

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
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FILED

JUN 11 2009

DEPARTMENT OF REAL ESTATE

By H. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 To:

12)
13) SIERRA VISTA REALTY, INC.,
14) STONECREEK CAPITAL MORTGAGE
15) CORPORATION, and,
16) JOSEPH PARKS.

NO. H-2396 FR

ORDER TO
DESIST AND REFRAIN

17 The Real Estate Commissioner of the State of California (hereinafter the
18 "Commissioner") has caused an investigation to be made of your activities and based upon the
19 findings herein below set forth, is of the opinion that you, SIERRA VISTA REALTY, INC., and
20 you, STONECREEK CAPITAL MORTGAGE CORPORATION, and you, JOSEPH PARKS,
21 have violated Sections 10130, 10131, 10159.5, 10161.8, and 10235 of the California Business
22 and Professions Code (hereinafter the "Code") and Sections 2731, 2847.3, and 2848, Title 10,
23 California Code of Regulations (hereinafter the "Regulations").

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25 Beginning on or about January 13, 2006, and continuing thereafter, SIERRA
26 VISTA REALTY, INC., was and is licensed by the Department of Real Estate (hereinafter the
27 "Department") as a real estate broker corporation.

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Beginning on or about March 1, 2001, and continuing thereafter, STONECREEK CAPITAL MORTGAGE CORPORATION was and is licensed by the Department as a real estate broker corporation.

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At all times herein mentioned, JOSEPH PARKS was and is licensed by the Department as a real estate salesperson. Beginning on or about October 20, 2005, through on or about January 21, 2008, and again beginning on or about January 28, 2008, through on or about February 20, 2008, JOSEPH PARKS was employed as a real estate salesperson by STONECREEK CAPITAL MORTGAGE CORPORATION, described in Paragraph 2, above.

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At all times herein mentioned, you, SIERRA VISTA REALTY, INC., and you, STONECREEK CAPITAL MORTGAGE CORPORATION, and you, JOSEPH PARKS, engaged in the business of, acted in the capacity of, advertised and assumed to act as real estate brokers and/or salespersons in the State of California within the meaning of Section 10131(a) and (d) of the Code, including the business of:

(a) Selling or offering to sell, buying or offering to buy, soliciting prospective buyers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale, or exchange of real property or a business opportunity; and,

(b) Soliciting borrowers and lenders or negotiating loans in connection with loans secured directly or collaterally by liens on real property, wherein such loans were brokered, arranged, processed, and/or consummated on behalf of others.

5

On or about November 11, 2007, in the course of the activities described in Paragraph 4, above, you, SIERRA VISTA REALTY, INC., and you, STONECREEK CAPITAL MORTGAGE CORPORATION, and you, JOSEPH PARKS, caused to be published in the Fresno Bee an advertisement that included statements or representations with regard to rates,

1 terms, or conditions for real estate sales or purchases or the making or negotiating of loans that
2 are false, misleading, or deceptive in that:

3 (a) The advertisement offered a "No Closing Cost Option." Such an offer
4 gives the consumer the impression that there are no closing costs associated with the loan.
5 Closing costs are still incurred and paid by the borrower via a higher rate associated with an
6 above par loan and the incorporated rebate generated to cover closing costs. Absent
7 documentation to contradict the scenario described above, the Department considers a claim of
8 "No Closing Cost Option" or similar terms to be misleading and prohibits the use of such terms
9 pursuant to Section 10235 of the Code;

10 (b) The advertisement sets forth an offer or premium, "Free Appraisal." Such
11 an offer or premium must include all conditions in the same advertisement and there can be no
12 additional fees to offset the cost of the offered premium. Claims of "Free" cannot require
13 payment or sale, pursuant to Section 17537.11 of the Code. As in (a) above, appraisal costs are
14 still incurred and paid by the borrower via a higher rate associated with an above par loan and
15 the incorporated rebate generated to cover appraisal costs. Absent the inclusion of all applicable
16 conditions within the same advertisement, including costs that are associated with an above par
17 loan, the Department considers a claim of "Free Appraisal" or similar terms to be misleading
18 and prohibits the use of such terms pursuant to Section 10235 of the Code;

19 (c) The advertisement states, "Problem Credit OK; Back Child Support OK;
20 Bankruptcy OK; Liens and Foreclosures OK." Unless a borrower's ability to qualify for a loan
21 with favorable terms is not impacted by these issues, these issues are not "OK". The
22 Department considers a claim of "Problem Credit OK; Back Child Support OK; Bankruptcy
23 OK; Liens and Foreclosures OK," or similar terms to be misleading and prohibits the use of
24 such terms pursuant to Section 10235 of the Code;

