbursement of trust funds from
3 the trust account so that the total funds remaining in the trust account were less than the existing
4 trust fund liability. Respondents did not obtain the written consent of the owners of the trust
5 funds to allow this³.

6 (b) Respondents failed to maintain a complete, accurate and continuous control
7 record in the form of a columnar record in chronological order of all trust funds received,
8 deposited and disbursed. (The loan modification log provided to the Department was not in
9 proper format, did not contain all the information required, and, among other things, did not
10 include a running daily balance of funds in the trust account.)⁴

11 (c) The separate records for each beneficiary maintained by Respondents were not
12 complete. In seven examples cited in the audit report, the records did not show a running balance
13 after each transaction posted.⁵

14 (d) Respondents failed to perform a monthly reconciliation of the balance of all
15 separate beneficiary or transaction records with the control record of all trust funds received and
16 disbursed in connection with the trust account.⁶

17 (e) Respondents permitted two unlicensed persons, CFO Brian Goshert and Agnes
18 Bugarin, to be signatories on the trust account. As such, Respondents were required to make sure
19 to have adequate fidelity bond coverage. INFINITY's fidelity bond coverage of \$15,000.00,
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23 ³ Code Section 10145 and Regulation 2832.1

24 ⁴ Code Section 10145 and Regulation 2831.

25 ⁵ Code Section 10145 and Regulation 2831.1.

26 ⁶ Code Section 10145 and Regulation 2831.2.

1 which was not equal to the maximum amount of the trust funds to which the unlicensed
2 employees had access at any time⁷.

3 (f) Respondents commingled trust funds with general funds, disbursing funds from
4 the trust account to the general business accounts without establishing proof that the funds
5 (advance fees for services) had been earned.⁸

6 (g) Respondents collected advance fees from borrowers in connection with
7 INFINITY's loan modification activities without maintaining and providing accounting content to
8 the borrowers showing the services to be rendered, the trust account the funds were deposited into
9 and details of how the funds were disbursed.⁹

10 10. (a) In his proposed decision, the ALJ made a determination to disregard the
11 audit findings, because: (1) The auditor failed to establish that any trust violations occurred
12 between May 2006 and November 2008. (2) The auditor's testimony was unconvincing in that
13 she sometimes seemed not to understand questions posed of her. (3) Although Respondents
14 failed to provide evidence proof was maintained of having completed the work charged for every
15 transaction, the ALJ opined that Respondents' failure to provide records was due to the FTC's
16 seizure of records, and the auditor failed to obtain documents from the FTC. (4) Additionally, the
17 ALJ found that the auditor is not a licensed "certified practicing accountant" [*sic*].

18 (b) However, in this case, a review of the transcript of the proceedings reflects that
19 the auditor did in fact answer questions about how she arrived at her conclusions in the audit
20 report, which report was also admitted into evidence. Department auditors are not required to be
21 "practicing accountants," nor are they required to be certified public accountants (CPAs). More
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23 ⁷Violation of Code Section 10145 and Regulation 2834 (a) (3).

24 ⁸Violation of Code Section 10176(e) and Regulation 2835.

25 ⁹Violation of Code Section 10146 and Regulation 2972.

1 importantly, a review of the transcript reveals that the auditor described in detail the requirements
2 for the handing of trust funds, including advance fees, under the Real Estate Law, as well as the
3 process she underwent to determine the violations cited in the audit report. Finally, in reviewing
4 the testimony of the auditor and of ZAMANI, it is clear that the FTC action took place after
5 Respondents, through ZAMANI and Goshert, provided the loan modification log and related
6 documents to the auditor.

7 11. The auditor initially met with Respondent ZAMANI and INFINITY's Chief
8 Financial Officer Brian Goshert at the Department's offices in downtown Los Angeles on July
9 15, 2009. INFINITY provided some additional documents by mail on August 5, 2009, and a few
10 additional documents were provided at INFINITY's office on August 27, 2009 (a Friday). When
11 the auditor returned on the following Monday, September 1, 2009, she discovered that the office
12 had been shut down and therefore she received no further records. In discussing their business
13 with her, Respondent ZAMANI and Goshert told the auditor that they began performing loan
14 modifications in November of 2008 and said that they stopped in April of 2009. Respondents
15 described to the auditor how they made deposits of advance fees into a trust account prior to any
16 service being earned. They provided bank records for that period of time reflecting trust accounts
17 into which the advance fee trust funds were placed. Based on her review of the records provided
18 to her during the audit, the auditor concluded that Respondents did not keep a "control record,"
19 that set forth a chronological record of daily receipts and disbursements, and did not maintain a
20 complete record of documentation for each separate transaction proving that an advance fee had
21 been earned prior to disbursement of the fee to Respondents' general account.

22 12. At their meeting on August 27, 2009, Respondents provided the auditor with a
23 28 page Loan Modification Log ("Log"), a spreadsheet with several columns identifying loan
24 modification transactions, property addresses, amounts received, and amounts disbursed. In most

1 instances, not every column was filled in for each transaction. The spreadsheet did not contain
2 any running daily balance of trust funds in the trust account. Nonetheless, the Log contained
3 approximately 100 transactions per page. Respondents provided the auditor with 35 of the loan
4 modification transaction files. At hearing the auditor testified about how she gleaned information
5 about loan modification transactions, trust fund received, trust funds disbursed, transactions
6 started, transactions submitted to the lender, transactions completed and transactions pending
7 from the Log, the trust account records, and files provided. From this she created a minimum
8 trust account liability. In particular, the auditor looked at files that had a "started" status, but
9 which were not refunded to the borrowers, and used that to prepare her minimum accountability.
10 Of these transactions just listed as "Started," the auditor gleaned \$79,600.00 in advance fees
11 collected from borrowers for loan modifications which had not been submitted or completed.
12 Therefore, she used \$79,600.00 as the "minimum accountability." She compared this with the
13 \$252.00 in the trust account, as of the July 31, 2009 cut-off period, and arrived at the shortage
14 amount contained in the audit report.

