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JUL - 6 2010

DEPARTMENT OF REAL ESTATE

BY: James B. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-34869 LA
)
)
ROSSINI GRIJALDO GAMALINDA,)
)
Respondent)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Rossini Grijaldo Gamalinda
1151 Tierra Luna Street
Walnut, CA 91789

On June 1, 2009, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of May 5, 2009, in Case No. H-34869 LA. This Order, which became effective on June 1, 2009, granted Respondent the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions

1 Code and to enumerated additional terms, conditions and
2 restrictions imposed under authority of Section 10156.6 of
3 said Code. Among those terms, conditions and restrictions,
4 was the requirement that:

5
6 "Respondent Gamalinda shall, with nine months from
7 the effective date of this Decision, present
8 evidence satisfactory to the Real Estate
9 Commissioner that Respondent Gamalinda has, since
10 the most recent issuance of an original or renewal
11 real estate salesperson license, taken and
12 successfully completed the continuing education
13 requirements of Article 2.5 of Chapter 3 of the
14 Real Estate Law for renewal of a real estate
15 license. If Respondent Gamalinda fails to satisfy
16 this condition, the Commissioner may order the
17 suspension of the restricted license until
18 Respondent presents such evidence. The
19 Commissioner shall afford Respondent Gamalinda the
20 opportunity for a hearing pursuant to the
21 Administrative Procedure Act to present such
22 evidence."

23 The Commissioner has determined that as of
24 March 1, 2010, Respondent has failed to satisfy this
25 condition, and as such, is in violation of Section 10177(k) of
26 the Business and Professions Code. (Respondent has no right
27 to renew the restricted license if this condition isn't
satisfied by the date of its expiration. (Section 10156.7 of
the Business and Professions Code.)

28 NOW, THEREFORE, IT IS ORDERED under authority of
29 Section 10156.7 of the Business and Professions Code of the
30 State of California that the restricted real estate broker
31 license heretofore issued to respondent and the exercise of
32 any privileges thereunder is hereby suspended until such time

1 as Respondent provides proof satisfactory to the Department of
2 compliance with the condition(s) referred to above, or pending
3 final determination made after hearing (see "Hearing Rights"
4 set forth below).

5 IT IS FURTHER ORDERED that all license certificates
6 and identification cards issued by Department which are in the
7 possession of respondent be immediately surrendered by
8 personal delivery or by mailing in the enclosed,
9 self-addressed envelope to:

10 Department of Real Estate
11 Attn: Flag Section
12 P. O. Box 187000
Sacramento, CA 95818-7000

13 HEARING RIGHTS: Pursuant to the provisions of
14 Section 10156.7 of the Business and Professions Code, you have
15 the right to a hearing to contest the Commissioner's
16 determination that you are in violation of Section 10177(k).
17 If you desire a hearing, you must submit a written request.
18 The request may be in any form, as long as it is in writing
19 and indicates that you want a hearing. Unless a written
20 request for a hearing, signed by or on behalf of you, is
21 delivered or mailed to the Department at 320 West 4th Street,
22 Room 350, Los Angeles, California, 90013, within 20 days after
23 the date that this Order was mailed to or served on you, the
24 Department will not be obligated or required to provide you
25 with a hearing.

26 ///

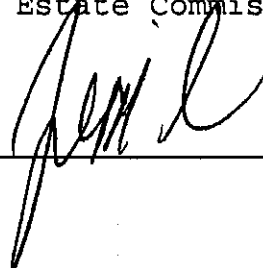
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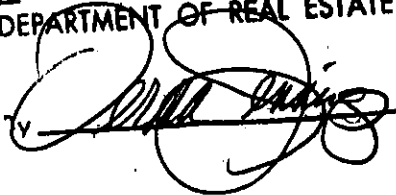
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This Order shall be effective immediately.

DATED: 4/26/00

JEFF DAVI
Real Estate Commissioner



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JUN 10 2009
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)

No. H-34869 LA

FRANK PITA,)

L-2008060549

Respondent.)

