

FILED

BEFORE THE BUREAU OF REAL ESTATE

JAN 23 2014

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

By *[Signature]*

In the Matter of the First Amended)	CalBRE No. H-38161 LA
Accusation of)	
)	OAH No. 2013010735
ALEX JOSE CAMACHO,)	
)	
)	
Respondent.)	
_____)	

DECISION

The Proposed Decision dated January 6, 2014, of the Administrative Law Judge Glynda B. Gomez 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:

1. Page 3, Paragraph numbered 4, line 1, Code section 10131, "subdivision (a)" is corrected by interlineation to "subdivision (d)."
2. Page 4, Paragraph number 10, line 2, Code section 10131, "subdivision (a)" is corrected by interlineation to "subdivision (d)."
- 3.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on FEB 13 2014.

IT IS SO ORDERED JAN 22 2014

REAL ESTATE COMMISSIONER

[Signature]

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation against:

ALEX JOSE CAMACHO,
Respondent.

Case No. H-38161 LA

OAH No. 2013010735

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on December 5, 2013, in Los Angeles, California. Lisette Garcia, Real Estate Counsel, represented Complainant Robin Trujillo, Deputy Real Estate Commissioner (Complainant). Respondent Alex Jose Camacho (Respondent) represented himself.

Oral and documentary evidence was received, and the matter was submitted for decision on December 5, 2013.

FACTUAL FINDINGS

1. Complainant filed the First Amended Accusation in her official capacity.
2. The Bureau of Real Estate (BRE) issued Real Estate Salesperson license number 01883672 to Respondent on August 30, 2010. The license will expire on August 29, 2014, unless renewed.
3. Respondent is the Chief Executive Officer and a corporate director of Premier Modification Group, a business entity that was incorporated on March 9, 2009 (Premier). Premier's only business was to conduct loan modification transactions. Premier has never been licensed by the BRE. Respondent's father Miguel Camacho was the chief financial officer for Premier. Respondent's brother Jorge Camacho was an employee of Premier.
4. Respondent estimated that 100 loan modifications per month were conducted by Premier, its officers, directors and employees during the period of March 2009 to June 2010. At hearing, Respondent admitted that he had personally solicited and negotiated 80 loan modifications under the auspices of Premier during

the period of March 2009 to June 2010, before he received his real estate salesperson license.

5. Jorge Camacho, as an employee of Premier, advertised, solicited and offered loan modification services to consumers. Jorge Camacho was licensed as a real estate salesperson from March 14, 2007, to March 13, 2011.¹ On January 27, 2010, A.N.² responded to one of the advertisements on the internet for loan modification and negotiation services. Jorge Camacho and Bessie Corona, an unlicensed Premier employee, solicited and accepted \$2,300 as an advance fee payment from A.N. payable to Premier for loan modification and negotiation services. Jorge Camacho and Bessie Corona represented to A.N. that she would be able to obtain loan modifications for her two properties and a lower fixed rate loan. A.N. did not receive a loan modification for either property and did not receive a refund from Premier although she made requests for a refund.

6. A.N. called Jorge Camacho numerous times, wrote a letter to both Respondent and Jorge Camacho on May 6, 2010, and sent several e-mails to Jorge Camacho requesting that either the loan modifications be finished or that she receive a refund. Jorge Camacho promised to refund A.N.'s advance fee payment in two installments. However, he never refunded the money.

7. A.N. obtained a small claims judgment against Premier in the amount of \$2,380 on August 23, 2010. The judgment has not been satisfied.

8. Jorge Camacho also sent a series of profanity laced e-mails to A.N. on October 12, 2010, which included photographs of several thousand dollars in \$100 bills on a desk with the intention of conveying that although he had the funds, he would never refund her money.

9. At hearing, Respondent credibly testified that he was not aware of the transaction with A.N. or that his brother had refused to refund A.N.'s funds until he was served with the BRE's initial accusation in this matter. Respondent never received the May 6, 2010 letter that A.N. had addressed to him jointly with his brother or the small claims lawsuit brought by A.N. against Premier. At hearing, Respondent testified that he had learned a valuable lesson from his experience with Premier in that he learned he did not want to do business with family members and preferred a more professional environment where the roles are more clearly defined. Respondent claimed that he was not aware that loan modification work required a real estate license until he was advised by the BRE. Respondent has disassociated himself

¹ Jorge Camacho's real estate salesperson license expired on March 13, 2011, and was revoked by default on September 24, 2012, because of his involvement with the A.N. transaction which is the subject of the first amended accusation.

² Initials are used to protect the consumer's privacy.

from his family and no longer has any business dealings with them. Respondent testified that he felt ashamed that A.N. had not received a refund and stated that he would be willing to make restitution to her, but did not currently have funds to pay restitution.