15 13. In addition to the trust fund handling violations, the audit conclusions also
16 found that Respondents failed to comply with the rules and regulations governing the
17 employment of salespersons and other unlicensed personnel in conducting loan modification
18 activities. Under the Real Estate law, only licensed individuals may solicit borrowers and
19 negotiate on their behalf with lenders concerning the terms of their mortgage loans. Real estate
20 salespersons are licensed to conduct real estate activities under the supervision of a specific
21 employing broker of record, and may only be compensated for those activities through that
22 employing broker. The employing broker must retain salesperson license and employment
23 records. In this case, based on a review of records provided to the auditor by Respondents,

1 Respondents failed to comply with the real estate law relating to employment and supervision of
2 salespersons in the following ways:

3 (a) At the time of the audit examination, Respondents only listed one licensed
4 salesperson, Tyrone James de Wale, on record with the Department. Respondents failed to
5 maintain the original salesperson license certificate for Tyrone James de Wale, or its written
6 broker-salesman agreement with him at INFINITY's main business address¹⁰.

7 (b) The audit cited ten instances in which Respondents employed licensed
8 salespersons in their loan modification business, without notifying the Department of the
9 employment and termination of these salespersons.¹¹

10 (c) The audit cited nine examples of unlicensed individuals employed by
11 Respondents to conduct loan modification activities.¹²

12 (d) Based on a review of payroll records provided during the audit, during a two
13 week sample period in July of 2009, Respondents paid five unlicensed individuals to conduct
14 loan modification negotiations.¹³ (Note that the five named individuals were not included in the
15 nine examples set forth in subsection (c) above.)

16 14. As the broker-officer of INFINTY designated to supervise the activities of the
17 employees and agents of the corporation to ensure compliance with the Real Estate Law,
18 Respondent ZAMANI failed to exercise reasonable supervision over the activities of
19 INFINITY¹⁴. Even if the ALJ was correct that ZAMANI was intimately involved in the
20 activities of INFINITY, he failed in his responsibility to establish and implement adequate rules,
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22 ¹⁰ This was in violation of Code sections 10160 and 10177(h), and Regulations 2753 and 2726.

23 ¹¹ Violation of Code Section 10161.8.

24 ¹² Violation of Code section 10130.

25 ¹³ Violation of Code Section 10137.

26 ¹⁴ Violation of Code Section 10177(h) in conjunction with Code Section 10159.2, and Regulation 2725.

1 policies and procedures to clearly delineate which activities and transactions INFINITY was
2 conducting under its CFL license and which activities it was conducting under its DRE license.
3 Indeed, in his testimony at hearing, ZAMANI indicated that he turned over or delegated
4 responsibility for handling of trust funds to a non-licensee, and did not adequately oversee such
5 fundamental activities as reconciling the trust accounts. In fact, he could not verify that the
6 accounts were even reconciled on a monthly basis, and allowed trust funds to be collected and
7 disbursed without even the minimum requisite records. Similarly, ZAMANI failed to supervise
8 the activities of INFINITY to ensure that only licensed salespersons were soliciting and
9 negotiating on behalf of borrowers or lenders. An inherent part of the supervision is a
10 requirement to create and maintain accurate employment records and promptly notify the
11 Department when salespersons are employed and/or terminated. In this case, Respondents failed
12 to do that.

13 15. The trust fund handling, employee supervision and license compliance issues as
14 well as overall office management compliance violations cited above were outlined in the audit
15 report and supported by the audit files admitted into evidence during the administrative hearing.
16 The audit files, in turn, consisted largely of documents provided to the auditor during the audit, as
17 well as public records and documents provided by complaining members of the public. The
18 auditor was testifying as a percipient witness, and as a public official, describing her examination
19 and findings. She was not testifying as a certified public accountant, and her job as an auditor
20 analyzing records for purposes of determining compliance with the real estate laws governing
21 how licensed brokers are required to handle trust funds and maintain their offices does not require
22 specialized accountancy knowledge.

23 16. ZAMANI testified at hearing. The ALJ found him to be very knowledgeable
24 regarding real estate and finance, and that he clearly explained the process. The ALJ found that

1 ZAMANI presented as an honest and ethical person. The ALJ considered the larger context of the
2 financial crisis that affected almost all of the banks in the United States, which was
3 unprecedented in recent history, as was the financial industry's almost complete discontinuation
4 of buying real estate loans during the period of time in question.

5 17. As indicated above, in September of 2009, the Federal Trade Commission filed
6 a Complaint for Injunctive and Other Equitable Relief against Respondents, in United States
7 District Court, Central District of California, Southern Division, Case No. SACV 09-0977-DOC
8 (MLGx). The FTC's civil action specifically related to Respondents' loan modification activities
9 and alleged violations of Section 5(a) of the FTC Act (15 U.S.C. Section 45(a)). That act
10 prohibits "unfair or deceptive acts or practices in or affecting consumers" including, but not
11 limited to misrepresentations or deceptive omission of material fact. Consistent with its
12 jurisdiction and function, the FTC brought the action in relation to Respondents' advertising,
13 marketing, and sale of loan modification services to consumers, including the massive advertising
14 and marketing campaign undertaken on radio and internet, which targeted homeowners who were
15 struggling to pay their mortgages.

