

FILED

AUG 30 2010

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By K. Centurias

In the Matter of the Accusation of)

ABSOLUTE INVESTMENT GROUP, INC.,)

a Corporation,)

RAYA NICOLE GHAJAR, and)

DUNG NGOC TRAN,)

Respondents.)

NO. H-10713 SF

(As to Dung Ngoc Tran, Only)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on March 16, 2010. The Findings of Fact set forth herein are based on one or more of the following: (1) Respondent DUNG NCOG TRAN's (aka Linda D. Tran) (herein "TRAN") express admissions; (2) affidavits; and/or, (3) other evidence.

This Decision revokes a real estate license on grounds of performing licensed activities under the name Linda D. Tran, without first obtaining a license bearing such fictitious name.

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

1

At all times herein mentioned, TRAN was and now is licensed as a real estate salesperson.

At all times herein mentioned, Respondent TRAN engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate salesperson within the State of California within the meaning of Section 10131(d) of the Business and Professions Code (herein "the Code"), including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, wherein Respondent, acting as a third party loan originator, arranged and negotiated such loans.

Within the three-year period immediately preceding the filing of the Accusation, in connection with the activities described in Paragraph 2, above, Respondent TRAN performed real estate activities under the fictitious business name of "Linda D. Tran" without first obtaining a license bearing such fictitious name, in violation of Section 2731 of the Title 10, Chapter 6 of the California Code of Regulations (herein the "Regulations").

DETERMINATION OF ISSUES

The facts alleged above are grounds for the suspension or revocation of the license and license rights of Respondent TRAN under Section 2731 of the Regulations in conjunction with Section 10177(d) of the Code.

The standard of proof applied is clear and convincing proof to a reasonable certainty.

ORDER

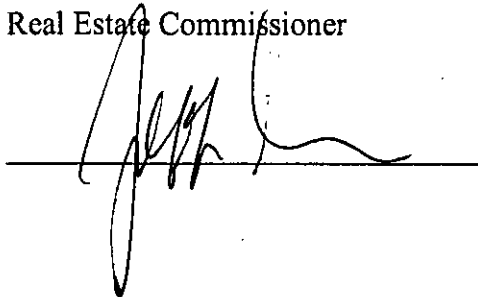
The real estate license and license rights of Respondent DUNG NGOC TRAN under the provisions of Part I of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on September 20,

2010.

DATED: 8-10, 2010.

JEFF DAVI
Real Estate Commissioner



1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

MAR 16 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 ABSOLUTE INVESTMENT GROUP, INC.,)
13 a Corporation,)
14 RAYA NICOLE GHAJAR, and)
15 DUNG NGOC TRAN,)

Respondents.)

NO. H-10713 SF

DEFAULT ORDER
(As to Dung Ngoc Tran Only)

16 Respondent, DUNG NGOC TRAN only, having failed to file a Notice of Defense
17 within the time required by Section 11506 of the Government Code, is now in default. It is
18 therefore ordered that a default be entered on the record in this matter as to DUNG NGOC
19 TRAN.

20 IT IS SO ORDERED March 16, 2010.

21 JEFF DAVI
22 Real Estate Commissioner

23 By:

Charles W. Koenig
24 CHARLES W. KOENIG
25 Regional Manager
26
27

FILED

JUL 21 2010

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By K. Contreras

In the Matter of the Accusation of)

ABSOLUTE INVESTMENT GROUP,)

INC., a Corporation,)

RAYA NICOLE GHAJAR, and)

DUNG NGOC TRAN,)

Respondents.)

NO. H-10713 SF

OAH NO. 2009080114

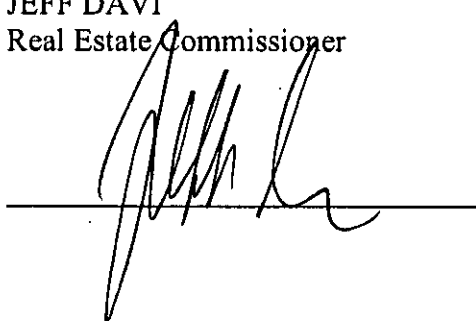
DECISION

The Proposed Decision dated April 14, 2010, 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 as to ABSOLUTE INVESTMENT GROUP, INC., and RAYA NICOLE GHAJAR only, shall become effective at 12 o'clock noon on August 10, 2010.

