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SEP 09 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	NO. H- 2361 FR
KEVIN ZENTNER,	)	
	)	
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 October 5, 2009, and the findings of fact set forth herein, which are based on one or more of the following: (l) Respondents' express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes Respondent KEVIN ZENTNER's ("Respondent") real estate license on grounds of violations of the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("the Code") and associated Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations ("the Regulations").

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

1

On March 5, 2009, John W. Sweeney, made the Accusation in his 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, to Respondent's last known mailing address on file with the Department on March 18, 2009. Personal delivery of these documents was made to Helga Zentner, Respondent's mother, on March 24, 2009.

2

On October 5, 2009, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default was entered herein.

3

At all times mentioned herein, Respondent has been licensed by the Department under the Code as a real estate salesperson. From on or about February of 2008 through May of 2008, Respondent was registered with the Department of Real Estate ("Department") as in the employ of licensed real estate broker Jacob David Reyes ("Reyes"), but was not being compensated by Reyes for licensed activity nor working under the direction of Reyes. From May of 2008 and continuing, Respondent was not employed by any licensed real estate broker.

ENGAGING IN ACTIVITY REQUIRING A REAL ESTATE BROKER LICENSE

4

From February of 2008 and continuing, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Business & Professions Code ("Code"), in that Respondent solicited and/or performed services for borrowers in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of a compensation and claimed, demanded, charged, received, collected or contracted for an advanced fee for such services, including but not limited to the solicitation of the following borrowers for the modification or renegotiation of their existing mortgage loans in the following locations:

	Borrower	Location
A)	Richard & Margaret Samaniego	4011 Sandy Court, Santa Maria, California
B)	Ynes Espinoza	1739 Laguna Street, Seaside, California
C)	Ramona Lopez	651 Saint Augustine Drive, Salinas, California
D)	Maria Zuniga	244 Oak Avenue, Greenfield, California

5

Respondent's conduct of the solicitations described in Paragraph 4, above, without first obtaining a real estate broker license and without active employment and supervision in Respondent's capacity as a real estate salesperson by a real estate broker, constitutes a violation of Section 10130 of the Code and grounds for the revocation or suspension of Respondent's real estate license or license rights under Sections 10177(d) of the Code.

ADVANCE FEES ACTIVITIES

6

Respondent failed to submit to the Department any materials used in obtaining advance fee agreements related to the solicitations described in Paragraph 4, above, including but not limited to the contract forms, letters, or cards used to solicit prospective clients, so that the Commissioner of the

Department ("Commissioner") could determine whether that material might tend to mislead prospective clients.

7

Respondent's failure to submit advance fee materials, described in Paragraph 6, above, constitutes a violation of Section 10085 of the Code and grounds for the revocation or suspension of Respondent's real estate license or license rights under Sections 10177(d) of the Code.

TRUST FUND HANDLING

8

Respondent collected advance fee payments from each of the borrowers described in Paragraph 4, above. Each of the advance fee payments received by Respondent were trust funds as to Respondent, who failed to properly handle such trust funds as required by Section 10145(c) of the Code.

9

Respondent's failure to properly handle the trust funds he received from his clients, as described in Paragraph 8, above, constitutes a violation of Section 10145(c) of the Code and grounds for the revocation or suspension of Respondent's real estate license or license rights under Sections 10177(d) of the Code.

DISHONEST DEALING

10

Respondent failed to perform the services that he promised to the borrowers listed in Paragraph 4, above, after receiving advance fee payments from each of the borrowers listed above. Respondent has not repaid the advance fees received from these borrowers.

11

Respondent's failure to provide the services promised or to refund the Borrower's funds constitutes dishonest dealing and grounds for the revocation or suspension of Respondent's real estate license or license rights under Sections 10176(i) and/or 10177(j) of the Code.

DETERMINATION OF ISSUES

1

The findings in Paragraphs 1 through 11 constitute cause for the suspension or revocation of the license or license rights of Respondent ZENTNER under the Sections of the Code mentioned above, and as those sections interact with Section 10177(d) of the Code, and under Sections 10176(i) and/or 10177(j) of the Code.

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

ORDER

All licenses and licensing rights of Respondent KEVIN ZENTNER under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on SEP 29 2010.

DATED: SEP 07 2010

JEFF DAVI
Real Estate Commissioner

DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

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DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of KEVIN ZENTNER, Respondent.	NO. H-2361 FR DEFAULT ORDER

Respondent KEVIN ZENTNER, 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 as to Respondent KEVIN ZENTNER.

