FILED

FEB 14 2011

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of ERIC BRANDON CALDWELL, Respondent.	H-4073 SD

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 December 17, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On March 15, 2010, Joseph Aiu filed 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, return receipt requested, to Respondent's last known mailing address on file with the Department on March 15, 2010.

On December 17, 2010, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

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2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code") as a real estate salesperson. At no time herein was Respondent licensed as a real estate broker.

3

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

4

At no times mentioned herein was National Mortgage Rescue licensed by the Department as a real estate broker corporation or as a fictitious business name.

5

In connection with the operation and conduct of the real estate activities described in Paragraph 3, Respondent, without being licensed as a real estate broker, engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (hereinafter "advance fee") of the Code including but not limited to:

HOMEOWNER	PROPERTY ADDRESS	DATE	AMOUNT
Guadalupe Tejada	2195 Cabo Bahia Chula Vista, California	July 24, 2008	$1,995
Guadalupe Tejada	1749 A Regency Way Chula Vista, California	July 31, 2008	$1,000

6

In connection with the operation and conduct of the real estate activities described in Paragraph 5 above, Respondent represented to Guadalupe Tejada (hereinafter "Tejada") that he could and would obtain a successful and sustainable modification of the terms of her loans.

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7

In July 2008, Respondent, by making the representations set forth in paragraph 6 above, induced Tejada to sign an advance fee agreement and collected advance fees. However, Respondent failed to perform the services that he promised to Tejada after receiving advance fee payments from her. Respondent has not repaid the advance fees received from Tejada.

FINDINGS OF LAW

8

In connection with the collection and handling of said advance fees, Respondent failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations (hereinafter "the Regulations").

9

In acting as described above, Respondent violated and/or willfully failed to comply with Sections 10130 (unlawful for any person to assume to act as a broker without first obtaining a real estate broker's license from the Department) and 10137 (unlawful for a salesperson to accept compensation from any person other than the broker) of the Code.

10

The acts and/or omissions of Respondent described above constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, 10130 and 10137 of the Code, and Section 2970 of the Regulations, and are cause for the suspension or revocation of Respondent's license and license rights.

DETERMINATION OF ISSUES

1

Cause of disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10085, 10130, 10137 and 10177(d) of the Code, and Section 2970 of the Regulations.

2

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

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ORDER

All licenses and licensing rights of Respondent ERIC BRANDON CALDWELL under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on MAR - 7 2011

DATED: 1-7-11

JEFF DAVI
Real Estate Commissioner

Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED

DEC 17 2010

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ERIC BRANDON CALDWELL, Respondent.	No. H-4073 SD DEFAULT ORDER

Respondent, ERIC BRANDON CALDWELL, 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.

IT IS SO ORDERED December 17, 2010.

JEFF DAVI
Real Estate Commissioner

By: CHARLES W. KOENIG
Regional Manager

ANGELA L. CASH, Counsel
State Bar No. 230882
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0805 (Direct)

FILED

MAR 15 2010

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ERIC BRANDON CALDWELL, Respondent.	No. H-4073 SD ACCUSATION

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California (hereinafter "Complainant"), for cause of Accusation against ERIC BRANDON CALDWELL (hereinafter "Respondent"), is informed and alleges as follows:

1

Complainant makes this Accusation in his official capacity.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code") as a real estate salesperson. At no time herein was Respondent licensed as a real estate broker.

3

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

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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 Respondent 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 provisions of law.

JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 3 day of March, 2010.