Santo

FILED

JAN 20 2012

DEPARTMENT OF REAL ESTATE
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of FIRST AMERICAN HOME REALTY INC.; and MARK H. BRYAN, individually and as designated officer of First American Home Realty Inc., Respondent(s).	NO. H-37103 LA OAH-L2011040518

ORDER STAYING EFFECTIVE DATE

On December 13, 2011, a Decision was rendered in the above-entitled matter to become effective January 20, 2012.

IT IS HEREBY ORDERED that the effective date of the Decision of December 13, 2011, is stayed for a period of thirty(30)days to allow Respondents FIRST AMERICAN HOME REALTY INC.and MARK H. BRYAN, to file a petition for reconsideration.

The Decision of December 13, 2011, shall become effective at 12 o' clock noon on February 17, 2012.

DATED: 1/20/12.

BARBARA J. BIGBY
Real Estate Commissioner

By:

Sato

FILED

JAN 20 2012

DEPARTMENT OF REAL ESTATE
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of FIRST AMERICAN HOME REALTY INC.; and MARK H. BRYAN, individually and as designated officer of First American Home Realty Inc., Respondents.	NO. H-37103 LA

ORDER NUNC PRO TUNC MODIFYING

STIPULATION AND AGREEMENT

It having been called to the attention of the Real Estate Commissioner that there are errors in the Decision dated December 13, 2011, effective January 20, 2012, and good cause appearing therefor, the Decision is amended as follows:

Paragraph II of the Order is amended to read as follows:

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II

The license and licensing rights of Respondent FIRST AMERICAN HOME REALTY INC. under the Real Estate Law, are suspended for a period of ninety (90) days from the effective date of this Decision.

The license and licensing rights of Respondent MARK H. BRYAN under the Real Estate Law, are suspended for a period of ninety (90) days from the date of issuance of said restricted license.

This Order, nunc pro tunc to December 13, 2011, shall become effective immediately.

DATED: 1/19, 2012

BARBARA J. BIGBY
Acting Real Estate Commissioner

Department of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982

FILED

DEC 22 2011

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of FIRST AMERICAN HOME REALTY INC.; and and MARK H. BRYAN, individually and as designated officer of First American Home Realty Inc., Respondents.	No. H-37103 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondents FIRST AMERICAN HOME REALTY INC. and MARK H. BRYAN, individually and as designated officer of First American Home Realty Inc. (sometimes collectively referred to as "Respondents"), represented by Steven C. Vondran, Esq., and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on March 3, 2011, 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 Respondents 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 ("Stipulation").

2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.

3. Respondents 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. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their 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 they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of

expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove said factual allegations.

5. This Stipulation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), or another licensing agency of this state, another state or if the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

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

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7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation 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.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit which led to this disciplinary action. The amount of said cost is $3,379.70

9. Respondents have received, read, and understand the "Notice Concerning Costs of Subsequent Audit." Respondents further understand that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and Professions Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit will not exceed $3,379.70.

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DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of FIRST AMERICAN HOME REALTY INC. and MARK H. BRYAN as described in Paragraph 4, herein above, is in violation of Sections 10085, 10145, 10146, 10148 and 10159.5 of the Business and Professions Code ("Code") and Sections 2832.1, 2832, 2970 and 2972 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(d) and 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The real estate broker license of Respondent MARK H. BRYAN under the Real Estate Law is 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:

A. Makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision.

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B. Respondent shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and 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 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 the 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 has elapsed from the effective date of the issuance of the restricted license.

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 of Real Estate 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 license is required.

5. Respondent MARK H. BRYAN 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 Respondent presents

such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Respondent MARK H. BRYAN shall within six (6) months from the effective date of the Decision herein, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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II.

The license and licensing rights of Respondents FIRST AMERICAN HOME REALTY INC. and MARK H. BRYAN, under the Real Estate Law, are suspended for a period of ninety (90) days from the effective date of this Decision.