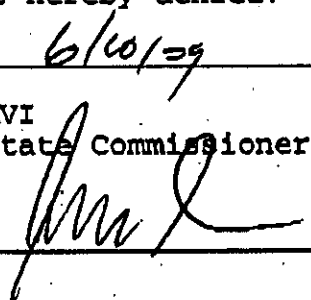
ORDER DENYING RECONSIDERATION

On May 5, 2009, a Decision was rendered in the above-entitled matter. The Decision was to become effective on June 1, 2009, but was stayed by separate Order to June 11, 2009.

On May 27, 2009, Respondent petitioned for reconsideration of the Decision of May 5, 2009.

I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of May 5, 2009, and reconsideration is hereby denied.

IT IS SO ORDERED

JEFF DAVI
Real Estate Commissioner

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MAY 28 2009

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of	)	No. H-34869 LA
	)	L-2008060549
FRANK PITA,	)	
	)	
Respondent.	)	

ORDER STAYING EFFECTIVE DATE

On May 5, 2009, a Decision was rendered in the above-entitled matter to become effective June 1, 2009.

IT IS HEREBY ORDERED that the effective date of the Decision of May 5, 2009, is stayed for a period of 10 days.

The Decision of May 5, 2009, shall become effective at 12 o'clock noon on June 11, 2009.

DATED: May 28, 2009.

JEFF DAVI
Real Estate Commissioner

By: Dolores Weeks
DOLORES WEEKS
Regional Manager

FILED
MAY 12 2009
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of	)	No. H-34869 LA
	)	L-2008060549
WILSHIRE FINANCIAL GROUP,	)	
and ROSSINI GRIJALDO	)	
GAMALINDA, as designated	)	
officer of Wilshire	)	
Financial Group, and	)	
FRANK PITA,	)	
	)	
Respondents.	)	

DECISION

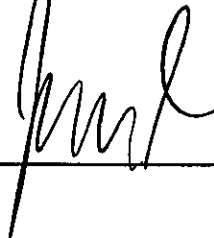
The Proposed Decision dated March 27, 2009, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted license is granted to Respondents ROSSINI GRIJALDO GAMALINDA and FRANK PITA.

This Decision shall become effective at
12 o'clock noon on June 1, 2009.

IT IS SO ORDERED 5-5, 2009.

JEFF DAVI
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

WILSHIRE FINANCIAL GROUP, and
ROSSINI GRIJALDO GAMALINDA, as
designated officer of Wilshire Financial
Group, and FRANK PITA,

Respondents.

Case No. H-34869 LA

OAH No. 2008060549

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on January 5, 2009, in Los Angeles, California.

James R. Peel, Staff Counsel, represented Deputy Real Estate Commissioner Robin Trujillo (Complainant).

Anthony O. Egbase, Attorney at Law, represented Frank Pita (Respondent Pita). Respondent Pita was present.

At hearing, and in his closing brief, Mr. Egbase asserted he represented Respondent Pita. The Notice of Defense, dated May 1, 2008, and signed by Mr. Egbase, however, shows that he claimed to represent Wilshire Financial Group (Respondent Wilshire) in this proceeding. Nevertheless, given Mr. Egbase's assertions at hearing and in his closing brief, the ALJ determines that Respondent Wilshire was and is unrepresented in this matter.

Rossini Grijaldo Gamalinda (Respondent Gamalinda) represented himself.

The ALJ left the record open for Respondent Pita to submit additional evidence by February 11, 2009, and for Complainant to file any objections to the submission by February 19, 2009. Respondent Pita filed a timely submission, seeking admission of additional evidence. Complainant filed timely objections. Complainant's objections were marked for identification as Exhibit 9. After considering both parties' arguments, the ALJ marked

Respondent Pita's submissions as Exhibits L, M, N, and O, and admitted them into the record.¹

At the conclusion of the case, the ALJ requested written closing arguments. The ALJ left the record open for concurrent closing briefs by March 19, 2009. The parties filed timely submissions. Complainant's closing brief was marked for identification only as Exhibit 10.² Respondent Pita's closing brief was marked for identification only as Exhibit P.³

The matter was deemed submitted for decision on March 19, 2009.

FACTUAL FINDINGS

1. On April 23, 2008, Complainant, acting in her official capacity, filed the Accusation. On April 29, 2008, Respondent Gamalinda filed his Notice of Defense. On May 1, 2008, Respondents Wilshire and Pita filed their joint Notice of Defense.

