

FILED

OCT 19 2011

DEPARTMENT OF REAL ESTATE

BY: 

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 UNIVERSAL CONSULTING SERVICES INC., and)

No. H- 37604 LA

13)
14 CALLIX CADMEAD RICHARDSON, individually and)
15 as designated officer of Universal Consulting Services Inc.;)

ACCUSATION

16 Respondents.)

17 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State
18 of California, for cause of Accusation against UNIVERSAL CONSULTING SERVICES INC.
19 and CALLIX CADMEAD RICHARDSON, alleges as follows:

20 1.

21 The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real
22 Estate Commissioner of the State of California, makes this Accusation.

23 2.

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

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3.

License Status

A. UNIVERSAL CONSULTING SERVICES INC. (UCSI). At all times mentioned, Respondent UCSI was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. On April 22, 2009, UCSI was originally licensed as a corporate real estate broker. Respondent UCSI was authorized to act by and through Respondent CALLIX CADMEAD RICHARDSON as UCSI'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. CALLIX CADMEAD RICHARDSON (RICHARDSON). At all times mentioned, Respondent RICHARDSON was licensed or had license rights issued by the Department as a real estate broker. On October 12, 2004, RICHARDSON was originally licensed as a real estate broker. On April 22, 2009, RICHARDSON became the designated officer of UCSI. On December 9, 2010, RICHARDSON cancelled his tenure as designated officer of UCSI.

C. UCSI is owned by Tiam Moaeed, its president and CEO. Kasra Barghi is UCSI's Vice President and Secretary. Tiam Moaeed and Kasra Barghi are unlicensed persons.

Brokerage

4.

At all times mentioned, in the City of Tarzana, County of Los Angeles, UCSI and RICHARDSON acted as real estate brokers conducting licensed activities within the meaning of:

A. 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 B. Code Section 10131(d) and 10131.2. Respondents represented borrowers in
2 negotiating and modifying terms and obtaining mortgage loans, and collected advance fees
3 within the meaning of Code Sections 10026 and 10131.2, pursuant to written agreements which
4 constituted advance fee agreements within the meaning of Code Section 10085.

5 C. During the audit period from April 22, 2009 to November 30, 2010,
6 Respondents conducted and processed sixty-seven (67) loan modifications charging an advance
7 fee ranging approximately from \$1,000 to \$1,750 per loan for homeowner-applicants, for a total
8 collection of advance fees of \$169,000.00.

9 FIRST CAUSE OF ACCUSATION
10 (Audit Examination)

11 There is hereby incorporated in this First, separate Cause of Accusation, all of the
12 allegations contained in Paragraphs 1 through 4, above, with the same force and effect as if herein
13 fully set forth.
14

15 5.

16 On March 28, 2011, the Department completed an audit examination of the books
17 and records of UCSI pertaining to the mortgage loan brokerage, loan modification and advance
18 fee collection activities only described in Paragraph 4, which require a real estate license. The
19 audit examination covered a period of time beginning on April 22, 2009 and ending on
20 November 30, 2010. The audit examination revealed violations of the Code and the Regulations
21 as set forth in the following paragraphs, and more fully discussed in Audit Report LA 100069
22 and the exhibits and work papers attached to said audit report.

23 General and Trust Accounts

24 6.

25 At all times mentioned, in connection with the activities described in Paragraph 4,
26 above, UCSI and RICHARDSON accepted or received funds including funds in trust (hereinafter
27 "trust funds") principally in the form of advance fees collected from economically distressed

1 homeowner-applicants for loan modifications and/or on behalf of actual or prospective parties,
2 including lenders and borrowers for loan modifications brokered by UCSI. Thereafter UCSI
3 made deposits and or disbursements of such trust funds. From time to time herein mentioned
4 during the audit period, said trust funds were deposited and/or maintained by UCSI in the bank
5 account as follows:

6 "Universal Consulting Services Inc. Account No. xxxxxx2632
7 Citi America
8 19255 Ventura Blvd.,
Tarzana, Ca 91356

(B/A #1)

9 (B/A #1 is UCSI's General account not a trust account into which advanced fees for loan
10 modification services were deposited. UCSI did not maintain a trust account).

11 Loan Modification Audit Violations

12 7.

