

**FILED**

APR 22 2014

BUREAU OF REAL ESTATE

By *J. Armon*

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation:

AMERICAN LOANS AND FUNDING INC.;  
and RAUL SANDOVAL, individually, and as  
designated officer for American Loans and  
Funding, Inc.,

Respondent(s).

) CalBRE No. H-38974 LA

) OAH No. 2013090352

DECISION

The Proposed Decision dated March 17, 2014, 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.

The Decision suspends or revokes one or more real estate licenses.

The right to reinstatement of a revoked real estate license or to the reduction of a penalty 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 MAY 13 2014

IT IS SO ORDERED 4/19/2014

REAL ESTATE COMMISSIONER

*Wayne S. Bell*  
Wayne S. Bell

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

In the Matter of the Accusation of:

AMERICAN LOANS AND FUNDING  
INC.; and RAUL SANDOVAL, individually  
and as designated officer for American Loans  
and Funding Inc.,

Respondents.

Case No. H-38974 LA

OAH No. 2013090352

**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on March 10, 2014, in Los Angeles, California.

Cheryl D. Keily, Real Estate Counsel, represented complainant Robin Trujillo, a Deputy Real Estate Commissioner of the State of California.

Raul Sandoval represented himself and was present throughout the administrative hearing.

American Loans and Funding, Inc., did not file a notice of defense to this action, and therefore the accusation is final as against it.

The matter was submitted for decision on March 10, 2014.

**FACTUAL FINDINGS**

1. Robin Trujillo (complainant) made the accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

2. The Bureau of Real Estate (bureau)<sup>1</sup> issued Raul Sandoval (respondent) a real estate broker license on October 19, 2004.

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<sup>1</sup> Effective July 1, 2013, the Department of Real Estate became known as the Bureau of Real Estate, Department of Consumer Affairs.

### *Respondent's Broker License*

3. From October 2004 until July 2, 2013, respondent owned and was the designated broker-officer for Chase Mortgage & Realty, Inc. Between 2004 and 2010, respondent worked part-time for his own business. In 2010, respondent worked full-time for Chase Mortgage & Realty, Inc., and employed one salesperson. Respondent has worked on and off for his uncle at Ontrac Real Estate since 2010. On April 12, 2011, respondent began working full-time at Ontrac Real Estate.

4. In 2009 and 2010, respondent advertised on the Craigslist website that he was interested in becoming the designated broker-officer for real estate and loan mortgage corporations. For the businesses identified in Factual Findings 5 through 15, respondent became the designated broker-officer in exchange for a \$250 fee. After meeting with the individuals running the corporation, or speaking with them over the telephone, respondent submitted the required documentation to the bureau. Respondent agreed to review documentation in support of any transactions; however, most of these businesses did not have a transaction for him to review during the time period that he was the designated broker-officer. Respondent visited the business offices once, if at all, when he signed the original documentation becoming the designated broker-officer.

5. From March 2, 2010, until December 20, 2010, respondent was the designated broker-officer for Corporate Equity Bankers, Inc., located in San Fernando, California. Respondent was never present at the offices of Corporate Equity Bankers, Inc. He was contacted once or twice by the salesperson employed there, but no transactions were closed while he was the designated broker-officer. Respondent does not recall the names of the owners of the corporation.

6. From April 20, 2010, until April 24, 2011, respondent was the designated broker-officer for Equity Homes, Inc., located in Manteca, California. Respondent never visited the Equity Homes, Inc., office. He does not recall with whom he communicated there; he does not believe the business closed any transactions while he was the designated broker-officer.

7. From August 9, 2010, until April 25, 2011, respondent was the designated broker-officer for Sar Financial Solutions, located in Los Angeles, California. Respondent recalls reviewing two residential real estate transactions as the designated broker-officer for Sar Financial Solutions. Respondent only visited the Sar Financial Solutions office on one occasion, when he signed the documentation to become the designated broker-officer. Respondent never reviewed trust account records for Sar Financial Solutions.

8. From November 4, 2010, until April 24, 2011, respondent was the designated broker-officer for West Coast Ventures, Inc., located in Long Beach, California. Respondent never visited the offices of West Coast Ventures, Inc.

