

FILED

JUL 28 2011

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY: 

In the Matter of the Accusation of)	No. H-36629 LA
)	
UNITED FUNDING & REALTY INC., and)	L-2010071056
DAVID LO, individually, and as designated broker)	
for United Funding & Realty Inc.,)	
)	
Respondent(s).)	

DECISION

The Proposed Decision dated June 20, 2011, 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.

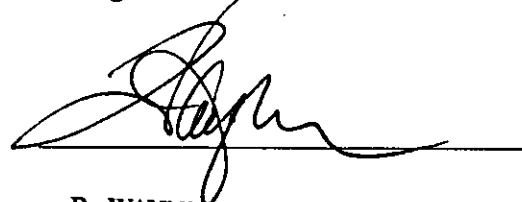
Pursuant to Section 11517(c) (2) of the Government Code, the following corrections are made:

Factual Findings, page 7; page 9; page 10 and page 11, delete "salesperson and" wherever appears.

AUG 17 2011 This Decision shall become effective at 12 o'clock noon on

IT IS SO ORDERED 7/26/2011

Barbara J. Bigby
Acting Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

UNITED FUNDING & REALTY, INC., and
DAVID LO, individually, and as designated
broker for United Funding & Realty, Inc.,

Respondents.

Case No. H-36629 LA

OAH No. 2010071056

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on May 24 and 25, 2011, in Los Angeles, California.

Cheryl D. Keily, Staff Counsel, represented Deputy Real Estate Commissioner Robin Trujillo (Complainant).

Michael D. Michaels, Attorney at Law, represented David Lo (Respondent Lo). Respondent Lo was present.

No one represented United Funding & Realty, Inc. (Respondent United Funding).

Effective June 9, 2011, the Department of Real Estate (Department) issued a Decision against Respondent United Funding pursuant to its Order of Default filed on May 3, 2011. (See Factual Finding 3)

Complainant amended the Accusation at hearing. At page 9, line 13, "Paragraph xx" was changed to read "Paragraph 20." Respondent objected to the amendment; however, the amendment was accepted, pursuant to Government Code section 11507.

The parties submitted the matter for decision on May 25, 2011.

FACTUAL FINDINGS

1. On May 6, 2010, Complainant, acting in her official capacity, filed the Accusation. On June 28, 2010, Respondent David Lo filed a Notice of Defense. Respondent United Funding did not file any Notice of Defense and did not request a hearing.

2. The Department issued a real estate license to Respondent United Funding as a real estate corporation; the license expired on May 3, 2010. The Department retains jurisdiction over Respondent United Funding's license, pursuant to Business and Professions Code section 10103.

3(a). On May 17, 2011, the Department issued a Decision revoking Respondent United Funding's real estate license and licensing rights, effective June 9, 2011, pursuant to its Default Order, dated May 3, 2011. The Default Order was filed as a consequence of Respondent United Funding's failure to file a Notice of Defense as required by Government Code section 11506.

3(b). In its Decision against Respondent United Funding, the Department found the following facts, among others. Respondent United Funding had license rights under the Real Estate Law as a real estate corporation. Respondent United Funding engaged in the business of, and acted in the capacity of, a real estate corporation. Through its unlicensed agent, Ted Eliopoulos (discussed in greater and separate detail, *post*), Respondent United Funding made misrepresentations and false promises and engaged in fraud and dishonest dealings in connection with the real estate transaction set forth in Factual Findings 11-19. These actions required a real estate license under Business and Professions Code section 10131, subdivisions (a) and (d). Respondent United Funding's conduct violated Business and Professions Code sections 10137, and 10176, subdivisions (a), (b), and (i).

4. The Department issued a real estate salesperson license and a real estate broker license to Respondent Lo on July 5, 1989, and May 10, 2003, respectively. The evidence did not establish the expiration date of Respondent Lo's real estate salesperson license. The broker license expired on May 31, 2011. As the hearing concluded before its expiration date, there was no evidence establishing whether Respondent Lo renewed his real estate broker license. As with Respondent United Funding's expired license, the Department retains jurisdiction over Respondent Lo's expired license(s), if any, pursuant to Business and Professions Code section 10103.

5. Respondent Lo was an officer for Respondent United Funding from May 4, 2006, through February 18, 2008.

6. In his corporation license application to the Department in 2006, Respondent Lo identified himself as the "designated broker-officer" and "vice president" of Respondent United Funding.

7. Respondent Lo admitted at hearing that, during the time at issue in this matter, he was a member of American Home Brokerage, a real estate brokerage entity.

