BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

FILED

DEC 16 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

In the Matter of the Accusation of AVILA VENTURE PARTNERS INC., a Corporation, and PEDRO GALVAN, JR., Respondents.	)))))))	NO. H-2477 FR

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 Commissioner's Order of Default dated June 16, 2011. The Findings of Fact set forth herein are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and/or, (3) other evidence.

This Decision revokes a real estate license on grounds of unlicensed activities; accepting an advance fees; and failing to provide reasonable broker supervision.

FINDINGS OF FACT

1

On April 21, 2010, Luke Martin made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent and form for the Notice of Defense were mailed by certified and regular mail to Respondents at their addresses of record on file with the Department and the last known mailing addresses on July 1st and 5th, 2011.

2

On June 16, 2011, 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.

3

At all times herein mentioned, AVILA VENTURE PARTNERS, INC. (herein "AVPI") was licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through PEDRO GALVAN, JR. (herein "GALVAN") as designated officer-broker of AVPI to qualify said corporation and to act for said corporation as a real estate broker.

4

At all times herein mentioned, GALVAN was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of AVPI. As said designated officer-broker, GALVAN was at all times mentioned herein responsible pursuant to Section 10159.2 of the California Business and Professions Code (herein the "Code") for the supervision of the activities of the officers, agents, real estate licensees, and employees of AVPI for which a license is required.

5

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders or borrowers for or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

6

On January 29, 2009, AVPI, acting through Heriberto Avila, Jr. (herein "Avila"), an unlicensed individual, and AVPI's dba 21 CM, met with Jose L. Ponce (Ponce) in order to provide loan modification services in cooperation with National Mortgage Bailout (herein "NMBOI") and Singer & Ventura, LLP (herein "S & V"), to save Ponce's home on 1375 E. Millard Way, Dinuba, CA, from being lost in foreclosure, assuring Ponce that AVPI would obtain a loan modification within 30 to 90 days, when in fact, AVPI failed to provide a successful and/or sustainable loan modification to Ponce, in violation of Sections 10130 (unlicensed activity), 10176(a) (misrepresentation), (b) (false promises), (c) (continued and flagrant course of misrepresentation and/or making false promises), and (i) (fraud and dishonest dealing by licensee) of the Code.

7

At all times mentioned herein, AVPI, acting through Avila, in the furtherance of its plan and scheme to provide loan modification services to Ponce as described in Paragraph 6, above, requested and collected the following advance fees from Ponce, in violation of Sections 10131.2 (advance fees), 10085 (advanced fee agreements), and 10085.5 (advance fee payments) of the Code and Section 2970 (advance fee materials) of Title 10, Chapter 6, of the California Code of Regulations (herein "the Regulations"):

Date	Amount	On Behalf of
1/29/09	$3,500	NMBOI;
1/29/09	$1,500	S & V;
2/8/09	$1,500	S & V; and
3/27/09	$250	S & V.

8

Between about March 28, 2009 and March 31, 2009, Ponce requested a return of the advanced fees, upon discovering that AVPI failed to provide a successful and/or sustainable loan modification; however, AVPI refused to return the advanced fees, in violation of Section 10176(i).

9

On about August 25, 2009, Avila, on behalf of AVPI, dba 21 CM, Fresno, California, solicited Department employee, Rene Esquivel (herein "Esquivel") to engage AVPI and its employees and agents to represent Esquivel in negotiating with his lender, a loan modification of one or more loans which was represented to Avila to be in arrears or in default, in violation of Section 10130 of the Code.

10

In connection with the solicitation described in Paragraph 9, above, Avila represented to Esquivel that he had obtained hundreds of loan modifications and that an advance fee in the amount of $3,500 would be charged and collected from him for services to be performed on behalf of AVPI and S & V regarding obtaining a modification of loan terms for one or more loans secured by real property owned by Esquivel, in violation of Sections 10131.2, 10085, and 10085.5 of the Code and Section 2970 of the Regulations.

