FILED
JUN 17 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of FINANCIAL ONE, INC. and YASU S. COLE, individually and as designated officer of Financial One, Inc., Respondents.	NO. H-37071 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 May 13, 2011, and the findings of fact set forth herein 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 February 11, 2011, Maria Suarez 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 Respondents' last known mailing addresses on file with the Department of Real Estate ("Department") on February 15, 2011. A second attempt at service was made on March 18, 2011, by regular mail.

2.

On May 13, 2011, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the

Government Code, Respondents FINANCIAL ONE, INC. and YASU S. COLE's defaults were entered herein.

3.

From February 6, 2004 through the present, Respondent FINANCIAL ONE INC. ("FINANCIAL") has been licensed or has license rights issued by the Department as a real estate corporation. At all times relevant herein, Respondent FINANCIAL was authorized to act by and through Respondent YASU S. COLE as its broker-officer designated pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

4.

From April 15, 2004 through the present, Respondent YASU S. COLE ("COLE") has been licensed or has license rights issued by the Department as a real estate broker.

5.

FINANCIAL is a California corporation. Respondent COLE is the chief executive officer for Respondent FINANCIAL.

6.

All further references to "Respondents" include FINANCIAL and COLE, as well as the unknown officers, agents and employees of the Respondents above.

7.

At all times mentioned, in the State of California, Respondents acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

B. Code Section 10131(d). Respondent's engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated,

processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

8.

At all times mentioned herein, in the State of California, Respondents engaged in the business of claiming, demanding, charging receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026 including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property:

a. On or around December 15, 2008, Respondents advertised loan modification and negotiation services to Yoko Sasaki. Yoko Sasaki paid an advance fee of $3,000 to Respondents pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondents with respect to a loan secured by real property located in the City of Pacoima, California. Respondents failed to perform the services promised or obtain a modification of Yoko Sasaki's mortgage loan. Respondents denied Yoko Sasaki's request for a refund of the advance fees.

9.

In or around December, 2008, FINANCIAL operated out of an office address located at 19200 Von Karman, Suite 532, Irvine, California 92612.

10.

Respondents charged and collected the advance fees described in Paragraph 8 above, for soliciting borrowers or lenders or negotiating loans secured by real property, which constitute an advance fee within the meaning of Code Section 10026.

11.

Respondent failed to submit a written agreement or any written solicitation for loan negotiation and modification services to the Commissioner ten days before using it.

ATTEMPTED AUDIT

11.

Beginning on June 7, 2010, the Department attempted to schedule and complete an audit examination of the books and records of FINANCIAL pertaining to the resale and mortgage loan activities described in Paragraphs 7 and 8, which require a real estate license. The audit examination was to cover a period of time beginning on May 1, 2007 to April 30, 2009. Respondents FINANCIAL and COLE refused to comply with the Department's request to complete an audit. The Department's 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 090249 and the exhibits and work papers attached to said audit report.

VIOLATIONS OF THE REAL ESTATE LAW

12.

In the course of activities described in Paragraphs 7 through 10, above, Respondents FINANCIAL and COLE, acted in violation of the Code and the Regulations in that they:

(a) Failed to deposit advance fees of $3,000 collected from Yako Sasaki into a trust fund account, in violation of Code Sections 10145 and 10146 and Regulation 2832.

(b) Abandoned FINANCIAL and COLE's main office located at 19200 Von Karman, Suite 532, Irvine, California 92612, without proper notification to the Department, in violation of Code Section 10162 and Regulation 2715.

(c) Charged and collected advance fees without an approved agreement from the Real Estate Commissioner.

(d) Failed to retain all records of FINANCIAL's activities requiring a real estate broker license during the past three years including sales and loan transaction files for FINANCIAL's real estate clients and further including listings, real estate contracts, canceled checks, escrow and trust records, in violation of Code Section 10148.

DETERMINATION OF ISSUES

1.

Respondents failed to submit a written agreement or any written solicitation for loan negotiation and modification services described in Paragraph 8, above, to the Commissioner ten days before using it, in violation of Code Sections 10085, 10085.5 and 10085.6 and Regulation 2970.

2.

The conduct, acts and/or omissions of Respondents, as set forth above, is in violation of Code Sections 10085, 10085.5 and 10085.6 and Regulation 2970 and constitutes cause for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Section 10177(d).

3.

The conduct of Respondents FINANCIAL and COLE, described in Paragraphs 9 through 12, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
12(a)	Code Sections 10145, 10146 and Regulation 2832
12(b)	Code Section 10162 and Regulation 2715
12(d)	Code Section 10148

4.

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of FINANCIAL and COLE under the provisions of Code Sections 10177(d) and 10177(g).

5.

The overall conduct of Respondent COLE constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control

over the licensed activities of FINANCIAL as required by Code Section 10159.2, and to keep FINANCIAL in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of COLE pursuant to the provisions of Code Sections 10177(h), 10177(d) and 10177(g).

6.

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

ORDER

The licenses and license rights of Respondents FINANCIAL ONE, INC. and YASU S. COLE 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 July 7, 2011.

DATED: 6/6, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

FILED
MAY 13 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of FINANCIAL ONE INC. and YASU S. COLE, individually and as designated officer of Financial One Inc., Respondents.	NO. H-37071 LA DEFAULT ORDER

Respondents, FINANCIAL ONE INC. and YASU S. COLE, individually and as designated officer of Financial One Inc., having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, are now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED May 13, 2010.

