

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

JUN 28 2010

DEPARTMENT OF REAL ESTATE

BY: 

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12
13 In the Matter of the Accusation of) NO. H-36161 LA
14 NEWPORT LENDING CORPORATION,) L-2009091020
15 and MATT SHANE GREEN, indi-)
16 vidually, and as desig-) STIPULATION AND AGREEMENT
17 nated officer of Newport)
18 Lending Corporation,)
Respondents.)

19 It is hereby stipulated by and between NEWPORT LENDING
20 CORPORATION ("NEWPORT") and MATT SHANE GREEN ("GREEN"),
21 individually, and as designated broker-officer of Newport
22 Lending Corporation, (sometimes collectively referred to as
23 "Respondents") and the Complainant, acting by and through Cheryl
24 Keily, Counsel for the Department of Real Estate, as follows
25 for the purpose of settling and disposing of the Accusation
26 filed on August 6, 2009, in this matter.
27

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and
3 Respondents at a formal hearing on the Accusation, which hearing
4 was to be held in accordance with the provisions of the
5 Administrative Procedure Act (APA), shall instead and in place
6 thereof be submitted solely on the basis of the provisions of
7 this Stipulation and Agreement.
8

9 2. Respondents have received, read and understood the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Department of Real Estate
12 ("Department") in this proceeding.
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14 3. On September 3, 2009, Respondents filed a Notice of
15 Defense, pursuant to Section 11506 of the Government Code for
16 the purpose of requesting a hearing on the allegations in the
17 Accusation. Respondents hereby freely and voluntarily withdraw
18 said Notice of Defense. Respondents acknowledge that they
19 understand that by withdrawing said Notice of Defense they will
20 thereby waive their right to require the Commissioner to prove
21 the allegations in the Accusation at a contested hearing held in
22 accordance with the provisions of the APA and that they will
23 waive other rights afforded to them in connection with the
24 hearing, such as the right to present evidence in defense of the
25 allegations in the Accusation and the right to cross-examine
26 witnesses.
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1
2 4. This Stipulation is based on the factual
3 allegations contained in the Accusation. In the interest of
4 expedience and economy, Respondents choose not to contest these
5 allegations, but to remain silent and understand that, as a
6 result thereof, these factual allegations, without being
7 admitted or denied, will serve as a prima facie basis for the
8 disciplinary action stipulated to herein. The Real Estate
9 Commissioner shall not be required to provide further evidence
10 to prove said factual allegations.
11

12 5. This Stipulation is made for the purpose of
13 reaching an agreed disposition of this proceeding and is
14 expressly limited to this proceeding and any other proceeding
15 or case in which the Department of Real Estate ("Department"),
16 the state or federal government, or any agency of this state,
17 another state or federal government is involved, and otherwise
18 shall not be admissible in any other criminal or civil
19 proceedings.
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22 6. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation and
24 Agreement shall not constitute an estoppel, merger or bar to any
25 further administrative or civil proceedings by the Department of
26 Real Estate with respect to any matters which were not
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1 specifically alleged to be causes for accusation in this
2 proceeding.

3 7. This Stipulation and Respondents' decision not to
4 contest the Accusation are made for the purpose of reaching an
5 agreed disposition of this proceeding, and are expressly limited
6 to this proceeding and any other proceeding or case in which the
7 Department of Real Estate, or another licensing agency of this
8 state, another state or the federal government is involved and
9 otherwise shall not be admissible in any other criminal or civil
10 proceedings.
11

12 8. Respondents have received, read and understand the
13 "Notice Concerning Costs of Audits." Respondents understand that
14 by agreeing to this Stipulation and Agreement, the findings set
15 forth below in the Determinations of Issues become final, and
16 that the Commissioner may charge Respondents for the costs of
17 the audit which lead to the disciplinary action. Respondents
18 understands that by agreeing to this Stipulation, Respondents
19 agree to pay, pursuant to Business and Professions Code ("Code")
20 Section 10148, the cost of the original audit. The total cost of
21 the original audit is \$4,295.35.
22

23
24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations, admissions
26 and waivers and solely for the purpose of settlement of the
27

1 pending Accusation without a hearing, it is stipulated and
2 agreed that the following determination of issues shall be made:

3 1. The conduct, acts or omissions of Respondent
4 NEWPORT LENDING CORPORATION, as set forth in the Accusation,
5 constitute cause to suspend or revoke the real estate license
6 and license rights of Respondent NEWPORT under the provisions
7 of Code Sections 10177(d) and 10177(g) for violation of
8 Sections 10145 and 10146 in conjunction with Title 10, Chapter
9 6 of the California Code of Regulations ("Regulations"),
10 Sections 2831, 2831.1, 2831.2 and 2972.