16 18. On September 28, 2011, while this Department of Real Estate matter was
17 pending, the U.S District Court issued its "Order and Judgment" pursuant to the Court's
18 "Amended Findings of Fact and Conclusions of Law" ("District Court Order"). That District
19 Court Order entered monetary judgments against both Respondent ZAMANI and Respondent
20 INFINITY, for a combined total of more than \$1,000,000.00, although the judgment against
21 INFINITY was stayed pending bankruptcy proceedings. In addition, Respondents were
22 permanently enjoined and restrained from making material misrepresentations of fact in relation
23 to the mortgage loan, refinance and/or loan modification services. In addition, Respondents were
24 ordered to prepare full and complete reports of, "any and all business practices, including but not
25

1 limited to decisions concerning the hiring, retention or termination of employees, and any
2 decision concerning the marketing or advertising of services and/or products.” In addition,
3 ZAMANI and INFINITY were ordered, for a period of 50 years after entry of the order, to retain
4 accounting records, personnel records, customer files, complaint and refund requests, copies of
5 all sales scripts, and all records and documents, “necessary to demonstrate full compliance with
6 each provision,” of the District Court Order.

7 19. On October 24, 2011, Respondents filed a “Motion to Re-Open the Record,” in
8 this proceeding. The motion was granted and the record was re-opened. The District Court Order
9 and “Amended Findings of Fact and Conclusions of Law,” was marked and admitted into
10 evidence. Respondents’ argued that the District Court Order, and particularly the Amended
11 Findings of Fact, supported a finding of collateral estoppel, determining issues in this disciplinary
12 action by the Department. The ALJ found that while the District Court Order was relevant, and
13 should be admitted, it does not support a finding of collateral estoppel because the issues litigated
14 in the FTC case were not the same as those litigated in the instant matter. At hearing, the
15 Department amended the Second Amended Accusation and dismissed the Second Cause of
16 Accusation relating to misrepresentation and fraud. Therefore, the ALJ was correct.

17 LEGAL CONCLUSIONS

18 1. Grounds exist to revoke or suspend Respondent INFINITY’s corporate broker
19 license pursuant to Business and Professions Code (“Code”) Sections 10085, 10177(d), and 10177(g)
20 in conjunction with Title 10, Ch. 6 of the California Code of Regulations (“Regulations”), and
21 Regulation 2970 for collecting advance fees from borrowers without submitting an advance fee
22 agreement to the Bureau.

23 2. Grounds exist to revoke or suspend Respondent INFINITY’s corporate broker
24 license pursuant to Business and Professions Code Sections 10145, 10146, 10177(d) and 10177(g)

1 and Regulations 2832.1, 2831, 2831.1, 2831.2, 2834, 2835, 2972, for failing to maintain complete
2 and accurate control records and separate beneficiary records, for failing to perform monthly
3 reconciliations of the control records to the beneficiary records, for disbursing advance fees into the
4 general account without proof that the fees had been earned, and for failing to maintain and provide
5 proper accountings to borrowers.

6 3. Grounds exist to revoke or suspend Respondent INFINITY's corporate broker
7 license pursuant to Code Sections 10137, 10160, 10161.8, 10177(d) and 10177(g) and Regulations
8 2753, 2726 and 2752 for compensating unlicensed individuals and licensed salesperson who were not
9 employed by them to perform activities requiring a real estate license, failing to maintain the original
10 salesperson license certificate and employment agreement of employee Tyrone de Wale, and failing
11 to timely notify the Department of the employment and termination of salespersons.

12 4. Grounds exist to revoke or suspend Respondent ZAMANI's real estate broker
13 license pursuant to Code Section 10177(h) in conjunction with Code Section 10159.2 and Regulation
14 2725 for failing to exercise reasonable supervision over the activities of the employees and agents of
15 INFINITY to ensure compliance with the real estate law, including failing to have an adequate
16 system in place for regularly monitoring compliance with the trust fund handling and employment
17 aspects of the Real Estate Law.

18 5. The Order and Amended Findings of Fact and Conclusions of Law, issued by the
19 United States District Court, in case number SACV 09-0977-DOC(MLGx) (District Court Order),
20 while relevant, does not result in a finding of collateral estoppel for the reasons set forth in Factual
21 Finding 19. (*Murray v. Alaska Airlines, Inc.* (2010) 50 Cal. 4th 860, 867.)

22 6. The Legislature intended to ensure that real estate brokers and salespersons will be
23 honest, truthful and worthy of the fiduciary responsibilities which they will bear. See *Ring v. Smith*
24 (1970) 5 Cal.App.3rd 197, 205; *Golde v Fox* (1979) 98 Cal.App.3d. 167, 177; and *Harrington v.*

1 *Department of Real Estate* (1989) 214 Cal.App.3d. 394, 402. Disciplinary actions in matters of real
2 estate professionals serve to protect the public against unethical and dishonest conduct on the part of
3 those engaged in real estate. *Small v. Smith* (1971) 16 Cal.App.3d 450,456. In addition, the Real
4 Estate Law is designed to protect the public not only from conniving real estate salesmen but also
5 from the unformed, negligent, or unknowledgeable salesman. *Manning v. Fox* (1984) 151
6 Cal.App.3d 531, 542, quoting *Handeland v. Department of Real Estate* (1976) 58 Cal.App.3d 513,
7 518.

