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

(213) 576-6982

FILED

OCT 04 2017

BUREAU OF REAL ESTATE

By *[Signature]*

STATE OF CALIFORNIA
BUREAU OF REAL ESTATE

To:)
JORGE LUNA)
) No. H-40808 LA
)
) ORDER TO
) DESIST AND REFRAIN
) (B&P Code Section 10086)
)

The Commissioner ("Commissioner") of the California Bureau of Real Estate ("Bureau" or "BRE") caused an investigation to be made of the activities of JORGE LUNA ("LUNA"). Based on that investigation, the Commissioner has determined that LUNA and/or any other fictitious business names used by LUNA, including but not limited to: Property Management Investment, America Mortgage and Realty, and/or AMC Escrow, has engaged in, is engaging in, or is attempting to engage in, acts or practices constituting violations of the California Business and Professions Code ("Code"), including violating Code Section 10130 by engaging in the business of, acting in the capacity of, and/or advertising or assuming to act as, a real estate broker in the State of California within the meaning of: (1) Code Section 10131(a), by selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real

CalBRE Order to Desist and Refrain – JORGE LUNA

1 2. Walter A. Zdazinsky (“Zdazinsky”) is presently licensed and/or has license
2 rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a REB, BRE license ID
3 01775979. From October 13, 2009 to October 25, 2015, American Realty and Mortgage was an
4 active DBA under Zdazinsky’s REB license. Presently, Zdazinsky holds no active DBAs under
5 his REB license.

6 3. Property Management Investment

7 Property Management Investment (“PMI”), a.k.a. PMI Group is not now and has
8 never been licensed by the Bureau in any capacity. On or about December 5, 2007, PMI filed
9 with the San Bernardino Auditor/Controller/Recorder a Fictitious Business Name (“FBN”)
10 Statement that listed LUNA as its Registrant and the Iris address as its business, mailing and
11 Registrant’s address, FBN Number 20070018806; this filing expired on December 3, 2012. On
12 or about September 23, 2015, PMI filed with the San Bernardino Auditor/Controller/Recorder
13 another FBN Statement that listed LUNA as its Registrant, the Iris address as LUNA’s address,
14 and 1255 W. Colton Ave., Suite 538, Colton, CA 92374 (“Colton address”) as its business
15 address, FBN Number 20150010652; this filing will expire on September 23, 2020.

16 4. America Mortgage and Realty

17 America Mortgage and Realty (“AMR”) is not now and has never been licensed
18 by the Bureau in any capacity.

19 5. AMC Escrow

20 AMC Escrow (“AMC”) is not now and has never been licensed by the Bureau in
21 any capacity.

22 Complainant Jessica B. N.

23 6. On or about November 17, 2015, the BRE received a Licensing/Subdivider
24 Complaint (RE 519 (Rev. 6/15)) from property owner Jessica B. N. regarding a property
25 management agreement between herself and PMI (“Jessica N. Complaint”) for management of
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1 Jessica B. N.'s real property located at 346 S. College Ave., Claremont, California ("346 College
2 property"). The Jessica B. N. Complaint referenced the property management activities of both
3 PMI and LUNA on behalf of Jessica B. N., including PMI's collection of rent.

4 7. According to the Property Management Agreement ("PMA") of October 9,
5 2013, AMR was to manage Jessica B.N.'s 346 College property for the period October 10, 2013
6 through October 31, 2014, for a flat monthly management fee of \$49.95, plus fifty percent (50%)
7 of the first month's rent and, in the event of an eviction, a \$150.00 processing fee and court filing
8 fees; additionally, a monthly fee of \$49.95 would be charged in the event that AMR managed the
9 346 College property during extended periods of vacancy. LUNA was listed as the agent for
10 "Real Estate Broker (Firm)" AMR, and AMR's address on the PMA was the Colton address.
11 AMR and Luna were also listed as the Listing Agent on the Lead-Based Paint and Lead-Based
12 Paint Hazards Disclosure (C.A.R. Form FLD, Rev. 11/10) and the Disclosure Regarding Real
13 Estate Agency Relationship (C.A.R. Form AD, Rev. 11/12).

14 8. According to the Residential Lease or Month-To-Month Rental Agreement
15 signed by tenant Danielle A. F. on or about June 12, 2015 and Jessica B. N. on or about June 19,
16 2015, rent and security deposit funds were to be paid to PMI, whose address was listed as the
17 Colton address.