2. Complainant contends Respondent Pita, a previously unlicensed individual, negotiated a loan on real property without proper licensure from the Department of Real Estate (the Department) and failed to provide the loan promised to the borrower. Complainant further contends Respondents Wilshire and Gamalinda failed to provide the borrower transactional documents as required by law. For these actions and failures, Complainant argues that the real estate broker licenses of Respondents Wilshire and Gamalinda, and the subsequently obtained real estate salesperson license of Respondent Pita should be disciplined.

3. Respondent Pita contends that his loan-related actions were appropriate because, at the relevant time, he possessed a California finance lender license from the

¹ Respondent Pita pre-marked the additional evidentiary submissions as Exhibits K, L, M, and N, however, another document proffered at hearing was already marked and admitted as Exhibit K. Therefore, the ALJ marked the post-hearing submissions beginning with the letter L.

² Complainant attached a Real Estate Bulletin, dated spring 2008, to her closing brief. Complainant refers to the attachment in her closing argument. However, that attachment was untimely. Therefore, the attachment and any argument referencing the attachment is not accepted as part of the closing brief, and was not considered in reaching the Proposed Decision herein.

³ Respondent Pita attached a copy of a judgment from the Los Angeles County Superior Court, case number BC358506, to his closing brief. Respondent Pita refers to the attachment in his closing argument. However, that attachment was untimely. Therefore, the attachment and any argument referencing the attachment is not accepted as part of the closing brief, and was not considered in reaching the Proposed Decision herein.

Department of Corporations and acted within the scope of that license or under the umbrella of other similar corporate licenses. Respondent Pita further contends he took appropriate actions with respect to the negotiated loan and borrower at issue.

4. Respondent Gamalinda contends he was unaware of any loan or transaction by Respondents Wilshire or Pita and has not acted negligently in his duties as the designated officer of Respondent Wilshire.

5. The Department issued a corporate broker license to Respondent Wilshire on December 3, 2003, with Respondent Gamalinda as the designated officer of Respondent Wilshire. The evidence established that Respondent Wilshire's license expired on December 2, 2007. Nevertheless, the Department retains jurisdiction over Respondent Wilshire's license, pursuant to Business and Professions Code section 10103. Respondent Gamalinda's designated officer status was cancelled on May 13, 2005.

6. The evidence established Respondent Gamalinda's license history as of January 1, 2005. By January 1, 2005, Respondent Gamalinda possessed a real estate broker license; his license expires on April 12, 2011.

7. The Department issued a real estate salesperson license to Respondent Pita on March 3, 2007; it expires on March 2, 2011.

8. Respondents Wilshire's and Gamalinda's licenses were in effect at all times relevant to this action.

9. Respondents' alleged transgressions stem from a real estate loan negotiated by Respondent Pita for Francisco and Lorena Zuniga (the Zunigas), regarding the Zunigas' house located in Palmdale, California. This occurred in approximately January 2005. In some capacity undetermined by the evidence, Respondent Pita acted on behalf of Respondents Wilshire and Gamalinda when he interacted with the Zunigas.⁴

10. In or about January 2005, Respondent Pita met the Zunigas and found that the homeowners were in bankruptcy and in danger of losing their house, as they were in default on their mortgage loan payments. Respondent Pita explained to the Zunigas that he could develop a loan that would cure their arrearages sufficiently to keep their house. Respondent Pita agreed to loan the Zunigas \$20,000. The Zunigas provided Respondent Pita with a note and deed of trust on the Palmdale property to secure the loan.

⁴ In the Accusation, Complainant also alleged that Respondents acted in similar fashion regarding another property in Los Angeles, California, involving another homeowner, named Watkins. However, Complainant provided no evidence regarding any property other than the Zuniga's house, nor any actions involving a homeowner named Watkins. Complainant's allegations regarding the homeowner named Watkins are therefore deemed unproven.

11. On March 31, 2005, Respondent Pita paid \$15,095.32 on the Zunigas' behalf to cure the arrearages for which the Zunigas had originally sought the loan. The Zunigas never directly received any portion of the \$20,000 loan. Respondent Pita used the remainder of the loan money to pay loan-related attorney fees, interest, and other miscellaneous fees.

