

FLAG

FILED

OCT 08 2009

DEPARTMENT OF REAL ESTATE

By *[Signature]*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	No. H-5102 SAC
)	OAH No. 2009040447
LULU BARDONADO ALFORQUE,)	
)	
)	
Respondent.)	
)	

ORDER DENYING RECONSIDERATION

On August 19, 2009, a Decision was rendered in the above-entitled matter. The Decision was to become effective at 12 o'clock noon on September 9, 2009 (hereinafter the "Decision of September 9, 2009").

On September 8, 2009, Respondent requested a thirty-day stay to petition for reconsideration of the Decision of September 9, 2009. Pursuant to Order filed September 8, 2009, the effective date of the Decision was extended to October 9, 2009.

///

//

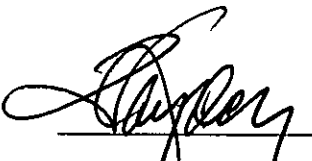
/

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of September 9, 2009, and reconsideration is hereby denied.

IT IS HEREBY ORDERED October 8, 2009.

JEFF DAVI
Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

FILED

SEP 08 2009

DEPARTMENT OF REAL ESTATE

By *John A. Davi*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-5102 SAC
LULU BARDONADO ALFORQUE,)	
)	OAH NO. 2009040447
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On August 19, 2009, a Decision was rendered in the above-entitled matter to become effective on September 9, 2009.

On September 8, 2009, Respondent requested a stay for the purpose of filing a petition for reconsideration of the Decision of August 19, 2009.

IT IS HEREBY ORDERED that the effective date of the Decision is stayed for a period of thirty (30) days. The Decision of August 19, 2009, shall become effective at 12 o'clock noon on October 9, 2009.

DATED: 9-8-, 2009.

JEFF DAVI
Real Estate Commissioner

Jeff Davi

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

AUG 20 2009

DEPARTMENT OF REAL ESTATE

By L. Frost

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
LULU BARDONADO ALFORQUE,)
)
)
Respondents.)
_____)

NO. H-5102 SAC

OAH NO. 2009040447

DECISION

The Proposed Decision dated July 15, 2009, 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.

This Decision shall become effective at 12 o'clock noon on SEP 09 2009

IT IS SO ORDERED 8-19-09

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. H-5102 SAC

LULU BARDONADO ALFORQUE,

OAH No. 2009040447

Respondent.

PROPOSED DECISION

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on July 6, 2009, in Sacramento, California.

Michael R. Rich, Counsel, represented Joe M. Carillo (complainant), a Deputy Real Estate Commissioner with the Department of Real Estate (Department).

Lulu Bardonado Alforque (respondent) appeared on her own behalf and was assisted by her husband, Juanito Alforque.

Evidence was received, the record was closed, and the matter was submitted on July 6, 2009.

FACTUAL FINDINGS

1. Complainant made and filed the Accusation in his official capacity.
2. Since June 8, 2002, respondent has been licensed as a real estate broker. She has license rights under the Real Estate Law.¹ At all times relevant to this matter, respondent did business as Columbia Financial Mortgage, a mortgage loan brokerage business. Complainant seeks to revoke respondent's real estate broker license for engaging in the misconduct described below.
3. In 2006, respondent, as a real estate broker, represented Dale and Cherie Ann Del Rosario (collectively, the Del Rosarios) in the purchase of a house located at 241 Meandering Lane, Turlock, California (subject property). Mr. Del Rosario was a friend of Mr. Alforque, respondent's husband. The purchase price was \$428,000. The Del Rosarios

¹ Part 1 of Division 4 of the Business and Professions Code.

obtained both a first and a second mortgage on the subject property. Both mortgages had adjustable rates. When the rates on the Del Rosarios' mortgages were adjusted upward, they could no longer afford to pay their mortgages. Mr. Del Rosario went to Mr. Alforque and asked Mr. Alforque to take over the Del Rosarios' mortgage loans.

4. Mr. Alforque initially agreed to purchase the subject property for \$20,000 and assume the mortgage loans. That amount was first lowered to \$10,000, and then to nothing. On January 24, 2007, the Del Rosarios executed a grant deed, which conveyed the subject property to Mr. Alforque, as "a married man as his sole and separate property." The grant deed stated that the subject property was transferred for "no consideration, gift." The grant deed was not recorded.

5. In or about January 2007, near the time when the Del Rosarios gave Mr. Alforque the grant deed, they moved out of the subject property and into an apartment owned by Mr. Alforque. The Del Rosarios paid Mr. Alforque \$1,200 a month to rent this apartment. Mr. Alforque began making the mortgage payments on the subject property, which totaled about \$2,600 a month. In March 2007, Mr. Alforque leased the subject property to tenants for \$1,200 a month. After property management fees were deducted, Mr. Alforque netted \$1,191.40 a month from the rental of the subject property.

