Sacto Flag

FILED

AUG 27 2014

BUREAU OF REAL ESTATE

By Ingrid Danna

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-36679 LA
	)	
LINDA M. PUPPO,	)	
	)	
Respondent.	)	
	)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 25, 2011, a Decision was rendered herein providing for the revocation of Respondent's real estate broker license.

On April 2, 2013, Respondent petitioned for reinstatement of real estate broker license. The Attorney General of the State of California has been given notice of the filing of Respondent's petition.

I have considered Respondent's petition and the evidence and arguments submitted in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement is granted and that an unrestricted real estate broker license be issued to Respondent, if Respondent satisfies the following requirements:

1. Submits a completed application and pays the fee for a real estate broker license within the 12 month period following the date of this Order; and

2. Submits proof that Respondent has completed the continuing education requirements for renewal of the license sought. The continuing education courses must be completed either (i) within the 12 month period preceding the filing of the completed application, or (ii) within the 12 month period following the date of this Order.

This Order shall be effective immediately.

Dated: 8/16/2014.

REAL ESTATE COMMISSIONER

Wayne S. Bell

FILED
MAY - 4 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	No. H-36679 LA
	)	
LINDA M. PUPPO, doing business as Apex Home Loans and Park Avenue Realty,	)	L-2010070985
	)	
Respondent.	)	

DECISION

The Proposed Decision dated March 24, 2011, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code, the following correction is made to the Proposed Decision:

Factual Findings, Page 3, paragraph No. 8, line 3, "resident" is corrected to read "residence".

This Decision shall become effective at 12 o'clock noon on May 24, 2011.

IT IS SO ORDERED 4-25, 2011.

JEFF DAVI
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LINDA M. PUPPO, doing business as APEX HOME LOANS and PARK AVENUE REALTY,** Respondent.	Case No. H-36679 LA OAH No. 2010070985

PROPOSED DECISION

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, heard this matter on January 31, 2011 in Los Angeles, California.

Lissete Garcia, Real Estate Counsel, Department of Real Estate, and Elliott MacLennan, Real Estate Counsel, Department of Real Estate, represented the Complainant.

Frank A. Sanzo, Attorney at Law, represented respondent Linda M. Puppo, who appeared.

Testimonial and documentary evidence were received, the case argued, and the matter submitted for decision on January 31, 2011. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order.

FACTUAL FINDINGS

1. Complainant Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

2. On December 31, 2007, the Department of Real Estate (Department) issued to respondent Real Estate Broker License number B/01838262. Respondent's real estate broker license is due to expire on December 30, 2011, unless renewed.

3. At all times relevant herein, respondent engaged in the business of, and acted in the capacity of, a real estate broker for compensation, or in expectation of compensation, within the State of California. Since August 18, 2008, respondent has conducted her real estate business under the fictitious names of Park Avenue Realty and Apex Home Loans.

Sanchez Loan Modification

4. Veronica Sanchez has a variable mortgage on her residence located at 1123 W. 98 Street in Los Angeles. In October 2008 Sanchez wanted to change the terms of her mortgage to lower her monthly payments. Sanchez responded to a telephone solicitation from an individual by the name of Consuelo who represented herself as an employee of Park Avenue Realty with loan modification information for lowering monthly mortgage payments. Within days after Consuelo's phone call, Cezar Calvo, respondent's unlicensed employee, visited Sanchez on October 27, 2008 at her residence and told her that modification of her mortgage would occur, at most, within three to four months. Calvo required a $2,000 payment for the modification, and Sanchez gave him a deposit check in the amount of $1,000 "that very day." In November 2008, Sanchez paid the remaining $1,000 balance in cash at Park Avenue Realty's office to Pedro Torres, who represented to Sanchez that "he was in charge of doing modifications" for Park Avenue Realty.