IT IS SO ORDERED 7-20, 2010.

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

ABSOLUTE INVESTMENT GROUP INC.,
a Corporation, RAYA NICOLE GHAJAR,
DUNG NGOC TRAN,

Case No. H-10713 SF

OAH No. 2009080114

Respondents.

PROPOSED DECISION

This matter was heard on March 17, 2010, before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, in Sacramento, California.

Mary F. Clarke, Counsel, Department of Real Estate, represented complainant.

Raya Nichole Ghajar was present and represented herself.

Dung Ngoc Tran did not appear and was not represented as her matter was resolved pursuant to a Default Order taken by the Department of Real Estate on March 16, 2010.¹

Evidence was received, the matter was submitted, and the record was closed on March 17, 2010.

FACTUAL FINDINGS

1. Complainant, E.J. Haberer II, a Deputy Real Estate Commissioner of the State of California, filed the Accusation in his official capacity on June 19, 2009. He filed the First Amended Accusation in his official capacity on September 14, 2009.

¹ On June 19, 2009, respondent Dung Ngoc Tran was served with the Accusation, Statement to Respondent, and Notice of Defense. (Gov. Code, § 11505.) On September 2, 2009, respondent Dung Ngoc Tran was served with the First Amended Accusation. She failed to timely file a Notice of Defense. (Gov. Code, § 11506.) On March 16, 2010, the Department filed a Default Order as to Dung Ngoc Tran. (Gov. Code, § 11520.) Hence, this hearing proceeded only as to respondent Raya N. Ghajar.

2. Raya Nicole Ghajar (respondent) is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code as a real estate broker. Her license was issued by the Department of Real Estate (Department), on September 14, 2004, and will expire on January 25, 2013, unless renewed.

3. Respondent began working in the real estate industry in 1999, when she opened Tara Financial with her mother. She started as a loan processor before obtaining her real estate broker's license in September 2004. From January 1, 2006 to July 12, 2007, respondent was licensed as a broker, doing business as (DBA) Tara Home Financial, located at 6501 Crown Blvd., Suite 106-E16, San Jose, California. From August 12, 2005 to August 11, 2009, respondent was licensed as an officer of Absolute Investment Group, Inc. (AIG), located at 705 Capitol Expressway, Suite 60, San Jose. From August 12, 2005 to August 11, 2009, respondent was listed as the designated officer of Palacio Mortgage, also located at 705 Capital Expressway, Suite 60, San Jose.

4. The Department issued a real estate salesperson license to Dung Ngoc Tran, on June 26, 2003. Her license was activated in the employ of AIG as of January 1, 2006. At all times relevant to this matter, Ms. Tran's license was in full force and effect and set to expire on June 25, 2011.

Operations of Absolute Investment Group, Inc.

5. Prior to April 2005, Ms. Tran worked as a real estate salesperson at AIG, a real estate company. In 2005, respondent learned that AIG was in need of a broker. The prior broker wanted to leave the company and Ms. Tran wanted to continue the company. Respondent met Ms. Tran to discuss the terms of her involvement with AIG. It was arranged and agreed upon that respondent was to own ten percent of the shares of AIG. Respondent never received any stock certificates or other document indicating her shareholder status. Ms. Tran handled all corporate filings and name changes for AIG. Ms. Tran filed documents listing respondent as the designated officer and broker of Absolute, Inc. and Palacio Mortgage.

6. In consideration for respondent's association as designated owner/broker of AIG, respondent received a monthly base commission of \$4,000. It was further agreed that Ms. Tran would set up a DBA in the name of Palacio Mortgage. Respondent was not to have any legal control over Palacio Mortgage. Palacio Mortgage received loan disbursement funds directly from title companies involved in real estate/loan transactions. Ms. Tran paid all debts for both enterprises, including respondent's commission, with funds drawn on a Palacio Mortgage bank account. Respondent was not a signatory on any AIG or Palacio Mortgage bank account. Respondent never reviewed AIG or Palacio Mortgage bank statements. Respondent did not verify the establishment of trust accounts. Respondent testified that she did not know if Palacio Mortgage was licensed to conduct real estate transactions in the State of California. Respondent stated that Ms. Tran told her everything was set up and she trusted Ms. Tran to "continue doing what she was doing."