IT IS SO ORDERED September 28, 2009.

JEFF DAVI
Real Estate Commissioner

By: Charles W. Koenig
CHARLES W. KOENIG
Regional Manager

DANIEL E. KEHEW, Counsel
State Bar No. 231550
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FILED

MAR 12 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of KEVIN ZENTNER, Respondent.	NO. H- 2361 FR ACCUSATION and NOTICE OF INTENTION TO ISSUE ORDER OF DEBARMENT (B&P Code §10087)

The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, for Accusation against KEVIN ZENTNER ("Respondent"), is informed and alleges as follows:

1

The Complainant makes this Accusation against Respondent in his official capacity.

2

At all times herein mentioned, Respondent was and now is licensed by the State of California Department of Real Estate ("Department") as a real estate salesperson. From on or about February of 2008 through May of 2008, Respondent was registered with the Department as in the employ of licensed real estate broker Jacob David Reyes ("Reyes"), but was not being compensated by Reyes for licensed activity, or working under the direction of Reyes. From May of 2008 and continuing, Respondent was not employed by any licensed real estate broker.

3

From February 2008 and continuing, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the California Business and Professions Code ("Code"), in that Respondent solicited and/or performed services for borrowers in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, for or in expectation of a compensation and claimed, demanded, charged, received, collected or contracted for an advanced fee for such services, including but not limited to the solicitation of the following borrowers for the modification or renegotiation of their existing mortgage loans in the following locations:

	Borrower	Location
A)	Richard & Margaret Samaniego	4011 Sandy Court, Santa Maria, California
B)	Ynes Espinoza	1739 Laguna Street, Seaside, California
C)	Ramona Lopez	651 Saint Augustine Drive, Salinas, California
D)	Maria Zuniga	244 Oak Avenue, Greenfield, California

4

Respondent's conduct of the solicitations described in Paragraph 3, above, without first obtaining a real estate broker license and/or without active employment and supervision in Respondent's capacity as a real estate salesperson by a real estate broker, constitutes a violation of Section 10130 of the Code and grounds for the revocation or suspension of Respondent's real estate license and license rights under Section 10177(d) of the Code.

5

Respondent failed to submit to the Department any materials used in obtaining advance fee agreements related to the solicitations described in Paragraph 3, above, including but not limited to the contract forms, letters, or cards used to solicit prospective clients, so that the Commissioner of the Department ("Commissioner") could determine whether that material might tend to mislead prospective clients.

6

Respondent's failure to submit advance fee materials, described in Paragraph 5, above, constitutes a violation of Section 10085 of the Code and grounds for the revocation or suspension of Respondent's real estate license or license rights under Section 10177(d) of the Code.

7

Respondent collected advance fee payments from each of the borrowers described in Paragraph 3, above. Each of the advance fee payments received by Respondent was trust funds as to Respondent, who failed to properly handle such trust funds as required by Section 10145(c) of the Code.

8

Respondent's failure to properly handle the trust funds he received from his clients, as described in Paragraph 7, above, constitutes a violation of Section 10145(c) of the Code and grounds for the revocation or suspension of Respondent's real estate license or license rights under Section 10177(d) of the Code.

9

Respondent failed to perform the services that he promised to the borrowers listed in Paragraph 3, above, after receiving advance fee payments from each of the borrowers listed above. Respondent has not repaid the advance fees received from these borrowers.

10

Respondent's failure to provide the services promised or to refund the Borrower's funds constitutes dishonest dealing and grounds for the revocation or suspension of Respondent's real estate license or license rights under Sections 10176(i) and/or 10177(j) of the Code.

11

The facts alleged in Paragraphs 1 through 10 are grounds for the suspension or revocation of the license or license rights of Respondent under the Sections of the Code

mentioned above, and as those sections interact with Section 10177(d) of the Code, and under Sections 10176(i) and/or 10177(j) of the Code.

12

The facts alleged in Paragraphs 1 through 11, above, subject Respondent to issuance of an Order of Debarment pursuant to Section 10087 of the Code. Pursuant to Section 10087(b) of the Code, you, Respondent, are hereby notified of the intention of the Commissioner to issue an Order of Debarment pursuant to Section 10087(a) of the Code should the facts alleged herein support findings that an Order of Debarment be issued.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and Notice of Intention to Issue Order of Debarment, and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code and, in addition, an Order of Debarment issue against Respondent pursuant to Section 10087 of the Code, and for such other and further relief as may be proper under other provisions of law.

JOHN W. SWEENEY
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 5th day of March, 2009.