A. Provided, however, that if Respondents request, the initial thirty (30) days of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Each Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of $116.67 per day for each day of the suspension for a monetary penalty of $3,500 each Respondent, totaling $7,000.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

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3. No further cause for disciplinary action against the real estate license of Respondents occur within two (2) years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

5. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision, the stay hereby granted shall become permanent.

B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondents shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Decision. Should such a determination be made, the

Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

III.

Pursuant to Section 10148 of the Business and Professions Code, Respondents FIRST AMERICAN HOME REALTY INC. and MARK H. BRYAN shall pay the Commissioner's reasonable cost for (a) the audit which led to this disciplinary action and (b) a subsequent audit to determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is $3,379.70. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Said amount for the prior and subsequent audits shall not exceed $6,759.40.

Respondents FIRST AMERICAN HOME REALTY INC. and MARK H. BRYAN, or either of them, shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

The Commissioner may suspend the licenses of Respondents pending a hearing held in accordance with Section

11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between said Respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until said Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

IV.

All licenses and licensing rights of Respondent are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner that the trust fund deficit [of $1,775.00 set forth in the audit report described in the Accusation has been restored, including the identification of the source of funds used to cure the deficit.

V.

All licenses and licensing rights of Respondent are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner that the affairs of Homeowners Relief Center, an unlicensed entity and unlicensed fictitious business name of FIRST AMERICAN HOME REALTY INC., have been wound up and Homeowners Relief Center is no longer operative.

DATED: 11-28-4

ELLIOTT MAC LENNAN, Counsel for Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation, and have discussed it with our counsel. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondents (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan.

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the

Department a facsimile copy of Respondents' actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the Department had received the original signed stipulation.

DATED: 11/28/11

FIRST AMERICAN HOME REALTY INC.
BY: MARK H. BRYAN, as
designated officer
Respondent

DATED: 11/28/11

MARK H. BRYAN, individually and as
designated officer of First
American Home Realty Inc.,
Respondent

DATED: 11/28/11

STEVEN C. VONDRAN, ESQ.,
Attorney for Respondents
First American Home Realty Inc.
Approved as to form

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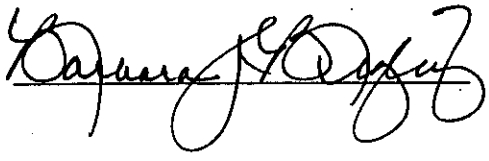
The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents FIRST AMERICAN HOME REALTY INC. and MARK H. BRYAN, individually and as designated officer of Noury Corporation and shall become effective at 12 o'clock noon on JANUARY 20, 2012.

IT IS SO ORDERED 12/13, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



Amelia V. Vetrone, SBN 134612
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
Direct (213) 576-6940

FILED

MAR - 3 2011

DEPARTMENT OF REAL ESTATE
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of FIRST AMERICAN HOME REALTY INC.; and MARK H. BRYAN individually and as designated officer of First American Home Realty Inc., Respondents.	No. H-37103 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 FIRST AMERICAN HOME REALTY INC., and MARK H. BRYAN individually and as designated officer of First American Home Realty Inc., 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.

Respondent FIRST AMERICAN HOME REALTY INC. ("FAHRI") is licensed by the Department of Real Estate ("Department") as a corporate real estate broker. Respondent FAHRI was originally licensed as a corporate real estate broker on or about October 5, 2005, with Respondent MARK H. BRYAN ("BRYAN"), as its designated officer. To date the designated officer of FAHRI is BRYAN.

4.

Respondent BRYAN is licensed by the Department as a real estate broker. Respondent BRYAN was originally licensed as a real estate salesperson on March 3, 1994, and as a real estate broker on or about August 25, 2000.

5.

At all times herein relevant, FAHRI was licensed by the Department as a corporate real estate broker by and through Respondent BRYAN as the designated officer and broker responsible, pursuant to Code Section 10159.2 for supervising the activities requiring a real estate license conducted on behalf of FAHRI by its officers, agents, and employees, as herein set forth.