9. From November 10, 2010, to April 24, 2011, respondent was the designated broker-officer for Consultech Group, Inc., located in San Diego, California. Respondent never visited the offices of Consultech Group, Inc.

10. From December 22, 2010, until April 21, 2011, respondent was the designated broker-officer for Omega Realty Management, Inc., located in San Diego, California. Respondent reports that Omega Realty Management, Inc., never closed a transaction while he was the designated broker-officer.

11. From November 17, 2009, until February 9, 2011, respondent was the designated broker-officer for Vantage Management Systems, Inc., located in Santa Barbara, California.

12. From February 26, 2011, until April 24, 2011, respondent was the designated broker-officer for Allegiance Properties Investments, Inc., located in Moreno Valley, California.

13. From March 7, 2011, until April 25, 2011, respondent was the designated broker-officer for Grace Financial Network, Inc., located in Santa Ana, California.

14. From May 25, 2011, until May 30, 2011, respondent was the designated broker-officer for Lev & Eve Corporation, located in Sherman Oaks, California.

*American Loans and Funding, Inc.*

15. In August 2010, David Kaup (who introduced himself to respondent as David Smith) replied to respondent's Craigslist advertisement. Kaup has never been licensed by the bureau. Kaup advised respondent that he and some other individuals were putting together a real estate and loan mortgage corporation and were in need of a broker of record. Kaup paid respondent \$250 to become an officer of the corporation, American Loans and Funding, Inc., and the designated broker-officer.

16. On August 25, 2010, American Loans and Funding, Inc., filed a statement with the Secretary of State, identifying respondent as the secretary of the corporation. On September 1, 2010, respondent filed a corporation license application for American Loans and Funding, Inc., with the bureau. Respondent identified himself as the broker-officer for the corporation.

17. The bureau issued a corporation license to American Loans and Funding, Inc., with respondent identified as the designated broker-officer, on November 10, 2010.

18. American Loans and Funding, Inc., acting through Kaup and other unlicensed individuals, engaged in a course of conduct designed to fraudulently induce potential mortgage borrowers who responded to an internet advertisement to wire funds to an American Loans and Funding, Inc., bank account. Kaup, using various fictitious names,

falsely represented to the individuals that American Loans and Funding, Inc., could offer 30-year fixed rate mortgages at an interest rate below that customarily being offered at the time. Kaup and other unlicensed individuals employed by American Loans and Funding, Inc., instructed potential borrowers to wire the equivalent of one year's mortgage payments to be held in trust in the bank account of American Loans and Funding, Inc. The wire transfers were falsely and fraudulently represented to the potential borrowers to be necessary to demonstrate the borrowers' liquidity to non-existent mortgage lenders. In truth, Kaup and others acting through American Loans and Funding, Inc., intended to convert the borrowers' funds for their personal use.

#### NICHOLAS AND MEGAN B.

19. In November 2010, Nicholas and Megan B., who were interested in obtaining mortgage loan financing, learned of American Loans and Funding, Inc., from an advertisement on the internet. After completing an online survey on a Lending Tree or Quicken Loans website, Nicholas and Megan B. were contacted by Kaup. Kaup represented that he was a loan specialist for American Loans and Funding, Inc. At Kaup's direction, on December 11, 2010, Nicholas and Megan B. filled out two separate Uniform Residential Loan Applications (URLA), one for real property located in La Habra, California, and another for property located in Big Bear City, California. At Kaup's direction, Nicholas and Megan B. wired the separate sums of \$15,469.68 and \$32,123.88 to American Loans and Funding, Inc.'s bank account. Nicholas and Megan B. believed that the funds were required for the processing of their two mortgage loan applications. On April 19, 2011, Nicholas and Megan B. learned that American Loans and Funding, Inc., was in bankruptcy and that none of their funds had been placed in trust or would be refunded to them. At no time did Nicholas and Megan B. receive either loan brokerage services from American Loans and Funding, Inc., or a refund of the funds transferred to its bank account.