7. Respondent explained that her duties at AIG were to come in at the beginning of the month, meet with Ms. Tran, go over files that Ms. Tran selected, "check to see if she needed anything," and meet with new clients. Respondent recalled that the office had clients present "all the time" and things seemed to be "going great." She testified that she now believes she should have been visiting the office more frequently, reviewing Ms. Tran's files, having more interaction with clients, and calling lenders and brokers. Between 2005 and 2007, respondent maintained a separate office and often lived in distant cities, such as Aptos, Grass Valley, and Copperopolis. During these moves, respondent kept the Crown Boulevard address on file with the Department. (Factual Finding 3.) This is the address of a mail collection store. Respondent stated, "I knew it was not a physical office, but I kept it because it was a way for DRE to mail me documents. I knew the man who ran it and he would tell me if anyone was looking for me."

8. Respondent testified that AIG had only two employees, respondent and Ms. Tran. Palacio Mortgage had approximately five salespersons, including Ms. Tran. Respondent did not manage, oversee, or inspect regular reports of licensed activities of salespersons. The salespersons looked to Ms. Tran as their boss. Respondent stated, "She was in charge. She ran the office." Respondent did not know the experience or background of salespersons in the office. She did not hire any of them. Respondent spent about one and one half hours in the office each week, meeting with Ms. Tran and salespersons. During these visits, she would ask if they needed help and "everyone would tell me no."

9. Respondent did not establish office policies and procedures. She did not feel it was necessary as "they had been operating before I came along and it was a successful mortgage company." She did not set up rules or internal systems to manage employees, oversee client rights, ensure mandated disclosures were made, ensure that federal discrimination laws were complied with, or provide for proper storage and retention of files. Respondent had no knowledge as to whether Ms. Tran was advertising on behalf of AIG or Palacio Mortgage. At hearing she admitted she should have been more involved, come in more often than once a week, and looked at office files, financials, and bank accounts.

10. As of August 2007, Ms. Tran had become several months behind on commission payments to respondent. Respondent stated that she left AIG in August 2007 as she "couldn't hold on anymore." After the business closed, Ms. Tran moved the files from her office to storage. Ms. Tran made copies of five to ten percent of the files and sent those to respondent. Respondent did not contact the Department to inform them that AIG was no longer in business. She directed Ms. Tran "to take care of it." Respondent stated that from September 2007 to February 2008, she called Ms. Tran several times, but Ms. Tran would "ignore me" and "keep me away." Respondent knew that it was her responsibility to notify the Department when a licensed office closes. However, she was "angry" at Ms. Tran so she told Ms. Tran to "deal with it." As of August 1, 2009, two years after going out of business, both AIG and Palacio Mortgage were still listed with the Department as active enterprises.

Audit of Absolute Investment Group, Inc.

11. Michael Rivera is a Department audit supervisor. He has over twenty years of auditing experience. On April 9, 2008, he began an audit of AIG after the Department received a complaint from a client, Socorro Solis. Ms. Solis was dissatisfied with loans she had received from AIG, via Ms. Tran. Mr. Rivera examined accounting and other records of Absolute Investment Group Inc., DBA Palacio Mortgage, for the period of October 1, 2005 to December 31, 2007.

12. The audit was conducted on a sample basis, looking at those documents that were pertinent to his review. Mr. Rivera reviewed documents provided by title companies, Ms. Solis, and Ms. Tran. He focused on loan transactions, escrow statements, loan notes, and deeds of trust. He interviewed respondent and Ms. Tran. He physically went to 705 Capitol Expressway, Suite 60, San Jose, the office address for AIG listed as active in the license history. He found the office empty; no one was present. He learned from Ms. Tran that the office had closed in September 2007. Mr. Rivera then went to the address associated with respondent's individual license, 6501 Crown Boulevard, San Jose. There he found a mailing center; not a physical office space.

