

FILED
SEP 14 2011
DEPARTMENT OF REAL ESTATE

By

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1 licensed by the Department in any capacity.

2 3.

3 Fair Lending Review LLC ("FLR") is a Nevada limited liability company doing
4 business in California, with offices at 3185 Airway, Suite C-2, Costa Mesa, CA 92626. FLR is
5 not now and has never been licensed by the Department in any capacity.

6 4.

7 During a period of time beginning on or before February 5, 2009, and continuing
8 through on or after July 9, 2009, Respondent engaged in the business of, acted in the capacity of,
9 advertised or assumed to act as a real estate broker in the State of California, within the meaning
10 of Business and Professions Code ("Code") Sections 10131(d) and 10131.2, for or in expectation
11 of compensation. Respondent, in concert with affiliated unlicensed businesses and individuals,
12 including but not necessarily limited to FLR, advertised and solicited borrowers on loans secured
13 by real property and offered to negotiate and modify terms of loans and prevent foreclosure.
14 Respondent also collected advance fees within the meaning of Code Sections 10026 and 10131.2.
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16
17 Unlicensed Loan Modification Activity

18 Raymond and Trudi E.

19 5.

20 On or about April 1, 2009, Raymond and Trudi E. entered into an agreement with
21 FLR, by and through Respondent, for loan modification services in connection with mortgage
22 loans secured by their home. FLR, doing business out of its office in Costa Mesa, California,
23 promised to assist Raymond and Trudi E. in avoiding foreclosure and in negotiating with lenders
24 to modify the terms of the loans. In April of 2009, Raymond and Trudi E. paid FLR in excess of
25 \$1,900.00 as an up front fee towards loan services.
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6.

Between April 1, 2009, and on or after August 24, 2009, Raymond and Trudi E. engaged in numerous communications with Respondent and other agents and representatives of FLR and/or its affiliates. Respondent held himself out as a branch manager for FLR and stated that Raymond and Trudi E.'s file and loan documents were under review by their lender as part of FLR's loan negotiation process. However, Raymond and Trudi E. discovered that this was not true. FLR failed to perform services as promised and the property went into foreclosure. FLR and CRUICKSHANK refused to refund or account for any of the fees paid.

Eric I.

7.

On or before February 5, 2009, Eric I. entered into an agreement with FLR and its affiliates for loan modification services in connection with mortgage loans secure by his home. FLR, through Respondent as its agent, promised to assist Eric I. in negotiating with lenders to modify the terms of the loans. Eric I. paid FLR \$3,000.00 in up front fees towards loan services.

8.

Eric I. engaged in numerous communications with FLR, through Respondent and other agents and representatives. FLR failed to perform any services as promised. FLR and Respondent refused to refund or account for any of the fees paid.

Thomas and Bonita S.

9.

On or about July 6, 2009, Thomas and Bonita S. entered into an agreement with FLR and its affiliates for loan modification and related services in connection with mortgage loans secured by their home. Respondent and others, as agents and/or affiliates of FLR,

1 promised to assist Thomas and Bonita S. in negotiating with lenders to modify the terms of the
2 loans. Thomas and Bonita S. paid FLR, through Respondent, \$2327.00 in up front fees towards
3 loan services.

4 10.

5 As set forth above, Respondent, as an agent of FLR, advertised, solicited and
6 entered into loan modification agreements with borrowers in expectation of compensation when
7 he was not licensed by the Department as a broker or as a salesperson employed by a broker.
8 Respondent also solicited advance fees from these borrowers. Respondent unlawfully engaged
9 in activities requiring a real estate license prior to October 28, 2010, and was therefore not
10 licensed by the Department in any capacity.

11 11.

12 No loan modification, loss mitigation or foreclosure avoidance services were ever
13 provided to the borrowers listed above by Respondent and/or any of his associates and business
14 affiliates, or by any lawyers or agents affiliated with those individuals or entities.

15 12.

16 The advance fees for loan modification services collected from borrowers
17 described above, were not collected pursuant to written agreements submitted to or reviewed by
18 the Department prior to use.

19 13.

20 At the time he collected advance fees from consumers, including the advance fees
21 collected from the consumers set forth in Paragraphs 5 through 9 above, Respondent was not
22 licensed as a broker or as a salesperson employed by a supervising employing broker. As such,
23 Respondent was not authorized to conduct activities requiring a real estate broker license
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1 independently, or as an employee or agent of any other broker or company, licensed or
2 unlicensed. Respondent was not authorized to conduct licensed activities as an agent of FLR,
3 and he was not authorized to receive compensation for acting as their agent.

4 14.

5 The conduct, acts and/or omissions of Respondent DAVID ARTHUR
6 CRUICKSHANK in soliciting borrowers and collecting advance fees from borrowers to perform
7 acts requiring a real estate license constitutes grounds to discipline the license and license rights
8 of Respondent DAVID ARTHUR CRUICKSHANK pursuant to Code Sections 10130, 10177(d),
9 and/or 10177(j).

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

15 Dated at Los Angeles, California

16 this 7 day of September, 2011.

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Robin Trujillo
Deputy Real Estate Commissioner

cc: David Arthur Cruickshank
Robin Trujillo
Sacto.