

**FILED**

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**August 7, 2012**

DEPARTMENT OF REAL ESTATE

\* \* \*

By 

In the Matter of the Accusation of )

EXPEDIA REALTY CORP,  
a California Corporation, and,  
ALAN SCOTT BRAVENDER,

Respondent. )

NO. H-4022 SD

OAH NO. 2011110684

DECISION

The Proposed Decision dated July 17, 2012, 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.

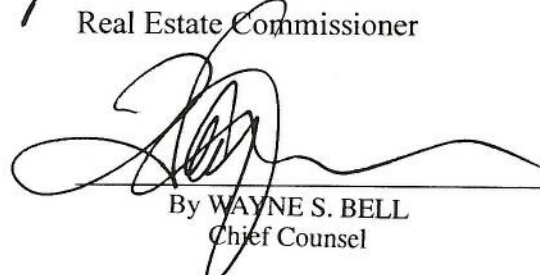
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on **AUG 28 2012**.

IT IS SO ORDERED 8/6/2012.

Real Estate Commissioner

  
By WAYNE S. BELL  
Chief Counsel

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of:

EXPEDIA REALTY CORP,  
a California Corporation, and

ALAN SCOTT BRAVENDER,

Respondents.

Case No. H-4022-SD

OAH No. 2011110684

**PROPOSED DECISION**

Administrative Law Judge Vallera J. Johnson, State of California, Office of Administrative Hearings, heard this matter in San Diego, California, on May 18, 2012.

Michael B. Rich, Counsel, represented Complainant Joseph Aiu, Deputy Real Estate Commissioner, State of California Department of Real Estate.

There was no appearance by or on behalf of Respondent Expedia Realty Corp.

Respondent Alan Scott Bravender was present and represented himself.

The matter was submitted on May 18, 2012.

**FACTUAL FINDINGS**

1. Joseph Aiu (Complainant) filed Accusation, Case No. H-4022 SD, dated October 22, 2009, against Expedia Realty Corp., doing business under the fictitious name of Gemstone Funding, a California corporation (Respondent Expedia), and Alan Scott Bravender (Respondent Bravender) in his official capacity as Deputy Real Estate Commissioner, State of California Department of Real Estate (Department), and not otherwise.

2. Respondent Expedia did not file a Notice of Defense.

By Decision and Order that became effective on January 5, 2012, the Real Estate Commissioner determined that (1) the allegations alleged in the Accusation that were related

to Respondent Expedia were true, and (2) Respondent Expedia violated the provisions of the Business and Professions Code as alleged in the Accusation. The Real Estate Commissioner revoked the license and licensing rights of Respondent Expedia.

3. In the Accusation involving Respondent Bravender, Complainant seeks to discipline Respondent Bravender's license and licensing rights. Complainant alleges that, among other things,

- Respondent Expedia employed Respondent Bravender to perform or engage in activities for which a real estate license was required;
- Respondent Bravender solicited borrowers and/or negotiated loans secured by liens of real property, wherein such loans were to be brokered, arranged or processed and/or consummated on behalf of borrowers in expectation of compensation;
- Respondent Bravender Lenora Humphrey-Baker and Jerry W. Baker (homeowners), charged, collected and provided a written contract for advance fees for services Respondents were to perform in obtaining modification of a loan; Respondent Bravender represented that the fee charged was fully refundable if the loan modification was not completed within 60 days;
- Respondents failed to disclose that: (1) Respondents had no intention of refunding the advance fee; and (2) Respondents could not or would not perform the loan modification within 60 days;
- Respondents' acts and omissions constituted misrepresentations, fraud and dishonest dealing.

Respondent Bravender filed a Notice of Defense and requested a hearing in this matter. He disputed that he solicited the loan, that he served as loan negotiator, and/or that he engaged in acts or omissions that constituted misrepresentations, fraud or dishonest dealing.

4. At all times relevant herein, the Department licensed Respondent Expedia as a corporate real estate broker.

5. On June 2, 2008, pursuant to the California Revenue and Taxation Code, the State of California Secretary of State suspended Respondent Expedia's corporate powers, rights and privileges. At no time since June 2, 2008, have Respondent Expedia's corporate powers, rights and privileges been reinstated.

6. Whenever reference is made to an act or omission of Respondent Expedia, that reference shall be deemed to mean that an officer, director, employee, agent and real estate licensee employed by or associated with Respondent Expedia committed such act or omission while engaged in the furtherance of the business or operation of Respondent Expedia and while acting within the course and scope of its corporate authority and employment.

7. At all times relevant herein, Respondent Bravender was licensed by the Department as a real estate salesperson, and he was so licensed in the employ of Sprinter Realty Group, Inc., a licensed corporate real estate broker, beginning December 23, 2008, and continuing thereafter. Respondent Bravender is currently licensed in the employ of Sprinter Realty Group, Inc. At no time has the Department licensed Respondent as a real estate broker.