5. Torres required Sanchez to sign papers, copies of which she never received for her records. One week later, Sanchez, in accordance with instructions she received from Torres and Calvo, forwarded copies of paycheck stubs and tax returns to Park Avenue Realty. At hearing, Sanchez testified that "They told me they were saving the paper work. Each time I called they told me the same thing. I waited, and then I knew it was a lie. I waited one year, and then I met with Joe Adame.[1] I said I am not seeing anything concrete; I am not seeing any results. So, I requested my money back. He told me he would talk to his attorney because they were working on this. He said I needed to write a letter."

6. By letter dated October 9, 2009, Sanchez wrote to Adame requesting Park Avenue Realty to refund her $2,000. Sanchez followed up with telephone calls and messages to Adame, who returned none of her calls. Months passed by and Sanchez heard nothing from Park Avenue Realty.

7. On January 22, 2010, Sanchez filed a claim against Park Avenue Realty and Torres, doing business as American Enterprise, in the Superior Court of California, County of Los Angeles. On March 24, 2010, in case number ELA10S00104, the Superior Court entered judgment in the amount of $2080 against Torres, doing business as American Enterprise. The Superior Court ordered Park Avenue Realty dismissed without prejudice for lack of proof of service.[2]

---

[1] A Statement of Information (Limited Liability Company) filed with the State of California Secretary of State December 18 2008 indentifies Joe Adame as a manager of Park Avenue Enterprises, LLC, which does business as Park Avenue Realty.

[2] Sanchez testified that she hired the Los Angeles County Sherriff's Department to serve Park Avenue Realty, but that Park Avenue Realty has relocated to another address.

8. Sanchez has not collected on the judgment against Torres. Nor has she received a refund from Park Avenue Realty. The terms of her monthly mortgage payments on her resident have not been modified.

Garcia Loan Modification

9. On August 7, 2008, Antonio Garcia met with Torres at Park Avenue Realty after Torres appeared before the congregation of a Catholic church that Garcia attended and made a presentation for loan modification services at a special promotional price that would "help the people." Garcia sought to modify the payments on his property located at 25537 Byron Street in San Bernardino, and Torres offered to help for a fee of $1,600. Garcia paid an $800 deposit. By affidavit, dated March 18, 2009, Garcia testified that "[d]uring the following months there was no movement and when I was receiving the collection letters for my mortgage from the bank it only said to mail them. I did this but in reality there wasn't any indication that he was doing anything. I lost my property in January of 2009. I was calling him several times and I also went to his office claiming my money, now that he didn't do anything, but it was a wasted effort."

Loan Modification Audit

10. In February and April 2009, the Department received letters from anonymous Park Avenue Realty employees complaining about "all kinds of illegal activities" at Park Avenue Realty. The Department thereafter initiated an audit of respondent's loan modification activities and services for the audit period of December 31, 2007 to May 31, 2009. Beginning in October 2008, respondent offered loan modification services to clients whom she acquired through word of mouth referrals. Respondent handled 39 loan modification applications and successfully completed 20 loans. Nineteen loan applications were not completed.

11. The following violations occurred in connection with respondent's loan modification activities and services:

a. From October 2008 to January 2009, respondent collected advance fees from borrowers totaling $65,600, which were deposited into and commingled with funds in respondent's business account that was not designated as a trust account.

b. Respondent failed to maintain a record of all trust funds received and disbursed in connection with her loan modification activities.

c. Respondent failed to maintain a separate record for each beneficiary of trust funds that were collected from the borrowers for the loan modification transactions.

d. Respondent failed to maintain a written monthly reconciliation of receipts and disbursements record and the total balance of separate beneficiary records for her bank account that was used to handle advance fees.

e. Respondent failed to obtain the Department's prior approval for any advance fee agreement used in connection with respondent's collection of advance loan modification fees from borrowers.

f. For borrowers from whom advance fees were collected for loan modifications, respondent failed to maintain and to provide an accounting of the services to be rendered, the trust account into which funds were deposited, and how the funds were to be dispersed.

g. Respondent employed and allowed unlicensed salespersons to engage in activity requiring a real estate license.

h. Respondent compensated unlicensed salespersons for engaging in loan modification activities that required a real estate license.

i. Loan commissions and other fees were not disclosed as required by law in four out of five loan files examined. There were no disclosures regarding balloon payments and that a Good Faith Estimate does not constitute a loan commitment.

j. Respondent failed to disclose her Department real estate broker license number to borrowers as required by law.

k. Respondent failed to make bank statements, invoices, cancelled checks, deposit tickets, and trust records or her advance fee activities available for examination.

