FILED

SEP - 7 2010

DEPARTMENT OF REAL ESTATE
BY: [illegible]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of HOME ADVANTAGE FUNDING GROUP, INC. and GERALD JUERGEN LOTTER, Respondents.	NO. H-36014 LA

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 June 16, 2010 and the findings of fact set forth herein are based on one or more of the following: (1) affidavits; and (2) other evidence.

FACTUAL FINDINGS

1.

On May 28, 2009, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, Provisions of APA Relating to Discovery, and Notice of Defense were mailed by certified mail to Respondents' last known mailing addresses on file with the Department on June 2, 2009.

2.

On June 16, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent HOME ADVANTAGE FUNDING GROUP INC.'s default was entered herein.

3.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

4.

At all times mentioned herein, Respondent HOME ADVANTAGE FUNDING GROUP INC. ("HAFGI")was licensed by the Department as a real estate corporation acting by and through GERALD JUERGEN LOTTER ("LOTTER"), pursuant to Code Sections 10211 and 10159.2 for supervising the activities requiring a real estate license conducted on behalf of HAFGI by its officers and employees. Effective November 16, 2008, HAFGI's real estate corporation license expired. The Department of Real Estate retains jurisdiction pursuant to Code Section 10103.

5.

At all times herein mentioned, Respondent HAFGI and LOTTER engaged in the business of an advance fee brokerage, within the definition of Code Sections 10131(d) and 10131.2, in that, for fees received in advance, as well as at the conclusion of transactions, Respondent HAFGI and LOTTER performed loan modification services with respect to loans which were secured by liens on real property, including, but not limited to, the following:

a) On or about October 1, 2008, HAFGI provided an advanced fee contract to Maria Pruett ("Pruett") for loan modification services on Pruett's existing mortgage on her home located at 8248 Country Ranch Drive, Sacramento, CA 95839.

b) Between on or about October 1, 2008 and on or about November 13, 2008, LOTTER employed Jacob Kim ("Kim"), an

unlicensed individual, to obtain clients for HAFGI's loan modification services.

c) On or about November 13, 2008, Kim, as a representative of HAGFI, demanded and received an advance fee of $1,500 from Pruett.

6.

Respondent HAFGI and LOTTER collected the above described advance fees pursuant to the provisions of a document entitled "Loss Mitigation/Loan Modification and Presentation Fee Agreement," the written agreement described in Finding 5, herein above, which document constitutes an advance fee agreement within the meaning of Code Section 10085.

DETERMINATION OF ISSUES

1.

The conduct of Respondent HOME ADVANTAGE FUNDING GROUP INC., as described in Finding 5, herein above, is in violation of Code Section 10137 for employing and/or compensating an individual who was not licensed as a real estate salesperson or as a broker to perform activities requiring a real estate license.

2.

The conduct of Respondent HOME ADVANTAGE FUNDING GROUP INC., as described in finding 6, herein above, is in violation of Code Section 10085 and Regulation Section 2970 for failed to submit the written agreement referred to in Finding 6, herein above, to the Commissioner ten days before using them.

3.

The conduct, acts and/or omissions of Respondent HOME ADVANTAGE FUNDING GROUP INC., as set forth above, are cause for disciplinary action pursuant to Code Sections 10085, 10137 and 10177(d).

4.

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

ORDER

The corporate real estate license and license rights of Respondent HOME ADVANTAGE FUNDING INC. 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 SEP 27 2010.

DATED: 8-12-2010.

JEFF DAVI
Real Estate Commissioner

FILED

JUN 16 2010

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of HOME ADVANTAGE FUNDING, GROUP, INC., and GERALD JUERGEN LOTTER, Respondents.	No. H-36014 LA

DEFAULT ORDER

Respondent HOME ADVANTAGE FUNDING GROUP, INC., 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.

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IT IS SO ORDERED June 9, 2010

JEFF DAVI
Real Estate Commissioner

Dolores Weeks

By: DOLORES WEEKS
Regional Manager

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, CA 90013-1105

(213) 576-6982

FILED
JAN - 7 2010
DEPARTMENT OF REAL ESTATE
K Niederholz

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of HOME ADVANTAGE FUNDING, GROUP, INC. and GERALD JUERGEN LOTTER, Respondent.	NO. H-36014 LA L-2009070379 STIPULATION AND AGREEMENT

It is hereby stipulated by and between GERALD JUERGEN LOTTER, (sometimes referred to as "Respondent"), and the Complainant, acting by and through Shari Sveningson, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on June 2, 2009, in this matter.

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1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate ("Department") in this proceeding.

3. On June 18, 2009, Respondent filed a Notice of Defense, pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will thereby waive his right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitations set forth below, hereby admits that the factual allegations set forth in the Accusation filed in this proceeding are true and correct and the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

5. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and sanctions on Respondent's real estate licenses and license rights as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein.

6. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

The conduct of Respondent, as described in the Accusation, are grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent under the provisions of Section 10137 of the Business and Professions Code.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

ALL licenses and licensing rights of Respondent GERALD JUERGEN LOTTER, under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and 1) pays to the Department the appropriate fee for the restricted license within 90 days from the effective date of this Decision; and 2) provides proof satisfactory to the real estate commissioner that $1,500 had been paid to Maria Pruett.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitation,

conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker, on a form approved by the Department, which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate salesperson license is required.

5. Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: 11/9/09

SHARI SVENINGSON
Real Estate Counsel

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I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 11-9-09

I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: _____

_____
GERALD JUERGEN LOTTER
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on JAN 27 2010

IT IS SO ORDERED 12/16, 2009.

JEFF DAVI
Real Estate Commissioner

SHARI SVENINGSON SBN# 195298
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-5770

FILED
JUN - 2 2009
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of HOME ADVANTAGE FUNDING GROUP, INC. and GERALD JUERGEN LOTTER, Respondents.	No. H-36014 LA A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOME ADVANTAGE FUNDING GROUP, INC. ("HAFGI"), and GERALD JUERGEN LOTTER (LOTTER"), individually, and as designated officer of HAFGI, is informed and alleges as follows:

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1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

Respondent HAFGI 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 corporation acting by and through Respondent LOTTER as its designated broker-officer. Effective November 16, 2008 HAFGI's real estate corporation license expired.

3.

Respondent LOTTER is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. LOTTER was the designated broker-officer of HAFGI from November 17, 2004 through November 16, 2008, when its real estate corporation license expired.

4.

From November 17, 2004 through November 16, 2008, Respondent LOTTER, as the officer designated by Respondent HAFGI pursuant to Section 10211 of the Code, was responsible for the supervision and control of the activities conducted on behalf of Respondent HAFGI by its officers and employees as

necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

5.

At all times herein mentioned, Respondents HAFGI and LOTTER engaged in the business of an advance fee brokerage, within the definition of Code Sections 10131(d) and 10131.2, in that, for fees received in advance, as well as at the conclusion of transactions, Respondents performed loan modification services with respect to loans which were secured by liens on real property, including, but not limited to, the following:

a) On or about October 1, 2008, HAGFI provided an advance fee contract to Maria Pruett ("Pruett") for loan modification services on Pruett's existing mortgage on her home located at 8248 Country Ranch Drive, Sacramento, CA 95839.

b) Between on or about October 1, 2008 and on or about November 13, 2008, LOTTER employed Jacob Kim ("Kim"), an unlicensed individual, to obtain clients for HAGFI's loan modification services.

c) On or about November 13, 2008, Kim, as a representative of HAGFI, demanded and received an advance fee of $1,500 from Pruett.

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6.

Respondents collected the above described advance fees pursuant to the provisions of a document entitled "Loss Mitigation/Loan Modification and Presentation Fee Agreement," the written agreement described in Paragraph 5, above, which document constitutes an advance fee agreement within the meaning of Code Section 10085.

7.

Respondent LOTTER ordered, caused, authorized or participated in the conduct of Respondent HAFGI, as is alleged in this Accusation.

8.

Respondents HAGFI and LOTTER failed to submit the written agreement referred to in Paragraph 6, above, to the Commissioner ten days before using them in violation of Code Section 10085 and Section 2970, title 10, Chapter 6, California Code of Regulations.

9.

Based on the information contained in Paragraph 7, above, HAGFI and LOTTER violated Code Section 10137 of the Code by employing and/or compensating an individual who was not licensed as a real estate salesperson or as a broker to perform activities requiring a real estate license.

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10.

The conduct, acts and/or omissions of Respondents HAFGI and LOTTER, as set forth above, are cause for the suspension or revocation of the licenses and license rights of Respondent HAGFI and Respondent LOTTER pursuant to Code Sections 10085, 10177(d) and/or 10177(h).

11.

The conduct, acts and/or omissions of Respondent LOTTER, as set forth above, in failing to adequately supervise HAGFI are cause for the suspension or revocation of the licenses and license rights of Respondent LOTTER pursuant to Code Sections 10159.2, 10177(d), 10177(g) and/or 10177(h).

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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 the licenses and license rights of Respondent HOME ADVANTAGE FUNDING GROUP, INC. and Respondent GERALD JUERGEN LOTTER, individually, and as designated broker-officer of Respondent HAFGI, 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.

Dated at Los Angeles, California

this 28 day of May, 2009.

Robin Trujillo
Deputy Real Estate Commissioner

cc: Home Advantage Funding Group, Inc.
Gerald Juergen Lotter
Robin Trujillo
Phil Ihde
SB