13. Ms. Tran told Mr. Rivera that she was president of AIG and she held 90 percent of the corporate shares. Respondent was vice president and held ten percent of the shares. At all times, only respondent was listed as designated officer/broker. Mr. Rivera contacted respondent first as she was the officer of the company. Respondent directed Mr. Rivera to Ms. Tran for AIG loan files. All of AIG's loan files were in the possession of Ms. Tran. Ms. Tran admitted to Mr. Rivera that AIG was primarily her business. Neither she nor respondent updated Department records to reflect the closure of AIG.

14. A trust account is a bank account that holds trust funds. When a broker collects trust funds, the money must be held in a trust account to protect the owners of those funds. Special accounting and bookkeeping is required. AIG engaged in mortgage loan brokering for third party borrower compensation. Loans were packaged and submitted to institutional lenders. According to Ms. Tran, from January 1, 2007 to September 2007, she closed ten loans totaling four million dollars. Both Ms. Tran and respondent informed Mr. Rivera that they did not have trust accounts "because they did not collect trust funds." Ms. Tran relayed that appraisal and credit reporting fees were not collected in advance.

15. Ms. Solis, had first and second secured loans with Long Beach Mortgage. These loans, for \$516,000 and \$129,000 respectively, totaled \$645,000, and were secured by property located at 638 E. Duane Avenue, Sunnyvale. She wished to refinance because she could not afford her monthly payments. In October 2005, Ms. Tran assisted Ms. Solis in obtaining new loans. Ms. Tran secured a first deed of trust with Downey Savings for \$529,600, a second deed of trust for \$50,835 from National City Bank, and a third private (apparently unsecured) loan from Pablo Curiel, an individual, for \$106,250. The new loans totaled \$686,685.

16. When questioned by Mr. Rivera, Ms. Tran denied any involvement with the origination of the \$106,250 private loan from Mr. Curiel. She specifically denied that AIG brokered, negotiated, or received any compensation for this loan. Closing documents showed that \$75,000 of this loan was deposited into escrow on October 12, 2005 to facilitate loan closing. The difference of \$31,250 appeared to represent loan fees. If so, Ms. Solis was charged 29.4 percent in loan fees. Ms. Solis was not disbursed any of the money from this loan at escrow. Ms. Solis had no knowledge of this loan, though her signature is on the note charging interest only for two years. Despite her denials, Ms. Tran acknowledged to Mr. Rivera that the \$75,000 escrow deposit came from the private loan.

17. AIG did not provide a mortgage disclosure statement to Ms. Solis. Ms. Tran admitted that she did not provide this disclosure statement to Ms. Solis. AIG did not obtain a signed Good Faith Estimate from Ms. Solis. AIG failed to provide Ms. Solis with material facts about her loan terms and compensation. At the close of the investigation, Mr. Rivera was unable to contact respondent by phone, electronic mail, facsimile, or mail. The phone number he used to contact her at the start of the investigation had been disconnected.

18. At hearing, respondent vaguely recalled taking courses in supervision during her broker training. She could not remember the content. She stated that she understood that brokers are expected to possess greater expertise and knowledge of real estate laws and principles than salespersons. She believes that had she set up proper procedures, she would have discovered the loan to Ms. Solis. Respondent stated that she had "no idea" who Pablo Curiel was. She first learned of him when a pending civil suit was filed. She believes he was "a private person with money who can lend money to people." Respondent has since reviewed deeds of trust that were signed by Mr. Curiel and contained respondent's signature, but she stated, "They were forged."

Mitigation.

19. In June 2008, respondent's mother was involved in a bad car accident which left her mother substantially paralyzed. Respondent lost all interest in anything but her mother. Currently, she takes care of her mother full-time. She does not engage in any real estate or mortgage activities. She does not seek new business. Respondent would like to retain her individual broker license, which is valid through January 25, 2013, to assist family or to use if the industry rebounds.

20. Respondent is upset by the fact that her reputation has been tarnished and that consumers may believe she cannot be trusted. The audit, law suit, and closure of the office have had a negative financial impact. She stated that she takes it to heart when clients are lied to. She feels that she also, was lied to.

