FILED
DEC 21 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group, Respondents.	))))))))	No. H-37081 LA L-2011030741

DECISION

The Proposed Decision dated November 16, 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.

This Decision shall become effective at 12 o'clock noon on January 10, 2012.

IT IS SO ORDERED 12/16/11.

BARBARA J. BIGBY
Acting Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation against: CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group, Respondents.	Case No. H-37081 LA OAH No. 2011030741

PROPOSED DECISION

Administrative Law Judge Jankhana Desai, Office of Administrative Hearings, State of California, heard this matter on October 19, 2011, in Los Angeles, California.

Lissete Garcia, Staff Counsel, represented Maria Suarez, Deputy Real Estate Commissioner (Complainant) of the Department of Real Estate (Department) of the State of California.

Joseph Wiggins (Respondent Wiggins) represented himself and Cal State Financial Group (CSFG) (collectively Respondents).

Oral and documentary evidence was received and argument heard. The record was closed and the matter submitted on October 19, 2011.

FACTUAL FINDINGS

1. On September 21, 2011, Complainant made the First Amended Accusation in her official capacity as Deputy Real Estate Commissioner of the Department.

2. On September 14, 1978, the Department issued a real estate broker's license, number B00416024, to Respondent Wiggins. Respondent Wiggins's license will expire on May 12, 2012, unless renewed by the Department.

3. At all relevant times mentioned herein, CSFG was licensed or had license rights issued by the Department as a real estate corporation acting by and through Respondent Wiggins. CSFG was first licensed by the Department under license number C01519561, on April 8, 2006. CSFG's license expired as of April 7, 2010. The Department

retains jurisdiction to proceed in this matter pursuant to Business and Professions Code section 10103.

4. At all relevant times mentioned herein, Respondent Wiggins was the owner and designated officer of CSFG, and was responsible for the supervision and control of the activities conducted on behalf of CSFG by its officers and employees.

5. At all relevant times mentioned herein, Linda Wiggins (Mrs. Wiggins) was the wife of Joseph Wiggins, and worked under his control and supervision at CSFG.

6. At all relevant times mentioned herein, Mrs. Wiggins and Dollar Strategies, LLC (Dollar Strategies) were not licensed by the Department in any capacity.

7. At all relevant times mentioned herein, Respondent Wiggins was the owner of Dollar Strategies. Respondent Wiggins started Dollar Strategies in approximately 2007 or 2008. At hearing, Respondent Wiggins claimed that Dollar Strategies was a financial services company.

8. At all times mentioned herein, Respondents, on behalf of others, and in expectation of compensation, engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Business and Professions Code section 10131, subdivision (d), including negotiating loans on real property.

9. CSFG is primarily in the business of helping secure home loans for individuals.

10. In approximately December 2008, Respondent Wiggins started communicating with Aaron and Emily Asencio (Asencios). According to Respondent Wiggins, the Asencios were referred to him and neither he nor CSFG ever solicited the Asencios business or advertised for loan modification. Respondents entered into a contract with the Asencios for loan modification services on January 1, 2009. Respondent Wiggins testified that he has never met the Asencios; rather, the contract was entered into via email.

11. Respondents charged and collected an advance fee of $2,500 from the Asencios pursuant to an advance fee agreement for loan modification and negotiation services.

12. Respondent Wiggins instructed the Asencios to make the $2,500 advance fee payable to Dollar Strategies, LLC. On January 15, 2009, the Asencios made out the $2,500 check payable to Dollar Strategies, LLC.

13. Respondents did not have an advance fee agreement approved by the Department to charge or collect advance fees within the meaning of Business and Professions Code sections 10026 and 10085.

14a. Respondents led the Asencios to believe that an attorney was involved in their home loan modification. At hearing, Respondent Wiggins unconvincingly claimed that he never represented that an attorney would assist the Asencios. This claim was unconvincing in light of the email dialogue between the parties.

14b. In an email dated December 31, 2008, from Respondent Wiggins to the Asencios, Respondent Wiggins wrote: "I was fortunate to get some conference call time with the attorney this morning and discussed your case with him. He suggested that what happen is that we actually modify to get the loan balance down to a more conservative market value with the intent of you retaining the home as a rental."

