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MAY 21 2013

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	
)	
EQUITY WEST FINANCIAL, INC.;)	No. H-38492 LA
and SHARON CONCEPCION,)	
individually and as designated)	
officer of Equity West)	
Financial, Inc.,)	
)	
Respondents.)	
_____)	

DECISION

This Decision is being issued in accordance with the provisions of California Government Code Section 11520 on evidence of compliance with California Government Code Section 11505 and pursuant to the Order of Default filed on February 8, 2013 and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

1.

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

FINDINGS OF FACT

2.

On October 23, 2012, an Accusation was filed by Maria Suarez in her official capacity as a Deputy Real Estate Commissioner of the State of California. On October 23, 2012, the Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, return receipt requested, to the last known mailing addresses on file with the Department of Real Estate of Respondent EQUITY WEST FINANCIAL ("EQUITY WEST") and Respondent SHARON CONCEPCION ("CONCEPCION"). Both packets were returned to sender. To date, no response has been received from EQUITY WEST, and no response has been received from CONCEPCION.

3.

On February 8, 2013, no Notice of Defense having been filed herein within the time prescribed by California Government Code Section 11506, EQUITY WEST and CONCEPCION's defaults were entered herein.

4.

EQUITY WEST's corporate broker license expired on March 9, 2012. The Department of Real Estate retains jurisdiction over the license pursuant to Code Section 10103.

5.

CONCEPCION's broker license expired on February 20, 2010. The Department of Real Estate retains jurisdiction over the license pursuant to Code Section 10103.

Brokerage

6.

At all times mentioned herein, in the State of California, EQUITY WEST and CONCEPCION conducted licensed activities within the meaning of Code Section Sections 10131(d) and 10131.2, including, but not limited to, operating a mortgage loan brokerage and an advanced fee and loan modification service brokerage. For compensation or in expectation of compensation and for fees often collected in advance, Respondents contacted lenders on behalf of distressed homeowners seeking modification or forbearance of the terms of their home loans.

Audit LA090024 and Audit LA090173

7.

On May 26, 2010, the Department of Real Estate completed an audit examination of the books and records of EQUITY WEST limited to determine whether EQUITY WEST handled and accounted for trust funds and conducted its real estate activities in accordance with the Real Estate Law and Regulations. The audit examination covered a period of time beginning on January 1, 2007 and ended on December 31, 2009. The audit examination revealed violations of the Code and Regulations set forth in the following paragraphs, and more fully discussed in Audit Reports LA090024, LA090173, and the exhibits and work papers attached to said audit reports.

Bank Account and Trust Account

8.

At all times mentioned, in connection with the activities described in Paragraph 6, above, EQUITY WEST accepted or received funds including funds in trust ("trust funds") from or on behalf of actual or prospective parties involved in mortgage loan transactions including borrowers and lenders handled by EQUITY WEST and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, during the audit period, said trust funds were deposited and/or maintained by EQUITY WEST in the bank account as follows:

"Equity West Financial, Inc.
Escrow Division General Account"
*****8702

Union Bank of California
P.O. Box 512380
Los Angeles, CA 90051-0380

(B/A #1)

"Equity West Financial, Inc.
Trust Account"
*****8410

Citibank
P.O. Box 26892
San Francisco, CA 94126-6892

"Equity West Financial, Inc." (T/A #1)
Escrow Division Trust Account"
*****8710

Union Bank of California
Laguna Hills 069
P.O. Box 512380
Los Angeles, CA 90051-0380 (T/A #2)

"Equity West Financial, Inc.
Escrow Division Trust Account (VE1T)"
*****7610
Mellon 1st Business Bank
601 West Fifth Street
Los Angeles, CA 90071 (T/A #3)

Violations

9.

In the course of activities described in Paragraph 6, above, and during the examination period in Paragraph 7, Respondents EQUITY WEST and CONCEPCION, acted in violation of the Code and the Regulations as set forth below:

(a) (1) Failed to disburse from T/A #1 broker funds totaling \$1,742.50, in violation of Code Section 10145 and 10176(e) and Regulation 2835.

(a) (2) Permitted, allowed, or caused the disbursement of trust funds from the general operating account B/A #1 where the disbursement of funds reduced the total of aggregate funds in escrow trust account, to an amount which, on December 31, 2009, was \$10,535.00, less than the existing aggregate trust fund liability to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145 and Regulations 2832.1. The shortage is due to unearned fees from loan modifications activities.

(b) Commingled trust funds by depositing advance fees collected from borrowers in connection with loan modification transactions into EQUITY WEST's general operating account B/A #1, in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

(c) Failed to maintain a control record in the form of a columnar record in chronological order of all "Trust Funds

Received, Not Placed Broker's Trust Account" for T/A 1, in violation of Code Section 10145 and Regulations 2831, 2950(d), and 2951.

(d) Failed to maintain an accurate and complete separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and disbursed in connection with loan modification transactions, in violation of Code Section 10145 and Regulation 2831.1.

(e) Permitted Susan Concepcion and Christian Concepcion, unlicensed and unbonded persons, to be authorized signatories on the trust accounts T/A #1 and T/A #2, in violation of Code Section 10145 and Regulation 2834.