#### PHILIP Y.

20. In July 2010, Philip Y., who was interested in obtaining mortgage loan financing, learned of American Loans and Funding, Inc., from an advertisement on the internet. Philip Y. completed an online survey on a Lending Tree or Quicken Loans website and was contacted by Kaup. On July 13, 2010, Philip Y. applied to American Loans and Funding, Inc. for a \$1,170,000 pledged asset mortgage with respect to real property located in Fremont, California. Kaup represented to Philip Y. that he would need to wire a deposit of \$52,716.48 to American Loans and Funding, Inc., to secure a 30-year mortgage loan on the property. Kaup further represented to Philip Y. that his deposit would be refunded at the close of escrow or within three months. At Kaup's direction, on July 30, 2010, Philip Y. wired the funds to the American Loans and Funding, Inc., bank account. Philip Y. believed that the wired funds were required for the processing of the pledged asset mortgage loan application with American Loans and Funding, Inc. After a series of delays in the purported closing of the loan, Philip Y. learned on April 22, 2011, that American Loans and Funding, Inc., was in bankruptcy and that his funds had not been placed in trust and would not be refunded to him. At no time did Philip Y. receive loan brokerage services from American

Loans and Funding, Inc., or a refund of the funds transferred.

REGINA S.

21. In February 2011, Regina S. was interested in obtaining mortgage loan financing to refinance real property located in Gilroy, California. Regina S. looked to LendingTree.com for help. Kaup emailed Regina S. in response to her inquiry. Regina S. checked with the Better Business Bureau, who rated American Loans and Funding, Inc., with an A-plus rating. Kaup represented to Regina S. that in order to obtain the best interest rate on her loan she would be required to demonstrate one year of liquidity covering all expenses related to the Gilroy property. Regina S. completed a URLA and returned it to American Loans and Funding, Inc. On March 8, 2011, at American Loans and Funding, Inc.'s direction, Regina S. wired \$137,000 to the American Loans and Funding, Inc. bank account. Regina S. believed that the wired funds were required for the processing of her mortgage loan applications with American Loans and Funding, Inc. On April 18, 2011, Regina S. learned that American Loans and Funding, Inc., was in bankruptcy and that none of her funds had been placed in trust or would be returned. Regina S. did not receive loan brokerage services from American Loans and Funding, Inc., or a refund of the funds transferred.

STUART M.

22. In December 2010, Stuart M. was interested in obtaining mortgage loan financing to refinance a property he owned in Denver, Colorado. After performing an internet search, Stuart M. was contacted by a representative of American Loans and Funding, Inc. On December 27, 2010, Kaup represented to Stuart M. that in order to obtain the best interest rate on his loan he would be required to demonstrate one year of liquidity covering all expenses related to the property. On December 28, 2010, after completing a URLA, and returning it to American Loans and Funding, Inc., Stuart M. wired \$28,973.28 to the American Loans and Funding, Inc., bank account. Stuart M. believed that the funds were required for the processing of his mortgage loan application. On April 18, 2011, Stuart M. received an email message from American Loans and Funding, Inc., advising him that American Loans and Funding, Inc., was in bankruptcy and his funds had not been placed in trust and would not be returned to him. Stuart M. did not receive either loan brokerage services from American Loans and Funding, Inc., or a refund of his funds.

23. Respondent was contacted by an investigator from the bureau in April 2011. Respondent reported that he was unaware of the fraudulent conduct of American Loans and Funding, Inc.

24. On April 12, 2012, the bureau served a subpoena duces tecum on respondent requesting the business records of American Loans and Funding, Inc., in respondent's possession. Respondent did not have any business records for American Loans and Funding, Inc.

### *Respondent's Evidence*

25. Respondent feels terrible about the fraud described in Factual Findings 15 through 22. Respondent was unaware that the fraudulent behavior was happening. As soon as respondent learned of the fraudulent conduct by American Loans and Funding, Inc., he cancelled his designated broker-officer status with the company. He also cancelled his designated broker-officer status with the companies identified in Factual Findings 6 through 10, 12 and 13.

26. Respondent's involvement with American Loans and Funding, Inc., began when Kaup contacted him through his Craigslist advertisement. Respondent reports that he first met with Kaup in August 2010. Kaup advised respondent that he and his group wanted to start a real estate corporation. Kaup described it as a legal business, and did not mention any planned fraudulent activity. Respondent understood that Kaup and his group were still planning the business. He received corporate documentation from Kaup and signed paperwork designating him as the secretary of the corporation. On August 29, 2010, respondent signed a corporation license application for American Loans and Funding, Inc., and it was submitted to the bureau. In the application, respondent certified that he was a corporate officer and would be the designated officer and broker of record for American Loans and Funding, Inc.