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. Business and Professions Code section 10131, subdivision (d) states that a real estate broker is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others:

- (d) Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

2. Business and Professions Code section 10148 requires a real estate broker to retain for three years copies of all listings, deposit receipts, cancelled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required.

3. Business and Professions Code section 10159.2 provides that "[t]he officer designated by a corporate broker license pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

4. Business and Professions Code section 10162 requires every licensed real estate broker to have and maintain a definite place of business in the State of California which shall serve as his office for the transaction of business. This office shall be the place where his license is displayed and where personal consultations with clients are held.

5. Business and Professions Code section 10177, subdivisions (d) and (h) state that the commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

- (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

- (h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

6. California Code of Regulations, title 10, section 2725, states that a broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:

- (a) Transactions requiring a real estate license.
- (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.
- (c) Filing, storage and maintenance of such documents.
- (d) The handling of trust funds.
- (e) Advertising of any service for which a license is required.
- (f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.
- (g) Regular and consistent reports of licensed activities of salespersons.

The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices.

A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.

7. California Code of Regulations, title 10, section 2731, states that a licensee shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious name.

Standard/Burden of Proof

8. In proceedings involving the revocation or suspension of professional licenses, a higher degree of proof may be required, i.e. clear and convincing proof to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853,

857.) The higher standard recognizes a possible infringement of one's right to professional employment opportunity and vested interests. (*Ibid.*)

Causes for Discipline of Respondent

9. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code sections 10159.2 and 10177, subdivisions (d) and (h), in conjunction with California Code of Regulations, title 10, section 2725, in that respondent failed to provide reasonable supervision and control over the activities of AIG and its employees to ensure compliance with the law, by reason of Factual Findings 5 through 21.

10. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code sections 10148 and 10177, subdivision (d), in conjunction with California Code of Regulations, title 10, section 2725, in that she failed to exercise reasonable supervision over the filing, storage, and maintenance of material business documents and failed to retain these documents for a period of three years, by reason of Findings 5 through 21.

11. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code section 10162 and 10177, subdivision (d), in that she failed to maintain a definite place of business where her license was displayed and where personal consultations with clients were held, by reason of Findings 7, 12, and 13.

12. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent's license and licensing rights pursuant to Business and Professions Code section 10177, subdivision (d), in conjunction with California Code of Regulations, title 10, section 2731, in that she knowingly allowed a real estate salesperson to establish a fictitious business name for a company to engage in licensed activities, over which respondent had no management or control, by reason of Finding 6.

Fitness for Licensure

13. While a broker performs the specified services for the public, a salesman must be "employed by" a licensed real estate broker. (*People v. Asuncion* (1984) 152 Cal.App.3d 422, 425.) "When a salesman's application for a license is granted, the license goes into possession of the broker-employer and there remains until cancellation or until the salesman leaves that broker's employ." (*Ibid.*; Bus. & Prof. Code, § 10160.) "The broker is subject to revocation of his license if he fails to exercise reasonable supervision over the activities of his salesmen." (*Ibid.*; Bus. & Prof. Code, § 10177, subd. (h).)

14. Respondent entered into a business arrangement wherein she agreed to affiliate her broker license with Ms. Tran in exchange for a fixed monthly commission of \$4,000. From April 2005 to September 2007, respondent did not adequately monitor the business

transactions of AIG and Palacio Mortgage, and did not exercise reasonable supervision over Ms. Tran and other salespersons and employees of the corporation. After AIG closed for business in September 2007, respondent did not exercise reasonable control over the business files and did not update the Department as to the status of AIG. Two years later, the license history still showed AIG as an active corporation. Clearly, respondent was a broker in name only.

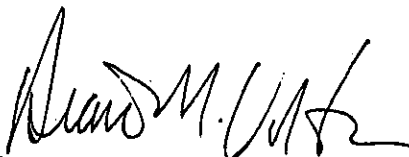
At hearing, respondent failed to show that she appreciated the legal obligations of a real estate broker as defined in Business and Professions Code section 10177, and California Code of Regulations, title 10, section 2725. Her attitude toward her legal responsibilities and fiduciary duties was negligent and irresponsible from inception to close.

