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**BUREAU OF REAL ESTATE**

By choime

BEFORE THE  
BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the First Amended Accusation of )  
)  
FORECLOSURE COUNSELING, INC., )  
a Corporation, )  
GARY STEPHEN LIVINGSTON, and )  
RODNEY JOE BARONIAN, )  
)  
Respondents. )

NO. H-2806 FR

FIRST AMENDED  
ACCUSATION

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

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

3

At all times herein mentioned, LIVINGSTON, License Number 903361, was and now is licensed by the Bureau 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 Bureau 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 First Amended 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.

6

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 FIRST AMENDED 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, as defined in Section 10026 (advance fee defined) of the Code, in the amount of about  
16 \$3,000 for her property located on South Stanford Avenue and about \$1,500 for her property  
17 located on N. Grantland Avenue, when in fact neither Anguiano nor LIVINGSTON provided  
18 loan modifications for either of Carol's properties, in violation of Sections 10176(a)  
19 (misrepresentation), 10130 (unlicensed activity), 10137 (unlawful compensation), and 10085.6  
20 (negotiates, arranges, claims, demands, charges, collects, or receives advance fees for loan  
21 modifications) of the Code.

22 SECOND CAUSE OF FIRST AMENDED ACCUSATION

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

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25 Between about March 3, 2010 and about October 11, 2010, FCI, through  
26 Anguiano, collected advance fees, as defined in Section 10026 of the Code, shown below from  
27 Maria R. (herein "Maria") in order to provide loan modification services for Maria's property

1 located on S. 18<sup>th</sup> Street in Kerman, CA, in violation of Sections 10130, 10137, and 10085.6 of  
2 the Code.

<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

11 THIRD CAUSE OF FIRST AMENDED ACCUSATION

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

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14 Between about April 5, 2010 and about September 3, 2010, FCI, through  
15 Anguiano and BARONIAN using LIVINGSTON's individual License Number 903361 and  
16 representing himself as FCI's Broker Associate, when in fact BARONIAN was not FCI's Broker  
17 Associate, collected advance fees, as defined in Section 10026 of the Code, shown below from  
18 Juanita R. (herein "Juanita") in order to provide loan modification services for Juanita's property  
19 located on McKenna Court in Kerman, CA 93630, in violation of Sections 10176(a), 10130,  
20 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

1 FOURTH CAUSE OF FIRST AMENDED ACCUSATION

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

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4 Between about August 9, 2010 and about December 7, 2010, FCI, through  
5 Anguiano and BARONIAN representing himself as an attorney, when in fact BARONIAN was  
6 not licensed to practice law in California, promised to obtain an affordable loan modification and  
7 charged, negotiated, arranged, claimed, demanded, collected, or received advance fees, as defined  
8 in Section 10026 of the Code, shown below from Jose and Leticia F. (herein "Jose and Leticia")  
9 for their property located on North Sycamore in Dinuba, CA 93618, when in fact, no loan  
10 modification was ever obtained for Jose and Leticia's property, in violation of Sections 10176(a),  
11 10130, 10137 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

16 FIFTH CAUSE OF FIRST AMENDED ACCUSATION

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

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19 Between about November 29, 2011 and about December 29, 2011, BARONIAN,  
20 through LFSI and Anguiano using BARONIAN'S individual License Number 336315, promised  
21 to obtain an affordable loan modification and charged, negotiated, arranged, claimed, demanded,  
22 collected, or received advance fees, as defined in Section 10026 of the Code, from Lorenzo G.  
23 (herein "Lorenzo") in the amount of about \$1,800 to provide loan modification services for  
24 Lorenzo's property on West Ashcroft Avenue in Fresno, CA 93522, when in fact, LFSI and  
25 Anguiano failed to provide a loan modification for Lorenzo's property, in violation of Sections  
26 10177(j) (fraud or dishonest dealing) and or 10177(g) (negligence), 10130, 10137, 10166.01  
27 (mortgage loan endorsement) and 10085.6 of the Code.