12. Respondent Pita believed he could negotiate the loan because he was working under the umbrella of Respondent Wilshire, who had a California finance lender license from the Department of Corporations. The Department of Corporations had originally licensed Respondent Wilshire as a California finance lender on April 13, 2004; that license expired on May 3, 2006. There was insufficient evidence to establish that, at the time he negotiated the Zuniga loan, Respondent Pita was an employee of Respondent Wilshire, as opposed to an independent contractor, or that he had some other relationship with Respondent Wilshire. There was no credible evidence that the Department of Corporations directly licensed Respondent Pita in any capacity during the time that he negotiated the loan for the Zunigas. Respondent Pita did not have a real estate salesperson or broker license during the time that he negotiated the loan for the Zunigas.

13. Respondent Pita provided evidence that, on January 26, 2006, the Department of Corporations licensed Tri-Star Unlimited, Inc., as a broker, pursuant to California finance lender law. There was insufficient evidence establishing the relationship between Respondent Pita and Tri-Star Unlimited, Inc. Respondent Pita provided evidence that, on July 1, 1995, the Department of Corporations licensed Fremont Credit Corp. as a California finance lender (broker/lender). There was insufficient evidence establishing the relationship between Respondent Pita and Fremont Credit Corp.

14. Respondents Wilshire and Gamalinda did not provide the Zunigas with a signed mortgage loan disclosure statement. Respondents Wilshire and Gamalinda did not provide the Zunigas with any written statement that disclosed the payment of a yield spread premium to the broker by the lender.⁵ Nonetheless, a \$3,000 yield spread premium was paid on or about May 25, 2005.

15. Respondent Pita provided no evidence of rehabilitative efforts. Respondent Gamalinda is an active member of the community, including membership in the Rotary Club, the Mortgage Broker's Association, and a local Filipino Chamber of Commerce.

LEGAL CONCLUSIONS

1. Business and Professions Code section 10159.2 states in pertinent part:

(a) The officer designated by a corporate broker licensee 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

⁵ In general, a yield spread premium is a rebate paid by the lender to the broker outside of escrow.

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.

2. Business and Professions Code section 10130 states in pertinent part:

It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department [of real estate].

3. Business and Professions Code section 10137 states:

It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesman licensed under the broker employing or compensating him; provided, however, that a licensed real estate broker may pay a commission to a broker of another State.

No real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed.

It is unlawful for any licensed real estate salesman to pay any compensation for performing any of the acts within the scope of this chapter to any real estate licensee except through the broker under whom he is at the time licensed.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee, in accordance with the provisions of this part relating to hearings.

4. Business and Professions Code section 10177, states in pertinent part:

The commissioner may suspend or revoke the license of a real estate licensee . . . who has done any of the following, or may suspend or revoke the license of 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.

[¶] ... [¶]

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(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.

[¶] ... [¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

5. Business and Professions Code section 10240 states in pertinent part:

(a) Every real estate broker, upon acting within the meaning of subdivision (d) of Section 10131, who negotiates a loan to be secured directly or collaterally by a lien on real property shall, within three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower a statement in writing, containing all the information required by Section 10241. It shall be personally signed by the borrower and by the real estate broker negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan. When so executed, an exact copy thereof shall be delivered to the borrower at the time of its execution. The real estate broker negotiating the loan shall retain on file for a period of three years a true and correct copy of the statement as signed by the borrower.

6. California Code of Regulations, title 10, section 2910 states in pertinent part:

(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

[¶] ... [¶]

(6) Willfully violating or failing to comply with a provision of Division 4 of the Business and Professions Code of the State of California.