Under all of the facts and circumstances, it would be contrary to the public interest to permit respondent to remain licensed as a real estate broker at this time, with or without a restricted license.

ORDER

All licenses and licensing rights of respondents Absolute Investment Group, Inc, a Corporation and Raya Nichole Ghajar, under the Real Estate Law are REVOKED.

Dated: April 14, 2010



DIAN M. VORTERS
Administrative Law Judge
Office of Administrative Hearings

MARY F. CLARKE, Counsel (SBN 186744)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

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FILED

SEP 14 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

To Correct
Respondent's
Name

In the Matter of the Accusation of)

ABSOLUTE INVESTMENT)
GROUP, INC., a Corporation,)
RAYA NICOLE GHAJAR,)
DUNG NGOC TRAN,)

Respondents.)

NO. H-10713 SF

FIRST AMENDED
ACCUSATION

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, for cause of First Amended Accusation against ABSOLUTE INVESTMENT GROUP, INC., RAYA NICOLE GHAJAR, and DUNG NGOC TRAN aka Linda D. Tran (herein "AIG", "GHAJAR", "TRAN" or the "Respondents"), is informed and alleges as follows:

1

The Complainant makes this First Amended Accusation in his official capacity.

2

At all times herein mentioned, 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").

1 3

2 At all times herein mentioned, AIG was and now is licensed by the State of
3 California Department of Real Estate (herein the "Department") as a corporate real estate broker
4 by and through GHAJAR as designated officer-broker of AIG to qualify said corporation and to
5 act for said corporation as a real estate broker.

6 4

7 At all times herein mentioned, GHAJAR was and now is licensed by the
8 Department as a real estate broker, individually and as designated officer-broker of AIG. As said
9 designated officer-broker, GHAJAR was at all times mentioned herein responsible pursuant to
10 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
11 licensees, and employees of AIG for which a license is required.

12 5

13 At all times herein mentioned, TRAN was and now is licensed as a real estate
14 salesperson.

15 6

16 Whenever reference is made in an allegation in this First Amended Accusation to
17 an act or omission of AIG, such allegation shall be deemed to mean that the officers, directors,
18 employees, agents, and/or real estate licensees employed by or associated with AIG committed
19 such act or omission while engaged in the furtherance of the business or operations of such
20 corporate respondent and while acting within the course and scope of their authority and
21 employment.

22 7

23 At all times herein mentioned, Respondents engaged in the business of, acted in
24 the capacity of, advertised, or assumed to act as real estate brokers and/or salespersons within the
25 State of California within the meaning of Section 10131(d) of the Code, including the operation
26 and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for
27 compensation or in expectation of compensation, Respondents solicited lenders and borrowers

1 for loans secured directly or collaterally by liens on real property, wherein Respondents, acting as
2 a third party loan originator, arranged and negotiated such loans.

3 8

4 Respondents did not maintain a trust account.

5 9

6 Within the three-year period immediately preceding the filing of the Accusation,
7 in connection with the activities described in Paragraph 7, above, Respondent AIG:

- 8 (a) failed to have and maintain a definite place of business in the State
9 of California, in violation of Section 10162 of the Code; and,
10 (b) failed to retain for three years copies of all listings, deposit
11 receipts, canceled checks, trust records, and other documents
12 executed in connection with any and all transactions, in violation
13 of Section 10148 of the Code.

14 10

15 Within the three-year period immediately preceding the filing of the Accusation,
16 in connection with the activities described in Paragraph 7, above, Respondent TRAN performed
17 real estate activity under the fictitious business name of "Linda D. Tran" without first obtaining
18 a license bearing such fictitious name, in violation of Section 2731 of the California Code of
19 Regulations (herein the "Regulations").

20 11

21 At all times mentioned herein, Respondent GHAJAR failed to exercise reasonable
22 supervision over the acts of Respondent AIG and its agents and employees in such a manner as
23 to allow the acts and omissions on the part of AIG and TRAN, described above, to occur in
24 violation of Section 10159.2 of the Code and Section 2725 of the Regulations, and Section
25 10177(h) of the Code.