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SIXTH CAUSE OF FIRST AMENDED ACCUSATION

The allegations of Paragraphs 1 through 11 are incorporated herein by reference.

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Between about August 11, 2011 and about February 9, 2012, Legal Foreclosure Services, through Anguiano and BARONIAN, promised to obtain an affordable loan modification and charged, negotiated, arranged, claimed, demanded, charged, collected, or received the advance fees, as defined in Section 10026 of the Code, shown below from Billy and Lisa R. (herein "Billy and Lisa") for their property located on Orange Grove in Madera, CA, when in fact, no loan modification was ever obtained for Billy and Lisa's property, in violation of Sections 10176(a), 10130, 10137, 10166.01 and 10085.6 of the Code.

<u>Date:</u>	<u>Amount:</u>
08/11/11	\$900
09/08/11	\$900
10/10/11	\$400
11/07/11	\$1,150
12/08/11	\$1,150
02/09/12	\$900

SEVENTH CAUSE OF FIRST AMENDED ACCUSATION

The allegations of Paragraphs 1 through 12 are incorporated herein by reference.

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At all times mentioned herein, Respondent BARONIAN failed to obtain a real estate license bearing the fictitious business names "Foreclosure Counseling, Inc." and "Legal Foreclosure Services Inc.," while conducting activities for which a license was required, in violation of Section 10159.5 (fictitious business name) of the Code and Section 2731 of Title 10, Chapter 6, California Code of Regulations (herein "Regulations").

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EIGHTH CAUSE OF FIRST AMENDED ACCUSATION

The allegations of Paragraphs 1 through 13 are incorporated herein by reference.

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At all times mentioned herein, Respondent LIVINGSTON failed to exercise reasonable supervision over the acts of Respondent FCI and its agents and employees in such a manner as to allow the acts and omissions on the part of FCI, described above, to occur in violation of Sections 10177(g) and (h) and 10159.2 of the Code and Section 2725 of the Regulations.

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The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- (a) as to Paragraph 7, Respondents FCI and LIVINGSTON, under Sections 10176(a), 10130, 10137 and 10085.6 of the Code, in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraphs 8, Respondent FCI, under Sections 10130, 10137 and 10085.6 of the Code, in conjunction with Section 10177(d) of the Code;
- (c) as to Paragraph 9-10, Respondents FCI and BARONIAN, under Sections 10176(a), 10130, 10137 and 10085.6 of the Code, in conjunction with Section 10177(d) of the Code;
- (d) as to Paragraph 11, Respondent BARONIAN, under Sections 10177(j) and/or 10177(g), 10130, 10137, 10166.01 and 10085.6 of the Code, in conjunction with Section 10177(d) of the Code;
- (e) as to Paragraph 12, Respondent BARONIAN, under Sections 10176(a), 10130, 10137, 10166.01 and 10085.6 of the Code; in conjunction with Section 10177(d) of the Code;

1 (f) as to Paragraph 13, Respondent BARONIAN, under Section 10159.5 of  
2 the Code and Section 2731 of the Regulations, in conjunction with  
3 Section 10177(d) of the Code; and


4 (g) as to Paragraph 14, Respondent LIVINGSTON, under Sections  
5 10177(g) and (h) and 10159.2 of the Code and Section 2725 of the  
6 Regulations, in conjunction with Section 10177(d) of the Code.

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8 Investigation and Enforcement Costs

9 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
10 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the  
11 Administrative Law Judge to direct a licensee found to have committed a violation of this part to  
12 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
14 of this FIRST Amended Accusation and that upon proof thereof, a decision be rendered imposing  
15 disciplinary action against all licenses and license rights of Respondents under the Real Estate  
16 Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation  
17 and enforcement as permitted by law, and for such other and further relief as may be proper  
18 under other applicable provisions of law.

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22 BREND A SMITH  
23 Deputy Real Estate Commissioner

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25 Dated at Fresno, California,  
26 this 19 day of June, 2014.