13 In the course of activities described in Paragraphs 4 and 6, above, and during the
14 examination period described in Paragraph 5, Respondents UCSI and RICHARDSON acted in
15 violation of the Code and the Regulations in which Respondents:

16 (a) Permitted, allowed or caused the disbursement of trust funds in the form of
17 advance fees collected from homeowner-applicants for loan modifications from UCSI's general
18 operating account, B/A #1, where the disbursement of funds reduced the total of aggregate funds
19 in B/A #1, to an amount which, on November 30, 2010, was \$128,280.00, less than the existing
20 aggregate trust fund liability to every principal who was an owner of said funds, without first
21 obtaining the prior written consent of the owners of said funds, in violation of Code Section
22 10145 and Regulations 2832.1.
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(b) Mixed and commingled trust funds and personal funds by depositing advance fees received from homeowner-applicants into B/A #1, UCSI's general operating account, in violation of Code Sections 10145, 10176(a) and 10176(e) and Regulation 2832, as tabled below:

Table: Commingling: Deposit of Advance Fees into Non Trust Account

| Complainant: | Deposit Date | Amount Deposited |
|-----------------|--------------|------------------|
| Dusan Koipunic | 10/22/09 | \$ 1,500.00 |
| Maria Lopez | 11/02/09 | \$ 1,500.00 |
| Carolyn Stevens | 11/02/09 | \$ 1,000.00 |
| Norma Naranjo | 10/26/09 | \$ 500.00 |
| Berlinda Dauz | 10/26/09 | \$ 500.00 |
| Total | | \$ 6,750.00 |

(c) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected, deposited and disbursed in connection with loan modification services, in violation of Code Section 10145 and Regulation 2831.

(d) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds in the form of advance fees collected, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.1.

(e) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all

1 trust funds received and disbursed by the escrow trust account, in violation of Code Section
2 10145 and Regulations 2831.2.

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

6 (g) Permitted Tiam Moaeed and Kasra Barghi, unlicensed and unbonded persons
7 and officers of UCSI, to be authorized signatories on B/A #1, into which trust funds in the form
8 of advance fees were deposited, in violation of Code Section 10145 and Regulation 2834(a).

9 RICHARDSON was not a signatory on B/A #1, in violation of Code Section 10145 and
10 Regulation 2834(b).

11 (h) RICHARDSON failed to exercise reasonable control and supervision over the
12 activities of UCSI to secure full compliance with the Real Estate Law, including but not limited
13 to trust fund handling, mortgage loan brokering, loan modification services and advance fee
14 charge and collection. Additionally, RICHARDSON had no system in place for regularly
15 monitoring his compliance with the Real Estate Law especially in regard to establishing, systems,
16 policies and procedures to review trust fund handling especially including advance fee deposits
17 received from homeowner-applicants seeking loan modification services, in violation of Code
18 Sections 10159.2, 10177(h) and Regulation 2725.

19 (i) UCSI and RICHARDSON collected advance fees within the meaning of Code
20 Section 10026 from homeowners seeking loan modifications wherein UCSI did not have and
21 thus failed to provide a pre-approved advance fee agreement from the Department, in violation of
22 Code Section 10085 and Regulation 2970.

23 ///

(j) With reference to the lack of an advance fee agreement UCSI failed to provide a complete description of services to be rendered provided to each prospective tenant in 10 point type font and failed to provide an allocation and disbursement of the amounts collected as the advance fee, in violation of Code Section 10146 and Regulation 2972.

(k) Claimed, charged and collected advance fees after October 11, 2009, the SAFE ACT Initiation Date, for negotiating, arranging and/or offering to broker mortgage loans and loan modifications and other forms of mortgage loan forbearance for fees paid by the borrowers after October 11, 2009. Respondents received and collected advance fees totaling \$4,20.00 from homeowners before UCSI had fully performed each and every service for which UCSI had contracted to perform or represented that would be performed during the period of October 17, 2009 to October 23, 2009, in violation of Code Sections 10085.6, 10146, 10145 and Regulation 2832, as tabled below:

Table: Advance Fees Collected for Loan Modification Services

| After SB94 (10/11/09) | | | | |
|-----------------------|------------|-------------|--------------|------|
| Dusan Koipunic | 10/17/2009 | \$ 1,500.00 | Not obtained | None |
| Maria Lopez | 10/31/09 | \$ 1,000.00 | Not obtained | None |
| Belinda Daut | 10/23/09 | \$1,750.00 | Not obtained | None |
| Total | | \$ 4,250.00 | | |

(l) On or about November 1, 2010, UCSI's corporate status was suspended by the California Franchise Tax Board, yet UCSI continued to conduct operations to date, in violations of Code Section 10177(f) and Regulation 2742(c).