18 9. On or about June 19, 2015, Jessica B.N. emailed LUNA at
19 americanmortgageandrealty@live.com ("AMR email") with questions regarding the 346 College
20 property, including an inquiry regarding: the security deposits from the prior and current tenants;
21 advance rent payments; and the "missing april [sic] 2014 payment." On or about August 20,
22 2015, Jessica B.N. emailed LUNA a follow-up and asked about rent payments that were missing
23 for March, July and August of 2015. In his response on or about August 21, 2015, LUNA
24 indicated that, "Accounting has confirmed error will be emailing you revise statements
25 disbursements shortly. [sic] Management fee for July and August will be waived."
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1 10. By November 5, 2015, Jessica B.N., had received a payment transfer for July
2 2015, but had not received payments for August, September and October 2015, and emailed
3 LUNA with the inquiry, "Can you please issue the payments for Aug, Sept, and Oct.?" Jessica
4 B.N.'s email also inquired about a fireplace remote control. On or about November 5, 2015,
5 LUNA replied that the accounting regarding rent disbursements was in process and "should be
6 resolved by tomorrow." On or about November 9, 2015 and November 10, 2015, Jessica B.N.
7 emailed LUNA again regarding an update on the missing disbursements.

8 11. On or about November 11, 2015, LUNA emailed Jessica B.N. from
9 jl.pmigroup@gmail.com ("PMI email") with a rent statement for August 2015, and indicated that
10 the ACH transfer for this statement "has been schedule [sic] and will post within one business
11 day." Additionally, LUNA informed Jessica B.N. that his organization was now "Independent
12 from America Mortgage Realty. Property Management Investment Group is the new name
13 below is our updated contact information. [sic]" LUNA's signature block listed the Colton
14 address as PMI Group's address.

15 12. On or about November 17, 2015, Jessica B.N. emailed LUNA at the PMI
16 email and indicated that nothing had posted and that she was still missing payments for August,
17 September, October, and that the last correspondence indicated the August payment would post
18 on November 12.

19 13. To date, the only invoice that Jessica B.N. has received from Luna is for
20 August 2015 rent in the amount of \$2,150, the monies of which have not been remitted to Jessica
21 B.N. To date, Jessica B.N. has not received payments from LUNA for March 2014 (\$2,150),
22 August 2015 (\$2,150), September 2015 (\$2,150), and October 2015 (\$2,150), which total eight
23 thousand six hundred dollars (\$8,600).

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1 14. Zdazinsky, who was LUNA's REB of record from August 27, 2009 to June 3,
2 2015 (LUNA's RES expiration), had no knowledge of LUNA's property management activities
3 over the 346 College property, until the BRE commenced its investigation of LUNA.

4 First Zdazinsky Complaint (Complainant Ryan L.)

5 15. On or about March 20, 2016, the BRE received a Licensing/Subdivider
6 Complaint (RE 519 (Rev. 6/15)) from REB Zdazinsky regarding an inquiry from RES Garrett
7 Jones ("Jones"), BRE License ID 01713958 of LUNA's contact information and whereabouts
8 ("First Zdazinsky Complaint"). The Zdazinsky Complaint referenced two properties listed for
9 short sale by LUNA for which Jones' colleague, Ryan L., as Downcycle LLC, submitted offers:
10 (1) 14557 Unity Ct., Moreno Valley, CA 92553 ("Unity Ct.") and (2) the property located at the
11 Iris address ("Iris").

12 16. Unity Ct.: On or about November 25, 2014, Downcycle LLC ("Downcycle")
13 submitted an offer for the Unity Ct. property to Selling Agent LUNA and AMR. Subsequent to
14 Downcycle's offer, LUNA informed that the seller required an earnest money deposit in the
15 amount of \$5,000 to be deposited to AMC Escrow. According to the Addendum, "Buyers
16 earnest money deposit to go hard and deposit to Escrow upon execution of offer. (Subject to
17 short sale approval if offer is decline or cancel buyers FULL DEPOSIT WILL BE REFUNDED.
18 [sic]" Pursuant to wire instructions on AMC letterhead (bearing the Colton address), on or about
19 December 8, 2014, Downcycle wired \$5,000 to AMC's Bank of America account number
20 #####1208 as EMD for the Unity Ct. property purchase.

