

FILED

DEC 12 2012

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

K. Contreras

In the Matter of the Accusation of)	
)	
OSCAR AMADOR,)	NO. H-11252 SF
)	
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 September 17, 2012. The Findings of Fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and/or, (3) other evidence.

This Decision revokes a real estate license on grounds of collecting an advance fee prior to submission of advance fee materials to the California Real Estate Commissioner (herein the "Commissioner"), failure to provide an accounting for said advance fee, and failure to maintain a definite place of business in the State of California.

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 November 9, 2011, E. J. Haberer II 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 Respondent at his address of record and one other address known to the Department of Estate (herein the "Department") by certified and regular mail on November 23, 2011.

On September 17, 2012, 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.

2

At all times herein mentioned, Respondent was and now is licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

3

At all times mentioned herein, Respondent was and now is licensed by the Department as a real estate broker.

4

At all times mentioned herein, 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 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, Respondent solicited lenders or borrowers for or negotiated loans, including loan modifications, 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.

5

In about November 2008, Respondent solicited Emilio and Julia C. (herein "Emilio and Julia") to provide loan modification services in order to save the Emilio and Julia's residence located on Lyons Drive in San Jose, California, CA from foreclosure.

6

On about November 28, 2008, Respondent collected an advance fee in the amount of about \$4,500 for said loan modification services prior to submitting to the Department any or all materials used in advanced fee agreements, including but not limited to the contract form, any letters or cards used to solicit prospective sellers, and radio and television advertising, at least 10 calendar days before it was used in obtaining an advance fee agreement and prior to the Emilio and Julia's obligation to complete the loan, in violation of Sections 10085 (submission of advance fee agreement) and 10085.5 (collection of advance fees) of the Code and Section 2970 (submission of advance fee agreement) of Title 10, Chapter 6 of the California Code of Regulations (herein the "Regulations").

7

At all times mentioned herein, Respondent failed to provide Emilio and Julia with an accounting of said advance fees collected, as required by Section 10146 of the Code and Section 2972 of the Regulations.

On about August 17, 2011, Respondent failed to maintain a definite place of business in the State of California, in violation of Section 10162 of the Code and Section 2715 of the Regulations.

DETERMINATION OF ISSUES

1

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

- (a) as to Paragraph 6, under Sections 10085 and 10085.5 of the Code and Section 2970 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 7, under Sections 10146 of the Code and Section 2972 of the Regulations in conjunction with Section 10177(d) of the Code; and
- (c) as to Paragraph 8, under Section 10162 of the Code and Section 2715 of the Regulations, in conjunction with Section 10177(d) of the Code.

2

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

ORDER

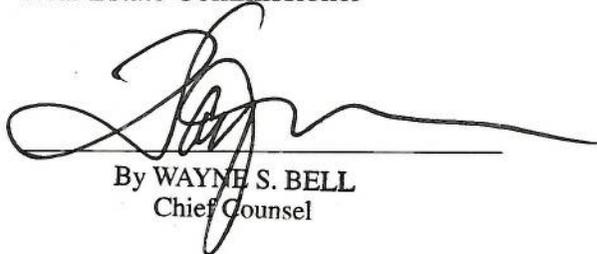
The real estate license and license rights of Respondent OSCAR AMADOR under the provisions of Part I of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on January 2, 2013.

DATED: _____

11/28/2012

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

SEP 17 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 OSCAR AMADOR,)
13 Respondent.)

NO. H-11252 SF
DEFAULT ORDER

14
15 Respondent, OSCAR AMADOR, having failed to file a Notice of Defense within
16 the time required by Section 11506 of the Government Code, is now in default. It is, therefore,
17 ordered that a default be entered on the record in this matter as to OSCAR AMADOR.

18 IT IS SO ORDERED September 17, 2012.

19 DEPARTMENT OF REAL ESTATE

20
21 By: Joe M. Carrillo
22 JOSEPH CARRILLO
23 Northern Regional Manager
24
25
26
27

1 MARY F. CLARKE, Counsel (SBN 186744)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0780 (Direct)

FILED

NOV 23 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 OSCAR AMADOR,) NO. H-11252 SF
14 Respondent.) ACCUSATION
15)

16 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
17 State of California, for Accusation against OSCAR AMADOR (herein "Respondent") is
18 informed and alleges as follows:

19 1

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

21 2

22 At all times herein mentioned, Respondent was and now is licensed and/or has
23 license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
24 Code) (herein "the Code").

25 3

26 At all times mentioned herein, Respondent was and now is licensed by the
27 Department of Real Estate (herein "Department") as a real estate broker.

4

At all times mentioned herein, 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 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, Respondent solicited lenders or borrowers for or negotiated loans, including loan modifications, 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.

In about November 2008, Respondent solicited Emilio and Julia Castro (herein "the Castro's") to provide loan modification services in order to save the Castro's residence located at 2004 Lyons Drive, San Jose, California, CA 96115, from foreclosure.

On about November 28, 2008, Respondent collected an advance fee in the amount of about \$4,500 for said loan modification services prior to submitting to the Department any or all materials used in advanced fee agreements, including but not limited to the contract form, any letters or cards used to solicit prospective sellers, and radio and television advertising, at least ten (10) calendar days before it was used in obtaining an advance fee agreement and prior to the Castro's obligation to complete the loan, in violation of Sections 10085 (submission of advance fee agreement) and 10085.5 (collection of advance fees) of the Code and Section 2970 (submission of advance fee agreement) of Title 10, Chapter 6 of the California Code of Regulations (herein the "Regulations").

At all times mentioned herein, Respondent failed to provide to the Castro's an accounting of said advance fees collected, as required by Section 10146 of the Code and Section 2972 of the Regulations.

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On about August 17, 2011, Respondent failed to maintain a definite place of business in the State of California, in violation of Section 10162 of the Code and Section 2715 of the Regulations.

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

- (a) as to Paragraph 6, under Sections 10085 and 10085.5 of the Code and Section 2970 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 7, under Sections 10146 of the Code and Section 2972 of the Regulations in conjunction with Section 10177(d) of the Code; and
- (c) as to Paragraph 8, under Section 10162 of the Code and Section 2715 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 the license 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 applicable provisions of law.


E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California
this 9 day of November, 2011