7. As Respondent Wilshire's designated officer, Respondent Gamalinda is responsible for the supervision and control of the activities conducted on behalf of Respondent Wilshire. (Bus. & Prof. Code, § 10159.2, subd. (a).) While Respondent Pita's relationship to Respondent Wilshire was not conclusively established, the evidence did establish that Respondent Pita acted on behalf of Respondent Wilshire in negotiating the Zuniga loan. Therefore, Respondent Gamalinda was responsible for the supervision and control of Respondent Pita's activities regarding the Zuniga loan transaction. (*Ibid.*)

8. Respondent Pita was not licensed as a real estate salesperson or real estate broker when he negotiated the loan for the Zunigas. Respondent Pita lacked conclusive evidence that he was appropriately working under the umbrella of Respondent Wilshire's finance lender license. Respondent Pita failed to prove that he was directly licensed in any way, or that he was employed by Respondent Wilshire in such a way that would allow him to negotiate and transact the Zuniga loan. Furthermore, Respondent Pita's evidence that the Department of Corporations licensed other entities, namely, Tri-Star Unlimited, Inc., and Fremont Credit Corp. was of no consequence without additional evidence properly establishing the relationship between Respondent Pita and either entity. Therefore, Respondent Pita violated Business and Professions Code section 10130, and in doing so, violated Business and Professions Code section 10177, subdivision (d). The statutory violations constitute acts that are substantially related to the qualifications, functions, and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(6).)

9. Cause exists to revoke or suspend Respondent Pita's real estate salesperson license, pursuant to Business and Professions Code section 10177, subdivision (d), for violating real estate law, as set forth in Factual Findings 1, 7, 9-13, 15, and Legal Conclusions 2, 4, and 6-8.

10. However, the evidence did not establish that Respondent Pita's actions with regard to the Zuniga loan were fraudulent or constituted dishonest dealings. Respondent Pita utilized the \$20,000 loan to cure the Zuniga's arrearages, and he established that he genuinely believed he was authorized to negotiate and transact the loan based on his belief that Respondent Wilshire was a Department of Corporations licensee. Therefore, Respondent Pita did not violate Business and Professions Code section 10177, subdivision (j).

11. Cause does not exist to revoke or suspend Respondent Pita's real estate salesperson license, pursuant to Business and Professions Code section 10177, subdivision (j), for acts constituting fraud or dishonest dealing, as set forth in Factual Findings 1, 7, 9-12, and Legal Conclusions 4 and 10.

12. Respondents Wilshire and Gamalinda failed to provide the Zunigas with a mortgage loan disclosure statement or other document, as required by Business and

Professions Code sections 10240 and 10241. That failure constitutes a violation of Business and Professions Code section 10177, subdivision (d). Respondents Wilshire's and Gamalinda's failures to provide such documentation, and allowing Respondent Pita to negotiate and transact the Zuniga loan on behalf of Respondent Wilshire, constitute violations of Business and Professions Code section 10137. Additionally, these violations demonstrate negligence and incompetence, and thus, constitute a violation of Business and Professions Code section 10177, subdivision (g). Respondent Gamalinda is in further violation of Business and Professions Code section 10177, subdivision (h) for failing to exercise reasonable supervision and control over Respondent Wilshire's activities. These statutory violations constitute acts that are substantially related to the qualifications, functions, and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(6).)

13. Cause exists to revoke or suspend Respondents Gamalinda's and Wilshire's real estate broker licenses, pursuant to Business and Professions Code section 10137, for directly or indirectly allowing Respondent Pita to negotiate and transact a real estate loan, as set forth in Factual Findings 1, 5, 6, 8-15, and Legal Conclusions 1, 3, 6-8, and 12.

14. Cause exists to revoke or suspend Respondents Gamalinda's and Wilshire's real estate broker licenses, pursuant to Business and Professions Code section 10177, subdivision (d), for violating real estate laws, as set forth in Factual Findings 1, 5, 6, 8-15, and Legal Conclusions 1, 3, 6-8, and 12.

15. Cause exists to revoke or suspend Respondents Gamalinda's and Wilshire's real estate broker licenses, pursuant to Business and Professions Code section 10177, subdivision (g), for demonstrated negligence and incompetence, as set forth in Factual Findings 1, 5, 6, 8-15, and Legal Conclusions 1, 3, 6-8, and 12.

16. Cause exists to revoke or suspend Respondent Gamalinda's real estate broker license, pursuant to Business and Professions Code section 10177, subdivision (h), for failing to exercise reasonable supervision and control of the activities of the Wilshire Financial Group, a licensed corporate broker, as set forth in Factual Findings 1, 5, 6, 8-15, and Legal Conclusions 1, 3, 6-8, and 12.