(f) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein EQUITY WEST failed to provide homeowners Sarah R., Ralph T., Maureen E., Consuelo O, Elizabeth and Renato P., and Roberto and Editha F., with a pre-approved advance fee agreement from the Department in the form of a no objection letter, in violation of Code Section 10085 and Regulation 2970.

(g) Failed to deposit collected advance fees for loan modification services into a trust account, in violation of Code Section 10146.

(h) With reference to a lack of an advanced fee agreement, EQUITY WEST failed to provide a description of services and an accounting content to homeowners, Sarah R., Ralph T., Maureen E., Consuelo O., Elizabeth and Renato P., Roberto and Editha F., and Eutimeo and Rachel B., showing the services to be rendered, into which trust account the funds were deposited, and details of how the funds were disbursed, in violation of Code Section 10146 and Regulation 2972.

(i) Failed to disclose yield spread premiums received from lenders on the approved Mortgage Loan Disclosure Statement for borrowers, Cleophas and Mary R., Ovidio G., Joey G., and Ronnie Valeuzuela, in violation of Code Section 10240 and Regulation 2840.

(j) Failed to disclose EQUITY WEST's real estate broker license number on the Mortgage Loan Disclosure Statement to borrowers, Cleophas and Mary R., Ovidio G., Edgardo and Ana C, and Grace and Michael G., in violation of Code Section 10236.4.

(k) Closed EQUITY WEST's business and mailing address at 1033 East Imperial Highway, Suite E-9, Brea, California in June 2009, and changed the address to 15220 Central Avenue, Suite B, Chino, California in February 2009 without notification to the Department, in violation of Code Section 10162 and Regulation 2715.

Supervision and Compliance

10.

The overall conduct of Respondent CONCEPCION constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of EQUITY WEST as required by Code Section 10159.2 and 10211, and to keep EQUITY WEST in compliance with the Real Estate Law, requiring a real estate license, and is cause for discipline of the real estate license and real estate license rights of Respondent CONCEPCION pursuant to the Code Sections 10177(d), 10177(g), and 10177(h).

DETERMINATION OF ISSUES

Disciplinary Statutes

1.

The conduct, acts, and/or omissions of Respondents EQUITY WEST and CONCEPCION, described in Paragraphs 9 and 10, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section <u>10145</u> and <u>10176(e)</u> and Regulations <u>2832.1</u> and <u>2835</u>
7(b)	Code Sections <u>10145</u> and <u>10176(e)</u> and Regulation <u>2832</u>
7(c)	Code Sections <u>10145</u> and Regulations <u>2831</u> , <u>2950(d)</u> , and <u>2951</u>
7(d)	Code Section <u>10145</u> and Regulation <u>2831.1</u>
7(e)	Code Section <u>10145</u> and Regulation <u>2834</u>
7(f)	Code Section <u>10085</u> and Regulation <u>2970</u>
7(g)	Code Section <u>10146</u>
7(h)	Code Section <u>10146</u> and Regulation <u>2972</u>
7(i)	Code Section <u>10240</u> and Regulation <u>2840</u>

7(j) Code Section 10236.4
7(k) Code Section 10162 and Regulation 2715

The foregoing violations constitute cause for the revocation of the real estate license and license rights of Respondent EQUITY WEST FINANCIAL, INC. and Respondent SHARON CONCEPCION, as aforesaid, under the provisions of Code Sections 10177(d) for violation of the real estate law and 10177(g) for negligence.

2.

The overall conduct of Respondent CONCEPCION constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of EQUITY WEST as required by Code Section 10159.2 and 10211, and to keep EQUITY WEST in compliance with the Real Estate Law, requiring a real estate license, and is cause for discipline of the real estate license and real estate license rights of Respondent CONCEPCION pursuant to the Code Sections 10177(d), 10177(g), and 10177(h).

3.

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

ORDER

The license and license rights of Respondent EQUITY WEST FINANCIAL, INC. and Respondent SHARON CONCEPCION under the provisions of California Business and Professions Code Division 4, Part I are revoked.

This Decision shall become effective at 12 o'clock noon on June 10, 2013.

DATED: 4/29/2013

REAL ESTATE COMMISSIONER


Wayne S. Bell

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

4 (213) 576-6982

FILED

FEB - 8 2013

DEPARTMENT OF REAL ESTATE
BY: *R. M. [Signature]*

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9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-38492 LA
12)
13 EQUITY WEST FINANCIAL, INC.,)
14 and SHARON CONCEPCION,)
15 individually and as designated)
16 officer of Equity West Financial,)
Inc.,)
Respondents.)

17 DEFAULT ORDER

18 Respondents EQUITY WEST FINANCIAL, INC. and SHARON
19 CONCEPCION, having failed to file Notices of Defense within the
20 time required by Section 11506 of the Government Code, are now
21 in default. It is therefore, ordered that a default be entered
22 on the record in this matter.

23
24 IT IS SO ORDERED

February 7, 2013

25
26 Real Estate Commissioner

Dolores Weeks

27 By: DOLORES WEEKS
Regional Manager