11 2. The conduct, acts or omissions of Respondent MATT
12 SHANE GREEN, as set forth in the Accusation, constitute cause
13 to suspend or revoke the real estate license and license right
14 of Respondent MATT SHANE GREEN under the provisions of Code
15 Sections 10177(d) and 10177(h) for violation of Code Sections
16 10145 and 10159.2 in conjunction with Sections 2831, 2831.1,
17 2831.2 of the Regulations.

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21 ORDER

22 WHEREFORE, THE FOLLOWING ORDER is hereby made:

23 I. All licenses and license rights of Respondent
24 NEWPORT LENDING CORPORATION and Respondent MATT SHANE GREEN
25 under the Real Estate Law are suspended for a period of sixty
26 (60) days from the effective date of this Decision; provided,
27 however, that the entire period of said suspension shall be

1 stayed for two (2) years upon the following terms and
2 conditions:

3 1. Respondents shall obey all laws, rules and
4 regulations governing the rights, duties and responsibilities of
5 a real estate licensee in the State of California; and

6 2. That no final subsequent determination be made,
7 after hearing or upon stipulation, that cause for disciplinary
8 action occurred within two (2) years of the effective date of
9 this Decision. Should such a determination be made, the
10 Commissioner may, in his discretion, vacate and set aside the
11 stay order and reimpose all or a portion of the stayed
12 suspension. Should no such determination be made, the stay
13 imposed herein shall become permanent.

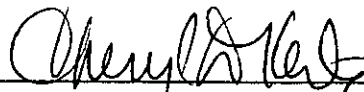
14
15 II. All licenses and licensing rights of Respondent
16 MATT SHANE GREEN are indefinitely suspended unless or until
17 Respondent provides proof satisfactory to the Commissioner, of
18 having taken and successfully completed the continuing
19 education course on trust fund accounting and handling
20 specified in paragraph (3) of subdivision (a) of Section
21 10170.5 of the Code. Proof of satisfaction of this requirement
22 includes evidence that respondent has successfully completed
23 the trust fund account and handling continuing education course
24 within 120 days from the effective date of the Decision in this
25 matter.

26 III. Pursuant to Section 10148 of the Code, Respondent
27 MATT SHANE GREEN and Respondent NEWPORT LENDING CORPORATION
shall pay the Commissioner's reasonable cost for (a) the audit

1 which led to the disciplinary action, and (b) a subsequent audit
2 to determine if Respondent NEWPORT LENDING CORPORATION has
3 corrected the trust fund violations found in the Determination
4 of Issues. In calculating the amount of the Commissioner'
5 reasonable cost, the Commissioner may use the estimated average
6 hourly salary for all persons performing audits of real estate
7 brokers, and shall include an allocation for travel time to and
8 from the auditor's place of work. Respondents shall pay such
9 cost within 60 days of receiving an invoice from the
10 Commissioner detailing the activities performed during the audit
11 and the amount of time spent performing those activities. The
12 Commissioner may suspend the licenses of Respondent MATT SHANE
13 GREEN and NEWPORT LENDING CORPORATION pending a hearing held in
14 accordance with Section 11500, et seq., of the Government Code,
15 if payment is not timely made as provided for herein, or as
16 provided for in a subsequent agreement between Respondent and
17 the Commissioner. The suspension shall remain in effect until
18 payment is made in full or until Respondents enters into an
19 agreement satisfactory to the Commissioner to provide for
20 payment, or until a decision providing otherwise is adopted
21 following a hearing held pursuant to this condition.

22
23 DATED:

June 9, 2010



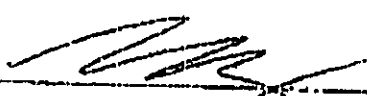
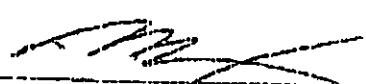
CHERYL D. KEILY, Counsel
DEPARTMENT OF REAL ESTATE

24
25 * * *

26 I have read the Stipulation and Agreement, and its
27 terms are understood by me and are agreeable and acceptable to

1 Government Code), and I willingly, intelligently and
2 voluntarily waive those rights, including the right of
3 requiring the Commissioner to prove the allegations in the
4 Accusation at a hearing at which I would have the right to
5 cross-examine witnesses against me and to present evidence in
6 defense and mitigation of the charges.
7

8 Respondents can signify acceptance and approval of
9 the terms and conditions of this Stipulation and Agreement by
10 faxing a copy of its signature page, as actually signed by
11 Respondents, to the Department at the following telephone/fax
12 number (213) 576-6917. Respondent agrees, acknowledges, and
13 understands that by electronically sending to the Department a
14 fax copy of his actual signature as it appears on the
15 Stipulation and Agreement, that receipt of the faxed copy by
16 the Department shall be as binding on Respondent as if the
17 Department had received the original signed Stipulation and
18 Agreement.
19

20 DATED: 3/3/2010
21 MATT SHANE GREEN,
22 Respondent23 DATED: 3/3/2010
24 MATT SHANE GREEN, as
25 designated broker-officer,
26 on behalf of Respondent
27 NEWPORT LENDING CORPORATION

1 me. I understand that I am waiving rights given to me by the
2 California Administrative Procedure Act (including but not
3 limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and
5 voluntarily waive those rights, including the right of
6 requiring the Commissioner to prove the allegations in the
7 Accusation at a hearing at which I would have the right to
8 cross-examine witnesses against me and to present evidence in
9 defense and mitigation of the charges.
10

11 Respondents can signify acceptance and approval of
12 the terms and conditions of this Stipulation and Agreement by
13 faxing a copy of its signature page, as actually signed by
14 Respondents, to the Department at the following telephone/fax
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16 understands that by electronically sending to the Department a
17 fax copy of his actual signature as it appears on the
18 Stipulation and Agreement, that receipt of the faxed copy by
19 the Department shall be as binding on Respondent as if the
20 Department had received the original signed Stipulation and
21 Agreement.
22
23

24 DATED: _____

MATT SHANE GREEN,
Respondent

26 DATED: _____

MATT SHANE GREEN, as
designated broker-officer,
on behalf of Respondent
NEWPORT LENDING CORPORATION

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adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on JUL 28 2010, 2010.

JEFF DAVIS
Real Estate Commissioner

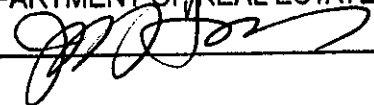
1 CHERYL D. KEILY, SNB# 94008
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013

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6 (Direct) (213) 576-6905

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AUG - 6 2009

DEPARTMENT OF REAL ESTATE

BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation

No. H-36161 LA

13 NEWPORT LENDING CORPORATION,)
14 and MATT SHANE GREEN, indi-)
15 vidually, and as designated)
16 broker officer for Newport)
17 Lending Corporation,)
Respondents.)

A C C U S A T I O N

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against NEWPORT LENDING CORPORATION ("NEWPORT LENDING") and MATT
21 SHANE GREEN ("GREEN"), individually, and as designated broker
22 officer for NEWPORT, is informed and alleges as follows:
23

24 1.

25 The Complainant, Robin Trujillo, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27 her official capacity.

2.

NEWPORT LENDING is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate corporation.

3.

GREEN is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. GREEN is the designated broker officer of NEWPORT LENDING.

4.

Whenever acts referred to below are attributed to NEWPORT LENDING, those acts are alleged to have been done by NEWPORT LENDING, acting by itself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including but not limited to GREEN, and using the name NEWPORT LENDING or any fictitious name unknown at this time.

FIRST CAUSE OF ACCUSATION

(Advance Fee Violation)

5.

NEWPORT LENDING and GREEN engaged in the business of real estate brokers in the State of California within the meaning of Code Sections 10131(d) and 10131.2 including brokering mortgage loans and performing loan modification activities and claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, within the meaning of Code Section 10026, including, but not limited to, the

1 following loan modification activities with respect to loans
2 which were secured by liens on real property.

3 6.

4 On or about June 6, 2008, NEWPORT LENDING and GREEN
5 entered into an agreement with Timothy Doran ("Doran") to
6 negotiate a loan modification with respect to a loan secured by a
7 lien(s) on the real property located at 1826 Lancewood Avenue,
8 Hacienda Heights, California 91745 in exchange for an advance fee
9 payment by Doran of \$2,995.

10 7.

11 NEWPORT LENDING and GREEN collected the advance fees
12 described in Paragraphs 5 and 6, above, pursuant to the
13 provisions of a document entitled "Loan Modification - Home Saver
14 Program," which constitutes an advance fee agreement within the
15 meaning of Code Section 10026.

16 8.

17
18 NEWPORT LENDING and GREEN failed to submit the advance
19 fee agreement referred to in Paragraphs 6 and 7, above, to the
20 Commissioner ten days before using it in violation of Code
21 Section 10085 and Section 2970 of Title 10, California Code of
22 Regulations ("Regulations").

23 9.

24 The conduct, acts and/or omissions of Respondents
25 NEWPORT LENDING and GREEN, as set forth above, are cause for the
26 suspension or revocation of the licenses and license rights of
27

1 Respondent NEWPORT LENDING and Respondent GREEN pursuant to Code
2 Sections 10085, 10177(d) and/or 10177(g).

3
4 SECOND CAUSE OF ACCUSATION

5 (Trust Fund Violations)

6 10.