17. Taking into consideration the violations established by the evidence, it is appropriate to restrict Respondent Pita's real estate salesperson license and Respondent Gamalinda's real estate broker license in order to assure the public's protection. For these two Respondents, revocation would be too severe an outcome. A reasonable period of restriction shall allow the Department to appropriately monitor Respondents Gamalinda's broker activities and Respondent Pita's salesperson activities to ensure that Respondents deal with consumers properly and that Respondent Gamalinda conducts any supervisory activities in accordance with the law. As Respondent Wilshire appears to have allowed its license to expire and failed to represent its interests in this proceeding, given the legal conclusions reached herein, it is appropriate to revoke its corporate broker license in order to protect the public.

ORDERS

Re: Respondent Frank Pita

1(a). All licenses and licensing rights of Respondent Frank Pita under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent Pita pursuant to Section 10156.5 of the Business and Professions Code if Respondent Pita makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent Pita shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1(b). The restricted license issued to Respondent Pita may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent Pita's conviction or plea of nolo contendere to a crime which is substantially related to Respondent Pita's fitness or capacity as a real estate licensee.

1(c). The restricted license issued to Respondent Pita may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent Pita has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

1(d). Respondent Pita shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

1(e). Respondent Pita shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

1(f). Respondent Pita shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent Pita has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter

3 of the Real Estate Law for renewal of a real estate license. If Respondent Pita fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent Pita presents such evidence. The Commissioner shall afford Respondent Pita the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Re: Respondent Rossini Grijaldo Gamalinda

2(a). All licenses and licensing rights of Respondent Rossini Grijaldo Gamalinda under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent Gamalinda pursuant to Section 10156.5 of the Business and Professions Code if Respondent Gamalinda makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent Gamalinda shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

2(b). The restricted license issued to Respondent Gamalinda may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent Gamalinda's conviction or plea of nolo contendere to a crime which is substantially related to Respondent Gamalinda's fitness or capacity as a real estate licensee.

2(c). The restricted license issued to Respondent Gamalinda may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent Gamalinda has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

2(d). Respondent Gamalinda shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

2(e). Respondent Gamalinda shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent Gamalinda has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent Gamalinda fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent Gamalinda presents such evidence. The Commissioner shall afford Respondent Gamalinda the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Re: Respondent Wilshire Financial Group

3. All licenses and licensing rights of Respondent Wilshire Financial Group under the Real Estate Law are revoked.

Dated: March 27, 2009



DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

SACD
Flag

FILED
APR 23 2008
DEPARTMENT OF REAL ESTATE
By 

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5
6
7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)
10

11 BEFORE THE DEPARTMENT OF REAL ESTATE
12 STATE OF CALIFORNIA
13 * * *

14 In the Matter of the Accusation of) No. H-34869 LA
15)
16) A C C U S A T I O N
17 WILSHIRE FINANCIAL GROUP,)
18 and ROSSINI GRIJALDO GAMALINDA,)
19 as designated officer of)
20 Wilshire Financial Group,)
21 and FRANK PITA,)
22 Respondents,)

23 The Complainant, Robin Trujillo, a Deputy Real Estate
24 Commissioner of the State of California, for cause of accusation
25 against WILSHIRE FINANCIAL GROUP, ROSSINI GRIJALDO GAMALINDA,
26 individually and as designated officer of Wilshire Financial
27 Group, and FRANK PITA, alleges as follows:

I

28 The Complainant, Robin Trujillo, acting in her official
29 capacity as a Deputy Real Estate Commissioner of the State of
30 California, makes this Accusation against WILSHIRE FINANCIAL
31 GROUP, ROSSINI GRIJALDO GAMALINDA, individually and as designated
32 officer of Wilshire Financial Group, and FRANK PITA.

1 II

2 WILSHIRE FINANCIAL GROUP, ROSSINI GRIJALDO GAMALINDA,
3 individually and as designated officer of said corporation, and
4 FRANK PITA (hereinafter referred to as "Respondents"), are
5 presently licensed and/or have license rights under the Real
6 Estate Law (Part 1 of Division 4 of the Business and Professions
7 Code) (hereinafter Code).

8 III

9 At all times herein mentioned, Respondent WILSHIRE
10 FINANCIAL GROUP, were licensed as a real estate broker with
11 Respondent ROSSINI GRIJALDO GAMALINDA as its designated officer.