Respondent Bravender testified that his license has expired and that he contested the charges in the Accusation because he hopes to renew his license in the future. Pursuant to Section 10103 of the Code, expiration of Respondent Bravender's license does not deprive the Department of jurisdiction to proceed with this disciplinary proceeding.

8. Respondent Bravender testified that, in February 2009, Respondent Expedia employed him as a sales trainee/account manager; he described his duties as "telemarketer", requiring him to follow-up with calls to homeowners who expressed an interest in mortgage modification; he was not hired because of his real estate salesperson license; he did not use his real estate salesperson license; at no time was Respondent Expedia his sponsoring broker.

9. At all times relevant herein, Respondent Expedia employed Respondent Bravender to perform and engage in activities (described in Finding 8) for which a real estate license was required; and Respondent Bravender engaged in those activities requiring a real estate license with the expectation of receiving compensation.

10. At no time mentioned herein was Respondent Bravender licensed as an individual real estate salesperson in the employ of Respondent Expedia.

11. In February 2009, Respondent Bravender spoke with Lenora Humphrey-Baker several times regarding modification of a home loan that was secured by their residence. Among other things, Respondent Bravender explained that Respondent Expedia could accomplish mortgage modification in 45 to 60 days, maybe sooner; he stated that in order to initiate the modification process, the homeowners were required to provide all documentation requested and to pay a \$1,900 fee initially and another \$1,000 fee when the loan modification was completed; he represented that the \$1,900 paid by the homeowners would be refunded if the loan modification was not completed within 60 days.

Respondent Expedia forwarded (by means of facsimile) a packet to the homeowners that included (1) a cover letter from Respondent Bravender, who was identified as "Account Manager", (2) a list of requested documents, (3) an "authorization form allowing my lender to speak to a third party on my behalf", (4) an "authorization to obtain credit information", (5) an invoice for retainer deposit, (6) a "loan modification retainer contract", and (7) a letter stating a pre-approval from Saxon, the homeowners' mortgage lender.

12. On March 2, 2009, Humphrey-Baker forwarded a cashier's check in the amount of \$1,900 via certified mail to Respondent Expedia together with other documents

and information. Hector Ortega (Ortega), on behalf of Respondent Expedia, received and signed for the check. Respondent Bravender represented to Humphrey-Baker that Ortega an owner of Respondent Expedia, and that Ortega was his boss; she later learned that Ortega was not an owner but rather a manager/supervisor. The homeowners refused to execute the "Loan Modification Retainer Contract".

Ashleigh Scruggs (Scruggs) was Respondent Expedia's loan negotiator who handled the homeowners' loan modification. Between March 16 and May 1, 2009, Humphrey-Baker spoke to Scruggs several times. Humphrey-Baker believed that Respondent Bravender was a negotiator also because he and Scruggs argued about the status of her loan while she was on the telephone with them. Humphrey-Baker testified that each time Scruggs asked for the same information, i.e., income, debt and hardship letter, Humphrey-Baker provided the information. Nevertheless, when Humphrey-Baker contacted her lender to determine the status of the modification, she was told that her mortgage modification packet had not been received or was not complete.

13. By letter, dated April 25, 2009, and again by letter dated May 7, 2009, the homeowners' lender notified the homeowners that the documents and information required to complete their review had not been received and that if the documents and information were not received within 10 days from the date of the letter, Saxon would consider the request for special assistance withdrawn.

A Notice of Default and Election to Sell Under Deed of Trust (Notice) was filed for recording in the office of the County Recorder on April 22, 2009. The Notice was posted on the door of borrowers' home and served on them via certified mail on or prior to May 1, 2009.

14. On May 1, 2009, Humphrey-Baker contacted Scruggs. When she was unable to speak to Scruggs, she called Respondent Bravender, who said that he would speak to Ortega, his boss. Ortega did not return her call. Humphrey-Baker faxed a copy of the Notice of Foreclosure to Respondent Expedia. She did not hear from Scruggs, Bravender, or Ortega. Humphrey-Baker contacted her lender and was told that Respondent Expedia had not provided the necessary information.

15. On May 5, 2009, the homeowners contacted the Michael Sacks, Esq. Attorney Sacks contacted their lender and arranged for the loan modification on the same date.

16. By letter, dated May 5, 2009, the homeowners requested an immediate refund of the \$1,900 advance fee. More than six months but less than 12 months later, Respondent Expedia refunded \$900 to the homeowners.

17. At all times mentioned herein, Respondents engaged in the business of and acted in the capacity of a real estate broker within the meaning of Section 10131, subdivision (d) of the Code, by soliciting borrowers for or negotiating loans, collecting payments and

performing services for borrowers or lenders in connection with loans secured directly or collaterally by liens on real property.