8 7. The Real Estate Law contained in the Business and Professions Code and related
9 Regulations details how real estate transactions are to be conducted by licensees. It establishes
10 employment criteria, sets forth disclosures that must be made during the course of transactions,
11 provides for a system of handling and accounting for trust funds, and so forth. Under the real estate
12 law, salespersons are only authorized to act under the supervision of brokers, and corporations must
13 have a designated broker to be responsible for supervision.

14 8. Corporations are "persons" under the Real Estate Law, and may obtain real estate
15 licenses. (Code Section 10006) However, a licensed corporate broker may act only through a designated
16 corporate officer who is a licensed broker. Business and Professions Code Section 10211 requires that the
17 corporation designated a supervising broker in its application for real estate license. If there is no licensed
18 officer, the corporation cannot perform licensed activities. (Code Section 10211; Regulation 2740)

19 9. The Real Estate Law and the disciplinary procedures provided for in the Real
20 Estate Law are designed to protect the public and to achieve the maximum protection for the
21 purchasers of real property and those dealing with real estate licensees. Real estate licensees act as
22 fiduciaries in their dealings with the public. Real estate brokers hold money and other personal
23 property on behalf of clients, and supervise the conduct of salespersons and others under their
24 employ. (*Ring v. Smith* (1970) 5 Cal.App.3d 197, 205; *Golde v. Fox* (1976) 98 Cal.App.3d 167, 177;

1 *Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402). The public dealing with
2 licensees who are brokering mortgage loans are entitled to rely on real estate agents' expertise and
3 integrity in representing them. (*Wyatt v. Union Mortgage Company et al.* (1979) 24 Cal.3d 773. The
4 purpose of these disciplinary proceedings is to protect the public not only from conniving agents, but
5 also from those who lack the requisite skill and knowledge.

6 6. In this case, Respondent ZAMANI, as designated broker-officer of INFINITY, was
7 responsible for supervising the company's real estate activities. As designated broker-officer,
8 ZAMANI was responsible for keeping track of the agents and employees of INFINITY, maintaining
9 proper licensing records and notifying the Bureau of changes in employment or status of
10 salespersons. ZAMANI was also responsible for making sure adequate policies and procedures were
11 in place to handle and account for client funds entrusted in INFINITY's care, to ascertain if fees had
12 been earned, and to ensure that fee agreements complied with the real estate law.

13
14 ORDER

15 I. KAHRAM ZAMANI

16 All licenses and license rights of Respondent KAHRAM ZAMANI under the Real
17 Estate Law are revoked; provided however, a restricted real estate salesperson license shall be issued
18 to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent
19 makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the restricted
20 license within 90 days from the effective date of this Decision. The restricted license issued to
21 Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and
22 Professions Code and to the following limitations, conditions and restrictions imposed under
23 authority of Section 10156.6 of that Code:
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1 1. The restricted license issued to Respondent shall be suspended prior to hearing by
2 Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo
3 contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate
4 licensee.

5 2. The restricted license issued to Respondent shall be suspended prior to hearing by
6 Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
7 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law,
8 Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

9 3. Respondent shall not be eligible to apply for the issuance of an unrestricted real
10 estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted
11 license until two years have elapsed from the effective date of this Decision.

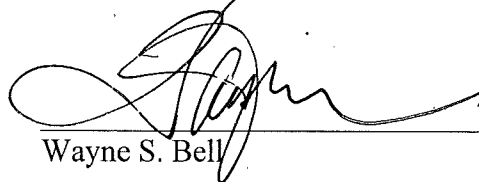
12 II. INFINITY GROUP SERVICES

13 All licenses and license rights of Respondent INFINITY GROUP SERVICES under
14 the Real Estate Law are revoked.

15 This Decision shall become effective at 12 o'clock noon on JAN 08 2014.

16 IT IS SO ORDERED Dec. 18, 2013.

17 REAL ESTATE COMMISSIONER

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FILED

SEP 13 2013

BUREAU OF REAL ESTATE

By *Zia Jan*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

No. H-36361 LA

INFINITY GROUP SERVICES; and KAHRAM
ZAMANI, individually, and as, designated officer
for Infinity Group Services,

L-2010030250

Respondent(s).

NOTICE

**TO: INFINITY GROUP SERVICES and KAHRAM ZAMANI, Respondents, and Law Offices of
MICHAEL KHOURI, their counsel.**

**YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August
14, 2013, of the Administrative Law Judge is not adopted as the Decision of the Real Estate
Commissioner. A copy of the Proposed Decision dated August 14, 2013, is attached hereto for
your information.**

**In accordance with Section 11517(c) of the Government Code of the State of
California, the disposition of this case will be determined by me after consideration of the record
herein including the transcript of the proceedings held on January 24-27, and 31, 2011, any written
argument hereafter submitted on behalf of respondent and complainant.**

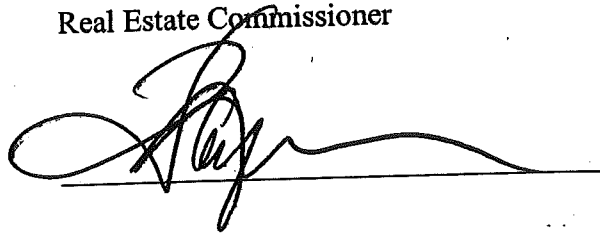
**Written argument of respondent to be considered by me must be submitted within 15
days after receipt of the transcript of the proceedings of January 24-27, and 31, 2011, at the Los**

1 Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good
2 cause shown.

