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FILED

SEP 20 2011

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 CEDAR TREE REAL ESTATE INC., doing business as) No. H- 37545 LA
14 Cedar Tree Financial, Diamond Loss Mitigation, and)
15 Neighborhood Loss Mitigation; PATRICK MICHAEL)
16 LADKANI, individually and as designated officer of) ACCUSATION
Cedar Tree Real Estate Inc.,)
Respondents.)

17 The Complainant, Joseph D. Aiu, a Deputy Real Estate Commissioner of the State
18 of California, for cause of Accusation against CEDAR TREE REAL ESTATE INC., doing
19 business as Cedar Tree Financial, Diamond Loss Mitigation, and Neighborhood Loss Mitigation,
20 PATRICK MICHAEL LADKANI, individually and as designated officer of Cedar Tree Real
21 Estate Inc., alleges as follows:

22 1.

23 The Complainant, Joseph D. Aiu, acting in his official capacity as a Deputy Real
24 Estate Commissioner of the State of California, makes this Accusation.

25 2.

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

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3.

License Status

A. CEDAR TREE REAL ESTATE INC. (CTREI). At all times mentioned, Respondent CTREI was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. On September 4, 2004, CTREI was originally licensed as a corporate real estate broker. Respondent CTREI was authorized to act by and through Respondent PATRICK MICHAEL LADKANI as CTREI's designated broker pursuant to Business and Professions Code (hereinafter Code) Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. PATRICK MICHAEL LADKANI (LADKANI). At all times mentioned, Respondent LADKANI was licensed or had license rights issued by the Department as a real estate broker. On July 17, 2004, LADKANI was originally licensed as a real estate broker. On November 20, 2007, LADKANI became the designated officer of CTREI.

D. CTREI is owned by LADKANI who is CTREI's president.

Brokerage

4.

At all times mentioned, in the City of Anaheim, County of Orange, CTREI and LADKANI acted as real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(a). Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

B. Code Section 10131(d). Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

1 C. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and
2 offered to provide loss mitigation and loan modification services to economically distressed
3 homeowners seeking adjustments to the terms and conditions of their home loans including, but
4 not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or
5 interest, extenuations, foreclosure prevention and short sales.

6 FIRST CAUSE OF ACCUSATION
7 (Audit Examination)

8 5.

9 On March 30, 2011, the Department completed an audit examination of the books
10 and records of CTREI limited to the residential resale and mortgage loan brokerage activities
11 only, as described in Paragraph 4, which require a real estate license. The audit examination
12 covered a period of time beginning on December 1, 2008 and ending on April 30, 2010. The
13 audit examination revealed violations of the Code and the Regulations as set forth in the
14 following paragraphs, and more fully discussed in Audit Report SD 090066 and SD 090074 and
15 the exhibits and work papers attached to said audit report.

16 Trust Account

17 6.

18 At all times mentioned, in connection with the activities described in Paragraph 4,
19 above, CTREI accepted or received funds including funds in trust (hereinafter "trust funds") from
20 or on behalf of actual or prospective parties including borrowers and lenders for sales, loan
21 transactions and loan modifications and thereafter made deposits and or disbursements of such
22 funds. From time to time herein mentioned during the audit period, said trust funds were
23 deposited and/or maintained by CTREI in the banks listed below as follows:

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1 B/A 1

2 Bank: Bank of America
3 Bank Address: P.O. Box 37176
4 San Francisco, CA 94137-0176
5 Account Name: Cedar Tree Real Estate Inc
6 Account No.: XXXXXX8534

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8 Purpose: This bank account was maintained as the general operating account.

9 B/A 2

10 Bank: Bank of America
11 Bank Address: P.O. Box 37176
12 San Francisco, CA 94137-0176
13 Account Name: Cedar Tree Real Estate Inc
14 Account No.: XXXXXX6009

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16 Purpose: This bank account was maintained as the general operating account and for the
17 deposit of advanced fees.

