


FILED

JUL - 7 2023

DEPT. OF REAL ESTATE

By 

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation Against)	No. H-05737 SD
)	
CAL COAST FUNDING, INC.;)	
ALEXANDR SCHAMONIN, individually and as)	
Designated Officer of Cal Coast Funding, Inc.;)	<u>ACCUSATION</u>
FIRST BANC HOME LOANS;)	
MAXIMINO MICHEL, individually and as)	
Designated Officer of First Banc Home Loans;)	
DEREK FOSTER NICHOLS,)	
)	
Respondents.)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against CAL COAST FUNDING, INC. ("CCFI"), ALEXANDR SCHAMONIN ("SCHAMONIN"), individually and as Designated Officer of CCFI, FIRST BANC HOME LOANS ("FBHL"), MAXIMINO MICHEL ("MICHEL"), individually and as Designated Officer of FBHL, and DEREK FOSTER NICHOLS ("NICHOLS") (sometimes referred to as "Respondents") alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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2.

All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, of the California Code of Regulations.

LICENSE HISTORY

3.

Respondent CCFI is presently licensed and/or has license rights under the Code as a corporate real estate broker with Department license ID 01997193. CCFI currently holds a mortgage loan originator ("MLO") license endorsement with the assigned National Mortgage Licensing System and Registry ("NMLS") No. 1450334. CCFI maintains the fictitious business names "Cal Coast Funding" and "La Jolla Realty" with the Department. Its designated officer is Respondent SCHAMONIN.

4.

Respondent SCHAMONIN is presently licensed and/or has license rights under the Code as a real estate broker with Department license ID 01513928. SCHAMONIN currently holds an MLO license endorsement with NMLS No. 339447. As designated officer of CCFI since January 4, 2020, SCHAMONIN is responsible for the supervision of the activities conducted on behalf of CCFI by its officers, agents, real estate licensees, and employees pursuant to Section 10159.2 of the Code.

5.

Respondent FBHL¹ is presently licensed and/or has license rights under the Code as a corporate real estate broker with Department license ID 02013089. FBHL currently holds an MLO license endorsement with the assigned NMLS No. 1740049. FBHL maintains the fictitious business name "Michel Realty Group." Its designated officer is Respondent MICHEL.

¹ Prior to January 6, 2023, First Banc Home Loans was licensed with the DRE as "Michel Realty Group."

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6.

Respondent MICHEL is presently licensed and/or has license rights under the Code as a real estate broker with Department license ID 01393436. MICHEL currently holds an MLO license endorsement with NMLS No. 975393. As designated officer of FBHI, MICHEL is responsible for the supervision of the activities conducted on behalf of FBHI by its officers, agents, real estate licensees, and employees pursuant to Section 10159.2 of the Code.

7.

- a. Respondent NICHOLS is presently licensed and/or has license rights under the Code as a real estate broker with Department license ID 01914202.
- b. Since May 12, 2023, NICHOLS has been the designated officer for real estate broker Alpha Capital Group (ID 02215520).
- c. Since June 7, 2023, NICHOLS has held an MLO license endorsement with NMLS No. 348493.
- d. From November 1, 2012, to March 6, 2023, NICHOLS was licensed as a real estate salesperson.
- e. From September 27, 2014, to December 3, 2020, and April 13, 2021, to April 29, 2021, NICHOLS was not affiliated with a licensed real estate broker.
- f. From on or about November 1, 2012, to September 26, 2013, NICHOLS' responsible broker was Tri-Emerald Financial Group Inc (ID 01816700).
- g. From December 4, 2020 to April 12, 2021, NICHOLS' responsible broker was Respondent CCFI.
- h. From April 30, 2021, to March 6, 2023, NICHOLS' responsible broker was Respondent FBHL.

(WEST COVINA TRANSACTION)

8.

At all times relevant herein Respondent CCFI engaged in the business of, acted in the capacity of, advertised or assumed to act as an independent loan processor within the

1 meaning of Code section 10166.01(c). CCFI employed Stacy Peyton Richardson
2 (“Richardson”), who is not licensed by the Department, to process its loans.

3 9.

4 On or about April 13, 2020, Richardson, as a loan processor for Respondent
5 CCFI, sent an email to Pacific Escrow Inc. (“Escrow-1”) to open a new escrow account for
6 borrowers M.C. and S.C.² (“borrowers”) to obtain a refinance loan (“West Covina transaction”)
7 for their property located in West Covina, California (“subject property”). Escrow-1’s initial
8 escrow instructions listed the borrowers’ loan amount as \$352,000.00. The borrowers’ first loan
9 balance with a mortgage servicer was \$345,938.67. Their loan balance with California Housing
10 Finance Agency (“CalHFA”) in second position was \$11,548.10. The borrowers also had a loan
11 with the City of West Covina in third position with a balance of \$10,050.00.

12 10.