3 Written argument of complainant to be considered by me must be submitted within
4 15 days after receipt of the argument of respondent at the Los Angeles Office of the Bureau of Real
5 Estate unless an extension of the time is granted for good cause shown.

6 DATED: 9/11/2013

7 Real Estate Commissioner

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

In the Matter of the Second Amended
Accusation Against:

**INFINITY GROUP SERVICES; AND
KAHRAM ZAMANI, individually, and as
designated officer, for Infinity Group Services**

Respondents.

Department No. H-36361 LA

OAH No. 2010030250

PROPOSED DECISION AFTER REMAND

Procedural History of Case Before Remand

This matter was heard on January 24-27, and 31, 2011, in Los Angeles, by Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California.

Kahram Zamani (Respondent or Zamani), owner of Infinity Group Services (Infinity) was present. Zamani and Infinity (collectively Respondents) were represented by Jami D. Berdelis, Esq.

Complainant Maria Suarez, Deputy Real Estate Commissioner (Complainant), was represented by Cheryl D. Keily, Counsel for Department of Real Estate (Department).¹

Oral and documentary evidence was presented. The record was held open to allow both parties to submit closing briefs. Closing briefs were received on March 2, 2011, and were marked for identification as exhibit FFFFF (Respondents' brief) and exhibit 32 (Complainant's brief). Complainant also filed a document entitled "Objections to Exhibits" which was marked for identification as exhibit 33. The objections set forth in that document

¹ On July 1, 2013, "The Department of Real Estate" became "The Bureau of Real Estate within the Department of Consumer Affairs." For consistency purposes, and because the initial proposed decision was issued before the change in title, this decision will continue to use the term "Department" rather than "Bureau" in the body of the decision.

were overruled. Thereafter, the matter was submitted for decision on March 3, 2011. A decision in this matter was delayed because the ALJ became unavailable from approximately March 1 through August 1, 2011.

On October 24, 2011, Respondents filed a "Motion to Re-Open the Record" (motion). The motion was marked for identification as exhibit GGGGG. On November 29, 2011, the ALJ issued an "Order Regarding Respondents' Motion to Re-Open the Record" (order). The order was marked for identification as exhibit 34 and allowed Complainant an opportunity to respond to the motion. On December 12, 2011, Complainant filed an "Opposition By Complainant to Respondents' Motion to Re-Open the Record" (opposition), which was marked for identification as exhibit 35. Complainant's opposition was overruled. The motion was granted and the record was re-opened. The "Findings of Fact and Conclusions of Law," issued by the United States District Court, in case number SACV 09-0977-DOC(MLGx)(District Court Order), was marked as exhibit 36 (and is physically attached to exhibit GGGGG in the record) and it was admitted into evidence. The District Court Order is relevant. However, Complainant's contention that the District Court Order should not result in a finding of collateral estoppel is correct, as set forth in Factual Finding 25 and Legal Conclusion 3.

Case History After the Proposed Decision was Issued

On April 5, 2012, ALJ Ruiz issued a Proposed Decision in this matter.

On May 10, 2012, the Department's Commissioner, through Wayne S. Bell, Chief Counsel, issued a notice that the Proposed Decision was not adopted and that the Commissioner himself would issue a decision in the matter after reviewing the record, including the transcript, and after allowing Respondent an opportunity to submit written argument.

Thereafter, the Commissioner issued an 'Amended Notice of Rejection and Order Remanding Case to Administrative Law Judge to Take Additional Evidence,' dated October 23, 2012. This amendment was "necessitated by the inability of the [Department] to obtain a full transcript" The amendment ordered the ALJ to "take such evidence as is necessary to the preparation of a revised proposed decision addressing the issues raised in the Second Amended Accusation"

After OAH consulted with the parties, it was concluded that the matter was remanded because the record was incomplete. This matter was heard over five days. Initially, the parties and OAH had difficulty obtaining all five days of the transcripts from the original administrative proceedings, and therefore the record was not complete. The Commissioner's notice, and amended notice, did not reference any part of the ALJ's April 5, 2012 proposed decision as being deficient, or as requiring the taking of additional evidence, in any particular area. Further, the parties and the ALJ concluded that the proposed decision addressed all of the issues alleged in the Second Amended Accusation. Thus, there were no legal or factual issues that were not litigated during the five days of hearing in January 2011.

Moreover, the Commissioner's initial decision, after receiving the April 5, 2012 proposed decision, was not to remand the matter to the ALJ for the taking of additional evidence. Rather, the Commissioner initially decided that he would issue his own decision after reviewing the record, including the transcript, and after allowing Respondents an opportunity to submit written argument. It was only when all of the five days of transcripts could not be obtained that the Commissioner then issued his order dated October 23, 2012 remanding the matter to the ALJ. The matter was apparently remanded in order for the parties and the ALJ to re-hear, and re-create, any missing portions of the transcript. The parties and the ALJ therefore concluded that the matter was remanded because of the missing transcripts, rather than because additional evidence needed to be heard or decided.

On July 15, 2013, a Prehearing Conference was held before ALJ Chris Ruiz. Cheryl D. Keily, Counsel for the Department of Real Estate, represented Complainant. Andrew Goodman, Esq., appeared for Respondents. Kahram Zamani was also present, as was a stenographer who recorded the proceedings.