18 B/A3

19
20 Bank: Bank of America
21 Bank Address: P.O. Box 37176
22 San Francisco, CA 94137-0176
23 Account Name: Cedar Tree Real Estate Inc
24 Account No.: XXXXXX8552

25 Purpose: This bank account was maintained for the deposit of advanced fees.

26 ///

1 (f) Failed to establish and maintain a trust account at a bank or other recognized
2 financial institution in the name of the broker for deposit of advance fees collected by CTREI, in
3 violation of Code Section 10146.

4 (g) Collected advance fees within the meaning of Code Section 10026 from
5 homeowners seeking loan modification services wherein CTREI failed to provide loan
6 modification applicants with a pre-approved advance fee agreement from the Department in the
7 form of a no objection letter, in violation of Code Section 10085 and Regulation 2970.

8 (h) With reference to the lack of an advance fee agreement, CTREI failed to
9 provide a complete description of services to be rendered provided to each homeowner-borrower
10 in 10 point type font and, an allocation and disbursement of the amount collected as the advance
11 fee for each loan modification, in violation of Code Section 10146 and Regulation 2972.

12 (i)(1) Failed to retain a true and correct copy of a Department of Real Estate
13 approved California Mortgage Loan Disclosure Statements signed by the broker for borrowers
14 Dale Smith, Lien Truong and Jean Chung, in violation of Code Section 10240 and Regulation
15 2840; and

16 (i)(2) Failed to disclose yield spread premiums from lenders on the approved
17 Mortgage Loan Disclosure Statement for borrower Dale Smith, in violation of Code Section
18 10241 and Regulation 2840.1.

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Discipline Statutes and Regulations

8.

The conduct of Respondents CTREI and LADKANI, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Sections 10145, 10176(e), 10176(i) and Regulation 2832
7(b)	Code Section 10145 and Regulation 2832(d).
7(c)	Code Section 10145 and Regulation 2831
7(d)	Code Section 10145 and Regulation 2831.1
7(e)	Code Section 10145 and Regulation 2831.2
7(f)	Code Section 10146
7(g)	Code Section 10085 and Regulation 2970
7(h)	Code Section 10146 and Regulation 2972
7(i)	Code Sections 10240 and 10241 and Regulations 2840 and 2840.1

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondents CTREI and LADKANI, as the case may be, under the provisions of Code Sections 10176(e), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Loan Modification Services)

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At all times mentioned herein, Respondents CTREI and LADKANI engaged in the business of a loan modification services and an advance fee brokerage requiring a real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2.

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1 FIFTH CAUSE OF ACCUSATION
2 (Supervision and Compliance)

3 16.

4 The overall conduct of Respondent LADKANI constitutes a failure on said
5 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable
6 supervision and control over the licensed activities of CTREI as required by Code Section
7 10159.2 and Regulation 2725, and to keep CTREI in compliance with the Real Estate Law, with
8 specific regard to trust fund including credit and appraisal fees, earnest money deposits and
9 advance fees collected for loan modification services, and is cause for discipline of the real estate
10 license and license rights of Respondent pursuant to the provisions of Code Sections 10177(d),
11 10177(g) and 10177(h).

12 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
13 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
14 action against the license and license rights of Respondents CEDAR TREE REAL ESTATE
15 INC. and PATRICK MICHAEL LADKANI, under the Real Estate Law (Part 1 of Division 4 of
16 the Business and Professions Code) and for such other and further relief as may be proper under
17 other applicable provisions of law including restitution of advanced fees paid for unearned and
18 unrefunded loan modifications, and for costs of audit.

19 Dated at Los Angeles, California

20
21 this

V. J. [Signature]
22

[Signature]
23 Deputy Real Estate Commissioner

24 cc: Cedar Tree Real Estate Inc.
25 c/o Michael Patrick Ladkani D.O.
26 Joseph D. Aiu
27 Sacto
Enforcement - Elezar Galano
Audits - Chona Picayo