14c. In an email dated January 14, 2009, from Respondent Wiggins to Emily Asencio, he wrote: "The cost to work on the first and second will be $2,500 total, and the check will need to be made payable to 'Dollar Strategies, LLC' which is the clearinghouse company for the attorney."

14d. In an email dated January 15, 2009, from Respondent Wiggins to Emily Asencio, he wrote: "I received the cashiers check and it is being overnighted to the Attorney's Office today, which means work will begin tomorrow."

14e. In an email dated February 2, 2009, from Respondent Wiggins to Emily Asencio, he wrote: "As part of the Department of Real Estate and US Dept. of HUD's new regulation of the loan modification industry, Dollar Strategies has had to revise their contract to include a licensed real estate broker (Cal State Financial Group). Nothing changes on the attorney side...."

14f. In an email dated February 20, 2009, from Mrs. Wiggins to the Asencios, he wrote: "Attached are two forms that the Attorney's Processing Team needs signed."

14g. In an email dated May 18, 2009, from Emily Asencio to Linda Wiggins, she wrote: "Alternatively, please provide us with the contact information for the attorney's office direct and we can check with them ourselves."

14h. In an email dated May 14, 2009, from Emily Asencio to Mrs. Wiggins, she wrote: "Please let us know if we need to contact the attorney directly for an update list."

15. By approximately June 2009, Respondents were not able to complete loan modification services for the Asencios. As a result, the Asencios wanted to terminate the contract with Respondents.

16. In an email dated July 1, 2009, from the Asencios to Mrs. Wiggins and Debbie Wax[1], the Asencios requested a refund of the $2,500 they paid to Respondents. They wrote:

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[1] Debbie Wax is the daughter of Joseph and Linda Wiggins, and she worked for CSFG at all relevant times herein.

"Additionally it has come to our attention that you are not an advance fee broker, and as a result of this information we are requesting that you refund our $2,500 advance payment by check immediately."

17. On July 7, 2009, Respondents denied the Asencios' request to refund the $2,500 paid as an advance fee.

18. In response to a letter from the Department dated January 30, 2010, inquiring about Respondent's collecting advance fees, Respondent Wiggins, on February 8, 2010, wrote, "My Company, Cal State Financial Group, Inc., is not collecting Advance fees as defined in California Business and Professions Code Section 10026."

19. At hearing, Respondent Wiggins explained that the Department's rules concerning loan modifications were not clear at the time he entered into a contract with the Asencios. This explanation is irrelevant. Although the rules and laws pertaining to loan modifications may have been in flux[2], the rules requiring approval of advance fee agreements were in place for many years prior to Respondents entering into contract with the Asencios. As a result of those rules and laws, Respondents were required to have an advance fee agreement approved by the Department to charge or collect the $2,500 in advance from the Asencios.

20. Respondent Wiggins claimed he sent a copy of a sample agreement to the Department in February 2009, and that sample contract was rejected by the Department, but did not provide any corroboration in support of this claim.

21. At hearing, Respondent Wiggins testified that CSFG did not provide loan modification services outside the exception of the Asencios; however, in an email dated May 22, 2009, from Mrs. Wiggins to the Asencios, she wrote: "We are please [*sic*] to let you know that we completed another Loan Mod on one of our Clients and so far for the week we have completed 7 Loan Mods total. We are all so excited here in the office just wanted to share that with you." At hearing, Respondent Wiggins testified that Respondents only did approximately three or five loan modifications during the entire year of 2009, and further that these three to five loan modifications were done for free. In light of Mrs. Wiggins's email, this testimony was not credible. In an answer to the First Amended Accusation, Respondent Wiggins wrote, in part: "Linda J. Wiggins also answered E-Mails under the direction of Joseph Wiggins." At hearing, Respondent Wiggins also confirmed that at all relevant times mentioned herein, Mrs. Wiggins communicated with the Asencios under the direction of Respondent Wiggins.