After hearing from both parties and good cause appearing, the ALJ issued an Order dated July 15, 2013. In pertinent part, the Order stated that the parties had obtained transcripts for each of the five days of hearing and that the parties agreed the record of the prior administrative proceedings was complete. The July 15, 2013 Order further stated that upon lodging of the full transcripts, the matter would be deemed submitted for issuance of a revised proposed decision.

Complainant lodged the transcripts with OAH on July 22, 2013. Thereafter, the matter was deemed submitted for decision as of July 23, 2013, and the ALJ now issues this Proposed Decision After Remand. This Proposed Decision contains no additional substantive changes or modifications, other than as stated in this introductory section, and other than as stated in Factual Finding 25 and Legal Conclusion 3, which more fully explain the ALJ's ruling as previously stated in the last paragraph of the section immediately above entitled "Procedural History of Case Before Remand." The ALJ did make a few minor spelling, grammatical, and clerical corrections in the body of the decision.

FACTUAL FINDINGS

1. Complainant brought the Seconded Amended Accusation in her official capacity. During the hearing, the Second Amended Accusation was amended by interlineation, which resulted in the second cause of action being deleted.
2. Zamani is presently licensed as a real estate broker and has been since 2000. He initially began his career in real estate in 1992 and he became licensed as a real estate salesperson in 1996. There was no evidence presented that either Zamani's real estate salesperson or broker license has been previously disciplined.

3. In 2000, Respondent opened Infinity. At that time, Infinity brokered loans through other lenders. That is, the company acted as a mortgage broker between the consumer and the lending financial institution. In 2003, Infinity established its own lines of credit, in order to act as a "mortgage banker" rather than a "mortgage broker." In other words, rather than brokering the financing of a mortgage, Infinity began directly funding mortgages.
4. In 2004, Respondents obtained a California Financial Lenders license (CFL). Respondents are also licensed by the California Department of Corporations.
5. In 2007-2008, the overall real estate market dropped dramatically. All of Infinity's lines of credit became unavailable because many of those creditors went out of business or suffered severe losses. At that point, Respondents changed the type of real estate transactions they were performing. That is, Infinity essentially discontinued being involved in the sale of homes and instead began to assist homeowners in refinancing (refi) their homes. This change was necessary because the number of homes being sold in California dropped dramatically and Infinity would have gone out of business had it not changed its business model. It was established that Respondent attempted to comply with the Department's regulations before he entered into the refi business. That is, Respondent sought legal counsel in an attempt to make sure he was complying with California real estate law. (See Exhibits A, E, F, and B).
6. In 2007, Respondents obtained a Federal Housing Authority (FHA) license. Respondents began refinancing properties, funding the loans, and then selling those loans to other financial institutions.
7. Between November 1, 2008, and February 2009, Respondents offered a service named "Hope to Homeowners" (Hope), pursuant to the Economic Stabilization Act (Act) of 2008, assisted by the Housing and Urban Development (HUD), which allowed the Federal Housing Authority (FHA) to guarantee certain home loans to assist borrowers in remaining in their homes. As Respondents had obtained their FHA license prior to this date, Respondents received advance notice of the Hope program. Respondent had at least one employee take a course in how to underwrite FHA loans, which requires special training as compared to conventional underwriting procedures.
8. The Hope program was designed to work as follows: At the time, many people owed more on their mortgage than their home was worth, otherwise known as being "underwater." As such, many people either abandoned the property or were otherwise unable or unwilling to make payments. Hope intended to modify these people's mortgages and keep people in their homes by way of lower payments. Under the program, if the real estate market improved, the lender would earn a percentage of the property's increase in value (equity).

9. Respondents offered a loan modification program similar to the federal program and advertised their services on southern California radio stations. In sum, Respondents charged an upfront fee of \$995.00 in order to compile a homeowner's financial information and to solicit a loan modification from the homeowner's lender. Respondents submitted many requests for loan modifications to various lenders.
10. The Hope program was a complete failure. Almost all lenders in the United States choose not to participate in the program promoted by the federal government. In part, the failure of the program was due to the financial problems many lenders were having at that time. (See Exhibit UU.) The lenders failure to participate in the program was not anticipated by the vast majority of experts in the financial industry. Many of Respondents customers began complaining when their loans were not modified. These complaints occurred mainly between December 2008 and January 2009. Respondents discontinued their "Hope to Homeowners" offering in early February 2009. Approximately 1641 homeowners signed up for the "Hope to Homeowners" program and paid \$995.00 to Respondents. Respondents refunded approximately 700 customers their upfront fee of \$995.00.
11. After the failure of Respondents' Hope program, which depended on a lender's cooperation in order to modify an existing loan, Respondents began offering to assist homeowners in refinancing their existing mortgage. Respondents again charged \$995.00 as an upfront fee. Respondents established lines of credit with which they intended to fund the offered refinanced loans. Almost immediately, Respondents were inundated with customers. Thus, Respondents' lines of credit became insufficient to fund Respondents' numerous loans. As such, Respondents began selling said loans, the vast majority of these loans being sold to Citibank. Initially, Citibank "bought" and funded loans submitted by Respondents within three to five days.
12. In June 2009, Citibank stopped purchasing mortgage loans within three to five days. Instead, Citibank changed its policy and required approximately one month to review loan paperwork, prior to its purchase of said loan. As a result, Respondents were unable to fund some loans at the interest rate promised by Respondents. Approximately 686 homeowners participated in Respondents' refinance program.
13. Respondents contended that they were attempting to performing refis with the Hope, and thus they could rely solely on their CFL license and did not need to comply with Department rules. Respondents' argument has some merit, but the overall evidence established that "loan modifications" were being offered. Whether the "modification" was to be achieved via a new loan or via a modification is an existing loan is a distinction without a difference. The fact remains that Respondents were licensed by the Department at that time and were responsible for complying with Department regulations regardless of whether or not they were utilizing their Department license

or their CFL license. For example, if Respondents were involved in the importation of illegal drugs, their licenses could be disciplined even though the Department license was not directly utilized during the commission of the crime.