12 Respondent FRANK PITA was licensed as a real estate
13 salesperson effective March 2, 2007.

14 IV

15 At all times material herein, Respondents WILSHIRE
16 FINANCIAL GROUP, and ROSSINI GRIJALDO GAMALINDA, engaged in the
17 business of, acted in the capacity of, advertised or assumed to
18 act as a real estate broker in the State of California, within
19 the meaning of Section 10131(a) and (d) of the Code including
20 negotiating loans on real property.

21 V

22 Respondents WILSHIRE FINANCIAL GROUP and ROSSINI
23 GRIJALDO GAMALINDA violated Section 10137 of the Code by
24 employing Respondent FRANK PITA, who was not licensed to
25 Respondents as a real estate salesperson, to negotiate a loan on
26 real property on behalf of Francisco J. Zuniga for property at
27 37474 Hudson Street, Palmdale, California, on or about May 25,

1 2005, and a loan on real property on behalf of Stephen P. and
2 Ligaya R. Watkins for property at 4664 Marwood Drive, Los
3 Angeles, California, on or about December 1, 2005.

4 VI

5 Respondent FRANK PITA agreed to loan \$20,000 to
6 borrower Zuniga in order for the borrower to obtain the loan he
7 wanted. The borrower Zuniga provided Respondent FRANK PITA with a
8 note and deed of trust on the Hudson Street property as security
9 for repayment of the loan.

10 VII

11 Respondent FRANK PITA failed to provide borrower Zuniga
12 with the \$20,000. Escrow closed May 25, 2005. In order to close
13 escrow the borrower Zuniga had to pay Respondent FRANK PITA
14 \$20,000 as a loan payoff despite not having received the \$20,000
15 from Respondent FRANK PITA.

16 VIII

17 Respondents WILSHIRE FINANCIAL GROUP and ROSSINI
18 GRIJALDO GAMALINDA violated Code Sections 10240 and 10241 by
19 failing to provide borrowers Zuniga and Watkins with the required
20 Mortgage Loan Disclosure Statement signed by the borrower and the
21 broker or the broker's representative and disclosing to the
22 borrower that the broker would be receiving from the lender
23 compensation in the form of a yield spread premium.

24 IX

25 On or about August 7, 2006, after the close of escrow,
26 Respondent FRANK PITA had the deed of trust he received from the
27

1 borrower Zuniga recorded despite having received from the
2 borrower \$20,000 at the close of escrow.

3 X

4 The conduct of Respondents WILSHIRE FINANCIAL GROUP,
5 and ROSSINI GRIJALDO GAMALINDA, as alleged above, subjects their
6 real estate licenses and license rights to suspension or
7 revocation pursuant to Section 10177(d) and/or 10177(g) of the
8 Code.

9 The conduct of Respondent ROSSINI GRIJALDO GAMALINDA,
10 as alleged above, subjects his real estate licenses and license
11 rights to suspension or revocation pursuant to Section 10159.2,
12 10177(h) and 10177(d) and/or 10177(g) of the Code.

13 The conduct of Respondent FRANK PITA, as alleged in
14 paragraph V above, subjects his real estate license to suspension
15 or revocation pursuant to Code Section 10177(d) for violation of
16 Code Section 10130, and Code Section 10177(j) for the conduct
17 alleged in paragraphs VI, VII, and IX.

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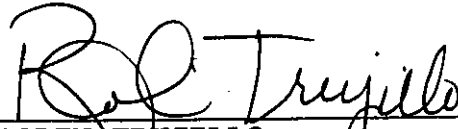
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1
2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all licenses and license rights of Respondents
6 WILSHIRE FINANCIAL GROUP, ROSSINI GRIJALDO GAMALINDA, and FRANK
7 PITA under the Real Estate Law (Part 1 of Division 4 of the
8 Business and Professions Code) and for such other and further
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 9 day of April, 2008.

12
13 
14 ROBIN TRUJILLO
15 Deputy Real Estate Commissioner
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22

23 cc: Wilshire Financial Group
24 Rossini Grijaldo Gamalinda
25 Frank Pita
26 J&R Lending, Inc.
27 Robin Trujillo
Sacto.