26 \\\

27 \\\

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

- (a) as to Paragraph 9(a) and Respondent AIG under Section 10162 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 9(b) and Respondent AIG under Section 10148 of the Code in conjunction with Section 10177(d) of the Code;
- (c) as to Paragraph 10 and Respondent TRAN under Section 2731 of the Regulations in conjunction with Section 10177(d) of the Code; and.
- (d) as to Paragraph 11 and Respondent GHAJAR under Section 10159.2 of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code, and Section 10177(h) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this First Amended 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 applicable provisions of law.


E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California

this 10th day of September, 2009.

MARY F. CLARKE, Counsel (SBN 186744)
Department of Real Estate
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FILED

JUN 19 2009

DEPARTMENT OF REAL ESTATE

By R. Henry

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	
ABSOLUTE INVESTMENT)	NO. H-10713 SF
GROUP, INC., a Corporation,)	
RAYA NICOLE GHAJAR,)	<u>ACCUSATION</u>
TRAN DUNG NGOC,)	
)	
Respondents.)	

The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ABSOLUTE INVESTMENT GROUP, INC., RAYA NICOLE GHAJAR, and TRAN DUNG NGOC aka Linda D. Tran (herein "AIG", "GHAJAR", "TRAN" or the "Respondents"), is informed and alleges as follows:

1

The Complainant makes this Accusation in his official capacity.

2

At all times herein mentioned, 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").

3

At all times herein mentioned, AIG was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through GHAJAR as designated officer-broker of AIG to qualify said corporation and to act for said corporation as a real estate broker.

4

At all times herein mentioned, GHAJAR was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of AIG. As said designated officer-broker, GHAJAR 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 AIG for which a license is required.

5

At all times herein mentioned, TRAN was and now is licensed as a real estate salesperson.

6

Whenever reference is made in an allegation in this Accusation to an act or omission of AIG, such allegation shall be deemed to mean that the officers, directors, employees, agents, and/or real estate licensees employed by or associated with AIG committed such act or omission while engaged in the furtherance of the business or operations of such corporate respondent and while acting within the course and scope of their authority and employment.

7

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 and/or salespersons within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers

1 for loans secured directly or collaterally by liens on real property, wherein Respondents, acting as
2 a third party loan originator, arranged and negotiated such loans.

3 8

4 Respondents did not maintain a trust account.

5 9

6 Within the three-year period immediately preceding the filing of this Accusation,
7 in connection with the activities described in Paragraph 7, above, Respondent AIG:

- 8 (a) failed to have and maintain a definite place of business in the State
9 of California, in violation of Section 10162 of the Code; and,
10 (b) failed to retain for three years copies of all listings, deposit
11 receipts, canceled checks, trust records, and other documents
12 executed in connection with any and all transactions, in violation
13 of Section 10148 of the Code.

14 10

15 Within the three-year period immediately preceding the filing of this Accusation,
16 in connection with the activities described in Paragraph 7, above, Respondent TRAN performed
17 real estate activity under the fictitious business name of "Linda D. Tran" without first obtaining
18 a license bearing such fictitious name, in violation of Section 2731 of the California Code of
19 Regulations (herein the "Regulations").

20 11

21 At all times mentioned herein, Respondent GHAJAR failed to exercise reasonable
22 supervision over the acts of Respondent AIG and its agents and employees in such a manner as
23 to allow the acts and omissions on the part of AIG and TRAN, described above, to occur in
24 violation of Section 10159.2 of the Code and Section 2725 of the Regulations, and Section
25 10177(h) of the Code.

26 ///

27 ///

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

- (a) as to Paragraph 9(a) and Respondent AIG under Section 10162 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 9(b) and Respondent AIG under Section 10148 of the Code in conjunction with Section 10177(d) of the Code;
- (c) as to Paragraph 10 and Respondent TRAN under Section 2731 of the Regulations in conjunction with Section 10177(d) of the Code; and.
- (d) as to Paragraph 11 and Respondent GHAJAR under Section 10159.2 of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code, and Section 10177(h) 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 applicable provisions of law.


E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California
this 5th day of May, 2009.