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[2] On October 11, 2009, Governor Arnold Schwarzenegger signed Senate Bill 94 which prohibits any person, including real estate licensees and lawyers, from demanding, charging, or collecting an advance fee from a consumer for loan modification or mortgage loan forbearance services.

22. Respondent Wiggins has not suffered any previous discipline on his license.

23. Respondent Wiggins presently sells life insurance. He holds a life and disability license with the Department of Insurance. He has not suffered any discipline on this license and he has no pending actions against him.

24. Respondent Wiggins is in the process of shutting down CSFG and Dollar Strategies. In the future, he may want to serve as a real estate broker for rental properties.

LEGAL CONCLUSIONS

1. Cause exists to suspend or revoke Respondents' real estate licenses pursuant to Business and Professions Code sections 10177, subdivisions (d) in that Respondents collected advance fees from borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use and was in violation of Business and Professions Code sections 10085 and 10085.5 and California Code of Regulations, title 10, section 2970, by reason of Factual Findings 10 through 13 and 16 through 20.

2. Cause exists to suspend or revoke Respondent Wiggins's real estate broker's license pursuant to Business and Professions Code sections 10177, subdivision (d) and (h) in that Respondent Wiggins allowed CSFG to violate the Real Estate Law constituting a failure by Respondent Wiggins, as the officer designated by the corporate broker licensee, to exercise the supervision and control of the activities conducted on behalf of CSFG by its officers and employees as required by Business and Professions Code section 10159.2 and California Code of Regulations, title 10, section 2725, by reason of Factual Findings 2 through 21 and Legal Conclusion 1.

3. The laws with respect to advance fee agreements were clear in 2009 when Respondents entered into a contract with the Asencios. Respondents did not submit the advance fee agreement to the Department for review prior to use as they were required to do. Respondents should also not have represented to the Asencios that an attorney(s) would be involved in handling their loan modification. Respondent Wiggins was responsible for the actions of his employees. Respondents' conduct was serious and requires discipline; however, the conduct cannot be viewed in isolation. The events stemmed out of one transaction with the Asencios. In light of Respondent Wiggins's more than 30 year history of licensure without discipline, a restricted broker's license would adequately protect the public. CSFG's license has expired and Respondent Wiggins is shutting down the company. Therefore, outright revocation is appropriate for CSFG.

ORDER

All licenses and licensing rights of Respondent Cal State Financial Group under the Real Estate Law are revoked.

All licenses and licensing rights of Respondent Joseph Wiggins under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent Wiggins under Section 10156.5 of the Business and Professions Code if Respondent Wiggins makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent Wiggins shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, 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 that 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 the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until two years have elapsed from the effective date of this Decision.

4. Respondent shall, within nine months form 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.

5. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested, and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice

shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: November 16, 2011

JANKHANA DESAI
Administrative Law Judge
Office of Administrative Hearings

FAC.

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SEP 22 2011
DEPARTMENT OF REAL ESTATE
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group, Respondents.	NO. H-37081 LA OAH NO. L-2011030741 FIRST AMENDED ACCUSATION

This First Amended Accusation amends the Accusation filed on January 24, 2011. The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group (collectively "Respondents") 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.

2.

From September 14, 1978 through the present, Respondent JOSEPH WIGGINS ("Respondent WIGGINS") was and still is licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) ("Code") as a real estate broker.

3.

At all times mentioned herein, CAL STATE FINANCIAL GROUP ("CSFG") was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate corporation acting by and through Respondent WIGGINS as its designated officer.

4.

Respondent WIGGINS, as the designated officer of CSFG pursuant to Section 10211 of the Code, was responsible for the supervision and control of the activities conducted on behalf of Respondent CSFG 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 relevant herein, Linda J. Wiggins and Dollar Strategies LLC were not licensed by the Department in any capacity.

6.

At all times herein mentioned, Respondents, on behalf of others, and in expectation of compensation, engaged in the business of, acted in the capacity of, advertised or assumed to

act as real estate brokers in the State of California within the meaning of Section 10131(d) of the Code, including soliciting borrowers and lenders and negotiating loans on real property.