21 17. Iris: On or about January 29, 2015, Downcycle LLC ("Downcycle") submitted
22 an offer for the Iris address to Selling Agent LUNA and AMR. Subsequent to Downcycle's
23 offer, LUNA informed that the seller required an earnest money deposit in the amount of \$5,000
24 to be deposited to AMC Escrow. According to the Addendum, "Buyers earnest money deposit
25 to go hard and deposit to Escrow upon execution of offer. . (If short sale is denied by lien
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1 holder, cancel by seller or final approved price not accepted by both buyer and seller, buyers
2 FULL deposit will be refunded without fee or charge. [sic]" Pursuant to wire instructions on
3 AMC letterhead (bearing the Colton address), on or about March 5, 2015, Downcycle wired
4 \$5,000 to AMC's Bank of America account number #####1208 as EMD for the Iris property
5 purchase.

6 18. Subsequent to each offer and each EMD, neither the Unity Ct. transaction nor
7 the Iris transaction completed. Jones and Ryan L. remained in contact with Respondent until the
8 end of calendar year 2015, after which Respondent became unreachable. To date, Ryan L. has
9 been unable to locate Respondent and has not received a refund of the \$10,000 EMDs collected
10 by LUNA and AMC for Unity Ct. and Iris.

11 19. Zdazinsky, who was LUNA's REB of record from August 27, 2009 to June 3,
12 2015 (LUNA's RES expiration), had no knowledge of LUNA's Unity Ct. and Iris transactions
13 with Ryan L., until the BRE commenced its investigation of LUNA.

14 Second Zdazinsky Complaint (Complainant Ian G./Griffin Residential)

15 20. On or about August 17, 2016, the BRE received an online Enforcement
16 Complaint REB Zdazinsky regarding an inquiry from Ian G./ Griffin Residential ("Griffin")
17 regarding an offer submitted by Griffin on or about December 2, 2014 to LUNA and AMR to
18 purchase a short sale property located at 14557 Unity Ct., Moreno Valley, CA 92553 (same
19 Unity Ct. address as described above in paragraph 14). ("Second Zdazinsky Complaint")

20 21. According to the Addendum, "Buyers earnest money deposit to be deposit
21 into AMC Escrow upon execution of offer. (Subject to short sale approval if offer is decline or
22 cancel buyers FULL DEPOSIT WILL BE REFUNDED. [sic]" Pursuant to wire instructions on
23 AMC letterhead (bearing the Colton address), on or about December 8, 2014, Griffin wired
24 \$5,000 to AMC's Bank of America account number #####1208 as EMD for the Unity Ct.
25 property purchase.

1 purchase, sale or exchange of real property or a business opportunity and leased or rented or
2 offered to lease or rent, or placed for rent, or solicited listings of places to rent, or solicited for
3 prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or
4 on a business opportunity, or collected rent from real property, or improvements thereon, or from
5 business opportunities, which acts require a real estate broker license under Section 10131(a)
6 and 10131(b), respectively, of the Code, during a period of time when JORGE LUNA was not
7 licensed by the Bureau as a real estate broker, in violation of Section 10130 of the Code.

8 DESIST AND REFRAIN ORDER:

9 Based upon the Findings of Fact and Conclusions of Law stated herein, JORGE
10 LUNA, whether doing business under his own name or any other name(s) or fictitious name(s),
11 including but not limited to: Property Management Investment, America Mortgage and Realty,
12 and/or AMC Escrow, IS HEREBY ORDERED to immediately desist and refrain from performing
13 any acts within the State of California for which a real estate broker license is required. In
14 particular, he is ORDERED TO DESIST AND REFRAIN from:

- 15 a. engaging in real estate sales activities, as described in Code Section 10131(a),
16 individually and under any fictitious business name, unless and until he
17 obtains the required license from the Bureau and is in compliance with
18 Business and Professions Code Section 10130;
- 19 b. engaging in property management activities, as described in Code Section
20 10131(b), individually and under any fictitious business name, unless and until
21 he obtains the required license from the Bureau and is in compliance with
22 Business and Professions Code Section 10130; and
- 23 c. performing any acts within the State of California for which a real estate
24 broker license is required, unless he is so licensed.

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DATED: 9/27/17

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By: *Daniel J. Sandri*
DANIEL J. SANDRI
Deputy Chief Commissioner

Notice: Business and Professions Code Section 10139 provides that "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000)."

cc: JORGE LUNA