8. In February 2007, Respondent Lo filed a corporation change application with the Department to change the name of Respondent United Funding to that of American Home Brokerage, with Respondent Lo identifying himself as "secretary" and continuing as the licensed officer of the new proposed American Home Brokerage. The evidence did not

conclusively establish the Department's disposition with regard to the corporation change application.

9. Respondents United Funding's and Lo's licenses were in effect at all times relevant to this action.

10. Respondent Lo explained at hearing that a man named Ben Ho (Ho), who worked for Respondent United Funding, also ran and operated American Home Brokerage. Ho and Respondent Lo knew each other and were friends.

11. Gloria and Clarence Williams are husband and wife and own a house in Hemet, California.¹ At the time of the transactions described herein, Gloria Williams (G. Williams) was approximately 66 years old and Clarence Williams (C. Williams) was 70 years old. C. Williams was a retired and disabled trucker.

12. In January 2007, through an Internet site, G. and C. Williams (the Williamses) tried to refinance their existing \$257,000 house mortgage with Countrywide Home Loans (Countrywide). They were denied.

13. Between approximately February and March 2007, a man named Ted Eliopulos (Eliopulos) contacted the Williamses by telephone. Eliopulos identified himself as a "trouble shooter for Countrywide" and told the Williamses he could help them get a 30-year loan at 6.5 percent for the first two years with similar payments to what they had, including taxes and insurance. Eliopulos encouraged the Williamses to seek a loan that would provide them with additional cash proceeds, telling them "everybody can use a little cash." The Williamses wanted additional cash (\$20,000) with which to accomplish house repairs and proceeded with the loan application. The Williamses, and G. Williams more so, spoke with Eliopulos and Ho to complete the transactions described by Eliopulos.

¹ The evidence regarding Gloria and Clarence Williams was established by their declarations; they did not appear at hearing. Pursuant to Government Code section 11514, Complainant noticed Respondent Lo and his counsel of her intention to introduce the declarations of Gloria and Clarence Williams in lieu of presenting their live testimony. Complainant properly informed Respondent and his counsel that they could notify Complainant's counsel of their intention to cross-examine the Williamses and thereby require the Williams' personal attendance at hearing. Neither Respondent nor Respondent's counsel filed any notice or objection in response to Complainant's notice, therefore, and in accordance with Government Code section 11514, Respondent waived his right to cross-examination and the declarations of Gloria and Clarence Williams were received as direct evidence. At hearing, Respondent Lo objected to the use of the declarations as direct evidence, arguing that the use of declarations in a hearing where the issue is the possible revocation of Respondent Lo's real estate licenses is unfair and inappropriate. This argument was unsuccessful, as the Legislature did not limit or condition the use of declarations in the relevant statutory provision. (Gov. Code, § 11514.)

14(a). A business card Eliopulos handed to the Williamses during the discussions at issue in this matter showed Eliopulos as a Sales Manager/Loan Consultant for American Home Brokerage in Garden Grove, California. At hearing, Respondent Lo testified that he was unaware how Eliopulos came to work for Respondent United Funding and presumed that Ho had hired Eliopulos as a sales representative on his own, without Respondent Lo's knowledge or agreement.

14(b). However, in a letter to the Department, dated February 19, 2008, Respondent Lo's previous attorney, Stuart W. Knight, asserted, with Respondent Lo's agreement, that Respondent Lo employed Eliopulos and Ho as "managers and facilitators" for Respondent United Funding. This inconsistency lessened Respondent Lo's credibility, and particularly as to Respondent Lo's overall knowledge of Eliopulos and his actions with respect to the Williamses. Consequently, Respondent Lo was not believable when he asserted that he was unaware of Ho's actions as a part of American Home Brokerage.

15. Despite Eliopulos's initial assertion to the Williamses that he was a "trouble shooter for Countrywide," at later points in their communications with the Williamses, Eliopulos and Ho identified themselves to the Williamses as working with Respondent United Funding and American Home Brokerage.

16. The 30-year loan initially described by Eliopulos did not materialize.

17. In March 2007, Eliopulos spoke with C. Williams by telephone and asked if he knew of anyone who would write a letter asserting that he was still employed as a trucker, even though at the time, C. Williams was retired, disabled, and 70 years old. C. Williams did not want to lie about his employment status, and declined Eliopulos.

18(a). Thereafter, Eliopulos told the Williamses that he could develop a "creative" loan transaction wherein they could use a person with good credit to "invest" in the Williamses' property. Eliopulos assured the Williamses the "creative" financing he suggested was legitimate and would allow them to remain in their home and pay off a tax obligation Eliopulos knew the Williamses had. Eliopulos also told the Williamses that this arrangement would help them establish good credit.

