

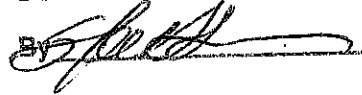
1 Bureau of Real Estate
2 320 West Fourth Street, Ste. 350
3 Los Angeles, California 90013

4 (213) 576-6982

FILED

MAR 08 2017

BUREAU OF REAL ESTATE

BY 

8 BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 To:

12
13 ACTIVUS CORPORATION; and) No. H-40521 LA
14 JEFFREY E. LOHMAN, indivi-)
15 dually, and as designated officer)
16 for Activus Corporation,) ORDER TO DESIST
) AND REFRAIN
)

17 The Real Estate Commissioner of the State of California has caused an
18 investigation to be made of the activities of ACTIVUS CORPORATION (“ACTIVUS”) and
19 JEFFREY E. LOHMAN (“LOHMAN”), individually, and as designated officer for ACTIVUS,
20 and based on the findings of that investigation is of the opinion that ACTIVUS and LOHMAN
21 have violated Sections 10235 and 14702 of the Business and Professions Code (hereinafter
22 “Code”) as well as Section 2848 of Chapter 6, Title 10, California Code of Regulations
23 (hereinafter “Regulations”).
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1 FINDINGS OF FACT

2 1. ACTIVUS is presently licensed and/or has license rights under the Real Estate
3 Law (Part 1 of Division 4 of the Code) as a real estate corporation acting by and through
4 LOHMAN as its designated broker-officer, and has a corporate mortgage loan originator license
5 endorsement with identification number 307057. The broker license of ACTIVUS will expire on
6 September 17, 2019, unless renewed.

7 2. LOHMAN is presently licensed and/or has license rights under the Real Estate
8 Law as a real estate broker, and has an individual mortgage loan originator license endorsement
9 with identification number 353753 qualifying him to represent ACTIVUS. At all times relevant
10 herein LOHMAN was the designated officer for ACTIVUS. The license of LOHMAN will
11 expire on October 30, 2018, unless renewed.

12 3. At all times relevant herein LOHMAN, as the officer designated by ACTIVUS,
13 pursuant to Section 10211 of the Code, was responsible for the supervision and control of the
14 activities conducted on behalf of ACTIVUS by its officers and employees as necessary to secure
15 full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

16 4. Whenever acts referred to below are attributed to ACTIVUS or LOHMAN
17 those acts are alleged to have been done by either or both of them, acting alone, or by and/or
18 through one or more agents, associates, affiliates, and/or co-conspirators, including but not
19 limited to each of those named herein, and using a fictitious name(s) unknown at this time.

20 5. At all times mentioned herein, ACTIVUS and LOHMAN, for compensation or
21 in expectation of compensation, engaged in the business, acted in the capacity of, advertised or
22 assumed to act as a real estate broker in the State of California within the meaning of Section
23 10131 subpart (d) of the Code conducting mortgage loan brokerage activities with the public
24 including advertising for and soliciting borrowers or lenders for, or negotiating, loans secured
25 directly or collaterally by liens on real property.

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1 program BENEFIT specifications;" and

2 c. The mailer creates a false sense of urgency by stating "[y]our estimated monthly
3 savings beginning February 1, 2016 is calculated to be \$780.33. In order for your new payment to
4 be processed before your February 1, 2016 payment date, please call toll-free 1-888-424-2259
5 within 5 days."

6 9. During the time period described in Paragraph 7, above, the direct mail
7 solicitation by ACTIVUS and LOHMAN advertised the proposed new payment as being based
8 on a 30 year loan with "a fixed interest rate of 2.944%, 3.07% APR for 5 years and may increase
9 or decrease after the fixed period" without supplying the additional information required
10 pursuant to Section 2848(a)(17) of the Regulations.

11 10. During the time period described in Paragraph 7, above, the direct mail
12 advertisement by ACTIVUS and LOHMAN included the consumer's loan amount without the
13 consent of the consumer and without clearly and conspicuously stating that ACTIVUS and
14 LOHMAN are not sponsored by or affiliated with the consumer's lender, that the solicitation is
15 not authorized by the lender and that the consumer's loan information was not provided to
16 ACTIVUS and LOHMAN by the lender. Though portions of this information are provided in the
17 advertisement the requisite statements are not in close proximity to, and in the same or larger
18 font, as the first and most prominent use of the consumer's loan information.