Factors in Aggravation, Mitigation and Rehabilitation

12. A Negative Affidavit, dated May 19, 2009, indicates that a diligent search of records maintained in the Department's custody "failed to disclose the existence of any advance fee materials approved by the Department for use by" respondent Puppo, doing business as Park Avenue Realty and Apex Home Loans. Without any such "no objection" letter from the Department respondent is prohibited from collecting advance fees.

13. The Department's auditor Chona Picayo was unable to complete an audit of 19 incomplete loan applications because respondent declined to provide bank statements for accounts in which advance fees were deposited. Without trust accountability or reconciliation, the Department is unable to determine what moneys were sent to whom and when.

14. Respondent presented no evidence at hearing.

LEGAL CONCLUSIONS

1. Business and Professions Code[3] section 10130 makes it unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman without first obtaining a real estate license from the Department.

2. Section 10131 defines a real estate broker in pertinent part as follows:

> A real estate broker . . . is a person who, for compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts or another or others:
>
> [¶] . . . [¶]
>
> (d) Solicits borrowers or lenders for or negotiates loans or collects payment or performs 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.

3. Section 10131.2 further provides that a real estate broker is also a person who engages in the business of claiming, demanding, charging receiving, collecting or contracting for the collection of an advance fee[4] in connection with any employment undertaken to

---

[3] Unless specified otherwise, all further statutory references are to the Business and Professions Code.

[4] Section 10026 defines "advance fee" as follows:

> . . . a fee, regardless of the form, claimed, demanded, charged, received, or collected by a licensee from a principal before fully completing each and every service the licensee contracted to perform, or represented would be performed. Neither an advance fee nor the services to be performed shall be separated or divided into components for the purpose of avoiding the application of this section. The term applies to a fee for a listing, advertisement or offer to sell or lease property, other than in a newspaper of general circulation, issued primarily for the purpose of promoting the sale or lease of business opportunities or real estate or for referral to real estate brokers or salesmen, or soliciting borrowers or lenders for, or to negotiate loans on, business opportunities or real estate. As used in this section, "advance fee" does not include "security" as that term is used in Section 1950.5 of the Civil Code, or a "screening fee" as that term is used in Section 1950.6 of the Civil Code. This section does not exempt from regulation the charging or collecting of a fee under Section 1950.5 or

promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business opportunity, or to obtain a loan or loans thereon.

4. Section 10137 makes it "unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesman licensed under the broker employing or compensating him . . . ."

The license of a real estate licensee may be temporarily suspended or permanently revoked for a violation of section 10137.

5. Section 10145, which governs the handling of trust funds, provides in pertinent part the following:

> (a) (1) A real estate broker who accepts funds belonging to others in connection with a transaction subject to this part shall deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, into a trust fund account maintained by the broker in a bank or recognized depository in the state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.
>
> [¶] . . . [¶]
>
> (g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivision[] (a) . . . .
>
> (h) Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of those trust fund accounts maintained in a financial institution . . . .

6. Section 10146, which requires the deposit of advance fees in a trust account, provides in pertinent part the following:

> Any real estate broker who contacts for or collects an advance fee from any other person, hereinafter referred to as the "principal," shall deposit any such amount or amounts, when collected in a trust account with a bank or other

---

1950.6 of the Civil Code, but instead regulates fees that are not subject to those sections.

recognized depository. Such funds are trust funds and not the funds of the agent. . . .

The commissioner may issue such rules and regulations as he or she deems necessary to regulate the method of accounting, and to accomplish the purpose of the provisions of this code relating to advance fees . . . .

7. Section 10085, governing advance fee agreements and materials, provides in pertinent part the following:

The commissioner may require that any or all materials used in obtaining advance fee agreements, including but not limited to the contract forms, letters or cards used to solicit prospective sellers, and radio and television advertising be submitted to him or her at least 10 calendar days before they are used. . . .

[¶] . . . [¶]

Any violation of any of the provisions of this part or of the rules, regulations, orders or requirements of the commissioner thereunder shall constitute grounds for disciplinary action against a licensee . . . .

8. Section 10148, subdivision (a), requires "a licensed real estate broker to retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transaction for which a real estate broker license is required. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated. After notice, the books, accounts, and records shall be make available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours; and shall, upon the appearance of sufficient cause, be subject to audit without further notice . . . ."

9. Section 10176, subdivision (e), provides for the temporary or permanent suspension or revocation of a real estate license where the licensee has been guilty of commingling with his or her own money or property the money or other property of others which is received and held by him or her.

10. Section 10177, which enumerates several grounds for disciplining a real estate licensee, provides in pertinent part the following:

The commissioner may suspend or revoke the license of a real estate licensee . . . who has . . .

[¶] . . . [¶]

(d) Willfully disregarded or violated the Real Estate Law . . . or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law . . . .

[¶] . . . [¶]

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

11. Section 10236.4, subdivision (a), requires every licensed real estate broker to display his or her license number on all advertisement where there is a solicitation for borrowers or potential investors.

12. Section 10240, governing written disclosure statement, provides in pertinent part the following:

(a) Every real estate broker, upon acting within the meaning of subdivision (d) of Section 10131, who negotiates a loan to be secured directly or collaterally by a lien on real property shall, within three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower a statement in writing, containing all the information required by Section 10241. . . .

13. California Code of Regulations, title 10, section 2831, which governs the maintenance of trust fund records, provides in pertinent part the following:

(a) Every broker shall keep a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal. This record . . . shall set forth in chronological sequence the following information[:]

(1) Date trust funds received.

(2) From whom trust funds received.

(3) Amount received.

(4) With respect to funds deposited in an account, date of said deposit.

(5) With respect to trust funds previously deposited in an account, check number and date of related disbursement.

(6) With respect to trust funds not deposited in an account, identity of other depository and date funds were forwarded.

(7) Daily balance of said account.

(b) For each bank account which contains trust funds, a record of all trust funds received and disbursed shall be maintained . . . .

14. California Code of Regulations, title 10, section 2831.1, subdivision (a), requires a broker to "keep a separate record for each beneficiary or transaction, accounting for all funds which have been deposited to the broker's trust bank account and interest, if any, earned on the funds on deposit."

15. California Code of Regulations, title 10, section 2831.2 provides that the "balance of all separate beneficiary or transaction records maintained pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds received and disbursed required by Section 2831, at least once a month . . . . A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions."

16. California Code of Regulations, title 10, section 2832, subdivision (a), requires a broker accepting funds on behalf of another to place those funds into the hands of the owner of the funds, or into a neutral escrow depository, or into a trust fund account bearing the name of the broker or the fictitious name under which the broker holds a license as trustee at a bank or other financial institution no later than three business days following the broker's or the broker's salesperson's receipt of the funds.

17. California Code of Regulations, title 10, section 2835 prohibits "commingling" as that term is used in section 10176, subdivision (e) of the Business and Professions Code, which is set forth above in Legal Conclusion 9.

18. California Code of Regulations, title 10, section 2840, identifies the Department's official forms for the disclosure of material information to prospective borrowers in a uniform and effective manner, and requires a real estate broker wishing to use different forms to obtain the prior written approval of the Commissioner.

19. California Code of Regulations, title 10, section 2970, which governs advance fee materials, requires a person who proposes to collect an advance fee to "submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use."

20. California Code of Regulations, title 10, section 2972 enumerates the required content of each accounting that is required pursuant to section 10146 of the Business and

Professions Code, the pertinent provisions of which are set forth above in Legal Conclusion 6.

21. Complainant bears the burden of proving by clear and convincing evidence to a reasonable certainty that respondent real estate broker license should be suspended or revoked. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853,855-6.) Complainant has met its burden.

Cause for Discipline

22. Cause exists to discipline Real Estate Broker License number B/01838262 issued to respondent Linda M. Puppo, doing business as Park Avenue Realty and Apex Home Loans, pursuant to Business and Professions Code section 10177, subdivisions (d) and (g) for dishonest dealings as set forth in Factual Findings 4, 5, 6, 8, and 9.

23. Cause exists to discipline Real Estate Broker License number B/01838262 issued to respondent Linda M. Puppo, doing business as Park Avenue Realty and Apex Home Loans, pursuant to Business and Professions Code sections 10085, 10145, 10146, 10148, 10176, subdivision (e), 10177, subdivisions (d) and (g), 10236.4 ,10240 and California Code of Regulations, title 10, sections 2831, 2831.1, 2832, 2835, 2840, 2970 and 2972 for record keeping, disclosure, trust fund, and advance fee violations as set forth in Factual Findings 11(a), (b), (c), (d), (e), (f), (i), (j), (j), and (k).

24. Cause exists to discipline Real Estate Broker License number B/01838262 issued to respondent Linda M. Puppo, doing business as Park Avenue Realty and Apex Home Loans, pursuant to Business and Professions Code sections 10130, 10137, 10177, subdivisions (d) and (g), for unlicensed activity as set forth in Factual Findings 4, 5, 6, 8, 9, and 11(g) and (h).

Fitness for Continued Licensure

25. The determination whether a person is fit for continued licensure should be made only after consideration of the conduct of the licensee and consideration of any factors introduced in justification, aggravation or mitigation. "The Licensee, of course, should be permitted to introduce evidence of rehabilitation." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449; *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747). There is no evidence establishing respondent's rehabilitation.

26. The purpose of an administrative proceeding such as this is to protect the public. (See *Camacho v. Youde* (1979) 95 Cal, App. 3d 161, 164.) Under all the facts and circumstances, it would be contrary to the public interest to permit respondent to retain her real estate broker license, even on a restricted basis.

//
//

ORDER

All licenses and licensing rights of Linda M. Puppo, doing business as Park Avenue Realty and Apex Home Loans, under the Real Estate Law are revoked.

DATED: March 24, 2011

JENNIFER M. RUSSELL
Administrative Law Judge
Office of Administrative Hearings

SPC

LISSETE GARCIA, SBN 211522
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6914 (direct)
-or- (213) 576-6982 (office)

FILED
JUN 15 2010
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of LINDA M. PUPPO, doing business as Apex Home Loans and Park Avenue Realty, Respondent.	No. H-36679 LA A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LINDA M. PUPPO, doing business as Apex Home Loans and Park Avenue Realty, alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against LINDA M. PUPPO ("PUPPO") doing business as Apex Home Loans and Park Avenue Realty.

///

2.

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.

3.

At all times mentioned, Respondent PUPPO was licensed or had license rights issued by the Department of Real Estate ("Department") as a corporate real estate broker. Respondent PUPPO was originally licensed as a real estate broker on December 31, 2007. At all times relevant herein, Respondent PUPPO was doing business as Apex Home Loans and Park Avenue Realty.

4.

At all times mentioned, in the City of Montebello, County of Los Angeles, Respondent PUPPO engaged in the business of a real estate broker conducting licensed activities within the meaning of Code Sections 10131(a), 10131(d), and 10131.2. Respondent PUPPO engaged in operating a residential resale, mortgage loan, advance fee and loan modification service brokerage, for compensation or in expectation of compensation and for fees often collected in advance. Respondent PUPPO contacted lenders on behalf of distressed homeowners seeking modification or forbearance of the terms of their home loans.

///

///

///

Audit

5.

On July 29, 2009, the Department completed an audit examination of the books and records of Respondent PUPPO pertaining to the mortgage loan, advance fee and loan negotiation and modification service activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on December 31, 2007 to May 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080308 and the exhibits and work papers attached to said Audit Report.

6.

Violations

In the course of activities described in Paragraph 4, above, and during the examination period described in Paragraph 5, Respondent PUPPO acted in violation of the Code and the Regulations as follows:

(A) Failed to establish and/or maintain a trust account at a bank or other recognized financial institution in the name of the broker for deposit of advance fees collected by PUPPO, thereby depositing trust funds in PUPPO's general account and thus commingling trust funds with PUPPO's funds, in violation of Code Sections 10145, 10146, 10176(e) and Regulations 2832 and 2835.

(B) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds

including advance fees received, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.

(C) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all advance fees collected, in violation of Code Section 10145 and Regulation 2831.1.

(D) Failed to maintain a written monthly reconciliation of the receipts and disbursements record and the total balance of separate beneficiary records for bank account used to handle advance fees, in violation of Code Section 10145 and Regulation 2831.2.

(E) From approximately October, 2008 through January, 2009, Respondent PUPPO collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein PUPPO failed to provide homeowner-borrowers, a pre-approved advance fee agreement from the Department in the form of a no objection letter, in violation of Code Section 10085 and Regulation 2970.

(F) Failed to establish and maintain a trust account at a bank or other recognized financial institution in the name of the broker for deposit of advance fees collected by Respondent PUPPO. Advance fees that were collected from borrowers in connection with loan modification transactions were deposited into Respondent PUPPO's general business account, in violation of Code Sections 10145, 10146, 10176(e) and Regulations 2832 and 2835.

(G) With reference to the lack of an advance fee

agreement, Respondent PUPPO failed to provide a complete description of services to be rendered provided to each prospective tenant in 10 point type font and failed to provide an allocation and disbursement of the amount collected as the advance fee, in violation of Code Section 10146 and Regulation 2972.

(H) In violation of Code Section 10137, Respondent PUPPO employed or compensated individuals, who at the time were not licensed as a real estate salesperson or as a broker, to perform services for borrowers involving loan modification activities that require a real estate broker or salesperson license pursuant to Code Section 10131 and 10131.2. The unlicensed individuals included, but are not necessarily limited to, the following individuals: Pedro Torres, Juan Alejandro Vasquez, Jose Rodriguez, Maria Lourdes Ramirez, Francisco Santana, Edna Olmos, Nancy Sanchez, Jorge Ramirez, and Lina Norena.

(I) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10240(c) before borrowers Angelina and Susana Aranibar, Abel Munoz, Jose G. Gasca, and Basilio Garcia Alvarez, became obligated to perform under the terms of their respective loans, in violation of Code Section 10240 and Regulation 2840.

(J) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241(i) before borrowers

Maria Arevalo, Abel Munoz, and Jose G. Gasca, became obligated to perform under the terms of their respective loans, in violation of Code Section 10236.4.

(K) After being given reasonable notice, Respondent PUPPO failed to retain records in connection with her mortgage loan activities requested by the Department, in violation of Code Section 10148.

Disciplinary Statutes

7.

The conduct of Respondent PUPPO described in Paragraph 6, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
6(A)	Code Sections 10145, 10146 and 10176(e) and Regulations 2832 and 2835
6(B)	Code Section 10145 and Regulation 2831
6(C)	Code Section 10145 and Regulation 2831.1
6(D)	Code Section 10145 and Regulation 2831.2
6(E)	Code Sections 10085 and Regulation 2970
6(F)	Code Sections 10145, 10146 and 10176(e) and Regulations 2832 and 2835
6(G)	Code Section 10146 and Regulation 2972
6(H)	Code Section 10137
6(I)	Code Section 10240 and Regulation 2840
6(J)	Code Section 10236.4
6(K)	Code Section 10148

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondent PUPPO, as aforesaid, under the provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence.

8.

The overall conduct of Respondent PUPPO constitutes negligence. This conduct and violations are cause for the suspension or revocation of the real estate license and license rights of said Respondent pursuant to the provisions of Code Section 10177(g).

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/or license rights of Respondent LINDA M. PUPPO, doing business as Apex Home Loans and Park Avenue Realty, 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 14th day of June, 2010.

MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Linda Puppo
Maria Suarez
Sacto
Audits - Chona Picayo