18(b). The loan transaction suggested by Eliopulos was as follows: the Williamses transacted a \$46,575 promissory note, with the Williamses as borrowers and trustors, Respondent United Funding as trustee, and a woman named Lien Tran (Tran) as lender. Tran is Ho's wife. The Williamses never received consideration for the promissory note.

18(c). The Williamses entered into an agreement with Respondent Lo, through Remax Premier, to list the Williamses' house for \$500,000. At that time and currently, Respondent Lo worked and works for Remax Premier in Irvine, California. American Home Brokerage was the selling broker. American Home Brokerage was not and is not licensed by the Department in any capacity.

18(d). Respondent United Funding brokered a loan on behalf of Toan Nguyen (Nguyen) with Accredited Home Loans to purchase the Williamses' house for \$420,000. Escrow closed on or about May 11, 2007. On the loan documents, Nguyen listed her address as the address of American Home Brokerage in Garden Grove, California. At hearing, Respondent Lo identified Nguyen as an "investor" and "nominal buyer" in this transaction. The house sale allowed the Williamses to pay off their loan with Countrywide. In addition to paying off their Countrywide loan, the Williamses made the following payments as a result of the "creative" loan transaction: \$8,400 commission to Remax Premier, as the listing broker; \$21,000 commission to American Home Brokerage, as the selling broker; \$21,891 credit to Nguyen for closing costs; \$46,575 to repay the promissory note to Tran; and \$52,584.53 to Respondent United Funding from the sale proceeds of \$62,584.53.

18(e). The Williamses received only \$10,000 from the sale to Nguyen. Respondent Lo, Eliopulos, and Ho were not authorized to hold the proceeds of the sale.

18(f). Nguyen transferred title to the Williamses' house back to the Williamses by quitclaim deed on approximately July 10, 2007.

19. As a result of this transaction, the Williamses were left with a mortgage loan of approximately \$378,000 and virtually all of the equity they had in their house was gone.

20. The Williamses were not and are not sophisticated in real estate transactions. They did not understand the documents that they signed. They did not understand Respondent Lo's, Ho's and Eliopolus's transactions. The Williamses did not understand that the transactions had them selling their house to Nguyen. They went to the California Department of Social Services (DSS) and after a title check of the Williams property, DSS found an approximately \$47,000 Deed of Trust as lien on the Williams property. Thereafter, DSS personnel redirected the Williamses to the Department. The Williamses complained to the Department in July 2007.

21. In October 2007, either Respondent Lo or Ho spoke with the Williamses by telephone and cursed at G. Williams, for having complained to the Department. In that same month, either Respondent Lo or Ho told the Williamses they would bring a \$50,000 check to the Williamses if they would "forget the whole deal." Confused and suspicious, the Williamses refused. The Williamses continued to make monthly payments to American Home Brokerage until May 2008. They continue to live in the house today, but with little, if any, equity in their house.

22. At hearing, Respondent Lo admitted that he lent his real estate broker license number to Ho upon Ho's request and understood that Ho was intending to use Respondent Lo's real estate broker license to conduct real estate transactions. Respondent Lo described the lending of his license to Ho as "stupid." Respondent Lo asserted that he was unaware of Ho's transactions, but given Respondent Lo's inconsistent assertions regarding his knowledge of Ho (Factual Finding 14), Respondent Lo was not believable. Respondent Lo conceded it was wrong for him to lend his broker license number and further explained that

Ho would give him a percentage of the commissions Ho acquired through his real estate transactions. Respondent Lo further admitted that he failed to supervise Ho, though he understood that this was expected of him as a real estate broker.

23. Respondent Lo credibly demonstrated through his testimony that some of the signatures on the transactional documents related to the Williamses were not his and were forged by another. However, none of those documents identified by Respondent Lo as bearing his forged signature were used to establish any of the Factual Findings herein. The evidence failed to establish who forged Respondent Lo's signature.

24. Respondent Lo argued that while the fees and commissions were concededly high in the Williams's transaction, they were not illegal. Respondent Lo further argued that 1) the Williamses chose to sign the documents and they should have understood the sale transaction, as described in the documentation; 2) the Williamses had time to hire a lawyer, if they needed help understanding the transaction or their rights therein; and 3) the Williamses could have refused or declined the transaction and did not. These arguments were unconvincing.