19 CONCLUSIONS OF LAW

20 11. The activities described in Paragraphs 7 through 10, above, are in violation of
21 Code Section 10235 in that they constitute knowingly advertising, printing, displaying,
22 publishing, distributing, telecasting or broadcasting, or causing or permitting to be advertised,
23 printed, displayed, published, distributed, televised or broadcast a statement or representation
24 with regard to the rates, terms, or conditions for making, purchasing or negotiating loans which
25 are false, misleading or deceptive.

26 12. The activity described in Paragraph 9, above, constitutes the representation of
27 a repayment installment of an adjustable rate, interest only or payment-option loan without an

1 equally prominent disclosure of information required by the following provisions of Section
2 2848(a)(17) of the Regulations which are necessary to prevent or halt the publication of
3 advertising that is false, misleading or deceptive in itself or through the omission of information
4 necessary to make a representation not misleading in the context in which it is used:

- 5 a. Principal amount (Section 2848(a)(17)(A) of Regulations)
- 6 b. Fully-indexed interest rate (Section 2848(a)(17)(E) of Regulations)
- 7 c. Maximum interest rate (Section 2848(a)(17)(F) of Regulation)
- 8 d. If different, an explanation of the difference between the payment rate, initial
9 interest rate and fully-indexed rate (Section 2848(a)(17)(G) of Regulations)
- 10 e. Annual percentage rate (Section 2848(a)(17)(H) of Regulations)
- 11 f. How often the interest rate and payments can change (Section 2848(a)(17)(I) of
12 Regulations)
- 13 g. Maximum periodic change in the interest rate and payments (periodic caps)
14 (Section 2848(a)(17)(J) of Regulations)
- 15 h. Number of months and percentage of original loan amount after which
16 minimum payments will not be accepted and the loan re-amortizes (Section
17 2848(a)(17)(K) of Regulations)
- 18 i. The monthly payment based on the maximum interest rate, and the loan balance
19 after all negative amortization is included, assuming minimum payments are made
20 (Section 2848(a)(17)(L) of Regulations)
- 21 j. If the loan contains a prepayment penalty, a statement to that effect (Section
22 2848(a)(17)(M) of Regulations)
- 23 k. If the loan contains a balloon payment, a statement to that effect (Section
24 2848(a)(17)(N) of Regulations)

25 13. The activity described in Paragraph 10, above, is in violation of Code Section
26 14702 in that the direct mail advertisement includes the consumer's loan amount without the
27 consent of the consumer and without clearly and conspicuously stating that ACTIVUS and

1 LOHMAN are not sponsored by or affiliated with the consumer's lender, that the solicitation is
2 not authorized by the lender and that the consumer's loan information was not provided to
3 ACTIVUS and LOHMAN by the lender.

4 DESIST AND REFRAIN ORDER

5 Based on the Findings of Fact and Conclusions of Law stated herein:

6 IT IS HEREBY ORDERED THAT ACTIVUS CORPORATION and JEFFREY
7 E. LOHMAN DESIST AND REFRAIN from:

8 1. Knowingly advertising, printing, displaying, publishing, distributing,
9 telecasting or broadcasting, or causing or permitting to be advertised, printed, displayed,
10 published, distributed, televised or broadcast a statement or representation with regard to the
11 rates, terms, or conditions for making, purchasing or negotiating loans which is false, misleading
12 or deceptive; and

13 2. Including a consumer's loan amount without the consent of the consumer and
14 without clearly and conspicuously stating that ACTIVUS and LOHMAN are not sponsored by or
15 affiliated with the consumer's lender, that the solicitation is not authorized by the lender and that
16 the consumer's loan information was not provided to ACTIVUS and LOHMAN by the lender.

17 DATED: 2/24/17

18 WAYNE S. BELL
19 REAL ESTATE COMMISSIONER

20
21 By: 
22 Daniel J. Sandri
23 Chief Deputy Commissioner
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cc: ACTIVUS CORPORATION
JEFFREY E. LOHMAN
Chika Sunquist
Sacto.