13 On or about May 18, 2020, Respondent MICHEL, as a loan originator with
14 Respondent FBHL, completed a Uniform Residential Loan Application (“Loan Application”)
15 for the borrowers’ refinance of the subject property.

16 11.

17 On or about June 15, 2020, CCFI submitted an invoice to Escrow-1 for loan
18 processing services in the amount of \$895.00, in expectation of compensation.

19 12.

20 In the lender’s Closing Disclosure dated June 15, 2020, FBHL would receive
21 \$4,094.00 as an origination fee.

22 13.

23 On or about June 18, 2020, CalHFA sent an email to Escrow-1 and CCFI with
24 CalHFA’s subordination requirements under the “Keep Your Home California” program,
25 which stated that CalHFA would “not subordinate if the refinance includes cash out to the
26

27 ² Initials are used in place of individual’s full name to protect their privacy.

1 homeowner which exceeds 1% of the new loan amount or if the refinance includes the paying
2 off credit card and/or personal debt through escrow.” Escrow-1 submitted an estimated
3 settlement statement with the documents for subordination showing, in part, \$356,000.00 as the
4 refinance amount for the first mortgage and a payoff to the City of West Covina for
5 \$10,050.00. CalHFA informed Escrow-1 and CCFI that the loan with the City of West Covina
6 would need to be paid outside of escrow.

7 14.

8 On or about June 19, 2020, Escrow-1 responded to CalHFA with a revised
9 estimated statement without the payoff to the City of West Covina. While not affiliated to CCFI
10 or any licensed real estate broker, NICHOLS was copied to the email with the revised
11 estimated statement. According to Richardson at CCFI, NICHOLS was the loan officer on the
12 West Covina transaction.

13 15.

14 On or about June 22, 2020, CalHFA approved the subordination request.
15 CalHFA’s Subordination Agreement, dated June 22, 2020, authorized the subordination of
16 CalHFA’s loan to the first mortgage loan in the amount of \$344,902.00.

17 16.

18 On or about June 25, 2020, Escrow-1 asked CCFI for the status of the loan with
19 the City of West Covina. CCFI responded that the loan with the City of West Covina would be
20 paid off through the refinance. Escrow-1 reminded CCFI that, according to CalHFA’s
21 subordination policy, the payoff for the City of West Covina would need to be paid outside of
22 escrow. NICHOLS was copied to the email. In response, CCFI requested that Escrow-1 mail
23 CalHFA’s original subordination agreement to CCFI. NICHOLS was copied to the email
24 requesting the original subordination agreement.

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17.

On or about July 1, 2020, CCFI submitted an invoice to Respondent FBHL for loan processing services in the amount of \$522.00 for the borrowers' loan, in expectation of compensation.

18.

On or about July 6, 2020, CCFI sent an email to Western Resources Title ("Escrow-2") requesting Escrow-2 open title and escrow for the borrowers' refinance of the subject property. CCFI informed Escrow-2 that the previous escrow company "could not wrap their heads around subordinating this Cal HFA so [CCFI is] having to change escrow and title last minute." CCFI provided Escrow-2 with a document purporting to be CalHFA's subordination agreement. CCFI provided Escrow-2 a subordination agreement that did not have a first mortgage loan amount of \$344,902.00; rather, the subordination agreement purportedly from CalHFA had a first mortgage loan amount of \$373,000.00, to include the payoff amount for the City of West Covina.

19.

In the lender's Closing Disclosure dated July 22, 2020, which listed Escrow-2 as the settlement agent, CCFI would receive \$522.00 as a third-party processing fee. FBHL would receive \$4,094.00 as an origination fee.

20.

In the lender's Closing Disclosure dated July 27, 2020, which listed Escrow-2 as the settlement agent, no third-party processor fee was listed. FBHL was to receive \$4,094.00 as an origination fee. CCFI did not ultimately receive compensation for its loan processing of the West Covina transaction. Neither CCFI, SCHAMONIN, MICHEL, or NICHOLS could explain the absence of CCFI's fee for loan processing. The final Loan Application signed by the borrowers listed Respondent MICHEL as the loan originator.

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1 21.

2 Escrow-2's Final Settlement Statement shows a settlement date of August 4,
3 2020, and disbursement date of August 5, 2020. In the Final Settlement Statement, the
4 refinanced amount for the subject property was \$373,000.00 with United Wholesale Mortgage
5 LLC ("lender") and a payoff to the City of West Covina of \$10,050.00.

6 22.

7 While not affiliated with FBHL as NICHOLS' responsible broker, NICHOLS
8 received a check (Check No. 1569) dated August 7, 2020, in the amount of \$3,219.30 from
9 FBHL for the West Covina transaction. According to MICHEL, NICHOLS had a relationship
10 with the borrowers and was delegated to oversee the West Covina transaction.

11 23.

12 On or about December 4, 2020, a Salesperson Change Application RE e214 was
13 submitted to the Department to change NICHOLS' responsible broker to Respondent CCFI.
14 Respondent SCHAMONIN certified the activation of NICHOLS' license under CCFI.