25. Respondent Lo provided no evidence of his honesty, integrity, or character.

LEGAL CONCLUSIONS

1. The Department bore the burden of proof by clear and convincing evidence.
2. Business and Professions Code section 10176 states in part:

The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may . . . permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

- (a) Making any substantial misrepresentation.
- (b) Making any false promises of a character likely to influence, persuade or induce.

[¶] . . . [¶]

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

3. Respondent Lo was not believable that he was unaware of the actions of Eliopulos and Ho. By his own admission through his previous attorney, Respondent Lo employed both of them. Respondent Lo's attempt to misrepresent his knowledge of Eliopulos at hearing demonstrates a lack of honesty. The evidence sufficiently demonstrated that Respondent Lo was aware of Eliopulos's and Ho's actions and aware of the Williams transaction. As officer and member of Respondent United Funding and American Home Brokerage, respectively, Respondent Lo is culpable for his own actions as well as the actions of Respondent United Funding, American Home Brokerage, Eliopulos, and Ho.

4. Eliopulos misrepresented himself to the Williamses, falsely represented what kind of loan he could acquire for them, failed to honestly describe the "creative" loan scheme he had fashioned, and developed a loan transaction that initially removed the Williamses' ownership, and was only returned to them when the equity in the home had been liquidated. Respondent Lo was a part of these transactions and with his genuine signature on the majority of the documents, and with his knowledge, allowed these actions and the resultant transactions to occur. Thus, the actions of Respondent Lo, Respondent United Funding, Eliopulos, and Ho constitute the making of substantial misrepresentations, the making of false promises of a character likely to influence, persuade, or induce actions, and dishonest dealings.

5. Cause exists to revoke or suspend Respondent Lo's real estate ~~salesperson and~~ broker licenses, pursuant to Business and Professions Code section 10176, subdivisions (a), (b), and (i), for making substantial misrepresentations, making false promises, and engaging in conduct constituting dishonest dealings, as set forth in Factual Findings 1-19, 20-22, 24-25, and Legal Conclusions 1-4.

6. 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.

7. Business and Professions Code section 10177, states in 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.

8. Business and Professions Code section 10131 states in part:

A real estate broker within the meaning of this part 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:

(a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the purchase, sale or exchange of real property or a business opportunity.

(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.

9. Respondent Lo employed Eliopulos and Ho. By his actions participating in, facilitating, and allowing Eliopulos's and Ho's actions in the Williams transaction, Respondent Lo compensated Eliopulos and Ho for their actions and participation. At the least, the compensation came in the form of fees and commissions flowing to Eliopulos and Ho or to entities that employed them and compensated them as part of that employment. American Home Brokerage was also compensated for its actions in the Williams transaction. Neither Eliopulos, Ho, nor American Home Brokerage were licensed by the Department, but engaged in numerous activities that required a real estate license, as set forth in Business and Professions Code section 10131, subdivisions (a) and (d).

10. Cause exists to revoke or suspend Respondent Lo's real estate salesperson and broker licenses, pursuant to Business and Professions Code section 10137, for engaging in and compensating individuals and entities that are not licensed by the Department to conduct real estate transactions, as set forth in Factual Findings 1-19, 24-25, and Legal Conclusions 1, 6, and 9.

11. Even if Respondent Lo were to be believed that he was unaware of the actions of Eliopulos and Ho, yet he freely lent his broker license to Ho, then Respondent Lo nonetheless demonstrated negligence and incompetence in performing his real estate broker and salesperson activities. Under the more accurate scenario that he was aware, Respondent Lo still demonstrated such negligence and incompetence, and thus violated Business and Professions Code section 10177, subdivisions (d) and (g).

12. Cause exists to revoke or suspend Respondent Lo's real estate ~~salesperson and~~ broker licenses, pursuant to Business and Professions Code section 10177, subdivisions (d) and (g), for violating real estate laws and demonstrating negligence and incompetence, as set forth in Factual Findings 1-22, 24-25 and Legal Conclusions 1, and 6-11.

13. Business and Professions Code section 10159.2 states in 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 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.

14. Respondent Lo admitted to his failure to supervise Ho. He further failed to supervise the actions of Eliopulos, Respondent United Funding, and American Home Brokerage, although he had a responsibility to do so, pursuant to Business and Professions Code section 10159.2, subdivision (a).

15. Cause exists to revoke or suspend Respondent Lo's real estate ~~salesperson and~~ broker license, pursuant to Business and Professions Code section 10177, subdivisions (d), (g), and (h), for violating real estate law, demonstrating negligence and incompetence, and failing to reasonably supervise employees of a real estate corporation and the activities of a real estate corporation, as set forth in Factual Findings 1-25, and Legal Conclusions 1, 7, 13, and 14.