7.

During the period of time set out below, Respondents, while doing business as CSFG, Cal State Home Loans or Dollar Strategies LLC, solicited borrowers (including, but not necessarily limited to, those noted below) and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate the purchase, sale or exchange of real property; negotiate one or more loans for, or perform services for, borrowers and/or lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charge, demand or collect an advance fee for any of the services offered.

8.

On or about January 1, 2009, Respondents and Linda J. Wiggins, while using the fictitious business names CSFG, Cal State Home Loans and/or Dollar Strategies, LLC, solicited loan modification and negotiation services to borrowers Emily K. Asencio and Aaron Asencio in connection with loans secured by real property. Respondents charged and collected an advance fee of $2,500 from the Asencios pursuant to an advance fee agreement for loan modification and negotiation services. Respondents instructed the Asencios to make the $2,500 advance fee payable to Dollar Strategies, LLC. Respondents and Linda J. Wiggins made substantial misrepresentations to the Asencios including, but not limited to, assuring the Asencios that a licensed

attorney would be handling the modification or negotiation of their mortgage loan. Respondents failed to perform the loan modification and negotiation services that had been promised to the Asencios.

9.

Respondents did not have an advance fee agreement approved by the Department to charge or collect advance fees within the meaning of Sections 10026 and 10085 of the Code.

10.

The conduct, acts and/or omissions of Respondents as set forth above, in collecting advance fees from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use was in violation of Sections 10085 and 10085.5 of the Code and Regulation 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondents pursuant to Sections 10177(d) and/or 10177(g) of the Code.

11.

The conduct, acts and/or omissions of Respondent WIGGINS, in allowing Respondent CSFG to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent WIGGINS, as the officer designated by the corporate broker licensee, to exercise the supervision and control of the activities conducted on behalf of CSFG by its offices and employees as required by Code Section 10159.2 and Regulation 2725, and is cause to suspend or revoke the real estate license

and license rights of Respondent WIGGINS pursuant to Sections 10177(h), 10177(d) and/or 10177(g) 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 all licenses and/or license rights of Respondents CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group 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 21st day of September, 2011.

MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Cal State Financial Group
Joseph Wiggins
Maria Suarez
Sacto.
OAH

SPC.

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group, Respondents.	NO. H-37081 LA ACCUSATION

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Respondent WIGGINS, as the designated officer of CSFG pursuant to Section 10211 of the Code, was responsible for the supervision and control of the activities conducted on behalf of Respondent CSFG 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 mentioned herein, Linda J. Wiggins, Cal State Home Loans, and Dollar Strategies, LLC were not licensed by the Department in any capacity.

6.

At all times herein mentioned, Respondents, on behalf of others, and in expectation of compensation, engaged in the business of, acted in the capacity of, advertised or assumed to

act as real estate brokers in the State of California within the meaning of Section 10131(d) of the Code, including soliciting borrowers and lenders and negotiating loans on real property.

7.

During the period of time set out below, Respondents solicited borrowers (including, but not necessarily limited to, those noted below) and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate the purchase, sale or exchange of real property; negotiate one or more loans for, or perform services for, borrowers and/or lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charge, demand or collect an advance fee for any of the services offered.

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their mortgage loan. Respondents failed to perform the loan modification and negotiation services that had been promised to the Asencios.

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Respondents did not have an advance fee agreement approved by the Department to charge or collect advance fees within the meaning of Sections 10026 and 10085 of the Code.

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The conduct, acts and/or omissions of Respondents as set forth above, in collecting advance fees from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use was in violation of Sections 10085 and 10085.5 of the Code and Regulation 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondents pursuant to Sections 10177(d) and/or 10177(g) of the Code.

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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 CAL STATE FINANCIAL GROUP and JOSEPH WIGGINS, individually and as designated officer of Cal State Financial Group 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 22nd day of February, 2011.

MARIA SUAREZ
Deputy Real Estate Commissioner

cc: Cal State Financial Group
Joseph Wiggins
Maria Suarez
Sacto.