Discipline Statutes and Regulations

8.

The conduct of Respondents UCSI and RICHARDSON, 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 Section 10145 and Regulation 2832.1 |
| 7(b) | Code Section 10145, 10176(a) and 10176(e) and Regulation 2832 |
| 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 10145 and Regulation 2834 |
| 7(h) | Code Section 10159.2 and 10177(h) and Regulation 2725 ((RICHARDSON)) |
| 7(i) | Code Section 10085 and Regulation 2970 |
| 7(j) | Code Section 10146 and Regulation 2972 |
| 7(k) | Code Section 10085.6, 10145 and 10146 and Regulation 2832 |
| 7(l) | Code Section 10177(f) and Regulation 2742(c) |

The foregoing violations constitutes cause for discipline of the real estate license and license rights of UCSI and RICHARDSON, under the provisions of Code Sections 10176(e), 10176(f), 10177(d) and/or 10177(g).

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Table: Advance Fees Collected for Loan Modification Services - Audit Related

| Complainant: | Contract Date | Advance Fee Paid | Loan Mod Status | Advance Fee Refund? |
|----------------|---|---------------------|--|---------------------------|
| Estaban Moraza | Undated - Transaction occurred in 2009 | \$ 3,750.00 | Not obtained | None |
| Ernesto Soto | 06/22/09 | \$ 1,500.00 | Trial payment plan - status unknown | None |
| Total | | \$ 5,250.00 | | |

Loan Modification Violations and Disciplinary Statutes

12.

The conduct of Respondents UCSI and RICHARDSON violated the Code and the Regulations as set forth below.

13.

13(a) Code Section 10176(a) for substantial misrepresentation of loan modification services contracted for but not provided.

13(b) Code Section 10176(b) for making false promises of a character likely to influence, persuade or induce the tabled homeowner-applicants to pay advance fees for loan modification services contracted and paid for but not provided.

13(c) Code Section 10177(d) for violation of the Real Estate Law, Code Section 10085 and Regulation 2970.

1 13(d) Code Section 10177(i) and/or 10177(j)) for fraud and/or dishonest dealing.

2 13(e) Code Section 10177(g) for negligence.

3
4 THIRD CAUSE OF ACCUSATION
5 (Negligence)

6 14.

7 The overall conduct of Respondents UCSI and RICHARDSON constitutes
8 negligence and is cause for discipline of the real estate license and license rights of said
9 Respondents pursuant to the provisions of Code Section 10177(g).

10 FOURTH CAUSE OF ACCUSATION
11 (Fiduciary Duty)

12 15.

13 The conduct, acts and omissions of Respondents UCSI and RICHARDSON
14 constitute a breach of fiduciary duty, owed the homeowners contracting for loan modification
15 services, of good faith, trust, confidence and candor, within the scope of their contractual
16 relationship and including exposing trust funds in the form of advance fees to the general
17 creditors of Respondents and the taxing authorities, in violation of Code Sections 10176(i) and/or
18 10177(g) and constitutes cause for discipline of the real estate license and license rights of said
19 Respondents pursuant to the provisions of Code Section 10177(g).

20 FIFTH CAUSE OF ACCUSATION
21 (Supervision and Compliance)


22 16.

23 The overall conduct of Respondent RICHARDSON constitutes a failure on said
24 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable
25 supervision and control over the licensed activities of UCSI and its officers and employees, as
26 required by Code Section 10159.2 and Regulation 2725, and to keep UCSI in compliance with
27 the Real Estate Law, with specific regard to trust fund and advance fee handling, mortgage and
loan brokering and loan modification services, and is cause for discipline of the real estate

1 license and license rights of Respondent pursuant to the provisions of Code Sections 10177(d),
2 10177(g) and 10177(h).

3
4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
5 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
6 action against the license and license rights of Respondents UNIVERSAL CONSULTING
7 SERVICES INC. and CALLIX CADMEAD RICHARDSON, under the Real Estate Law (Part 1
8 of Division 4 of the Business and Professions Code) and for such other and further relief as may
9 be proper under other applicable provisions of law including restitution of advanced fees paid for
10 unearned loan modifications, and for costs of audit.

11 Dated at Los Angeles, California

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13 this 27 day of September 2011 
14 Deputy Real Estate Commissioner

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24 cc: Universal Consulting Services Inc.
25 c/o Callix Cadmead Richardson D.O.
26 Callix Cadmead Richardson
27 Robin Trujillo
Sacto
Enforcement - Tiffany Williams