16. California Code of Regulations, title 10, section 2910 states in 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 [Business and Professions] 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:

(1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person

(2) . . . the uttering of a false statement.

[¶] . . . [¶]

(4) The employment of . . . deceit, falsehood, or misrepresentation to achieve an end.

[¶] . . . [¶]

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

[¶] . . . [¶]

(8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator

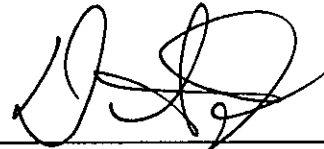
17. Respondent Lo's actions involving the Williams transaction are substantially related to the qualifications, functions, and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subds. (a)(1), (a)(2), (a)(4), (a)(6), and (a)(8).)

18. Respondent Lo provided no persuasive evidence of his rehabilitation. Indeed, he argued that his actions were not in violation of the law. As the evidence established multiple causes to revoke his real estate licenses and with no evidence of his honesty, integrity or character, and with evidence in this proceeding that he testified in a dishonest manner, there was no reason to consider imposing less severe discipline than revocation. Revocation of Respondent Lo's real estate salesperson and broker licenses is warranted to protect the public.

ORDERS

All licenses and licensing rights of Respondent David Lo under the Real Estate Law are revoked.

Dated: June 20, 2011



DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

FILED

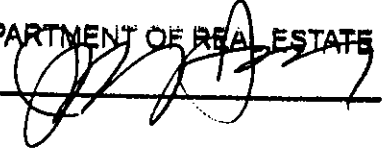
BEFORE THE DEPARTMENT OF REAL ESTATE

MAY 20 2011

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * * *

BY: 

In the Matter of the Accusation of)
)
 UNITED FUNDING & REALTY INC.,)
 and DAVID LO, individually,)
 and as designated broker for)
 United Funding & Realty Inc.,)
)
 Respondents.)
)

No. H-36629 LA
No. L-2010071056

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 May 3, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) 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 the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension 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

I

On May 6, 2010, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of

the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing address on file with the Department on May 6, 2010.

Respondent failed to file a Notice of Defense within the time required by Section 11506 of the Government Code. Respondent's default was entered herein on May 3, 2010.

II

Respondent has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate corporation. Respondent's license expired on May 3, 2010. Pursuant to Code Section 10201 Respondent retains renewal rights. Pursuant to Section 10103 the Department retains jurisdiction.

III

At all times material herein, Respondent was engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate corporation in the State of California, within the meaning of Code Section 10131(a) and 10131(d) of the Code. Said activity included soliciting sellers and buyers for the listing, sale and purchase of real property and negotiating the sale and purchase of real property on behalf of buyers and sellers, as well as soliciting borrowers and lenders and negotiating the terms of loans secured by real property between borrowers and third party lenders for or in expectation of compensation.

IV

The evidence established that through its unlicensed agent, Ted Eliopulus ("Eliopulus"), Respondent made misrepresentations and false promises and engaged in fraud and dishonest dealings in connection with the following real estate transaction. In or around February or March, 2007, Eliopulus, acting on behalf of Respondent, falsely represented to Clarence and Gloria Williams (the "Williamses") that he would assist them in refinancing their home mortgage on terms that were attractive to the Williamses. Later Eliopulus represented to the Williamses that it would benefit them to participate in "creative financing." The Williamses believed the statements of Eliopulus and, in reliance on his representations to them,

cooperated in signing all documents provided to them for signature. The true facts were that Eliopulus failed to obtain refinancing of the Williamses' mortgage loan, and that the "creative financing" referred to by Eliopulus was actually the sale of the Williamses' home to a third party on terms which netted the Williamses minimal proceeds and stripped all the equity from the property. Title to the property was subsequently transferred back to the Williamses though by then the property was burdened with a large mortgage lien as a result of the purchase money loan obtained by the third party buyer.

V

The evidence established that the activities described in Paragraph IV, above, require a real estate license under Code Section 10131(a) and (d). Respondent violated Code Section 10137 by employing Eliopulus, who was not licensed as a real estate salesperson or broker, to perform activities requiring a real estate license.

DETERMINATION OF ISSUES

I

Respondent's conduct as described in Finding IV, above, constitutes the making of a substantial misrepresentations, the making of false promises of a character likely to influence, persuade or induce and fraud and dishonest dealing and justifies the suspension or revocation of the real estate license and license rights of Respondent under the provisions of Code Sections 10176(a), 10176(b) and 10176(i).