7 Complainant hereby incorporates by reference the
8 allegations set forth in Paragraphs 1 through 9, above.

9 11.

10 On or about March 11, 2009, the Department completed an
11 audit examination of the books and records of NEWPORT LENDING
12 pertaining to the real estate activities described in Paragraphs
13 5 and 6, above, covering a period from March 1, 2006, to February
14 28, 2009. The audit examination revealed violations of the Code
15 and the Regulations, as set forth in the following paragraphs,
16 and more fully discussed in Audit Report No. LA 080213 along with
17 the exhibits and work papers attached to the audit report:

18 (a) Failed to establish and maintain a trust account at
19 a bank or other recognized financial institution in the name of
20 the broker for deposit of advance fees collected by NEWPORT
21 LENDING, in violation of Code Section 10146.

22 (b) Failed to deposit the advance fees described in
23 Paragraphs 5 and 6, above, into a real estate broker trust
24 account in violation of Code Section 10146.

25 (c) Failed to maintain a control record in the form of
26 a columnar record in chronological order of all trust funds
27

1 including advance fees received, deposited and disbursed, in
2 violation of Code Section 10145 and Section 2831 of the
3 Regulations.

4 (d) Failed to maintain a separate record for each
5 beneficiary or transaction, thereby failing to account for all
6 advance fees collected, in violation of Code Section 10145 and
7 Section 2831.1 of the Regulations.

8 (e) Failed to maintain a monthly reconciliation of the
9 balance of all separate beneficiary or transaction records
10 maintained pursuant to Section 2831.1 of the Regulations with the
11 record of all trust funds received and disbursed from the general
12 account for loan modification services, in violation of Code
13 Section 10145 and Section 2831.2 of the Regulations.

14 (f) Failed to provide a complete description and
15 accounting of the services to be rendered to each borrower in
16 ten (10) point type font and failed to provide an allocation and
17 disbursement of the amount collected as an advance fee in
18 violation of Code Section 10146 and Section 2972 of the
19 Regulations.
20

21 DISCIPLINE STATUTES AND REGULATIONS

22 12.

23 The conduct of Respondents NEWPORT LENDING and GREEN
24 described in Paragraph 11, above, violated the Code and the
25 Regulations as set forth below:

26 PARAGRAPH

PROVISIONS VIOLATED

27 11(a)

Code Section 10146

1 11(b) Code Section 10146
2 11(c) Code Section 10145 and Section 2831
3 of the Regulations
4 11(d) Code Section 10145 and Section
5 2831.1 of the Regulations
6
7 11(e) Code Sections 10145 and Section
8 2831.2 of the Regulations
9 11(f) Code Section 10146 and Section 2972
10 of the Regulations

11 The foregoing violations constitutes cause for the
12 suspension or revocation of the real estate license and license
13 rights of NEWPORT LENDING and GREEN under the provisions of Code
14 Sections 10177(d) for violation of the Real Estate Law and/or
15 10177(g) for negligence or incompetence.
16

17 THIRD CAUSE OF ACCUSATION

18 (Failure to Supervise)

19 13.

20 Respondent GREEN ordered, caused, authorized or
21 participated in the conduct of Respondent NEWPORT LENDING, as is
22 alleged in this Accusation.
23

24 14.

25 The conduct, acts and/or omissions, of Respondent
26 GREEN, in allowing Respondent NEWPORT LENDING to violate the Real
27 Estate Law, as set forth above, constitutes a failure by GREEN,

1 as the officer designated by a corporate broker licensee, to
2 exercise the supervision and control over the activities of
3 NEWPORT LENDING, as required by Code Section 10159.2, and is
4 cause to suspend or revoke the real estate licenses and license
5 rights of GREEN under Code Sections 10177(d), 10177(g) and/or
6 10177(h).

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all the licenses and license rights of Respondent
11 NEWPORT LENDING CORPORATION, and Respondent MATT SHANE GREEN,
12 individually, and as designated broker-officer of Respondent
13 NEWPORT LENDING CORPORATION, under the Real Estate Law (Part 1 of
14 Division 4 of the Business and Professions Code), and for such
15 other and further relief as may be proper under other applicable
16 provisions of law.

17 Dated at Los Angeles, California

18 this 3 day of August, 2009.
19

20
21 
22 _____
23 Robin Trujillo
24 Deputy Real Estate Commissioner
25

26 cc: NEWPORT LENDING CORPORATION
27 MATT SHANE GREEN
Robin Trujillo
Sacto.