

1 DEPARTMENT OF REAL ESTATE  
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FILED

JAN 30 2013

DEPARTMENT OF REAL ESTATE  
By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 TO: )  
12 FORECLOSURE COUNSELING, INC., ) NO. H- 2807 FR  
13 GARY STEPHEN LIVINGSTON, ) ORDER TO DESIST AND REFRAIN  
14 LEGAL FORECLOSURE SERVICES, ) (B & P Code Section 10086)  
15 INC., and )  
16 RODNEY JOE BARONIAN. )

16 The Real Estate Commissioner (Commissioner) of the California Department of  
17 Real Estate (Department) caused an investigation to be made of the activities of FORECLOSURE  
18 COUNSELING, INC. (FCI), GARY STEPHEN LIVINGSTON (LIVINGSTON), LEGAL  
19 FORECLOSURE SERVICES, INC. (LFSI), and RODNEY JOE BARONIAN (BARONIAN).  
20 Based on that investigation, the Commissioner has determined that FCI, LIVINGSTON, LFSI  
21 and BARONIAN have engaged in, are engaging in, or are attempting to engage in, acts or  
22 practices constituting violations of the California Business and Professions Code (Code),  
23 including the business of, acting in the capacity of, and/or advertising or assuming to act as,  
24 real estate brokers in the State of California within the meaning of Sections 10130 (unlicensed  
25 activity), 10131(d) (performing services for borrowers in connection with loans secured by  
26 real property) 10085.6 (advance fee payments), 10166.01 (mortgage loan originator license  
27 endorsement) and 10177(d) (violating the real estate law) of the Code. Furthermore, based on

1 the investigation, the Commissioner hereby issues the following Findings of Fact,  
2 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of  
3 the Code.

4 Whenever acts referred to below are attributed to FCI, LIVINGSTON, LFSI  
5 and BARONIAN, those acts are alleged to have been done by FCI, LIVINGSTON, LFSI and  
6 BARONIAN, acting either by themselves, or by and/or through one or more agents, associates,  
7 affiliates, and/or co-conspirators, known or unknown.

8 FINDINGS OF FACT

9 1. FCI has been licensed by the Department as a corporate real estate broker  
10 since April 28, 2010; said license will expire April 27, 2014.

11 2. LIVINGSTON has been licensed by the Department as an individual real  
12 estate broker since May 23, 1994; said license will expire May 22, 2014 and as designated  
13 officer broker for FCI since April 28, 2010; said license was canceled February 24, 2011.

14 3. LFSI is not now, and has never been, licensed by the Department in any  
15 capacity.

16 4. BARONIAN has been licensed by the Department as a real estate broker  
17 since August 28, 1975; said license will expire August 8, 2016.

18 5. Carol K.

19 Between about October 15, 2009 and about August 16, 2010, FCI, LIVINGSTON  
20 and Edward Anguiano (Anguiano) [*currently under a Desist and Refrain Order (herein "D&R")*]  
21 *to desist and refrain from engaging in any activities requiring a real estate license, particularly*  
22 *charging, demanding or collecting advance fees, effective on about September 22, 2009 (H-2422 FR)]*  
23 charged, negotiated, arranged, claimed, demanded, collected, or received advance fees in the  
24 amount of about \$3,000 for Carol K.'s property located on South Stanford Avenue and about  
25 \$1,500 for her property located on N. Grantland Avenue, when in fact, no loan modifications  
26 were ever obtained for either of Carol K.'s two properties by FCI or LIVINGSTON, in violation  
27 of Sections 10130 (unlicensed activity), 10137 (unlawful compensation) and 10085.6 (negotiates,

1 arranges, claims, demands, charges, collects, or receives advance fees for loan modifications) of  
2 the Code.

3 6. Maria R.

4 Between about March 3, 2010 and about October 11, 2010, FCI through Anguiano  
5 collected the advance fees shown below from Maria R., in order to provide loan modification  
6 services for Maria R.'s property located on S. 18<sup>th</sup> Street in Kerman, CA, when in fact, no loan  
7 modification was ever obtained for Maria R.'s property by FCI or Anguiano, in violation of  
8 Sections 10130, 10137 and 10085.6 of the Code.

	<u>Date:</u>	<u>Amount:</u>
9		
10	03/05/10	\$1,250
	04/05/10	\$500
11	04/17/10	\$300
	05/24/10	\$200
12	06/05/10	\$200
	06/19/10	\$300
13	07/31/10	\$100
	08/04/10	\$300
14	09/03/10	\$200
	09/25/10	\$200
15	10/11/10	\$200
16		

16 7. Juanita R.

