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FILED

FEB 23 2011

DEPARTMENT OF REAL ESTATE

BY: *Juan B. Olson*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	No. H-36941 LA
BRIAN PASCAL,)	
)	
Respondent.)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on January 4, 2010 and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On September 3, 2010, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, return receipt requested, and by regular mail to BRIAN PASCAL's ("Respondent") last known mailing address on file with the Department on November 30, 2010. Both mailings were returned to sender by the postal service with no forwarding address. No response has been received to date.

On January 4, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

Respondent presently has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code") as a real estate salesperson. On September 12, 2009, his salesperson license was placed under conditional suspension for failure to satisfy his education requirements under Code Section 10153.4. Respondent has never been licensed as a broker.

3.

Respondent is the Chief Executive Officer, Secretary, Chief Financial Officer, Sole Director and Agent for Service of Process for Home Resolution Company ("HRC"). HRC is not, and has never been, licensed by the Department in any capacity.

4.

In or about June 2009, David Parker ("Parker") responded to a solicitation from HRC and was asked to pay advance fees of \$3,496 in order to receive loan modification services. Parker made four payments to HRC between June 22, 2009 and September 22, 2009, for a total of \$3,496. HRC never obtained a loan modification for Parker. On March 2, 2010, Parker requested and received a Refund and Cancellation agreement from Respondent.

5.

On July 14, 2009, Ray and Elaine Woodruff ("the Woodruffs") received a Refund and Cancellation Agreement from Respondent and HRC. This agreement was for the refund of advance fees paid by the Woodruffs for a loan modification on their home. The Woodruffs signed the Refund and Cancellation Agreement on July 15, 2009. As of April 6, 2010, the Woodruffs had not received any refund from Respondent or HRC.

6.

On February 4, 2010, Respondent sent the Department a list of approximately 60 clients to whom he had refunded money collected on behalf of HRC.

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DETERMINATION OF ISSUES

1.

Under Code Section 10131(d), only a real estate broker may negotiate loans or collect payments or perform services for borrowers in connections with loans secured by liens on real property. Under Code Sections 10132 and 10137, no real estate salesperson shall be employed by or accept compensation from any person other than the real estate broker under whom he is licensed at the time of the transaction.

2.

The conduct, acts and/or omissions of Respondent, as set forth above, provide cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10130, 10137, 10177(d) and/or 10177(g).

3.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

The license and license rights of Respondent BRIAN PASCAL under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on MAR 15 2011.

DATED: _____

2/1/2011
JEFF DAVI
Real Estate Commissioner

FILED

1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, CA 90013

JAN -4 2011

3 (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: Jama B. Dean

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	
)	NO. H-36941 LA
)	
BRIAN PASCAL,) <u>DEFAULT ORDER</u>
)	
Respondent.)
)	

Respondent BRIAN PASCAL, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED January 4, 2011

JEFF DAVI
Real Estate Commissioner

By: Dolores Weeks
DOLORES WEEKS
Regional Manager

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NOV 30 2010

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West Fourth St., #350
Los Angeles, CA 90013

DEPARTMENT OF REAL ESTATE
BY: James B. Demus

(213) 576-6982
(213) 576-6910 (direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-36941 LA
)	
BRIAN PASCAL,)	<u>A C C U S A T I O N</u>
)	
Respondent.)	

The Complainant, Robin L. Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against BRIAN PASCAL, alleges as follows:

I

The Complainant, Robin L. Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against BRIAN PASCAL.

II

BRIAN PASCAL (hereinafter referred to as "Respondent") presently has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code") as a real estate salesperson. On September 12, 2009,

1 Respondent's license was placed under conditional suspension for
2 failure to satisfy his education requirements under Code Section
3 10153.4. The Department of Real Estate ("Department") holds
4 jurisdiction over the suspended license, pursuant to Code Section
5 10103.

6 III

7 Respondent is not now, nor has he ever been, licensed
8 by the Department a real estate broker.

9 IV

10 On or about April 7, 2009, Respondent filed a Statement
11 of Information with the California Secretary of State for "Home
12 Resolution Company" ("HRC"). Respondent was listed as the Chief
13 Executive Officer, Secretary, Chief Financial Officer, Sole
14 Director and Agent for Service of Process for HRC. The type of
15 business listed for HRC was "loan modification/property tax-
16 reassessment." HRC is not now, nor has it ever been, licensed by
17 the Department of Real Estate in any capacity.

18 V

19 In or about June 2009, David Parker ("Parker")
20 received a solicitation in the mail which offered loan
21 modification services. Parker called the number listed on the
22 solicitation and was asked to pay advance fees of \$3,496 to HRC
23 in order to receive loan modification services. Parker made
24 four payments to HRC between June 22, 2009 and September 22,
25 2009, for a total of \$3,496. HRC never obtained a loan
26 modification for Parker. On March 2, 2010, Parker requested and
27 received a Refund and Cancellation agreement from Respondent.

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VI

On July 14, 2009, Ray and Elaine Woodruff ("the Woodruffs") received a Refund and Cancellation Agreement from Respondent and HRC. This agreement was for the refund of advance fees paid by the Woodruffs for a loan modification on their home. The Woodruffs signed the Refund and Cancellation Agreement on July 15, 2009. As of April 6, 2010, the Woodruffs had not received any refund from Respondent or HRC.

VII

On February 4, 2010, Respondent sent the Department a list of approximately 60 clients to whom he had refunded money collected on behalf of HRC.

VIII

Under Code Section 10131(d), only a real estate broker may negotiate loans or collect payments or perform services for borrowers in connections with loans secured by liens on real property. Under Code Sections 10132 and 10137, no real estate salesperson shall be employed by or accept compensation from any person other than the real estate broker under whom he is licensed at the time of the transaction.


IX

The conduct of Respondent, as alleged above, subjects his real estate license and license rights to suspension or revocation pursuant to Sections 10130, 10137, 10177(d) and/or 10177(g) of the Code.

///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of respondent
5 BRIAN PASCAL under the Real Estate Law (Part 1 of Division 4 of
6 the Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.

8 Dated at Los Angeles, California
9 this 3 day of September, 2010.

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12 _____
13 ROBIN L. TRUJILLO
14 Deputy Real Estate Commissioner
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24

25 cc: Brian Pascal
26 Robin L. Trujillo
27 Sacto.