6. On March 1, 2007, respondent handwrote a Uniform Residential Loan Application (handwritten loan application) for a \$100,000 home equity line of credit (HELOC) from E-Loan, Inc. (E-Loan) on the subject property. The purpose of the HELOC was to pay off the Del Rosarios' second mortgage to World Savings Bank, in the approximate amount of \$75,000, and to disburse \$20,164.80 to Mr. Alforque to reimburse him for the difference between the mortgage amounts he was paying on the subject property and the rental amounts he was receiving from the Del Rosarios and the tenants who were renting the subject property.

7. On the handwritten loan application, respondent checked the box which stated that the subject property would be the "primary residence" of the Del Rosarios. When she checked this box, respondent was aware that: (1) the Del Rosarios had given a grant deed to the subject property to her husband, Mr. Alforque; (2) the Del Rosarios were no longer living in the subject property, but, instead, were living in rental property owned by her husband; and (3) her husband had leased the subject property to other tenants. In the monthly income box, respondent wrote that Ms. Del Rosario was earning \$5,800 a month and that Mr. Del Rosario was earning \$4,500 a month. At the time, respondent was aware that neither of the Del Rosarios was earning the amount respondent included on the handwritten loan application. According to Mr. Del Rosario, at the time respondent completed the handwritten loan application, he was earning about \$4,000 a month and Ms. Del Rosario was earning about \$3,000 a month, and respondent was aware of this. On March 1, 2007, the Del Rosarios signed the handwritten loan application prepared by respondent.

8. On May 7, 2007, the Del Rosarios signed a typed version of the handwritten loan application. The typed loan application contained the same information included in the handwritten version.

9. The Del Rosarios' HELOC closed on May 7, 2007. Thereafter, \$75,526.20 was disbursed to World Savings Bank to pay off the second mortgage on the subject property. A check for \$20,164.80 was disbursed to the Del Rosarios. The Del Rosarios endorsed this check and gave it to Mr. Alforque. Mr. Alforque deposited this check into an account at Bank of America in the name of Columbia Financial Mortgage, Columbia Prime Properties, and Mr. Alforque. In addition, \$4,000 was disbursed to respondent as a loan origination fee.

10. In drafting the handwritten loan application and in acting as the Del Rosarios' broker with regard to the HELOC, respondent knowingly and intentionally made the following misrepresentations to induce E-Loan to make the loan: (1) that the subject property was the Del Rosarios' primary residence when respondent knew that the Del Rosarios were living in rental property owned by her husband and her husband was leasing the subject property to other tenants; (2) that the Del Rosarios owned the subject property, when respondent knew that the Del Rosarios had given respondent's husband a grant deed to the property in January 2007; and (3) that the Del Rosarios joint monthly income was \$10,300, when respondent knew that the income of the Del Rosarios was considerably less than this amount. These misrepresentations were substantial and were proven by clear and convincing evidence.

11. At the hearing, respondent did not accept any responsibility, or show any remorse, for her wrongdoing. She claimed that she was "victimized" and "set up" by Mr. Del Rosario. She blamed Mr. Del Rosario for causing the subject property to be foreclosed upon and for notifying Mr. Alforque's tenants that foreclosure was imminent. She asserted that, while she would not include an income on a loan application that was "outrageous" when compared to a borrower's job and actual income, the income she listed on the Del Rosarios' loan application was "not far off." She justified her actions by arguing that her husband was paying more money to service the Del Rosarios' mortgages than he was receiving in rental payments from the Del Rosarios and the tenants to whom he had leased the subject property. In sum, respondent did not recognize that she had defrauded E-Loan and obtained funds illegally so that her husband could recover the money he had lost. Given these facts, it would be contrary to the public interest, safety and welfare to allow respondent to retain her real estate broker license.

LEGAL CONCLUSIONS

1. The burden of proof in this matter is on complainant to show by clear and convincing evidence to a reasonable certainty that respondent's license should be suspended or revoked. (See *Ettinger v. Board of Medial Quality Assurance* (1982) 135 Cal.App.3d 853, 855-6.)

2. Pursuant to Business and Professions Code section 10176, subdivision (a), a real estate broker license may be suspended or revoked if the broker has made "any substantial misrepresentation." As set forth in Finding 10, respondent knowingly and intentionally made substantial misrepresentations to E-Loan to induce it to make the HELOC to the Del Rosarios. Respondent's substantial misrepresentations establish cause to revoke respondent's real estate broker license under Business and Professions Code section 10176, subdivision (a).

3. Pursuant to Business and Professions Code section 10176, subdivision (i), a real estate broker license may be suspended or revoked if the broker has engaged in any conduct that "constitutes fraud or dishonest dealing." Respondent's conduct, as described in Finding 10, constituted fraud and dishonest dealing. This conduct establishes cause to revoke respondent's real estate broker license under Business and Professions Code section 10176, subdivision (i).

4. Pursuant to Business and Professions Code section 10177, subdivision (g), a real estate broker license may be suspended or revoked if the broker has "[d]emonstrated negligence or incompetence in performing an act for which he or she is required to hold a license." Respondent's failure to recognize that her misconduct violated the Real Estate Law constitutes negligence and incompetence, and establishes cause to discipline respondent's real estate broker license under Business and Professions Code section 10177, subdivision (g).