15 24.

16 On or about November 16, 2022, the Department issued a subpoena duces tecum
17 on CCFI to produce documents relating to the West Covina transaction. SCHAMONIN
18 acknowledged receipt of the subpoena, however, CCFI did not produce any responsive
19 documents. According to SCHAMONIN, he did not retain the documents from the West
20 Covina transaction and was not aware of the retention policy.

21 (NO BROKER AFFILIATION)

22 25.

23 At all times mentioned above, per the Department's records, Respondent
24 NICHOLS, who was licensed as a real estate salesperson as defined in Code section 10016,
25 was not affiliated with any real estate broker. Respondent conducted the real estate activities
26 alleged above and expected and received compensation for such activities in violation of Code
27 sections 10130 and 10131.

1 (NO MLO LICENSE ENDORSEMENT)

2 26.

3 At all times mentioned above, Respondent NICHOLS did not hold an MLO
4 license endorsement and conducted the MLO activities alleged above and expected and
5 received compensation for such activities in violation of Code sections 10166.02(b) and
6 10166.02(f).

7 (UNLAWFUL PAYMENT/ACCEPTANCE OF COMPENSATION)

8 27.

9 Based on the conduct, acts and/or omissions described above, Respondent
10 FBHL employed or compensated, directly or indirectly, Respondent NICHOLS, who at the
11 time was not registered with the Department as affiliated with FBHL, for performing acts that
12 require a real estate license and/or MLO license endorsement in violation of Code section
13 10137.

14 28.

15 Based on the conduct, acts and/or omissions described above, Respondent
16 NICHOLS accepted compensation for activity requiring a real estate license and/or MLO
17 license endorsement from FBHL, under whom NICHOLS was not, at the time, licensed in
18 violation of Code section 10137.

19 (FAILURE TO RETAIN AND/OR PRODUCE DOCUMENTS)

20 29.

21 Respondents CCFI and SCHAMONIN failed to retain and/or produce the
22 documents and records relating CCFI's loan processing activities for the Department's
23 examination, inspection, and copying in violation of Code section 10148.

24 (FAILURE TO SUPERVISE)

25 30.

26 Based on the conduct, acts and/or omissions of Richardson, as described above,
27 Respondent SCHAMONIN did not exercise adequate supervision over the activities of

1 Respondent CCFI's employees to ensure compliance with the Real Estate Laws and
2 Regulations in violation of Code sections 10177(h) and 10159.2. SCHAMONIN failed to
3 establish and/or implement policies, rules, procedures and a system to review, oversee, inspect
4 and manage transactions requiring a real estate in violation of Regulations section 2725.

5 31.

6 Based on the conduct, acts and/or omissions of NICHOLS, as described above,
7 Respondent MICHEL did not exercise adequate supervision over the activities of Respondent
8 FBHL's employees to ensure compliance with the Real Estate Laws and Regulations in
9 violation of Code sections 10177(h) and 10159.2. MICHEL failed to establish and/or
10 implement policies, rules, procedures and a system to review, oversee, inspect and manage
11 transactions requiring a real estate in violation of Regulations section 2725.

12 (SUBSTANTIAL MISREPRESENTATION, FRAUD, DISHONEST DEALING,
13 NEGLIGENCE/INCOMPETENCE)

14 32.

15 The conduct, act and/or omissions of Respondents and each of the foregoing
16 violations above constitute cause for the suspension or revocation of the real estate license
17 and/or license rights of Respondents under the provisions of Sections 10176(a), 10176(i),
18 10177(d), 10177(g), and/or 10177(j).

19 COSTS

20 (INVESTIGATION AND ENFORCEMENT COSTS)

21 33.

22 Section 10106 of the Code, provides, in pertinent part, that in any order issued in
23 resolution of a disciplinary proceeding before the Department, the Commissioner may request
24 the administrative law judge to direct a licensee found to have committed a violation of this
25 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
26 case.

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all the licenses, license rights, and/or MLO license endorsements of Respondents
4 CAL COAST FUNDING, INC., ALEXANDR SCHAMONIN, individually and as Designated
5 Officer of Cal Coast Funding, Inc., FIRST BANC HOME LOANS, MAXIMINO MICHEL,
6 individually and as Designated Officer of FBHL, and DEREK FOSTER NICHOLS under the
7 Real Estate Law, for the costs of investigation and enforcement as permitted by law and for
8 such other and further relief as may be proper under other applicable provisions of law.

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10 Dated at San Diego, California this 6th day of July, 2023.

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14 _____
15 Veronica Kilpatrick
16 Supervising Special Investigator
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24 cc: CAL COAST FUNDING, INC.
25 ALEXANDR SCHAMONIN
26 FIRST BANC HOME LOANS
27 MAXIMINO MICHEL
VERONICA KILPATRICK
Sacto.