18. At all times relevant herein, in the course and scope of his employment, Respondent Bravender solicited the homeowners for a modification of a loan that was secured directly or collaterally by liens on the homeowners' real property, wherein such loans were to be brokered, arranged, processed and/or consummated on behalf of others pursuant to Section 10131, subdivision (d) of the Code.

19. There is insufficient evidence in this record to establish that Respondent Bravender worked as anything other than a solicitor. Although he provided the homeowners with his contact information, there is no evidence that he negotiated with the homeowners' lender. As such, it was not established that he negotiated the loan with homeowners' lender.

20. The money collected from homeowners constituted an "advance fee" within the meaning of Sections 10026 and 10131.2 of the Code. Said fee constituted trust funds within the meaning of Sections 10145 and 10146 of the Code.

21. Complainant asserts that:

- Respondents' representations that the advance fee was fully refundable if the loan modification was not completed within sixty (60) days was false or misleading and known by Respondents to be false or misleading when made with no reasonable grounds for believing said representations to be true; in truth and in fact, (1) Respondents had no intention of refunding the advance fee and (2) Respondents could not or would not perform the loan modification within 60 days.
- Respondents failed to disclose to the borrowers the true facts that Respondents would not perform the loan modification within 60 days.
- Respondents' acts or omissions constituted misrepresentations, fraud and dishonest dealings.

22. There is no evidence that Respondent Bravender had any role other than to solicit the homeowners in the loan modification transaction with Respondent Expedia, or that during the loan modification transaction he did anything other than to follow the instructions of his employer, Respondent Expedia.

During the course of the homeowners' transaction, Respondent Bravender attempted to intervene/advocate on homeowners' behalf with Respondent Expedia, and to move the transaction along. According to Humphrey-Baker, her negotiator was Scruggs and any request for additional documentation came from Scruggs, not Respondent Bravender. Insufficient evidence was offered to establish that the homeowners provided all documentation required by Saxon, the homeowners' lender. There is no evidence that



Respondent Bravender knew or should have known that Respondent Expedia could not or would not perform the loan modification within 60 days.

There is no evidence that Respondent Bravender received/collected the advance fee, or was paid any portion of the advance fee, or had any control over the advance fee. There is no evidence that Respondent Bravender knew or should have known that Respondent Expedia would not refund the advance fee if the loan modification was not completed within 60 days.

23. It was not established that Respondent Bravender's engaged in misrepresentation, fraud, or dishonest dealings.

### LEGAL CONCLUSIONS

1. Cause does not exist to discipline Respondent Bravender's license and licensing rights under Sections 10176, subdivisions (a) and (i), 10177, subdivisions (g) and (j) (j) of the Code, by reason of Findings

2. Cause exists to discipline Respondent Bravender's license and licensing rights under Section 10137 of the Code in conjunction with Section 10177, subdivision (d) of the Code by reason of Findings 7, 8, 9, 10 and 11.

3. Respondent Bravender acted beyond the scope of his real estate license and licensing rights.

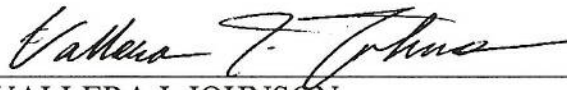
As a real estate licensee, Respondent Bravender had an obligation to know that his acts with respect to the homeowners constituted the solicitation of borrowers, that he was acting as a real estate broker, and that a real estate license was required for his employment; further, he had an obligation to investigate Respondent Expedia. Had he done so, he would have learned about Respondent Expedia's disqualified corporate status, and he would have understood the role of Hector Ortega with Respondent Expedia.

At no time was Respondent Bravender licensed in the employ of Respondent Expedia. Nevertheless he performed the duties of a licensed broker employed by Respondent Expedia. Based on Respondent Bravender's representations, the homeowners provided documentation, paid the advance fee and believed that Respondent Expedia was taking steps to obtain a mortgage modification on their behalf. Instead, the homeowners almost lost their home in foreclosure and lost \$1,000 of the fee paid. Respondent Bravender was instrumental in the process. Respondent Bravender offered insufficient evidence to establish that he appreciates his mistakes, and he offered no evidence to establish that he has taken steps to avoid such mistakes in the future. If Respondent Bravender is allowed to retain his real estate salesperson license, there is no evidence that he would not engage in the same conduct in the future. As such, it would be contrary to the public interest to allow Respondent Bravender to retain his real estate salesperson license.

ORDER

All licenses and licensing rights granted by the Department of Real Estate to  
Respondent Alan Scott Bravender under the Real Estate Law are revoked.

DATED: July 17, 2012

A handwritten signature in black ink, appearing to read "Vallera J. Johnson", is written over a horizontal line.

VALLERA J. JOHNSON  
Administrative Law Judge  
Office of Administrative Hearings