

1 MARY F. CLARKE, Counsel (SBN 186744)
2 DEPARTMENT OF REAL ESTATE
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

FILED

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5 Telephone: (916) 227-0789
6 -or- (916) 227-0780 (Direct)
7 (916) 227-9458 (Fax)

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 FORECLOSURE COUNSELING, INC.,)
14 a Corporation,)
15 GARY STEPHEN LIVINGSTON, and)
16 RODNEY JOE BARONIAN,)
17 Respondents.)

NO. H- 2806 FR

ACCUSATION

18 The Complainant, BRENDA SMITH, a Deputy Real Estate Commissioner of the
19 State of California, in her official capacity, makes this Accusation against FORECLOSURE
20 COUNSELING, INC. (herein "FCI"), GARY STEPHEN LIVINGSTON (herein "LIVINGSTON"),
21 and RODNEY JOE BARONIAN (herein "BARONIAN") dba's "Foreclosure Counseling, Inc."
22 and "Legal Foreclosure Services, Inc." (herein "LFSI") (herein collectively "Respondents"), is
23 informed and alleges as follows:

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25 At all times mentioned herein, Respondents were and now are licensed and/or
26 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
27 Professions Code) (herein "the Code").

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At all times mentioned herein, FCI, License Number 1881844, was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through LIVINGSTON as designated officer-broker of FCI to qualify said corporation and to act for said corporation as a real estate broker. At no time did FCI ever obtain a mortgage loan originator license endorsement.

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At all times herein mentioned, LIVINGSTON, License Number 903361, was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of FCI. As said designated officer-broker, LIVINGSTON was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of FCI for which a license is required. At no time did LIVINGSTON ever obtain a mortgage loan originator license endorsement.

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At all times herein mentioned, BARONIAN, License Number 336315, was and now is licensed by the Department as a real estate broker. BARONIAN was not at any time an employee of FCI or of LIVINGSTON. At no time did BARONIAN ever obtain a mortgage loan originator license endorsement.

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Whenever reference is made in an allegation in this Accusation to an act or omission of FCI, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with FCI committed such act or omission while engaged in the furtherance of the business or operations of such corporate respondent while acting within the course and scope of their authority and employment.

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At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California

1 on behalf of others, for compensation or in expectation of compensation within the meaning of
2 Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage
3 with the public wherein, on behalf of others, for compensation or in expectation of compensation,
4 Respondents solicited lenders or borrowers for or negotiated loans or loan modifications or
5 collected payments or performed services for borrowers or lenders or note owners in connection
6 with loans or loan modifications secured directly or collaterally by liens on real property or on a
7 business opportunity.

8 FIRST CAUSE OF ACCUSATION

9 The allegations of Paragraphs 1 through 6 are incorporated herein by reference.

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11 Between about October 15, 2009 and about August 16, 2010, FCI, through
12 Edward Anguiano (herein "Anguiano"), an unlicensed individual, and LIVINGSTON, promised
13 Carol K. (herein "Carol") that they would obtain affordable loan modifications for her two
14 properties and charged, negotiated, arranged, claimed, demanded, collected, or received advance
15 fees in the amount of about \$3,000 for her property located on South Stanford Avenue and about
16 \$1,500 for her property located on N. Grantland Avenue, when in fact neither Anguiano nor
17 LIVINGSTON provided loan modifications for either of Carol's properties, in violation of
18 Sections 10176(a) (misrepresentation), 10130 (unlicensed activity), 10137 (unlawful
19 compensation), and 10085.6 (negotiates, arranges, claims, demands, charges, collects, or receives
20 advance fees for loan modifications) of the Code.

21 SECOND CAUSE OF ACCUSATION

22 The allegations of Paragraphs 1 through 7 are incorporated herein by reference.

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24 Between about March 3, 2010 and about October 11, 2010, FCI, through
25 Anguiano, collected the advance fees shown below from Maria R. (herein "Maria") in order to
26 provide loan modification services for Maria's property located on S. 18th Street in Kerman, CA,
27 in violation of Sections 10130, 10137, and 10085.6 of the Code.

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<u>Date:</u>	<u>Amount:</u>
03/05/10	\$1,250
04/05/10	\$500
04/17/10	\$300
05/24/10	\$200
06/05/10	\$200
06/19/10	\$300
07/31/10	\$100
08/04/10	\$300
09/03/10	\$200
09/25/10	\$200
10/11/10	\$200

THIRD CAUSE OF ACCUSATION

The allegations of Paragraphs 1 through 8 are incorporated herein by reference.

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Between about April 5, 2010 and about September 3, 2010, FCI, through Anguiano and BARONIAN using LIVINGSTON's individual License Number 903361 and representing himself as FCI's Broker Associate, when in fact BARONIAN was not FCI's Broker Associate, collected the advance fees shown below from Juanita R. (herein "Juanita") in order to provide loan modification services for Juanita's property located on McKenna Court in Kerman, CA 93630, in violation of Sections 10176(a), 10130, 10137, and 10085.6 of the Code.

<u>Date:</u>	<u>Amount:</u>
04/05/10	\$700
05/06/10	\$700
06/05/10	\$600
07/10/10	\$500
08/07/10	\$300
08/21/10	\$200
09/17/10	\$200
09/03/10	\$400

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FOURTH CAUSE OF ACCUSATION

The allegations of Paragraphs 1 through 9 are incorporated herein by reference.

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Between about August 9, 2010 and about December 7, 2010, FCI, through Anguiano and BARONIAN representing himself as an attorney, when in fact BARONIAN was not licensed to practice law in California, promised to obtain an affordable loan modification and charged, negotiated, arranged, claimed, demanded, collected, or received the advance fees shown below from Jose and Leticia F. (herein "Jose and Leticia") for their property located on North Sycamore in Dinuba, CA 93618, when in fact, no loan modification was ever obtained for Jose and Leticia's property, in violation of Sections 10176(a), 10130, 10137m and 10085.6 of the Code.

<u>Date:</u>	<u>Amount:</u>
08/09/10	\$800
09/15/10	\$800
10/09/10	\$800
11/07/10	\$800
12/07/10	\$800

FIFTH CAUSE OF ACCUSATION

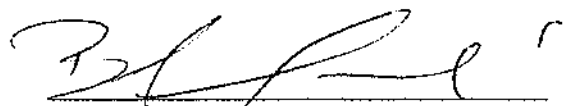
The allegations of Paragraphs 1 through 10 are incorporated herein by reference.

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Between about November 29, 2011 and about December 29, 2011, BARONIAN, through LFSI and Anguiano using BARONIAN'S individual License Number 336315, promised to obtain an affordable loan modification and charged, negotiated, arranged, claimed, demanded, collected, or received advance fees from Lorenzo G. (herein "Lorenzo") in the amount of about \$1,800 to provide loan modification services for Lorenzo's property on West Ashcroft Avenue in Fresno, CA 93522, when in fact, LFSI and Anguiano failed to provide a loan modification for Lorenzo's property, in violation of Sections 10177(j) (fraud or dishonest dealing) and or 10177(g) (negligence), 10130, 10137, 10085.6, and 10166.01 (mortgage loan originator license endorsement required) 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 license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.


BRENDA SMITH
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 24 day of September, 2012.