

FILED

MAR - 8 2011

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
DEBORAH LYNN BAROCIO-MIRANDE,)	H-5496 SAC
)	
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 February 23, 2011, 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.

This Decision revokes a real estate license and/or license rights on grounds of the violation of Sections 10130 (License Requirement to Act as Real Estate Broker), 10131(d) (Performing Services for Borrowers and/or Lenders in Connection with Loans Secured by Real Property), 10085 (Prior Approval of Advance Fee Agreement Materials), 10085.5 (Definition of Broker - Collection of Advance Fee by Someone Other Than Real Estate Broker), 10085.6 (Collection of Unauthorized Advance Fees), 10131.2 (Collection of Advance Fees), 10137 (Acceptance of Compensation from Someone Other Than Employing Broker), 10177(d) (Willful Violation of Real Estate Law) and 10177(j) (Other Conduct Which Constitutes Fraud or Dishonest Dealing) of the California Business and Professions Code (hereafter "the Code"), and Section 2970 (Submission of Advance Fee Materials) of Title 10, Chapter 6, California Code of Regulations (hereafter "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 September 29, 2010, Tricia D. Sommers made the Accusation in her 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 October 19, 2010.

On February 23, 2011, 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.

2

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

3

At all times mentioned herein, Respondent performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered. Although Respondent was employed by a real estate broker at the time of the acts mentioned herein, Respondent was not acting under the supervision and control, or with the knowledge of her real estate broker in the performance of the acts mentioned herein.

4

On or about the middle of 2008, Respondent began soliciting and collecting advance fees, and providing loan modification services, including, but not limited to:

- On or about June 20, 2009, Respondent solicited and collected an advance of \$400 from Henry Hockl for loan modification services related to property located at 917 Wagon Wheel Lane, Lincoln, California. Respondent never obtained a loan modification for and has never refunded the advance fees paid to her by Henry Hockl.

///

By the commission of the acts alleged in Paragraphs 3 and 4, above, Respondent engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Sections 10130 (License Requirement to Act as Real Estate Broker) and 10131(d) (Performing Services for Borrowers and/or Lenders in Connection with Loans Secured by Real Property) of the Code.

DETERMINATION OF ISSUES

1

Cause of disciplinary action against Respondent exists with reference to the acts set out in Paragraphs 3 and 4, above, pursuant to Business and Professions Code Sections 10085, 10085.5, 10085.6, 10130, 10131(d), 10131.2, 10137, 10177(d) and 10177(j) of the Code, and Section 2970 of the Regulations.

2

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

ORDER

All licenses and licensing rights of Respondent DEBORAH LYNN BAROCIO-MIRANDE 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 29 2011

DATED: _____

2/7/2011

JEFF DAVI
Real Estate Commissioner



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

4 Telephone: (916) 227-0789

FILED

FEB 23 2011

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7 BEFORE THE DEPARTMENT OF REAL ESTATE

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9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)

12 DEBORAH LYNN BAROCIO-MIRANDE,)

13 Respondent.)

H-5496 SAC

DEFAULT ORDER

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15 Respondent, DEBORAH LYNN BAROCIO-MIRANDE, having failed to file a
16 Notice of Defense within the time required by Section 11506 of the Government Code, is now
17 in default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED February 23, 2011.

19 JEFF DAVI
20 Real Estate Commissioner

21
22 By:

Phillip Ihde
23 PHILLIP IHDE
24 Northern Regional Manager

FLAG

1 JOHN W. BARRON, Counsel (SBN 171246)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 (916) 227-0792 (Direct)

FILED

OCT 19 2010

DEPARTMENT OF REAL ESTATE

By H. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)	
12)	No. H-5496 SAC
13 DEBORAH LYNN BAROCIO-MIRANDE,)	
14 Respondent.)	<u>ACCUSATION</u>
15)	

16 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
17 of the State of California, for cause of Accusation against DEBORAH LYNN BAROCIO-
18 MIRANDE, individually and doing business as Sierra Capital Financial Group, (hereafter
19 "Respondent"), is informed and alleges as follows:

20 1

21 The Complainant makes this Accusation in her official capacity.

22 2

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

27 ///

1 3

2 At all times mentioned herein, Respondent performed services for one or more
3 borrowers and negotiated to do one or more of the following acts for another or others, for or in
4 expectation of compensation: negotiate one or more loans for, or perform services for,
5 borrowers and/or lenders with respect to the collection of advance fees and loan modification,
6 loan refinance, principal reduction, foreclosure abatement or short sale services and/or those
7 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
8 on real property; and charged, demanded or collected an advance fee for any of the services
9 offered. Although Respondent was employed by a real estate broker at the time of the acts
10 mentioned herein, Respondent was not acting under the supervision and control, or with the
11 knowledge of her real estate broker in the performance of the acts mentioned herein.

12 4

13 On or about the middle of 2008, Respondent began soliciting and collecting
14 advance fees, and providing loan modification services, including, but not limited to:

15 -On or about June 20, 2009, Respondent solicited and collected an advance of
16 \$400 from Henry Hockl for loan modification services related to property
17 located at 917 Wagon Wheel Lane, Lincoln, California. Respondent never
18 obtained a loan modification for and has never refunded the advance fees paid
to her by Henry Hockl.

19 5

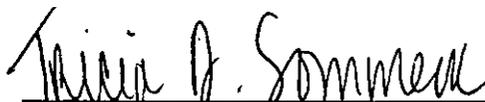
20 By the commission of the acts alleged in Paragraphs 3 and 4, above, Respondent
21 engaged in the business and acted in the capacity of a real estate broker within the State of
22 California as defined by Sections 10130 (License Requirement to Act as Real Estate Broker)
23 and 10131(d) (Performing Services for Borrowers and/or Lenders in Connection with Loans
24 Secured by Real Property) of the Code.

25 6

26 The facts alleged in Paragraphs 3 and 4, above, are grounds for the suspension or
27 revocation of the license and license rights of Respondent under Sections 10085 (Prior Approval

1 of Advance Fee Agreement Materials), 10085.5 (Definition of Broker - Collection of Advance
2 Fee by Someone Other Than Real Estate Broker), 10085.6 (Collection of Unauthorized Advance
3 Fees), 10130, 10131(d), 10131.2 (Collection of Advance Fees), 10137 (Acceptance of
4 Compensation from Someone Other Than Employing Broker), 10177(d) (Willful Violation of
5 Real Estate Law) and 10177(j) (Other Conduct Which Constitutes Fraud or Dishonest Dealing)
6 of the Code, and Section 2970 (Submission of Advance Fee Materials) and 2972 (Content of
7 Verified Accounting) of Title 10, Chapter 6, California Code of Regulations.

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
9 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondent under the Code, and for such other
11 and further relief as may be proper under the provisions of law.

12
13 
14 TRICIA D. SOMMERS
15 Deputy Real Estate Commissioner

16 Dated at Sacramento, California,
17 this 29th day of September, 2010.
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