27. Respondent had very little contact with representatives from American Loans and Funding, Inc., after his initial meeting with Kaup. He never visited the business address for American Loans and Funding, Inc. Respondent was under the impression that the business was not yet up and running. He had purposely not obtained a National Mortgage Licensing System number yet for the company, because he was waiting to confirm that the business was in place.

28. After being contacted by the bureau and learning of the fraudulent activity, respondent went to the American Loans and Funding, Inc., business address and found it to be abandoned. He tried to contact Kaup, but the numbers he had were disconnected, or no one answered them.

29. Respondent is aware that as the designated broker-officer he is responsible for supervising the corporation. He was aware that in becoming the designated broker-officer for the various businesses identified in Factual Findings 5 through 15, there was some risk, but he never dreamed of the kind of trouble that occurred with American Loans and Funding, Inc. Respondent did no investigation into the background of the corporations identified in Factual Findings 5 through 15 before signing the paperwork to become the designated broker-officer.

30. Respondent produced documentation of additional fraudulent conduct by Kaup and his colleagues. Respondent was not involved in that conduct, and was not the designated broker-officer in that operation, and yet he has been sued by one of the victims. Respondent accepts responsibility for his poor judgment in becoming the designated broker-officer for

American Loans and Funding, Inc., without becoming actively involved with the business; however, he believes the fraud would have occurred without his involvement. Respondent pledges to never again put himself in this position and is hoping for a second chance. Respondent has been licensed as a broker for 10 years; his license has not been disciplined before, and he reports never having received a consumer complaint.

31. Respondent began attending the master's in business administration program at Chapman University in 2011, and graduated in March 2013. Respondent currently works at his uncle's real estate business, Ontrac Real Estate. There are four agents at Ontrac Real Estate. Respondent is the designated broker-officer for Ontrac Real Estate. He is in the office approximately once per month and is actively listing and selling real estate. Respondent's uncle has a broker license and is in charge of managing the office and maintaining the records. Ontrac Real Estate does not have a trust account; client funds are deposited directly into escrow.

#### *Costs*

32. The Bureau incurred costs of investigation of this matter in the amount of \$7,860.50. The Bureau incurred costs of enforcement of this matter in the amount of \$1,935.75. The total amount of the costs, \$9,796.25, is reasonable; however, some of the costs are attributable to the investigation of American Loans and Funding, Inc. Because the first cause for discipline was directed only at American Loans and Funding, Inc., the amount of the costs recoverable from respondent will be reduced by approximately 20 percent, to \$8,000.

### LEGAL CONCLUSIONS

1. The burden of proof in this matter is on complainant to show by clear and convincing evidence that respondent's license should be suspended or revoked. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

#### *Causes for Discipline*

2. Pursuant to Business and Professions Code section 10137, it is unlawful for a licensed real estate broker to employ or compensate, directly or indirectly, any unlicensed person for performing any of the acts within the Real Estate Law.<sup>2</sup> The activities of Kaup described in Factual Findings 15 through 22, require a real estate license under Business and Professions Code section 10131, subdivision (d) (soliciting borrowers or negotiating loans or performing services for borrowers in connection with loan secured directly or collaterally by liens on real

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<sup>2</sup> The Real Estate Law commences at Business and Professions Code section 10000. The rules and regulations of the commissioner commence at California Code of Regulations, title 10, section 2705.



property). Kaup was not licensed. (Factual Finding 15.) As the designated broker-officer for American Loans and Funding, Inc., respondent employed an unlicensed individual to perform activity that requires a license.

Business and Professions Code section 10177, subdivision (d), provides that the commissioner is authorized to suspend or revoke the license of a real estate licensee who has willfully disregarded or violated the Real Estate Law and the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law. Business and Professions Code section 10177, subdivision (g), provides that the commissioner may suspend or revoke the license of a real estate licensee who has demonstrated negligence or incompetence.

As the designated broker-officer of American Loans and Funding, Inc., respondent allowed an unlicensed individual to perform activities that require a license. His conduct violated the Real Estate Law and demonstrated negligence or incompetence. Cause exists for discipline pursuant to Business and Professions Code section 10177, subdivisions (d) and (g).