II

Respondent's conduct as described in Finding V, above, constitutes cause for the suspension or revocation of the real estate licenses and license rights of Respondent under the provisions of Code Section 10137.

III

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

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ORDER

The licenses and license rights of Respondent UNITED FUNDING & REALTY INC., under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon JUN 09 2011.

DATED: 5/17/11

Barbara J. Bigby
Acting Real Estate Commissioner



1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6982

FILED

MAY 03 2011

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

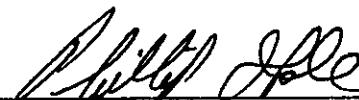
* * * *

10 In the Matter of the Accusation of)
11) No. H-36629 LA
12 UNITED FUNDING & REALTY INC.,) No. L-2010071056
13 and DAVID LO, individually,)
14 and as designated broker for) DEFAULT ORDER
15 United Funding & Realty Inc.,)
16 Respondents.)

16 Respondent UNITED FUNDING & REALTY INC. having failed
17 to file a Notice of Defense within the time required by Section
18 11056 of the Government Code, is now in default. It is,
19 therefore, ordered that a default be entered on the record in
20 this matter.
21

22 IT IS SO ORDERED MAY 3, 2011.

23 Barbara Bigby,
24 Acting Real Estate Commissioner



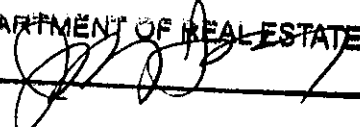
25 By: Phillip Ihde

26 Regional Manager
27

1 CHERYL D. KEILY SBN# 94008
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FILED

MAY - 6 2010

DEPARTMENT OF REAL ESTATE
BY: 

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-36629 LA
13 UNITED FUNDING & REALTY INC.,) A C C U S A T I O N
14 and DAVID LO, individually,)
15 and as designated broker for)
16 United Funding & Realty Inc.,)
17 Respondents.)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against DAVID LO (hereafter Respondent "LO"), individually, and
21 as designated officer for United Funding & Realty Inc., and
22 UNITED FUNDING & REALTY INC. ("UNITED") is informed and alleges
23 as follows:

24 ///
25 ///
26 ///
27 ///

1.

1 The Complainant, Robin Trujillo, a Deputy Real Estate
2 Commissioner of the State of California, makes this Accusation
3 in her official capacity.
4

2.

5 Respondent LO is presently licensed and/or has license
6 rights under the Real Estate Law (Part 1 of Division 4 of the
7 Business and Professions Code, hereinafter the "Code") as a real
8 estate broker.
9

3.

10 Respondent UNITED is presently licensed and/or has
11 license rights under the Real Estate Law as a real estate
12 corporation. From May 4, 2006, to February 19, 2008, UNITED
13 acted by and through Respondent LO as its designated broker-
14 officer.
15

4.

16 At all times material herein, Respondents were engaged
17 in the business of, acted in the capacity of, advertised or
18 assumed to act as real estate brokers and/or real estate
19 corporations in the State of California, within the meaning of
20 Code Section 10131(a) and 10131(d) of the Code. Said activity
21 included soliciting sellers and buyers for the listing, sale and
22 purchase of real property and negotiating the sale and purchase
23 of real property on behalf of buyers and sellers, as well as
24 soliciting borrowers and lenders and negotiating the terms of
25
26
27

1 loans secured by real property between borrowers and third party
2 lenders for or in expectation of compensation.

3 5.

4 At all times relevant herein, Respondent LO, as the
5 officer designated by Respondent UNITED pursuant to Section
6 10211 of the Code, was responsible for the supervision and
7 control of the activities conducted on behalf of Respondent
8 UNITED by its officers and employees as necessary to secure full
9 compliance with the Real Estate Law as set forth in Section
10 10159.2 of the Code.

11 6.

12 All further references to respondents herein include
13 Respondents UNITED and LO, and also include officers, directors,
14 employees, agents and real estate licensees employed by or
15 associated with Respondents UNITED and LO, and who at all times
16 herein mentioned were engaged in the furtherance of the business
17 or operations of Respondents UNITED and LO and who were acting
18 within the course and scope of their authority and employment.

19 FIRST CAUSE OF ACCUSATION
20 (Code Sections 10176(a), 10176(b) and 10176(i)

21 7.

