

FILED

SEP 21 2012

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-38300 LA
))
GARZA REALTY, INC.,))
CARLOS ALFREDO ROMERO,))
individually and as designated))
officer of Garza Realty, Inc.,))
and CESAR EMILIO GARZA,))
))
Respondents.))
_____))

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 August 20, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On July 23, 2012, Maria Suarez 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, return receipt requested, to Respondent GARZA REALTY, INC. on July 27, 2012.

On August 20, 2012, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the

Government Code, Respondent GARZA REALTY, INC.'s default was entered herein.

2.

From December 29, 2008 through the present, Respondent GARZA REALTY, INC. ("Respondent GRI") has been licensed under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code "Code") as a real estate corporation, License ID 01856487.

3.

Respondent GRI is a California corporation formed on October 2, 2008. Respondent CESAR EMILIO GARZA ("GARZA") is the Chief Executive Officer of GRI. Respondent CARLOS ALFREDO ROMERO ("ROMERO") is an officer or director of GRI.

4.

On January 3, 2012, the California Franchise Tax Board suspended the corporate powers, rights and privileges of Respondent GRI pursuant to the provisions of the California Revenue and Taxation Code. GRI's corporate status remains suspended.

5.

Loan Modification Group, On Time Financial Center, and Flor Santillan are not licensed in any capacity by the Department. In or about December, 2008, Respondent GRI registered use of the fictitious business name, Loan Modification Group with the Los Angeles County Clerk-Recorder's Office.

6.

For an unknown period of time beginning no later than October 19, 2009, Respondent GRI, while doing business as Loan Modification Group or On Time Financial Center, solicited and offered loan services to consumers, including services to assist them in negotiating with lenders, foreclosure forbearance, or obtaining a loan modification. Respondent GRI engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026 including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property.

7.

On or about October 19, 2009, Flor Santillan, an unlicensed person working on behalf of Respondent GRI, offered to assist borrower Yolanda Z. with loan modification and negotiation services. Yolanda Z. entered into a written advance fee agreement with Loan Modification Group for loan modification and negotiation services in connection with a loan secured by a lien on real property. Yolanda Z. paid an advance fee of \$2,850 to On Time Financial Center for loan modification and negotiation services. Flor Santillan made misrepresentations to Yolanda Z. in order to induce Yolanda Z. to enter into the advance fee agreement including, among others, that Loan Modification Group could obtain a loan modification for Yolanda Z. and possibly obtain a lower fixed interest rate on Yolanda Z.'s mortgage. Respondent GRI failed to perform the loan modification and negotiation services that had been promised to Yolanda Z. Respondent GRI failed to provide an accounting of any services done for Yolanda Z. or an accounting of the advance fees collected from Yolanda Z.

8.

Respondent GRI collected the advance fees described in Paragraph 7, above, pursuant to the provisions of a written agreement which constitutes an advance fee agreement within the meaning of Code Section 10085.

9.

Respondent GRI failed to comply with the requirements for handling of advance fees, in violation of Code Section 10146.

DETERMINATION OF ISSUES

1.

The suspension of Respondent GRI's corporate powers is in violation of Section 2742(c), Title 10, Chapter 6, California Code of Regulations ("Regulations"), and constitutes grounds to suspend or revoke Respondent GRI's corporate real estate broker license pursuant to Code Section 10177(d). Said suspension is a violation of Code Section 10177(f) in that it would have constituted grounds for the denial of the corporate real estate broker license under Regulation section 2742.

2.

The conduct, acts and/or omissions of Respondent GRI as set forth in Paragraphs 5 through 9, above, are in violation of Code Sections 10085, 10085.5, 10085.6 and 10146 and Regulation Section 2970 and constitute grounds for the suspension or revocation of the license and license rights of Respondent GRI pursuant to Code Sections 10177(d) and 10177(g).

3.

Respondent GRI's conduct, acts and/or omissions as set forth in Paragraphs 5 through 9, above, constitute grounds for the suspension or revocation of the license and license rights of Respondent GRI pursuant to Code Sections 10176(a) (making any substantial misrepresentation), 10176(b) (making any false promises of a character likely to influence, persuade or induce), 10176(i) (conduct...which constitutes fraud or dishonest dealing), 10177(d) (violation of the Real Estate Law), and 10177(g) (negligence).

4.

The activities described in Paragraph 7, above, require a real estate license under Code Sections 10131(d) and 10131.2. Respondent GRI violated Code Section 10137 by employing and/or compensating Flor Santillan, an individual who was not licensed as a real estate salesperson or broker, to perform activities requiring a license, which constitutes cause for the suspension or revocation of the license and license rights of Respondent GRI pursuant to Code Sections 10137, 10177(d) and 10177(g).

5.

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

ORDER

The license and license rights of Respondent GARZA 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 on October 11, 2012.

DATED: 9/11, 2012.

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

FILED

AUG 20 2012

DEPARTMENT OF REAL ESTATE

BY: ca

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9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12) NO. H-38300 LA
13 GARZA REALTY, INC.)
14 CARLOS ALFREDO ROMERO,) DEFAULT ORDER
15 individually and as designated)
16 officer of Garza Realty, Inc.,)
and CESAR EMILIO GARZA,)
Respondents.)

17 Respondent, GARZA REALTY, INC., having failed to file
18 a Notice of Defense within the time required by Section 11506
19 of the Government Code, is now in default. It is, therefore,
20 ordered that a default be entered on the record in this matter
21 as to GARZA REALTY, INC., only.

22 IT IS SO ORDERED

August 20, 2012

23
24 Real Estate Commissioner

25 Dolores Weeks

26 By: DOLORES WEEKS
27 Regional Manager