14. During this time, Respondents' were doing business as "Hope to Homeowners" which they did not report to the Department. Zamani acknowledged this error and expressed remorse at hearing.
15. Another major issue is whether Respondents were utilizing their CFL license, or there Department license, prior to the time they received the Department's no objection letter. In December 2008, Respondents submitted an "Advance Fee Agreement" to the Department for approval. In order for Respondents to legal be able to collect fees under California real estate law, they must use a form approved by the Department. Respondent's form was approved on January 23, 2009. Complainant contends this approval was "sent in error" and that in reality Respondents' form was not approved until February 11, 2009. It was established that Respondents were entitled to rely on the January 23, 2009 approval letter even if it was sent in error. Ultimately, the Department authorized Respondents to collect advance fees up to \$3990. Respondents only received advance fees was \$995. The fact that Respondents sought a "no objection" letter in December 2008, further establishes that they were utilizing their Department licenses in order to process the loan modifications. Otherwise, Respondents would not have applied for a "no objection" letter at that time had they truly believed they were utilizing only their CFL license.
16. Respondents business closed when it was seized by the Federal Trade Commission (FTC). The Department audited Respondents books covering the period from May 1, 2006, to July 31, 2009. The Department alleged trust account violations, failure to keep accurate records, failure to perform monthly reconciliation, allowing two unlicensed employees access to the trust account, the commingling of trust account funds with general account funds, and the failure to maintain broker-salesperson agreement(s).
17. Zamani testified at hearing. He is very knowledgeable regarding real estate and finance. He presented as an honest and ethical person. The Hope to Homeowners program was widely touted throughout the real estate industry, and had the federal government's approval and endorsement. The fact that lenders ultimately chose not to participate in the program and modify loans was unexpected, especially since the federal government was insuring said loans. The financial crisis that affected almost all of the banks in the United States was unprecedented in recent history, as was the financial industry's almost complete discontinuation of buying real estate loans. Respondent is married and has a 3 year old child. His knowledge of the general real estate market and the Hope program was outstanding. He clearly explained the process and he clearly established that he is very knowledgeable regarding real estate.

18. The District Court Order ordered a limited injunction that subjects Zamani to monitoring and compliance requirements as specified by the FTC. Zamani was also ordered to pay restitution for the revenues earned by Infinity from April 2009 to June 2009.

First Cause of Action

19. Respondents are charged with violating Business and Professions Code sections 10085² (collecting advance fees) and California Code of Regulations (Regulations), title 10, section 2970. Complainant alleged that Respondents improperly charged and accepted \$995 in advance fees from eight clients prior to submitting their written agreement form to the Commissioner for his review and the issuance of a “no-objection” letter issued by the Commissioner if he found the agreement form acceptable. Complainant alleged that eight homeowners (as described in paragraph 9, subdivisions (a) to (h)) paid the advance fee of \$995. These alleged loans took place between December 31, 2008, and April 1, 2009. Of these eight consumers, only two testified, and only one of those consumers paid \$995 prior to January 23, 2009. Thus, only one violation was established. In mitigation, in December 2008, Respondents submitted their proposed advance fee agreement and advertising (agreement) documentation to the Department. At that time, Zamani also sought legal counsel in an attempt to comply with Department regulations. Respondents were ultimately allowed to collect up to \$3,990 in advance fees. Overall this violation was minor. (See Factual Finding 15.)

Second Cause of Action

20. This Cause of Action was dismissed by Complainant during the hearing.

Third Cause of Action

21. This cause alleged various audit violations. The Department’s auditor audited the period of time from May 1, 2006, to July 31, 2009. She testified that it was impossible to determine if any trust violations occurred between May 2006 and November 2008. These violations were not established. Overall, the Department’s auditor’s testimony was unconvincing. For example, she testified that she could not determine when and if Respondents “earned” the advance fee because Respondents “failed” to provide the necessary documentation. However, the auditor’s audit was hampered by the fact that many of the necessary documents required for a complete audit were seized by the Federal Trade Commission (FTC). The evidence did not establish why the auditor did not attempt to obtain said records from the FTC. She also testified that, due to the records being removed by the FTC, she could not determine if any funds were not initially placed in the trust fund account. She

² All further statutory references are to the Business and Professions Code, unless otherwise indicated.

acknowledged that one the fee is "earned" the broker may move the fee to the general account without notifying the consumer. Additionally, the auditor is not a licensed certified practicing accountant and she had difficulty performing a simple addition problem during the hearing. Further, she also appeared, at times, to have trouble understanding the questions asked by the attorneys.