22 In or around January, 2007, Clarence and Gloria
23 Williams (the "Williamses") were the owners of property located
24 at 41526 Lomas Street, Hemet, California 92544 (the "Property").
25 The Property was subject to a mortgage loan with Countrywide
26 Home Loans ("Countrywide") which had an approximate loan balance
27

1 of \$257,000. In March, 2007, the Countrywide loan was scheduled
2 to "reset" to different repayment terms, including a higher
3 monthly payment amount.

4 8.

5 During the month of January, 2007, the Williamses made
6 an application for and were denied a loan to refinance their
7 existing loan with Countrywide with another lender.

8 9.

9 In or around February or March, 2007, Ted Eliopulus
10 ("Eliopulus"), acting on behalf of UNITED, solicited the
11 Williamses for a mortgage loan by telephone telling them that he
12 was a "trouble-shooter for Countrywide." Eliopulus represented
13 to the Williamses that they could obtain a thirty (30) year loan
14 with an interest rate of 6.5% for the first two years with
15 payments similar to the payments they were then making to
16 Countrywide. Eliopulus also encouraged the Williamses to obtain
17 cash out from the loan over and above the amount necessary to
18 refinance the Countrywide loan. The Williamses agreed to apply
19 for the loan described by Eliopulus.
20

21 10.

22 At no time herein mentioned has Eliopulus been
23 licensed by the Department in any capacity.

24 11.

25 Numerous meetings between the Williamses and Eliopulus
26 occurred between March, 2007, and May, 2007. During those
27 meetings the Williamses were asked to sign various documents

1 without being provided copies of what they had signed. When the
2 refinance loan Eliopulus had described to the Williamses failed
3 to materialize, Eliopulus told the Williamses that he could
4 arrange "creative financing" for them. Eliopulus represented
5 that this process was unconventional but legitimate, and would
6 involve the use of an investor who was creditworthy to assist in
7 obtaining the loan. The Williamses were told they would
8 continue to live at the Property and would make the payment on
9 the new loan. The Williamses did not understand that the
10 arrangement Eliopulus described was a sale of the Property to a
11 third party.

12 12.

13 At all times relevant herein, the Williamses believed
14 Eliopulus' representations to them that the only way to
15 refinance their existing loan with Countrywide was to cooperate
16 in the "creative financing" scheme and that the end result of
17 the "creative financing" scheme would be the Williamses' ability
18 to continue to live at the Property making a mortgage payment
19 they could afford. The Williamses executed the following
20 documents in reliance on Eliopulus' representations despite
21 having no understanding of the purpose or the contents of the
22 documents they were signing:

24 1. On or about March 8, 2007, the Williamses executed
25 a promissory note in the amount of \$47,000 made payable to Lien
26 Tran, an individual unknown to the Williamses, and secured by a
27 trust deed on the Property. The trust deed showed Lien Tran as

1 the beneficiary (lender), the Williamses as the trustors
2 (borrowers) and UNITED as the trustee.

3 2. On or about March 12, 2007, the Williamses signed a
4 listing agreement with Remax Premier where Respondent LO was a
5 broker-associate. The Property was listed for sale at \$500,000.

6 3. On or about March 16, 2007, the Williamses signed
7 a purchase and sale agreement by which they agreed to sell the
8 Property to an individual named Toan Nguyen ("Nguyen") for a
9 purchase price of \$420,000. American Home Brokerage Inc. is
10 listed as the selling broker. At no time relevant herein has
11 American Home Brokerage Inc. been licensed by the Department in
12 any capacity. LO is the president of American Home Brokerage
13 Inc.

14 13.

15 An escrow for the sale of the Property was opened on
16 or about March 16, 2007. The terms of the agreement for the sale
17 of the Property to Nguyen by the Williamses were as follows: an
18 initial cash deposit of \$1,000 by the buyer, Nguyen; a new loan
19 in the amount of \$378,000; and an additional cash deposit of
20 \$41,000 to be made by the buyer, Nguyen. Additionally, the
21 Williamses agreed to give the buyer, Nguyen, a credit toward
22 closing costs.
23

24 14.

25 On or about April 24, 2007, Nguyen applied to
26 Accredited Home Loans for a mortgage loan to purchase the
27 Property. UNITED brokered the loan on Nguyen's behalf.

1 Thereafter, on or about May 2, 2007, Accredited Home Loans gave
2 Nguyen a mortgage loan in the amount of \$378,000 at a rate of
3 8.5% to purchase the Property. The monthly payment due on the
4 loan was \$2,394.

5 15.