11

At all times mentioned herein, Respondent GALVAN failed to exercise reasonable supervision over the acts of Respondent AVPI and its agents and employees in such a manner as to allow the acts and omissions on the part of AVPI, described above, to occur, in violation of Sections 10177(g) and (h), and 10159.2 of the Code, and Section 2725 of the Regulations.

MATTER IN AGGRAVATION

Effective March 25, 2009, in Case No. H-2305 FR, the Real Estate Commissioner denied Avila's application for a real estate salesperson license.

DETERMINATION OF ISSUES

1

The facts found above constitute cause under Sections 10176(a), (b), (c), and (i), 10131.2, 10085, and 10085.5 of the Code and Section 2970 of the Regulations, in conjunction with Section 10177(d) of the Code, for the suspension or revocation of all license and license rights of Respondent AVPI under the Real Estate Law.

2

The facts found above constitute cause under Sections 10177(g) and (h), and 10159.2 of the Code, and Section 2725 of the Regulations, in conjunction with Section 10177(d) of the Code for the suspension or revocation of all license and license rights of Respondent GALVAN under the Real Estate Law.

3

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

ORDER

The real estate license and license rights of Respondents AVILA VENTURE PARTNERS, INC., and PEDRO GALVAN, JR., under the provisions of Part I of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on January 5, 2012.

DATED: 12/5/11.

BARBARA J. BIGBY
Acting Real Estate Commissioner

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

Telephone: (916) 227-0789

FILED

JUN 17 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AVILA VENTURE PARTNERS, INC., A Corporation, and PEDRO GALVAN, JR., Respondents.	NO. H-2477 FR DEFAULT ORDER

Respondents AVILA VENTURE PARTNERS, INC., a Corporation, and PEDRO GALVAN, JR., having failed to file Notices of Defense within the time required by Section 11506 of the Government Code are now in default.. It is, therefore, ordered that a default be entered on the record in this matter as to Respondents AVILA VENTURE PARTNERS, INC., a Corporation, and PEDRO GALVAN, JR.

IT IS SO ORDERED JUNE 16, 2011.

BARBARA J. BIGBY
Real Estate Commissioner

By: PHILLIP HIDE
Northern Regional Manager

MARY F. CLARKE, Counsel (SBN 186744)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
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FILED

APR 21 2010

DEPARTMENT OF REAL ESTATE

By D. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of AVILA VENTURE PARTNERS INC., a Corporation, and PEDRO GALVAN, JR., Respondents.	NO. H- 2477 FR ACCUSATION

The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the State of California, for Accusation against AVILA VENTURE PARTNERS INC. (herein "AVPI") dba 21st Colonial Real Estate (herein "21 CRE") and also dba 21st Colonial Mortgage (herein "21 CM"), and PEDRO GALVAN, JR. (herein "GALVAN") (herein collectively "Respondents"), is informed and alleges as follows:

1

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

2

At all times herein mentioned, AVPI was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker

by and through GALVAN as designated officer-broker of AVPI to qualify said corporation and to act for said corporation as a real estate broker.

3

At all times herein mentioned, GALVAN was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of AVPI. As said designated officer-broker, GALVAN was at all times mentioned herein responsible pursuant to Section 10159.2 of the California Business and Professions Code (herein the "Code") for the supervision of the activities of the officers, agents, real estate licensees, and employees of AVPI for which a license is required.

4

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders or borrowers for or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

FIRST CAUSE OF ACCUSATION

5

On about January 29, 2009, AVPI, acting through Heriberto Avila, Jr. (herein "Avila"), an unlicensed individual, and AVPI's dba 21 CM, met with Jose L. Ponce (herein "Ponce") in order to provide loan modification services in cooperation with National Mortgage Bailout Inc. (herein "NMBOI") and Singer & Ventura, LLP (herein "S & V"), to save Ponce's home on 1375 E. Millard Way, Dinuba, CA, from being lost in foreclosure, assuring Ponce that AVPI would obtain a loan modification within 30 to 90 days, when in fact, AVPI failed to provide a successful and sustainable loan modification to Ponce, in violation of Sections

10130 (unlicensed activity), 10176(a) (misrepresentation), (b) (false promises), (c) (continued and flagrant course of misrepresentation and/or making false promises), and (i) (fraud and dishonest dealing by licensee), and/or 10177(g) (negligence) and/or (j) (fraud and dishonest dealing) of the Code.