5. Pursuant to Business and Professions Code section 10177, subdivision (j), a real estate broker license may be suspended or revoked if the broker has engaged in any conduct that "constitutes fraud or dishonest dealing." Respondent's conduct, as described in Finding 10, constituted fraud and dishonest dealing. This conduct establishes cause to revoke respondent's real estate broker license under Business and Professions Code section 10177, subdivision (j).

6. As set forth in Finding 11, respondent did not accept any responsibility or show any remorse for her wrongdoing. Given the facts established by clear and convincing evidence in this case, it would be contrary to the public interest, safety and welfare to allow respondent to retain her real estate broker license.

ORDER

All real estate licenses and license rights of respondent Lulu Bardonado Alforque are hereby REVOKED.

DATED: July 15, 2009


KAREN J. BRANDT
Administrative Law Judge
Office of Administrative Hearings

FLAG

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-1126

FILED

DEC 12 2008

DEPARTMENT OF REAL ESTATE
By L. Frost

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
)	NO. H-5102 SAC
)	
12 LULU BARDONADO ALFORQUE,)	ACCUSATION
)	
)	
14 Respondent.)	
)	

16 The Complainant, JOE M. CARILLO, a Deputy Real Estate Commissioner of the
17 State of California, for Accusation against Respondent LULU BARDONADO ALFORQUE
18 also known as LULU BARDONADO and as LULU BARDONADO VALDEZ , is informed
19 and alleges as follows:

20 I

21 The Complainant, JOE M. CARILLO, a Deputy Real Estate Commissioner of the
22 State of California, makes this Accusation against Respondent in his official capacity and not
23 otherwise.

24 II

25 Respondent LULU BARDONADO ALFORQUE (hereinafter "Respondent"), is
26 presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of
27 the California Business and Professions Code (hereafter "the Code") .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

III

At all times herein mentioned, Respondent was and is licensed by the Department of Real Estate (hereafter "Department") as a real estate broker.

IV

Within the three year period prior to the filing of this Accusation and at all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation of and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans to be secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation, and wherein such loans were serviced and payments thereon were collected on behalf of others.

V

Within the three year period prior to the filing of this Accusation, in the course of the activities described in Paragraph IV, above, Respondent, on behalf of Dale Del Rosario and Cherie Del Rosario as borrowers (hereinafter "Borrowers"), solicited prospective lenders, and solicited for loans to be secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation, regarding that certain real property commonly identified as 241 Meandering Lane, Turlock, Stanislaus County, California (hereinafter "subject property").

VI

Within the three year period prior to the filing of this Accusation, in order to induce E-Loan (hereinafter "Lender") to loan to Borrowers \$100,000.00 pursuant to a home equity line of credit to be secured by the subject property, Respondent represented to Lender, or prepared and/or submitted to Lender on behalf of Borrowers loan applications representing, that:

1 1.) the subject property was Borrowers' primary residence; 2.) Borrowers owned the subject
2 property; 3.) Borrowers resided in the subject property; and, 4.) that Borrowers combined gross
3 monthly income was \$10,300.00.

4 VII

5 Within the three year period prior to the filing of this Accusation, in reliance
6 upon the representations of Respondent as described in Paragraph VI, above, Lender loaned
7 \$100,000.00 to Borrowers.

8 VIII

9 Respondent's representations as described in Paragraph VI, above, were false or
10 misleading and were known by Respondent to be false or misleading when made or were made
11 by Respondent with no reasonable grounds for believing said representations to be true. In truth
12 and in fact: 1.) Borrowers no longer resided in the subject property; 2.) Respondent rented the
13 subject property to tenants and collected the rents; 3.) prior to applying for the loan and at the
14 behest of Respondent, Borrowers had executed and delivered a grant deed granting all right and
15 title to the subject property to Respondent's husband; and, 4.) Borrowers combined gross
16 monthly income was less than \$4,900.00.

17 IX

18 Respondent failed to disclose to Lender the true facts that: 1.) Borrowers no
19 longer resided in the subject property; 2.) Respondent rented the subject property to tenants and
20 collected the rents; 3.) prior to applying for the loan and at the behest of Respondent, Borrowers
21 had executed and delivered a grant deed granting all right and title to the subject property to
22 Respondent's husband; and, 4.) Borrowers combined gross monthly income was less than
23 \$4,900.00.

24 X

25 Had the Lender known the true facts, it would not have entered into the
26 agreement to loan funds to Borrowers.

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

XI

Respondent's acts and omissions described above constituted substantial misrepresentations of material facts, fraud, and dishonest dealing.

XII

The facts alleged above are grounds for the suspension or revocation of the licenses of Respondent under Sections 10176(a), 10176(i), 10177(g), or 10177(j) of the Code.

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), and for such other and further relief as may be proper under other provisions of law.


JOE M. CARILLO
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 9 day of December, 2008.