3. Business and Professions Code section 10148 provides that a licensed real estate broker shall retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required. Respondent was required to maintain the loan transaction files for the loans described in Factual Findings 15 through 22, to retain those documents for three years and provide them to bureau for inspection at its request. Respondent did not work at American Loans and Funding, Inc., did not review the transactions taking place there, and failed to maintain the documents required by Business and Professions Code section 10148. (Factual Findings 23, 24, 27 and 28.)

Cause for discipline therefore exists pursuant to Business and Professions Code section 10177, subdivisions (d) and (g).

4. Business and Professions Code section 10159.2 provides that the officer designated by a corporate broker licensee shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

California Code of Regulations, title 10, section 2725, requires a real estate broker to exercise reasonable supervision over the activities of the business. The regulation describes reasonable supervision to include the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage the following: 1) transactions requiring a real estate license; 2) documents which may have a material effect upon the rights or obligations of a party to the transaction; 3) filing, storage and maintenance of such documents; 4) the handling of trust funds; 4) advertising of any service for which a license is required; 5) familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination; and 6) regular and consistent reports of licensed

activities of salespersons. In addition, the broker is required to establish a system for monitoring compliance with such policies, rules, procedures and systems.

Business and Professions Code section 10177, subdivision (h), authorizes the commissioner to suspend or revoke the license of a broker who failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

In this matter, respondent failed to supervise what was transpiring at American Loans and Funding, Inc. Cause for discipline exists pursuant to Business and Professions Code section 10177, subdivisions (d), (g) and (h).

#### *Level of Discipline*

5. Respondent bears the burden of demonstrating his rehabilitation. The criteria used by the bureau in evaluating a licensee's rehabilitation are set forth in California Code of Regulations, title 10, section 2912. These criteria include whether restitution has been paid to anyone who has suffered monetary losses through the acts or omissions of the licensee; the correction of business practices responsible to some degree for the misconduct; the creation of new business relationships; and, a change in attitude from that which existed at the commission of the misconduct.

In exchange for a \$250 fee, respondent allowed American Loans and Funding, Inc., to use his broker license without any regard to his obligation to supervise the activities at the business, to the severe detriment of numerous innocent individuals. Respondent has made no effort to reimburse the victims of the fraud perpetrated by American Loans and Funding, Inc.

Moreover, the evidence established that respondent allowed numerous businesses to use his broker license for a \$250 fee, and performed virtually no supervision of what was occurring at these businesses. In many cases, respondent had never even visited the business office or met the individuals that were operating under his license. The requirement that a broker supervise the individuals operating under his license is there to protect consumers from exactly what occurred with American Loans and Funding, Inc.

Once respondent learned of the fraud that had occurred, he withdrew as the designated broker-officer for American Loans and Funding, Inc., and the other businesses. However, he is now the designated broker-officer for his uncle's business, and testified that he only goes to the office approximately once per month. Respondent continues to misunderstand his obligations as a designated broker-officer. Respondent has given the bureau no reason to believe that he will assume his responsibilities in the future. Under these circumstances, protection of the public requires revocation of respondent's license.

#### *Costs*

6. Complainant requests reimbursement of the costs of investigation and enforcement pursuant to Business and Professions Code section 10106. Section 10106 provides that in any order issued in resolution of a disciplinary proceeding, the commissioner

may ask the administrative law judge to direct a licensee found to have committed a violation to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. The investigation of the matter also involved investigating American Loans and Funding, Inc. The reasonable amount of costs of investigation and enforcement attributable to respondent is \$8,000. (Factual Finding 32.)

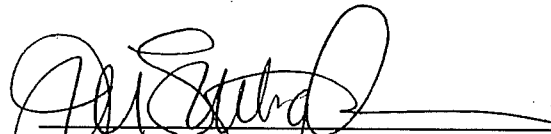
ORDER

1. All licenses and licensing rights of respondent Raul Sandoval under the Real Estate Law are revoked.

2. Respondent shall pay to the Bureau of Real Estate, Department of Consumer Affairs, the costs associated with its investigation and enforcement pursuant to Business and Professions Code section 10106 in the amount of \$8,000 within 60 days of the effective date of the Decision.

DATED:

3/17/14

  
JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings