

FILED

OCT 17 2013

BUREAU OF REAL ESTATE

By Norma Simmons

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	BRE No. H-37691 LA
)	OAH No. 2012010445
EXECUTIVE ONE REAL ESTATE AND)	
MORTGAGE CORPORATION;)	
GERALD FRANKLIN GEORGE,)	
individually and as designated officer of)	
Executive One Real Estate and)	
Mortgage Corporation; and)	
<u>CHRISTOPHER PAUL GEORGE,</u>)	
individually and as former designated officer of)	
Executive One Real Estate and)	
Mortgage Corporation,)	
)	
)	
Respondent(s).)	
)	

DECISION

The Proposed Decision dated August 29, 2013, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517 (c)(2) of the Government Code, the following corrections are made to the Proposed Decision:

Legal Conclusions, Page 6, Line 10, "in violation of section 11085" is corrected to read "in violation of section 10085."

This Decision shall become effective at 12 o'clock noon on
NOV 06 2013

IT IS SO ORDERED SEPTEMBER 19, 2013

REAL ESTATE COMMISSIONER



JEFFREY MASON
CHIEF DEPUTY COMMISSIONER

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

In the Matter of the Second Amended
Accusation Against:

Case No. H-37691 LA

OAH No. 2012010445

EXECUTIVE ONE REAL ESTATE AND
MORTGAGE CORPORATION; GERALD
FRANKLIN GEORGE; individually, and as
designated officer of Executive One Real
Estate and Mortgage Corporation; and
CHRISTOPHER PAUL GEORGE,
individually, and as former designated officer
of Executive One Real Estate and Mortgage
Corporation,

Respondents.

PROPOSED DECISION

This matter came on regularly for hearing on February 5, 2013, in Los Angeles, California, before Mark Harman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Maria Suarez (Complainant) was represented by Lissete Garcia, Counsel, Bureau of Real Estate (Bureau),¹ Department of Consumer Affairs. There were no appearances by Respondents Executive One Real Estate and Mortgage Corporation (Executive One), Gerald Franklin George (G. George), or Christopher Paul George (C. George).

Before the hearing, Executive One voluntarily surrendered its broker license and Complainant reached a tentative settlement agreement with G. George. These actions subsequently were approved by the Commissioner of Real Estate (Commissioner) on March 18, 2013. (Exh. 26.) John F. Mansour, counsel for Respondent C. George, submitted a letter to OAH on or about February 1, 2013 (received on February 6, 2013), which acknowledged the hearing date and stated why Respondent C. George would not be appearing at the hearing. (Exh. 27.)

¹ The Bureau is the successor agency to the Department of Real Estate as of July 1, 2013. The Commissioner of Real Estate is the chief officer of the Bureau.

4a. 21 Century is a California Corporation formed on December 5, 2008. The address for 21 Century's initial agent for service of process, M.T. Nehmeh, Esq., was 9607 Business Center Drive, Building 13, #D, Rancho Cucamonga, California 91730. This same address also served as the main office address of 21st Century Real Estate Investment Corporation, a licensed corporate real estate broker, between November 9, 2007, and January 16, 2009. 21 Century, which has never been licensed by the Bureau in any capacity, appears to have occupied the same office space as 21st Century Real Estate Investment Corporation,⁴ which was in the same building as Respondent C. George and Executive One. In 2008 and 2009, several related entities or fictitious business names operated from this address, including 21st Century Legal Services and 21st Century Real Estate & Investment Corporation.

4b. 21 Century filed a Statement of Information with the Secretary of State on January 20, 2009, which listed Respondent C. George as chief executive officer, a director, and agent for service of process, Andrea Ramirez as the secretary, chief financial officer, and a director, and a principal executive office address of 9507 Business Center Drive, Building 7, Suite B, Rancho Cucamonga. In 2009, 21 Century operated from other Rancho Cucamonga office locations that had been designated as the main office and mailing addresses of Respondent C. George's broker license, including 9340 Baseline Road, Suites 104 and Suite 105.

5. Mable Rose Hernandez (Hernandez) was licensed as a real estate salesperson on October 19, 2005, in the employ of Executive One. She changed her employing broker to RC Mortgage Quest, Inc., on May 18, 2009. Respondent C. George was the designated officer of RC Mortgage from September 15, 2008 to September 14, 2012. Complainant named Hernandez as a Respondent in this matter. Hernandez voluntarily surrendered her license on April 4, 2012. The Commissioner approved this surrender on May 21, 2012, and it became effective on June 13, 2012.

6. Hernandez engaged in certain acts requiring a real estate license. Specifically, Hernandez offered loan modification services to a consumer, Jacqueline G., and demanded and collected an advance fee in connection with these services. The loan modification agreement was between 21 Century Real Estate & Investment Corp. and Jacqueline G. At the time, Hernandez's salesperson license either was placed with Executive One or RC Mortgage Quest, Inc. Jacqueline G. paid an advance fee of \$3,000 in three installments between November 27, 2008, and January

⁴ The Bureau brought an administrative action to revoke 21st Century Real Estate Investment Corporation's corporate real estate license in March 2010. The license was revoked by the Bureau on June 28, 2011. The Bureau also has revoked the licenses of individuals associated with 21st Century Real Estate Investment Corporation, including Mindy Sue Holt (Holt), the designated broker, and Andrea Raquel Ramirez (Ramirez), a licensed salesperson and an officer of 21 Century.

31, 2009, with checks payable to Hernandez. 21 Century failed to perform the loan modification services that it had promised Jacqueline G. 21 Century and Hernandez refused to refund the fees paid by Jacqueline G.

7a. After Jacqueline G. complained to the Bureau in 2010, Hernandez provided a letter to the Bureau on September 7, 2011, setting forth her account concerning this transaction. She said that she: “worked for Chris George at Executive One, then we all were told we would be starting something new it was Loan Modifications, they would be done under a attorney and the company was called 21st Century Legal Services. [¶. . .] so I agreed to give Jacqueline G. a helping hand. [¶. . .] I submitted her authorization. . . It took me until 05/12/09 to get a loan modification from the bank. [¶. . .] Sept 23/2009 The Federal government had come in and shut down 21st Century Legal Services. I was not at the office because had my own files and at that point process mostly from home and preferred at that time to be away from Andrea who I by now had heard was the owner of what had become a madhouse.”

7b. Hernandez continued: “[T]he dept of the treasury came by and I told him how the money went . . . I would get 40% they would get 60% if they provided the lead such as a dialing system. But if I provided my own leads I got the bigger portion. [¶. . .] If somebody wrote me a check in my name I would cash it give 21st Century their portion and keep mine pay my telemarketers ECT.” She went on to say “I have no regrets about helping people . . . and if I had it to do over I would except knowing what I now know, after our conversation this morning I would never had accepted the money upfront.”

8. Hernandez’s descriptions of the Jacqueline G. transaction demonstrate that Hernandez was engaged in soliciting loan modification services and received advance fees on behalf of 21 Century. These acts were not legal in California, in particular because soliciting borrowers and offering to perform services for borrowers in connection with a loan secured directly or collaterally by a lien on real property requires a real estate license (§ 10131, subd. (d).) 21 Century was neither licensed to engage in these activities nor a fictitious business name filed with the Bureau through which these activities could be performed.

9. The residential loan modification agreement under which 21 Century charged a \$3,000 advance fee to Jacqueline G. was not submitted to the Department prior to its use, as required under section 10085 and California Code of Regulations, title 10 (CCR), section 2970.

10. Neither Respondent C. George nor Hernandez deposited the advance fees collected from Jacqueline G. in a trust account or provided an accounting to Jacqueline G., as required under section 10146 and CCR section 2972.

11a. Complainant presented evidence of five other consumer complaints involving transactions similar to Jacqueline G. There was commonality of individuals' names, business styles, and office addresses, which indicated that these loan modification services agreements also were being solicited on behalf of 21 Century. These transactions further demonstrated that 21 Century's officers and employees violated provisions of the Real Estate Law pertaining to the solicitation of loan modification services agreements and to the payment of advance fees. For example, as early as September 2008, Jean and Iris D. were solicited by Ramirez, a salesperson and an officer of 21 Century, for a loan modification services agreement regarding loans on two parcels of real property in Florida. The couple paid \$7,750 in advance fees to "21st Century" in approximately December 2008. 21 Century did not obtain a modification of the principals' loans and the principals later were notified their properties were going into foreclosure. They asked for a refund. Ramirez told them no, and said to take the matter to small claims court.

11b. Laxlie and Jonie F. received mail solicitations from 21 Century in January 2009. Their property also was located in Florida, and they need assistance obtaining a loan modification. Ruby Encina, an unlicensed person affiliated with 21 Century, told the principals that she had a 95 percent success rate of obtaining modifications for homeowners. The couple was asked to pay advance fees of \$3,612.

11c. Gary and Marcy L. were behind in their mortgage payments when they signed a loan modification services agreement with 21 Century in January 2009, in which 21 Century promised to modify their first and second mortgages, and lower their interest rates to four percent. They paid a total of \$3,500 in advance fees to "21st Century Legal Services," and were assured that, if 21 Century could not help them, their money would be refunded. In April 2009, they learned from a 21 Century representative that 21 Century could not help them. They again tried calling 21 Century to ask for a refund, and 21 Century either did not answer their telephone calls or refused to return their calls.

11d. On March 21, 2009, Kerri J., a resident of Virginia, received a mail solicitation from 21 Century, with an address of 9340 Baseline Road Suite 105, Rancho Cucamonga. The mailer offered loan modification services and collection of an advance fee. Kerri J. paid over \$4,400 in advance fees to 21 Century. Beginning in April 2009, Kevin J., a resident of Pennsylvania, received multiple mailed solicitations from 21 Century with an address of 9340 Baseline Road, Suite 105, Rancho Cucamonga. He paid nearly \$4,683 in advance fees to 21 Century. 21 Century neither obtained loan modifications for these victims nor would refund any of the advance fees.

12. Respondent C. George was the chief executive officer of 21 Century. Respondent C. George, as designated officer of RC Mortgage Quest, Inc., was responsible for overseeing Hernandez's licensed activities during the same time period that Hernandez was engaged in loan modification activities conducted on

behalf of Respondent C. George's company. A reasonable inference, based on Hernandez's statement and official records, is that Respondent C. George directly or indirectly solicited unauthorized and unlawful loan modification services agreements, from which he received advance fees.

13. On September 5, 2012, an indictment was filed before the United States District Court for the Central District of California, in case number ED CR12-00065, against Respondent C. George, and 10 other individuals, including Ramirez and Holt, charging them with felony violations of 18 U.S.C. sections 1349 (conspiracy), 1343 (wire fraud), and 1341 (mail fraud), in connection with the loan modification activities of 21 Century and related entities. The indictment alleges that 21 Century, by the use of false pretenses and advertising that contained numerous materially false statements, induced distressed homeowners to pay advance fees totaling as much as \$7 million. Respondent C. George failed to report this indictment to the Bureau within 30 days from the bringing of the indictment.

14. As a matter in aggravation, several other states, including Arkansas, Florida, Maryland, Michigan, New Hampshire, Ohio, and Washington, have issued Orders to Cease and Desist, Permanent Injunctions, and subpoenas against 21 Century and its affiliates, based on unlawful, unlicensed loan modification activities.

15. Except for those previously found to have merit, all other allegations in the Second Amended Accusation and all other contentions made at the hearing are found to lack merit or to be surplusage.

LEGAL CONCLUSIONS

1. Cause exists to discipline the real estate broker license of Respondent C. George under section 10177, subdivision (d), for willful violations of the Real Estate Law. Respondent C. George, through an unlicensed entity, 21 Century, and through unauthorized fictitious business names, engaged in the business of a real estate broker in the State of California within the meaning of sections 10131, subdivision (d), and 10131.2, to wit, 21 Century's employees solicited borrowers to perform modification services in connection with residential real property loans, and accepted advance fees in connection with these loan modification services agreements; and further, failed to obtain prior authorization for these agreements from the Commissioner, in violation of section 11085 and CCR section 2970; and failed to deposit advance fees in a trust account as required under section 10146 and CCR section 2972. (Factual finding numbers 2 through 12.)

2. Cause exists to discipline the real estate broker license of Respondent C. George pursuant to sections 10177, subdivisions (d), for willfully using 21 Century and other unauthorized names to engage in real estate activities, e.g., loan modification services, which required a license, as set forth in factual finding numbers

2 through 12, and legal conclusion number 1. Real estate brokers, as well as salespersons, perform real estate activities only in the names that appear on the real estate license. Section 10159.5 provides that: "Every person applying for a license under this chapter who desires to have such license issued under a fictitious business name shall file with his application a certified copy of his fictitious business name statement filed with the county clerk." The Commissioner's regulation also prohibits the use of "a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious name." (Cal. Code Regs., tit. 10, § 2731, subd. (a).) Respondent C. George, who was the chief executive officer of 21 Century, never applied to the Bureau to allow his broker license to use any of the fictitious business names affiliated with 21 Century, including 21st Century Legal Services or 21st Century Real Estate & Investment Corp.

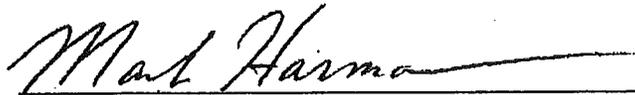
3. Cause exists to discipline the real estate broker license of Respondent C. George under sections 10177, subdivision (d), and 10186.2, for failure to make a written report to the Commissioner within 30 days from the bringing of a federal indictment against Respondent, as set forth in factual finding number 13

4. The purpose of a disciplinary matter is to protect the public and not to punish the licensee. (*Handeland v. Department of Real Estate* (1976) 58 Cal.App.3d 513, 518; *Camacho v. Youde* (1979) 95 Cal.App.3d 161; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) Respondent C. George violated many duties of a real estate broker under the Real Estate Law. His conduct appears to have caused substantial harm to numerous homeowners who were in financial distress. His conduct demonstrates that he lacks an ability to perform the activities of a licensed real estate broker in a manner consistent with the public safety. Revocation of his license is necessary and in the public interest.

ORDER

All licenses and licensing rights of Respondent, Christopher Paul George, under the Real Estate Law are revoked.

DATED: August 29, 2013


MARK HARMAN
Administrative Law Judge
Office of Administrative Hearings