6

At all times mentioned herein, AVPI, acting through Avila, in the furtherance of its plan and scheme to provide loan modification services to Ponce as described in Paragraph 5, above, requested and collected the following advance fees from Ponce, in violation of Sections 10131.2 (advance fees), 10085 (advanced fee agreements), and 10085.5 (advance fee payments) of the Code and Section 2970 (advance fee materials) of Title 10, Chapter 6, of the California Code of Regulations (herein "the Regulations"):

Date	Amount	On Behalf of
1/29/09	$3,500	NMBOI;
1/29/09	$1,500	S & V;
2/8/09	$1,500	S & V; and
3/27/09	$250	S & V.

7

Between about March 28, 2009 and March 31, 2009, Ponce requested a return of the advanced fees, upon discovering that AVPI failed to provide a successful and sustainable loan modification; however, AVPI refused to return the advanced fees, in violation of Sections 10176(i) and/or 10177(g) and/or (j) of the Code.

SECOND CAUSE OF ACCUSATION

8

The allegations of Paragraphs 1 through 7 are incorporated herein by reference.

9

On about August 25, 2009, Avila on behalf of AVPI dba 21 CM, Fresno, California, solicited Department employee, Rene Esquivel (herein "Esquivel") to engage AVPI

and its employees and agents to represent Esquivel in negotiating with his lender, a loan modification of one or more loans which was represented to Avila to be in arrears or in default, in violation of Section 10130 of the Code.

10

In connection with the solicitation described in Paragraph 9, above, Avila represented to Esquivel that he had obtained hundreds of loan modifications and that an advance fee in the amount of $3,500 would be charged and collected from him for services to be performed on behalf of AVPI and S & V regarding obtaining a modification of loan terms for one or more loans secured by real property owned by Esquivel, in violation of Sections 10131.2, 10085, and 10085.5 of the Code and Section 2970 of the Regulations.

THIRD CAUSE OF ACCUSATION

11

The allegations of Paragraphs 1 through 10 are incorporated herein by reference.

12

At all times mentioned herein, Respondent GALVAN failed to exercise reasonable supervision over the acts of Respondent AVPI and its agents and employees in such a manner as to allow the acts and omissions on the part of AVPI, described above, to occur, in violation of Sections 10177(g) and (h), and 10159.2 of the Code, and Section 2725 of the Regulations.

13

MATTER IN AGGRIVATION

Effective March 25, 2009, in Case No. H-2305 FR, the Real Estate Commissioner denied Avila's application for a real estate salesperson license.

14

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or the Regulations:

(a) as to Paragraph 5 and Respondent AVPI under Sections 10130, 10176(a), (b), (c), and (i) and/or 10177(g) and/or (j) of the Code in conjunction with Section 10177(d) of the Code;

(b) as to Paragraph 6 and Respondent AVPI under Sections 10131.2, 10085, and 10085.5 of the Code and Section 2970 of the Regulations, in conjunction with Section 10177(d) of the Code;

(c) as to Paragraph 7 and Respondent AVPI under Sections 10176(i) and/or 10177(g) and/or (j) of the Code;

(d) as to Paragraph 9 and Respondent AVPI under Section 10130 of the Code, in conjunction with Section 10177(d) of the Code;

(e) as to Paragraph 10 and Respondent AVPI under Sections 10131.2, 10085, 10085.5 of the Code and Section 2970 of the Regulations, in conjunction Section 10177(d) of the Code; and,

(f) as to Paragraph 12 and Respondent GALVAN under Sections 10177(g) and (h), and 10159.2 of the Code, and Section 2725 of the Regulations, in conjunction with Section 10177(d) of the Code.

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

LUKE MARTIN
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 13th day of April, 2010.