17 Between about April 5, 2010 and about September 3, 2010, FCI, BARONIAN  
18 and Anguiano collected the advance fees shown below from Juanita R., in order to provide loan  
19 modification services for Juanita R.'s property located on McKenna Court in Kerman, CA  
20 93630, when in fact, no loan modification for Juanita R.'s property was ever obtained by FCI,  
21 BARONIAN, or Anguiano, in violation of Sections 10130, 10137 and 10085.6 of the Code.

	<u>Date:</u>	<u>Amount:</u>
22		
23	04/05/10	\$700
	05/06/10	\$700
24	06/05/10	\$600
	07/10/10	\$500
25	08/07/10	\$300
	08/21/10	\$200
26	09/17/10	\$200
	09/03/10	\$400
27		



1 licensed activities, described in Paragraph 5, above, in violation of Sections 10130, 10137, and  
2 10177(d) of the Code.

3 2. Based on the Findings of Fact contained in Paragraphs 1 through 9, FCI,  
4 LIVINGSTON, LFSI and BARONIAN, acting either by themselves, or by and/or through one  
5 or more agents, associates, affiliates, and/or co-conspirators, known or unknown, charged,  
6 demanded or collected advance fees for the services to be provided, in violation of Sections  
7 10085.6, 10166.01 and 10177(d) of the Code.

8 DESIST AND REFRAIN ORDER

9 Based on the Findings of Fact and Conclusions of Law stated herein, LFSI  
10 whether doing business under its own name, or any other names or fictitious names, IS HEREBY  
11 ORDERED TO:

12 1. IMMEDIATELY DESIST AND REFRAIN from performing any acts within  
13 the State of California for which a real estate broker license is required until and unless it has  
14 obtained a corporate real estate broker license. And, in particular, it is ordered to desist and  
15 refrain from:

- 16 (i) compensating any unlicensed individual for performing activities  
17 which require a real estate license;
- 18 (ii) charging, demanding, claiming, collecting and/or receiving advance  
19 fees, as that term is defined in Section 10026 of the Code, in any  
20 form, and under any conditions, with respect to the performance  
21 of loan modifications or any other form of mortgage loan  
22 forbearance service in connection with loans on residential property  
23 containing four or fewer dwelling units (Section 10085.6 of the  
24 Code); and,
- 25 (iii) charging, demanding, claiming, collecting and/or receiving advance  
26 fees, as that term is defined in Section 10026 of the Code, for any  
27 other real estate related services offered by you to others.

1           Based upon the Findings of Fact and Conclusions of Law stated herein, it is hereby  
2 ordered that FCI, LIVINGSTON and BARONIAN whether doing business under their own names  
3 or any other names, or any fictitious names, ARE HEREBY ORDERED TO IMMEDIATELY  
4 DESIST AND REFRAIN from:

- 5           1. charging, demanding, claiming, collecting and/or receiving advance fees,  
6           as that term is defined in Section 10026 of the Code, in any form, and  
7           under any conditions, with respect to the performance of loan  
8           modifications or any other form of mortgage loan forbearance service in  
9           connection with loans on residential property containing four or fewer  
10          dwelling units (Section 10085.6 of the Code);
- 11          2. charging, demanding, claiming, collecting and/or receiving advance fees,  
12          as that term is defined in Section 10026 of the Code, for any other real  
13          estate related services offered by you to others;
- 14          3. performing any acts within the State of California for which a real  
15          estate mortgage loan originator license endorsement is required until  
16          and unless they have obtained a mortgage loan originator license  
17          endorsement; and,
- 18          4. compensating any unlicensed individual for performing activities  
19          which require a real estate license.

20  
21 DATED: 11/8/13

22  
23 Real Estate Commissioner

24  
25 BY: 

26 AWET P. KIDANE  
27 Chief Deputy Commissioner

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**-NOTICE-**

Business and Professions Code Section 10139 provides that "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000)."

cc: **FORECLOSING COUNSELING, INC.**  
Attn: Dayna Goldsberry, Agent for Service of Process  
2282 W. Roberts Ave.  
Fresno, CA 93711

**LEGAL FORECLOSURE SERVICES, INC.**  
Attn: Rodney J. Baronian, Agent for Service of Process  
6460 N. Lafayette Avenue  
Fresno, CA 93711

**LEGAL FORECLOSURE SERVICES, INC.**  
Attn: Rodney J. Baronian, Agent for Service of Process  
135 W. Shaw Avenue  
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Fresno, CA 93704

**GARY STEPHEN LIVINGSTON**  
1255 E. Mesa Avenue  
Fresno, CA 93710

**RODNEY JOE BARONIAN**  
6460 N. Lafayette Avenue  
Fresno, CA 93711

ATTY MFC/kc