6.

At no time herein was Respondent BRYAN's fictitious business, Homeowners Relief Center, licensed by the Department in

any form.

7.

At all times herein relevant, Respondents 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 Code Sections 10131(d) and 10131.2. Their activities included the solicitation for listings of and the negotiation of the purchase and sale of real property as the agent of others, soliciting borrowers or lenders for and/or negotiating loans, collecting payments and/or performing services for borrowers or lenders in connection with loans secured by liens on real property. Their activities also included claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Code Sections 10026 and 10085. Respondents advertised, solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or interest, extenuations, foreclosure prevention and short sales.

(Audit of FAHRI)

8.

On November 30, 2009, the Department completed an audit examination of the books and records of FAHRI pertaining to the mortgage loan brokerage and the loan modification activities described in paragraph 7, above. The audit examination covered the period of time from October 1, 2006 to September 30, 2009.

The primary purpose of the examination was to determine Respondent FAHRI's and Respondent BRYAN's compliance with the Real Estate Law. The audit examination revealed numerous violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 090072 and LA090083 and the exhibits and work papers attached to said audit report.

Bank and Trust Accounts

9.

At all times herein relevant, in connection with the activities described in Paragraph 7, above, FAHRI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers as advance fees for loan modifications handled by FAHRI and for mortgage loans. Thereafter FAHRI made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by FAHRI in the following bank account as FAHRI did not maintain a trust account during the audit period::

First American Home Realty Inc.
Account No. XXXXX-XX373 (Redacted for security)
Bank of America
Anaheim, California

(B/A #1 - FAHRI's general bank account used for deposit of advance fees collected from homeowners for loan modifications)

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Violations

10.

In the course of activities described in Paragraphs 7, and 9, above, and during the examination period described in Paragraph 8, above, Respondents FAHRI and BRYAN, acted in violation of the Code and the Regulations in that Respondents:

(a) Collected advance fees in connection with loan modification activities in the name of the fictitious business Homeowners Relief Center which is not a licensed fictitious business name of either Respondent in violation of Code Sections 10159.5, and Regulation 2731.

(b) Collected advance fees within the meaning of Code Section 10026 from homeowner-borrowers seeking loan modification services without having first submitted Respondents' advance fee agreement to the Department for review and authorization, in violation of Code Section 10085 and Regulation 2970.

(c) Collected advance fees in connection with loan modification activities and deposited those fees into FAHRI's general account B/A #1, which was not in the name of the broker, or its licensed fictitious business name, and which was not designated as a trust account, in violation of Code Sections 10145, 10146, and 10176(e), and Regulation 2832.

(d) Misrepresented to sellers that FAHRI held earnest money deposits for buyer clients, in violation of Code Section 10176(a).

(e) Failed to retain records received in connection with completed real estate transactions, in violation of Code

Section 10148.

Disciplinary Statutes

11.

The conduct of Respondents FAHRI and BRYAN described in Paragraph 10, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
10(a)	Code Sections 10159.5 and Regulation 2731
10(b)	Code Sections 10085 and Regulation 2970
10(c)	Code Sections 10145, 10146, 10176(e) and Regulation 2832
10(d)	Code Section 10176(a)
10(e)	Code Sections 10148

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The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondents FAHRI and BRYAN, as aforesaid, under the provisions of Code Sections 10176(a), 10176(e), 10176(i), 10177(d), and/or 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 the license and license rights of Respondents FIRST AMERICAN HOME REALTY INC., and MARK H. BRYAN individually and as designated officer of First American Home Realty Inc., under the Real Estate Law and for such other and further relief as may be proper under other applicable provisions of law including restitution of advanced fees paid for unearned loan modifications, and for costs of audit.

Dated at Los Angeles, California, 2 March ,2011.

Maria Suarez
Deputy Real Estate Commissioner

cc: First American Home Realty Inc.
Mark H. Bryan
Maria Suarez
Sacto
Audits - Gina King