6 On or about May 11, 2007, the escrow for the purchase
7 and sale of the Property to Nguyen closed. The following
8 amounts were paid by the Williamses in connection with the sale
9 of the Property over and above the \$254,992 used to pay off the
10 Williamses' Countrywide loan:

- 11 1. \$8,400 as commission to Remax Premier, the
12 listing broker on the sale of the Property;
- 13 2. \$21,000 as commission to American Home Brokerage,
14 the selling broker on the sale of the Property;
- 15 3. \$21,891 as a credit to the buyer, Nguyen, for
16 closing costs;
- 17 4. \$46,575 in repayment of a promissory note and
18 trust deed in the amount of \$47,000 in favor of Lien Tran with
19 respect to which the Williamses deny having received any
20 consideration; and
- 21 5. \$52,584.53 disbursed to UNITED from the
22 remaining sale proceeds of \$62,584.53 due the Williamses.

23 16.

24 The Williamses received a total of \$10,000 for the
25 sale of the Property, which had been stripped of all equity and
26 burdened with a mortgage loan in the amount of \$378,000. The
27

1 amount of the monthly payment due on the loan obtained by Nguyen
2 is \$2,394.

3 17.

4 On or about July 10, 2007, title to the Property was
5 transferred back to the Williamses by quitclaim deed executed by
6 Nguyen. The Property remains subject to the loan obtained by
7 Nguyen as part of the purchase price.

8 18.

9 The conduct, acts and/or omissions, of UNITED and LO,
10 as described herein above, constitute making a substantial
11 misrepresentation, the making of false promise(s)
12 of a character likely to influence, persuade or induce, and/or
13 fraud or dishonest dealing, and is cause for the suspension or
14 revocation of all real estate licenses and license rights of
15 UNITED and LO, under the provisions of Code Sections 10176(a),
16 10176(b) and/or 10176(i).

17
18 SECOND CAUSE OF ACCUSATION
(Unlicensed Activity)

19 19.

20 Complainant hereby incorporates by reference the
21 allegations set forth in Paragraphs 1 through 18, above.

22 20.

23 The activities described in Paragraphs 9 through 15,
24 above, require a real estate license under Section 10131 subpart
25 (a) and (d). Respondents violated Section 10137 of the Code by
26 employing and/or compensating persons who were not licensed as a
27

1 real estate salesperson or as a broker to perform activities
2 requiring a license as follows:

3 a. Respondents employed and/or compensated Eliopulus
4 to perform some or all of the services alleged in Paragraphs 9
5 through 15, above, though he was not licensed as a real estate
6 salesperson or broker.

7 b. Respondents employed and/or compensated American
8 Home Brokerage to perform some or all of the services alleged in
9 Paragraphs 12 through 15, above, though it was not licensed as a
10 corporate real estate broker, or at all.

11 21.

12 The conduct, acts and/or omissions of Respondents
13 UNITED and LO, as set forth in Paragraph xx, above, violate Code
14 Section 10137, and are cause for the suspension or revocation of
15 the licenses and license rights of Respondents pursuant to Code
16 Sections 10137, 10177(d) and/or 10177(g).

17
18 THIRD CAUSE OF ACCUSATION
(Failure to Supervise)

19 22.

20 Complainant incorporates herein by this reference the
21 allegations contained at Paragraphs 1 through 21, above.

22 23.

23 Respondent LO ordered, caused, authorized or
24 participated in the conduct of Respondent UNITED, as is alleged
25 in this Accusation.
26

27 ///

1
2 The conduct, acts and/or omissions, of Respondent LO,
3 in allowing Respondent UNITED to violate the Real Estate Law, as
4 set forth above, constitutes a failure by LO, as the officer
5 designated by a corporate broker licensee to exercise the
6 supervision and control over the activities of UNITED, as is
7 required by Code Section 10159.2, and is cause to suspend or
8 revoke the real estate licenses and license rights of Respondent
9 LO under Code Sections 10177(d), 10177(g) and/or 10177(h).

10 WHEREFORE, Complainant prays that a hearing be
11 conducted on the allegations of this Accusation and that upon
12 proof thereof, a decision be rendered imposing disciplinary
13 action against all the licenses and license rights of Respondent
14 DAVID LO and Respondent UNITED FUNDING & REALTY INC. under the
15 Real Estate Law, and for such other and further relief as may be
16 proper under other applicable provisions of law.

17 Dated at Los Angeles, California

18 this 6 day of May, 2010.

19
20
21 
22
23 Robin Trujillo
24 Deputy Real Estate Commissioner

25
26 cc: UNITED FUNDING & REALTY INC.
27 DAVID LO
Robin Trujillo
Sacramento