10. Respondent is 32 years old and had worked in the banking industry since the age of 18, first as a teller, and later as a finance representative and a loan officer before forming Premier. Respondent has been a full-time real estate salesperson since October of 2010, but has taken additional jobs to supplement his income.

11. Respondent had no personal involvement in the transaction with A.N.

Costs of Investigation and Prosecution

12. Complainant incurred \$1,134.75 in enforcement costs and \$1,103.70 in investigative costs in this matter. The charges consist of 12.75 hours of attorney time at \$89 per hour, and 17.35 hours of staff time at \$80 per hour. The costs are reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code³section 10085 provides that all materials used in obtaining an advance fee including contract forms must be approved by the real estate commissioner before use.

2. Code section 10085.5 provides that is unlawful for any person to claim, demand, charge, receive, collect, or contract for an advance fee for soliciting lenders on behalf of borrowers or performing services for borrowers in connection with loans to be secured directly or collaterally by a lien on real property, before the borrower becomes obligated to complete the transaction or for performing any other activities for which a license is required, unless the person is a licensed real estate broker and has complied with all applicable provisions of the law governing advance fees.

3. Code section 10130 provides that it is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson without having a license.

4. Code section 10131, subdivision (a), provides that a real estate broker is also a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or

³ All further references to the business and Professions Code shall be to Code.

note owners in connection with loans secured directly or collaterally by liens on real property or business opportunities.

5. Code section 10131.2 provides that a real estate broker is also a person who engages in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property.

6. Code section 10165 provides that the commissioner may temporarily suspend or permanently revoke the license of a real estate licensee for violation of the real estate law and/or regulations.

7. Code section 10177, subdivision (d), provides that willful disregard or violation of the real estate law or the rules and regulations of the commissioner is cause for discipline.

8. Code section 10177, subdivision (g), provides that demonstrated negligence or incompetence in performing an act which requires a real estate license is cause for discipline.

9. Code section 10106 provides that the Administrative Law Judge may order that a respondent in a disciplinary action pay the reasonable costs of investigation and prosecution. Here, the reasonable costs of investigation and prosecution are \$2,238.45. (Factual Finding 12.)

10. Cause exists to discipline Respondent's real estate salesperson license pursuant to Code sections 10130, 10131, subdivision (a), and 10131.2, in conjunction with Code sections 10177, subdivision (d), and 10177, subdivision (g), by reason of Factual Findings 1 through 11 and Legal Conclusions 1 through 8, inclusive, in that Respondent was engaged in activities that required a real estate broker license without having such a license while doing business as Premier.

11. Cause exists to discipline Respondent's real estate salesperson license pursuant to Code section 10085.5 in conjunction with Code section 10177, subdivisions (d) and (g), when he solicited, negotiated and accepted advance fees for loan modifications on behalf of Premier without having a real estate broker's license, by reason of Factual Findings 1 through 11 and Legal Conclusions 1 through 8.

Disposition

12. 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 has demonstrated a confusion and ignorance of basic laws and practices essential to the real estate profession. Although Respondent was not personally involved in the transaction with A.N., as the CEO of a corporation, Respondent had an obligation to oversee the corporate activities and ensure that the corporation and its employees were not engaging in unlawful activities. Here, Respondent individually and through Premier engaged in unlicensed activity and accepted advance fees in contradiction of the law. Respondent failed in his duties to monitor the corporation's activities which resulted in harm to A.N. when she neither received loan modifications for her properties nor a refund. For the foregoing reasons, the interests of public protection require that Respondent's real estate salesperson license be revoked.

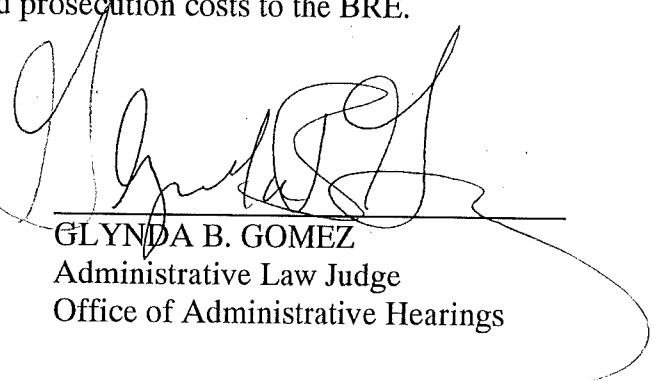
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. All licenses and licensing rights of Respondent Alex Jose Camacho are revoked.

2. Within six months of the effective date of this Decision, Respondent shall pay \$2,238.45 in investigation and prosecution costs to the BRE.

Dated: January 6, 2014



GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings