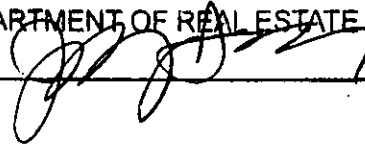


1205

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

APR 13 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

<p>In the Matter of the Accusation of</p> <p>A C G FUNDING INC.;</p> <p>KELVIN K. CHEN, individually and formerly designated officer of A C G Funding Inc.; and</p> <p>JEFF P. LIN, individually and Formerly designated officer of A C G Funding Inc.,</p> <p>Respondents.</p>	}	<p>No. H-37465 LA OAH No. L-2011090592</p>
---	---	--

ORDER NUNC PRO TUNC MODIFYING

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

It having been called to the attention of the Real Estate Commissioner that there are errors in the Decision dated March 12, 2012, effective April 13, 2012, and good cause appearing therefor, the Decision is amended as follows:

Paragraph B, line 10, page 7 of the Order is amended to read as follows:

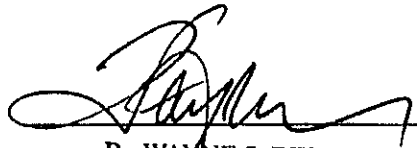
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

"B. The remaining sixty (60) days of the ninety (90) day suspension shall be stayed for two (2) years upon the following terms and conditions:"

This Order, nunc pro tunc to March 12, 2012, shall become effective at 12 o'clock noon on April 13, 2012.

IT IS SO ORDERED 4/12/2012

Real Estate Commissioner


By WAYNE S. BELL
Chief Counsel

1 Department of Real Estate
320 W. 4TH Street, Suite 350
2 Los Angeles, CA 60013-1105

3 Telephone: (213) 576-6982

FILED

MAR 15 2012

DEPARTMENT OF REAL ESTATE

BY: 

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

* * *

11)
12 In the Matter of the Accusation of)

No. H-37465 LA
L-2011090592

13 A C G FUNDING INC.;)

14 KELVIN K. CHEN, individually and)
15 formerly designated officer of)
A C G Funding Inc.; and)

STIPULATION
AND
AGREEMENT

16 JEFF P. LIN, individually and)
17 formerly designated officer of)
A C G Funding Inc.)

18 Respondents.)
19

20 It is hereby stipulated by and between Respondents
21 A C G FUNDING INC. ("ACG") and JEFF P. LIN ("LIN"), individually
22 and as designated officer of A C G Funding Inc. (sometimes
23 collectively referred to as "Respondents"), represented by Andrew
24 L. Leff, Esq., and the Complainant, acting by and through Julie
25 L. To, Counsel for the Department of Real Estate, as follows for
26 the purpose of settling and disposing of the Accusation
27 ("Accusation") filed on August 22, 2011, in this matter:

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

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents filed a Notice of Defense pursuant to
13 Section 11506 of the Government Code for the purpose of
14 requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
24

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of
27

1 expedience and economy, Respondents choose not to contest these
2 allegations, but to remain silent and understand that, as a
3 result thereof, these factual allegations, without being admitted
4 or denied, will serve as a prima facie basis for the disciplinary
5 action stipulated to herein. The Real Estate Commissioner shall
6 not be required to provide further evidence to prove said factual
7 allegations.

8 5. This Stipulation is made for the purpose of
9 reaching an agreed disposition of this proceeding and is
10 expressly limited to this proceeding and any other proceeding or
11 case in which the Department of Real Estate ("Department"), or
12 another licensing agency of this state, another state or if the
13 federal government is involved, and otherwise shall not be
14 admissible in any other criminal or civil proceeding.

15 6. It is understood by the parties that the Real
16 Estate Commissioner may adopt this Stipulation as her Decision in
17 this matter thereby imposing the penalty and sanctions on
18 Respondents' real estate licenses and license rights as set forth
19 in the below "Order". In the event that the Commissioner in her
20 discretion does not adopt the Stipulation, the Stipulation shall
21 be void and of no effect and Respondents shall retain the right
22 to a hearing and proceeding on the Accusation under the
23 provisions of the APA and shall not be bound by any stipulation
24 or waiver made herein.

25
26 ///

1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for accusation in this proceeding.

7 8. Respondents understand that by agreeing to this
8 Stipulation, Respondents agree to pay, pursuant to Business and
9 Professions Code Section 10148, the cost of the audit which led
10 to this disciplinary action. The amount of said cost is
11 \$4,654.90.

12 9. Respondents have received, read, and understand the
13 "Notice Concerning Costs of Subsequent Audit." Respondents
14 further understand that by agreeing to this Stipulation, the
15 findings set forth below in the Determination of Issues become
16 final, and the Commissioner may charge Respondents for the cost
17 of any subsequent audit conducted pursuant to Business and
18 Professions Code Section 10148 to determine if the violations
19 have been corrected. The maximum cost of the subsequent audit
20 will not exceed \$4,654.90.

21
22 ///

23 ///

24 ///

25 ///

26 ///

27

DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
3

I.

4 The conduct of A C G FUNDING INC. as described in
5 Paragraph 4, herein above, is in violation of Sections 10085,
6 10145, 10146, 10160, 10162, and 10236.4 of the Business and
7 Professions Code ("Code") and Sections 2715, 2753, 2831, 2831.2,
8 2832, 2835, 2970 and 2972 of Title 10, Chapter 6 of the
9 California Code of Regulations ("Regulations") and is a basis for
10 discipline of Respondent's license and license rights as a
11 violation of the Real Estate Law pursuant to Code Sections
12 10176(e) and 10177(d).
13

II.

14 The conduct of JEFF P. LIN, as described in Paragraph
15 4, above, constitutes a failure to keep A C G FUNDING INC. in
16 compliance with the Real Estate Law during the time that he was
17 the officer designated by a corporate broker licensee, and is a
18 basis for discipline of Respondent's license and license rights
19 as a violation of the Real Estate Law pursuant to Code Sections
20 10159.2 and 10177(h).
21

22 ///

23 ///

24 ///

25 ///

26 ///

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The license and licensing rights of Respondents A C G FUNDING INC. and JEFF P. LIN, under the Real Estate Law, are suspended for a period of ninety (90) days from the effective date of this Decision.

A. Provided, however, that if Respondents request, the initial thirty (30) days of said suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Each Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$83.33 per day for each day of the suspension for a monetary penalty of \$2,500 for each Respondent, or \$5,000 total.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate license of Respondents occur within two (2) years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any

1 part of the stayed suspension, in which event the Respondent
2 shall not be entitled to any repayment nor credit, prorated or
3 otherwise, for money paid to the Department under the terms of
4 this Decision.

5 5. If Respondents pay the monetary penalty and if no
6 further cause for disciplinary action against the real estate
7 license of Respondent occurs within two (2) years from the
8 effective date of the Decision, the stay hereby granted shall
9 become permanent.

10 B. The remaining sixty (60) days of the sixty (60) day
11 suspension shall be stayed for two (2) years upon the following
12 terms and conditions:

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

16 2. That no final subsequent determination be made
17 after hearing or upon stipulation, that cause for disciplinary
18 action occurred within two (2) years from the effective date of
19 this Decision. Should such a determination be made, the
20 Commissioner may, in his discretion, vacate and set aside the
21 stay order and reimpose all or a portion of the stayed
22 suspension. Should no such determination be made, the stay
23 imposed herein shall become permanent.
24

25 ///

26 ///

27

II.

Pursuant to Section 10148 of the Business and

1
2 Professions Code, Respondents A C G FUNDING INC. and JEFF P. LIN
3 shall pay the Commissioner's reasonable cost for (a) the audit
4 which led to this disciplinary action and (b) a subsequent audit
5 to determine if Respondents are now in compliance with the Real
6 Estate Law. The cost of the audit which led to this disciplinary
7 action is \$4,654.90. In calculating the amount of the
8 Commissioner's reasonable cost, the Commissioner may use the
9 estimated average hourly salary for all persons performing audits
10 of real estate brokers, and shall include an allocation for
11 travel time to and from the auditor's place of work. Said amount
12 for the prior and subsequent audits shall not exceed \$9,309.80.
13

14 Respondents A C G FUNDING INC. and JEFF P. LIN, or
15 either of them, shall pay such cost within 60 days of receiving
16 an invoice from the Commissioner detailing the activities
17 performed during the audit and the amount of time spent
18 performing those activities.
19

20 The Commissioner may suspend the licenses of
21 Respondents pending a hearing held in accordance with Section
22 11500, et seq., of the Government Code, if payment is not timely
23 made as provided for herein, or as provided for in a subsequent
24 agreement between said Respondents and the Commissioner. The
25 suspension shall remain in effect until payment is made in full
26 or until said Respondents enter into an agreement satisfactory to
27

1 the Commissioner to provide for payment, or until a decision
2 providing otherwise is adopted following a hearing held pursuant
3 to this condition.

4 III.

5 All licenses and licensing rights of Respondent JEFF P.
6 LIN are indefinitely suspended unless or until Respondent
7 provides proof satisfactory to the Commissioner, of having taken
8 and successfully completed the continuing education course on
9 trust fund accounting and handling specified in paragraph (3) of
10 subdivision (a) of Section 10170.5 of the Business and
11 Professions Code. Proof of satisfaction of this requirement
12 includes evidence that respondent has successfully completed the
13 trust fund account and handling continuing education course
14 within 120 days prior to the effective date of the Decision in
15 this matter.

16 IV.


17 Respondent JEFF P. LIN shall, within nine (9) months
18 from the effective date of this Decision, present evidence
19 satisfactory to the Real Estate Commissioner that Respondent has,
20 since the most recent issuance of an original or renewal real
21 estate license, taken and successfully completed the continuing
22 education requirements of Article 2.5 of Chapter 3 of the Real
23 Estate Law for renewal of a real estate license. If Respondent
24 fails to satisfy this condition, the Commissioner may order the
25 suspension of Respondent's license until Respondent presents such
26
27

1 evidence. The Commissioner shall afford Respondent the
2 opportunity for a hearing pursuant to the Administrative
3 Procedure Act to present such evidence.

4 V.

5 Respondent JEFF P. LIN shall within six (6) months from
6 the effective date of this Decision, take and pass the
7 Professional Responsibility Examination administered by the
8 Department including the payment of the appropriate examination
9 fee. If Respondent fails to satisfy this condition, the
10 Commissioner may order suspension of Respondent's license until
11 Respondent passes the examination.

12
13 DATED: 02-29-12


14 JULIE L. TO, Counsel for
15 Department of Real Estate

16 * * *

17 EXECUTION OF THE STIPULATION

18 We have read the Stipulation, and have discussed it
19 with our counsel. Its terms are understood by us and are
20 agreeable and acceptable to us. We understand that we are
21 waiving rights given to us by the California Administrative
22 Procedure Act (including but not limited to Sections 11506,
23 11508, 11509 and 11513 of the Government Code), and we willingly,
24 intelligently and voluntarily waive those rights, including the
25 right of requiring the Commissioner to prove the allegations in
26 the Accusation at a hearing at which we would have the right to
27 cross-examine witnesses against us and to present evidence in

1 defense and mitigation of the charges.

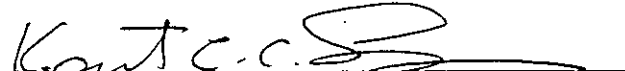
2 MAILING AND FACSIMILE

3 Respondents (1) shall mail the original signed
4 signature page of the stipulation herein to Julie L. To:
5 Attention: Legal Section, Department of Real Estate, 320 W.
6 Fourth St., Suite 350, Los Angeles, California 60013-1105.


7 Respondents shall also (2) facsimile a copy of signed signature
8 page, to the Department at the following telephone/fax number:
9 (213) 576-6917, Attention: Julie L. To.

10 A facsimile constitutes acceptance and approval of the
11 terms and conditions of this stipulation. Respondents agree,
12 acknowledge and understand that by electronically sending to the
13 Department a facsimile copy of Respondents' actual signature as
14 it appears on the stipulation that receipt of the facsimile copy
15 by the Department shall be as binding on Respondents as if the
16 Department had received the original signed stipulation.

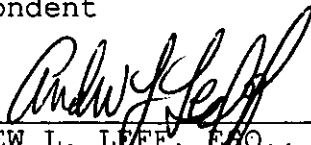
17
18 DATED: Feb 22, 2012

19 
A C G FUNDING INC.
20 BY: KENT CHAO CHOW SHEN, as
designated officer of A C G Funding
21 Inc., Respondent

22 DATED: February 22, 2012

23 
JEFF P. LIN, as former designated
24 officer of A C G Funding Inc.,
Respondent

25 DATED: 2-29-12

26 
ANDREW L. LEFF, ESQ.,
27 Attorney for Respondents
Approved as to form and content

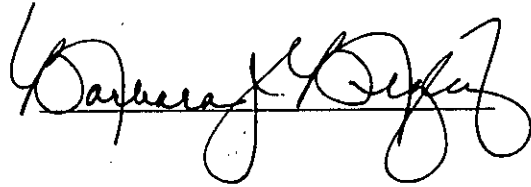
* * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents A C G FUNDING INC. and
JEFF P. LIN, individually and as designated officer of A C G
FUNDING INC. and shall become effective at 12 o'clock noon on
APR 13 2012, 2012.

IT IS SO ORDERED 3/12, 2012.

BARBARA J. BIGBY
Acting Real Estate Commissioner

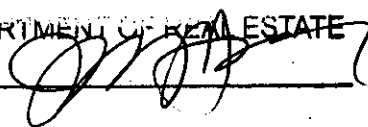


FLAG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FILED

FEB 06 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

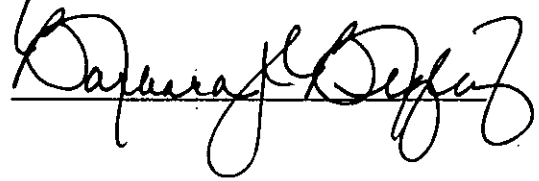
In the Matter of the Accusation of)	No. H-37465 LA
A C G FUNDING INC.;)	L-2011090592
<u>KELVIN K. CHEN</u> , individually)	
and formerly designated officer)	
of A C G Funding Inc.; and)	
JEFF P. LIN, individually and)	
formerly designated officer)	
of A C G Funding Inc.,)	
Respondents.)	

DISMISSAL

The Accusation herein filed on August 22, 2011 against Respondent, KELVIN K. CHEN, individually and formerly designated officer of A C G Funding Inc., is DISMISSED.

IT IS SO ORDERED this 3rd day of January, 2012.

Barbara J. Bigby
Acting Real Estate Commissioner



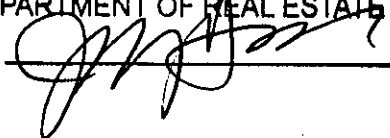
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

JULIE L. TO, SBN 219482
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6916 (direct)
-or- (213) 576-6982 (office)

FILED

AUG 22 2011

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-37465 LA
A C G FUNDING INC.;)	<u>A C C U S A T I O N</u>
KELVIN K. CHEN, individually and)	
formerly designated officer of A C G)	
Funding Inc.; and)	
JEFF P. LIN, individually and)	
formerly designated officer of A C G)	
Funding Inc.)	
Respondents.)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against A C G FUNDING INC. and KELVIN K. CHEN and JEFF P. LIN, both individually and as former designated officers of A C G Funding Inc., alleges as follows:

///
///
///

1 1.

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

5 2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.

9 LICENSE HISTORY

10 3.

11 A. At all times mentioned, A C G FUNDING INC.
12 (hereinafter "ACG" or "Respondent ACG"), KELVIN K. CHEN
13 (hereinafter "CHEN" or "Respondent CHEN"), and JEFF P. LIN
14 (hereinafter "LIN" or "Respondent LIN") were licensed or had
15 license rights issued by the Department of Real Estate
16 (hereinafter "Department").

17 B. ACG is presently licensed and/or has license rights
18 under the Real Estate Law (Part 1 of Division 4 of the Business
19 and Professions Code) as a corporate real estate broker.
20 Respondent ACG was originally licensed as a corporate real estate
21 broker by the Department on or about August 15, 2007. At all
22 times relevant herein, Respondent ACG was authorized to act by
23 and through Respondent CHEN and/or Respondent LIN as its
24 designated broker pursuant to Business and Professions Code
25 Sections 10211 and 10159.2 to supervise the activities requiring
26 a real estate license conducted on behalf of ACG and to be
27 responsible for ensuring compliance with the Real Estate Law.

1 LIN expired as ACG's designated officer on or about May 11, 2009.
2 CHEN expired as ACG's designated officer on or about July 6,
3 2010.

4 B. Respondent CHEN is presently licensed and/or has
5 license rights under the Real Estate Law (Part 1 of Division 4 of
6 the Code) as a real estate broker. Respondent CHEN was
7 originally licensed as a real estate broker by the Department on
8 or about June 9, 2009. From June 9, 2009 to the July 6, 2010
9 CHEN was the designated officer for ACG pursuant to Code Section
10 10159.2, responsible for ensuring compliance with the Real Estate
11 Law.

12 C. Respondent LIN is presently licensed and/or has
13 license rights under the Real Estate Law (Part 1 of Division 4 of
14 the Code) as a real estate broker. Respondent LIN was
15 originally licensed as a real estate broker by the Department on
16 or about March 20, 2003. LIN was the designated officer for ACG
17 pursuant to Code Section 10159.2, responsible for ensuring
18 compliance with the Real Estate Law, from August 15, 2007 to May
19 11, 2009.

20 BROKERAGE

21 4.

22 At all times mentioned, in City of Industry, County of
23 Los Angeles, Respondents ACG, CHEN, and LIN acted as real estate
24 brokers and conducted licensed activities within the meaning of:

25 A. Code Section 10131(d): ACG operated a mortgage
26 and loan brokerage engaging in activities with the public wherein
27 lenders and borrowers were solicited for loans secured directly

1 or collaterally by liens on real property, wherein such loans
2 were arranged, negotiated, processed and consummated on behalf of
3 others for compensation or in expectation of compensation and for
4 fees often collected in advance.

5 B. Code Section 10131(d) and 10131.2. ACG advertised,
6 solicited and offered to provide loan modification services to
7 economically distressed homeowners seeking adjustments to the
8 terms and conditions of their home loans including, but not
9 limited to, repayment plans, forbearance plans, partial claims,
10 and reduction in principal or interest, extenuations, foreclosure
11 prevention and short sales.

12 5.

13 All further references to "Respondents" herein include
14 the parties identified in Paragraphs 3 and 4, above, and also
15 include the officers, directors, employees, agents and real
16 estate licenses employed by or associated with said parties and
17 who at all times herein mentioned were engaged in the furtherance
18 of the business or operations of said parties and who were acting
19 within the course and scope of their authority and employment.

20 6.

21 Respondent CHEN and/or Respondent LIN ordered, caused,
22 authorized or participated in the conduct of Respondent ACG as is
23 alleged in this Accusation.

24 FIRST CAUSE OF ACTION

25 (Audit of A C G FUNDING INC.)

26 7.

27 On March 10, 2010, the Department completed an audit

1 examination of the books and records of ACG pertaining to the
2 mortgage loan brokerage and loan modification activities
3 described in Paragraph 4, above, which require a real estate
4 license. The audit examination covered a period of time
5 beginning on January 1, 2007 to December 31, 2009. The audit
6 examination revealed violations of the Code and the Regulations
7 as set forth in the following paragraphs, and more fully
8 discussed in Audit Report LA 090046 and the exhibits and work
9 papers attached to said audit report.

10 8.

11 At all times mentioned, in connection with the
12 activities described in Paragraph 4, above, ACG accepted or
13 received funds including funds in trust (hereinafter "trust
14 funds") from or on behalf of actual or prospective parties,
15 economically distressed homeowner-borrowers for credit and
16 appraisal report fees, advance fees and loan modifications and
17 mortgage loans handled by ACG, for the borrowers set forth below.
18 Thereafter ACG made deposits and/or disbursements of such trust
19 funds. From time to time herein mentioned during the audit
20 period, said credit and appraisal fees were deposited and/or
21 maintained by ACG in this account, as ACG did not utilize a
22 separate trust account during the audit period:

23 A C G Funding Inc.

24 Account No. ****-*83-9

25 American Continental Bank

26 17700 Castleton Street, Suite 100

27 City of Industry, CA 91748

1 ("AC #1" - ACG's general business account was used for deposit of
2 all fees collected pertaining to its real estate activities,
3 including advance fees collected from borrowers for loan
4 modification transactions, during the audit period. A separate
5 trust account was opened on October 30, 2009, but no trust funds
6 have been deposited into the account.

7 Borrower	Date Received	Date Deposited	Check No	\$Amount
8 Wendong Wang	03/16/09	03/17/09	159	\$1,000
9 Robert Moy	01/10/09	unknown	2145	500
10 Robert Moy	03/24/09	03/28/09	2094	1,500
11 John H. Chang	11/24/08	unknown	1737	1,000
12 Allen Wu Zephyr	12/16/08	unknown	353	1,000
13 Tai Hsin Liu	12/08/08	unknown	096	1,000

14
15 Violations

16 9.

17 In the course of activities described in Paragraphs 4
18 and 8, above, and during the examination period described in
19 Paragraph 7, Respondents ACG, CHEN and/or LIN acted in violation
20 of the Code and the Regulations in that Respondents:

21 (a) Permitted, allowed or caused the mixing and
22 commingling of advance fees collected from homeowner-borrowers
23 seeking modifications to their existing home loans, with ACG's
24 general bank account, AC #1, without first obtaining the prior
25 written consent of the owners of said funds, in violation of Code
26 Sections 10145(a) and 10176(e) and Regulation 2835 (Respondent
27 LIN was the broker responsible for these acts.);

1 (b) Failed to maintain an accurate and complete control
2 record in chronological order for each deposit of advance fees to
3 the general business account, AC#1, for loan modification
4 services, in violation of Code Section 10145 and Regulation 2831
5 (Respondent LIN was the broker responsible for these acts.);

6 (c) Failed to place advance fees received for loan
7 modification services and for mortgage loan brokerage into a
8 trust fund in the name of the broker, in violation of Code
9 Section 10145 and Regulation 2832(a) ((Respondent LIN was the
10 broker responsible for these acts.);

11 (d) Failed to perform a monthly reconciliation of the
12 balance of all receipts and disbursements with the total balance
13 of the separate records maintained pursuant to Regulation 2831.1
14 with the record of all trust funds received and disbursed by AC
15 #1 in the form of advance fees for loan modification services and
16 for mortgage loan brokerage services, in violation of Code
17 Section 10145 and Regulation 2831.2 (Respondent LIN was the
18 broker responsible for these acts.);

19 (e) Collected advance fees within the meaning of Code
20 Section 10026 from homeowner-borrowers seeking loan modification
21 services wherein ACG failed to provide homeowner-borrowers a pre-
22 approved advance fee agreement by the Commissioner, in violation
23 of Code Section 10085 and Regulation 2970 (Respondent LIN was the
24 broker responsible for these acts.);

25 (f) Collected advance fees within the meaning of Code
26 Section 10026 from homeowner-borrowers seeking loan modification
27 services and deposited the funds into its general business

1 account, AC #1, which was not in broker LIN or CHEN's name as
2 trustee and was not designated as a trust account, in violation
3 of Code Section 10146 and Regulation 2972 (Respondent LIN was the
4 broker responsible for these acts.);

5 (g) Collected advance fees within the meaning of Code
6 Section 10026 from homeowner-borrowers seeking loan modification
7 services and failed to maintain an accounting with: a description
8 of services to be rendered, to which trust accounts the funds
9 were to be deposited, or a description of the allocation and
10 disbursement of the amount collected as the advance fee for each
11 loan modification, in violation of Code Section 10146 and
12 Regulation 2972 (Respondent LIN was the broker responsible for
13 these acts.);

14 (h) With reference to the mortgage loan disclosure
15 statements required by Code Section 10232.4, failed to disclose
16 the corporation name and the license number on the disclosure
17 statements, in violation of Code Section 10236.4 (Respondent LIN
18 and Respondent CHEN were both responsible for these acts.);

19 (i) Failed to make available for examination and copying
20 the original license certificates of salespersons under its
21 employ, in violation of Code Section 10160 and Regulation 2753
22 (Respondent LIN and Respondent CHEN were both responsible for
23 these acts.);

24 (j) Failed to notify the Department of the change of
25 its main office address, in violation of Code Section 10162 and
26 Regulation 2715 (Respondent LIN and Respondent CHEN were both
27 responsible for these acts.); and

1 (k) CHEN and LIN Failed to exercise reasonable control
2 and supervision over the activities conducted on behalf of ACG
3 and its employees to ensure compliance with the Real Estate Law,
4 in violation of Code Section 10159.2 and Regulation 2725
5 (Respondent LIN and Respondent CHEN were both responsible for
6 these acts.).

7 Disciplinary Statutes

8 10.

9 The conduct of Respondents ACG, CHEN and LIN described
10 in Paragraph 9, above, violated the Code and the Regulations as
11 set forth below:

12
13 PARAGRAPH

PROVISIONS VIOLATED

14 9(a)

Code Sections 10145(a), and
15 10176(e) and 2835 (ACG, LIN)

16
17
18 9(b)

Code Section 10145 and Regulation
19 2831 (ACG, LIN)

20
21
22 9(c)

Code Section 10145 and Regulation
23 2832(a) (ACG, LIN)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

- 9 (d) Code Section 10145 and Regulation 2831.2 (ACG, LIN)
- 9 (e) Code Section 10085 and Regulation 2970 (ACG, LIN)
- 9 (f) Code Section 10146 and Regulation 2972 (ACG, LIN)
- 9 (g) Code Section 10146 and Regulation 2972 (ACG, LIN)
- 9 (h) Code Section 10236.4 (ACG, CHEN, LIN)
- 9 (i) Code Section 10160 and Regulation 2753 (ACG, CHEN, LIN)
- 9 (j) Code Section 10162 and Regulation 2715 (ACG, CHEN)
- 9 (k) Code Section 10159.2 and Regulation 2725 (CHEN, LIN)

The foregoing violations constitute cause for discipline of the real estate license and license rights of ACG, CHEN and LIN, as aforesaid, under the provisions of Code Sections 10176(e) for

1 commingling; 10177(d) for violation of the Real Estate Law;
2 10177(h) for failure to supervise by CHEN and LIN; and/or
3 10177(g) for negligence.

4
5 SECOND CAUSE OF ACCUSATION

6 (Loan Modification Services)

7 11.

8 At all times mentioned herein, Respondents ACG, CHEN
9 and LIN engaged in the business of a loan modification and
10 advance fee brokerage, within the definition of Code Sections
11 10131(d) and 10131.2.

12 General Allegations

13 12.

14 During 2008 and continuing thereafter to date, ACG,
15 CHEN and LIN solicited economically distressed homeowners facing
16 foreclosure and eviction from their homes, offered loan
17 modification serviced, and charged and collected advance fees.

18 Specific Allegations

19 13.

20 Using the name "A C G FUNDING INC." Respondents ACG,
21 CHEN and LIN offered loss mitigation and loan modification
22 services to homeowner-borrowers seeking downward adjustments or
23 payment extenuations to their home mortgages. Respondents
24 collected \$20,500.00 in advanced fees from twenty-two (22)
25 homeowner-borrowers without possessing a pre-approved advance fee
26
27

1 agreement from the Department.

2 Loan Modification Violations

3 14.

4 The conduct of Respondents ACG, CHEN and LIN violated
5 the Code and the Regulations as set forth below with respect to
6 the homeowner-borrowers set forth above:

7 15.

8 The overall conduct of Respondents ACG, CHEN and LIN
9 with respect to homeowner-borrowers seeking loan modification
10 services constitutes a willful disregard or violation of the Real
11 Estate Law and is cause for the suspension or revocation of the
12 real estate license and license rights of Respondents pursuant to
13 the provisions of Code Section 10177(d).

14 The overall conduct of Respondents ACG, CHEN and LIN
15 with respect to homeowner-borrowers seeking loan modification
16 services constitutes negligence. This conduct and violation are
17 cause for the suspension or revocation of the real estate license
18 and license rights of said Respondents pursuant to the provisions
19 of Code Section 10177(g).

20
21 Negligence

22 16.

23 The overall conduct of Respondents ACG, CHEN and LIN
24 constitutes negligence. This conduct and violation are cause for
25 the suspension or revocation of the real estate license and
26 license rights of said Respondents pursuant to the provisions of
27

1 Code Section 10177(g).

2

3 Breach of Fiduciary Duty

4

17.

5

6

7

8

9

10

11

Failure to Supervise

12

18.

13

14

15

16

17

18

19

20

21

22

23

24

///

25

///

26

///


27

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents A C G FUNDING INC., KELVIN K. CHEN and JEFF P. LIN, under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including restitution of advanced fees paid for unearned loan modifications, and for costs of audit.

Dated at Los Angeles, California
this 17th day of August, 2011.



MARIA SUAREZ
Deputy Real Estate Commissioner

cc: A C G FUNDING INC.
c/o Kent Chao Chow Shen, D.O.
Jeff P. Lin
Kelvin K. Chen
Maria Suarez
Sacto
Alyxander K. Canlas
Audits - Anna Hartoonian