BARBARA J. BIGBY
Chief Deputy Commissioner

By: DOLORES WEEKS
Regional Manager

SPU.

LISSETE GARCIA, Counsel (SBN 211552)
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FEB 15 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of FINANCIAL ONE INC. and YASU S. COLE, individually and as designated officer of Financial One Inc., Respondents.	NO. H-37071 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 FINANCIAL ONE INC. and YASU S. COLE, individually and as designated officer of Financial One Inc., is informed and alleges as follows:

1.

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

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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.

From February 6, 2004 through the present, Respondent FINANCIAL ONE INC. ("FINANCIAL") has been licensed or has license rights issued by the Department of Real Estate ("Department") as a real estate corporation. At all times relevant herein, Respondent FINANCIAL was authorized to act by and through Respondent YASU S. COLE as its broker-officer designated pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

4.

From April 15, 2004 through the present, Respondent YASU S. COLE ("COLE") has been licensed or has license rights issued by the Department as a real estate broker.

5.

FINANCIAL is a California corporation. Respondent COLE is the chief executive officer for Respondent FINANCIAL.

6.

All further references to "Respondents" include FINANCIAL and COLE, as well as the unknown officers, agents and employees of the Respondents above.

7.

At all times mentioned, in the State of California, Respondents acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

B. Code Section 10131(d). Respondent's engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

FIRST CAUSE OF ACCUSATION
(Advance Fee Violation)

8.

At all times mentioned herein, in the State of California, Respondents engaged in the business of claiming, demanding, charging receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026 including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property:

a. On or around December 15, 2008, Respondents advertised loan modification and negotiation services to Yoko Sasaki. Yoko Sasaki paid an advance fee of $3,000 to Respondents pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondents with respect to a loan secured by real property located in the City of Pacoima, California. Respondents failed to perform the services promised or obtain a modification of Yoko Sasaki's mortgage loan. Respondents denied Yoko Sasaki's request for a refund of the advance fees.

9.

In or around December, 2008, FINANCIAL operated out of an office address located at 19200 Von Karman, Suite 532, Irvine, California 92612.

10.

Respondents charged and collected the advance fees described in Paragraph 8 above, for soliciting borrowers or lenders or negotiating loans secured by real property, which constitute an advance fee within the meaning of Code Section 10026.

11.

Respondents failed to submit a written agreement or any written solicitation for loan negotiation and modification services described in Paragraph 8 above, to the Commissioner ten days before using it, in violation of Code Sections 10085, 10085.5 and 10085.6 and Regulation 2970.

12.

The conduct, acts and/or omissions of Respondents, as set forth above, is in violation of Code Sections 10085, 10085.5 and 10085.6 and constitutes cause for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Attempted Audit)

13.

There is hereby incorporated in this Second, separate Cause of Accusation, all of the allegations contained in Paragraphs 1 through 12, above, with the same force and effect as if herein fully set forth.

14.

Beginning on June 7, 2010, the Department attempted to schedule and complete an audit examination of the books and records of FINANCIAL pertaining to the resale and mortgage loan activities described in Paragraphs 7 and 8, which require a real estate license. The audit examination was to cover a period of time beginning on May 1, 2007 to April 30, 2009. Respondents FINANCIAL and COLE refused to comply with the Department's request to complete an audit. The Department's 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 090249 and the exhibits and work papers attached to said audit report.

VIOLATIONS OF THE REAL ESTATE LAW

15.

In the course of activities described in Paragraphs 7 and 8, above, Respondents FINANCIAL and COLE, acted in violation of the Code and the Regulations in that they:

(a) Failed to deposit advance fees of $3,000 collected from Yako Sasaki into a trust fund account, in violation of Code Sections 10145 and 10146 and Regulation 2832.

(b) Abandoned FINANCIAL and COLE's main office located at 19200 Von Karman, Suite 532, Irvine, California 92612, without proper notification to the Department, in violation of Code Section 10162 and Regulation 2715.

(c) Failed to retain all records of FINANCIAL's activities requiring a real estate broker license during the past three years including sales and loan transaction files for FINANCIAL's real estate clients and further including listings, real estate contracts, canceled checks, escrow and trust records, in violation of Code Section 10148.

16.

The conduct of Respondents FINANCIAL and COLE, described in Paragraph 15, above, violated the Code and the Regulations as set forth below:

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PARAGRAPH	PROVISIONS VIOLATED
15(a)	Code Sections 10145, 10146 and Regulation 2832
15(b)	Code Section 10162 and Regulation 2715
15(c)	Code Section 10148

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of FINANCIAL and COLE under the provisions of Code Sections 10145, 10146, 10148, 10162, 10177(d) and/or 10177(g).

THIRD CAUSE OF ACCUSATION
(Lack of Supervision)

17.

There is hereby incorporated in this Third, separate Cause of Accusation, all of the allegations contained in Paragraphs 1 through 16, above, with the same force and effect as if herein fully set forth.

18.

The overall conduct of Respondent COLE constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of FINANCIAL as required by Code Section 10159.2, and to keep FINANCIAL in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of COLE pursuant to the provisions of Code Sections 10177(h), 10177(d) and/or 10177(g).

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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/or license rights of Respondents, FINANCIAL ONE INC. and YASU S. COLE, individually and as designated officer of Financial One Inc., 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.

Date at Los Angeles, California
this 11th day of September, 2011.

MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Financial One Inc.
Yasu S. Cole
Maria Suarez
Sacto.