Fourth Cause of Action

22. Complainant contended that Respondents violated Code sections 10131, subdivision (d), 10131.2, and 10137 by employing and/or compensating unlicensed personnel to perform actions which required a license and section 10159.5. for using an unauthorized fictitious business name. Complainant specifically listed six employees by name in paragraph 23, subdivisions (a) to (f), of the Second Amended Complaint. Respondent admitted to using an unauthorized fictitious business name. Complainant established that employed and/or compensated unlicensed personnel to perform actions which required a license. In mitigation, Respondents also have a CPL license under which they believed, albeit mistakenly, they were authorized to make the loans at issue. Thus, Respondents failure to utilize license personnel was negligent, rather than intentional.

Fifth Cause of Action

23. Complainant alleged that Respondent Zamani violated Code sections 10159.2 and 10177, subdivisions (d),(g), and (h), for failing to supervise the overall conduct of Respondent Infinity. This allegation was not established. Zamani was intimately involved in the daily activities at Infinity.

Other Findings

24. All other allegations and contentions raised by both parties were not established by the evidence or legal authority.
25. On June 6, 2011, a "Findings of Fact and Conclusions of Law," was issued by the United States District Court, in case number SACV 09-0977-DOC(MLGx)(District Court Order). That District Court Order, while relevant, does not support a finding of collateral estoppel because the issues litigated in that case were not the same as those litigated in the instant matter.

LEGAL CONCLUSIONS AND DISCUSSION

1. Cause exists to suspend or revoke Zamani's real estate broker's license pursuant to the first and fourth causes of actions as alleged in the Second Amended Complaint and Business and Professions Code sections 10159.2, 10131, subdivision (d), 10131.2, 10137, 10159.5, 10085, and California Code of Regulations, title 10, 2970,

individually and jointly. Cause does not exist to discipline Zamani's real estate broker's license based on any of the other causes of action as stated in the Second Amended Complaint.

2. Respondent presently possesses an estate broker's license. Administrative proceedings to revoke, suspend, or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee, but rather to protect the public. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal. 4th 763, 785-786.) There was no evidence presented that Respondent would be a threat to the public. Zamani has suffered great financial loss and he is being supervised by the FTC. Thus, the following order will adequately protect the public. (Factual Findings 1-24.)
3. The "Findings of Fact and Conclusions of Law," issued by the United States District Court, in case number SACV 09-0977-DOC(MLGx)(District Court Order), while relevant, do not result in a finding of collateral estoppel for the reasons set forth in Factual Finding 25. (*Murray v. Alaska Airlines, Inc.* (2010) 50 Cal. 4th 860, 867.)

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Infinity Group Services and Kahram Zamani, individually, and as designated officer, for Infinity Group Services are revoked; provided, however, a restricted real broker license shall be issued to Infinity Group Services and Kahram Zamani pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

Not Adopted

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.

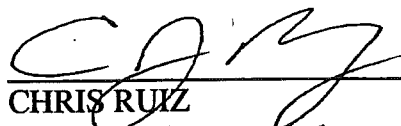
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: August 14, 2013.


CHRIS RUIZ
Administrative Law Judge
Office of Administrative Hearings

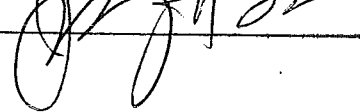
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DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) DRE No. H-36361 LA
) C. L-2010030250
INFINITY GROUP SERVICES;)
and KAHRAM ZAMANI, indivi-)
dually, and as designated)
officer for Infinity Gro)
Services,)
Respondents.

WRIT

AMENDED NOTICE OF REJECTION AND ORDER REMANDING CASE TO
ADMINISTRATIVE LAW JUDGE TO TAKE ADDITIONAL EVIDENCE

TO: RESPONDENTS INFINITY GROUP SERVICES AND KAHRAM ZAMANI, AND
THEIR ATTORNEYS OF RECORD:

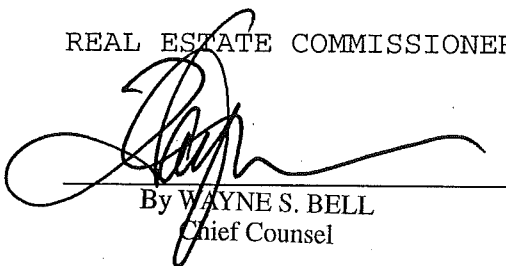
YOU ARE HEREBY NOTIFIED that the Notice of Rejection of
the Proposed Decision of the Administrative Law Judge ("Proposed
Decision"), dated April 5, 2012, which was filed and served
pursuant to the provisions of Government Code Section
11517(c)(2)(E) on or about May 10, 2012, is hereby amended to
provide that the Proposed Decision is rejected pursuant to the
provisions of Government Code Section 11517(c)(2)(D). (Copies of
the Proposed Decision and original Notice of Rejection are

1 attached for your reference.) Amendment of the Notice of
2 Rejection of the Proposed Decision is necessitated by the
3 inability of the Complainant Department of Real Estate to obtain
4 a full transcript of the administrative hearing upon which the
5 Proposed Decision was based.

6 IT IS HEREBY ORDERED, in accordance with Section
7 11517(c)(2)(D) of the Government Code, that this case be referred
8 to Christopher Ruiz, Administrative Law Judge of the Office of
9 Administrative Hearings, if reasonably available, or to another
10 administrative law judge to take such evidence as is necessary to
11 the preparation of a revised proposed decision addressing the
12 issues raised in the Second Amended Accusation filed in this
13 case.

14 DATED: 10/23/2012

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17 REAL ESTATE COMMISSIONER

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20 By WAYNE S. BELL
21 Chief Counsel
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