25 (d) The advertisement states, "Your home SOLD in 60 DAYS Guaranteed, or
26 we buy it at a price acceptable to you!" On November 19, 2007, and again on December 13,
27 2007, the Department requested in writing to Tony Nelson, Designated Officer for Respondent

1 SIERRA VISTA REALTY, INC., that Respondent SIERRA VISTA REALTY, INC., submit
2 evidence satisfactory to the Commissioner to substantiate that Respondent SIERRA VISTA
3 REALTY, INC., had purchased every home that did not sell within 60 days. No evidence was
4 submitted to the Department to substantiate the claim, and the Department considers the claim
5 of "Your home SOLD in 60 DAYS Guaranteed, or we buy it at a price acceptable to you!" or
6 similar terms to be misleading and prohibits the use of such terms pursuant to Section 10235 of
7 the Code;

8 (e) The advertisement states "100% Financing" without a disclosure as to how
9 market value will be determined for purposes of a loan transaction, in violation of Section
10 2848(a)(9) of the Regulations;

11 (f) The advertisement includes logo identification of "Sierra Vista Realty," a
12 fictitious business name that is not recorded with the Department as a properly licensed
13 fictitious business name for Respondents SIERRA VISTA REALTY, INC., STONECREEK
14 CAPITAL MORTGAGE CORPORATION, or JOSEPH PARKS, in violation of Section
15 10159.5 of the Code and Section 2731 of the Regulations;

16 (g) The advertisement includes identification of an individual named "Joe
17 Parks, Real Estate Agent/Loan Officer," a name that is not recorded with the Department as a
18 properly licensed real estate broker or salesperson, and properly registered employee of
19 Respondents SIERRA VISTA REALTY, INC., or STONECREEK CAPITAL MORTGAGE
20 CORPORATION, a violation of Sections 10130, 10131, and 10161.8 of the Code;

21 (h) The advertisement includes identification of an individual named "Joe
22 Parks, Real Estate Agent/Loan Officer," directly above the identification "DRE Lic #
23 01520229," which license number is that of Respondent SIERRA VISTA REALTY, INC.,
24 indicating strongly that this license number is that of "Joe Parks" or, less strongly, that of the
25 employer of "Joe Parks." The Department of Real Estate has no record of a licensee named
26 "Joe Parks" employed by SIERRA VISTA REALTY, INC. Further, as stated in Paragraph 3,
27 above, Respondent JOSEPH PARKS was not employed by Respondent SIERRA VISTA

1 REALTY, INC., but rather by Respondent STONECREEK CAPITAL MORTGAGE
2 CORPORATION. The Department considers the association of the agent name "Joe Parks"
3 with the license number of an licensee not his employer to be misleading and prohibits the use
4 of such association pursuant to Section 10235 of the Code; and,

5 (i) The advertisement fails to include the statement, "Real estate broker,
6 California Department of Real Estate," in violation of Section 2847.3 of the Regulations.

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8 On or about November 11, 2007, in the course of the activities described in
9 Paragraph 4, above, you, SIERRA VISTA REALTY, INC., and you, STONECREEK CAPITAL
10 MORTGAGE CORPORATION, and you, JOSEPH PARKS, caused to be published on the
11 World-Wide Web a website/advertisement at the internet address "www.joeparkshomes.com"
12 that included statements or representations with regard to rates, terms, or conditions for real
13 estate sales or purchases or for making or negotiating loans which are false, misleading or
14 deceptive in that:

15 (a) The advertisement states that Respondents "Sell Your Home for \$4020
16 More," and "You Could Sell Your Home for \$3,000 to \$7,000 More." On November 19, 2007,
17 and again on December 13, 2007, the Department requested in writing to Tony Nelson,
18 Designated Officer for Respondent SIERRA VISTA REALTY, INC., that Respondent SIERRA
19 VISTA REALTY, INC., submit evidence satisfactory to the Commissioner to substantiate these
20 claims by Respondent SIERRA VISTA REALTY, INC. No evidence was submitted to the
21 Department to substantiate these claims, and the Department considers "Sell Your Home for
22 \$4020 More," and "You Could Sell Your Home for \$3,000 to \$7,000 More" and similar terms
23 to be misleading and prohibits the use of such terms pursuant to Section 10235 of the Code;

24 (b) The advertisement states, "Guaranteed Written Offer in 24 Hours," and
25 "We'll give you a guaranteed written offer on your home within 24 hours of your listing. This
26 written guarantee will give you the assurance that if your home doesn't sell within 120 days, we
27 will buy it for your upfront guaranteed amount." These assertions in the website advertisement

1 do not match those of the newspaper advertisement described in Paragraph 5(d), above, "Your
2 home SOLD in 60 DAYS Guaranteed, or we buy it at a price acceptable to you!" On
3 November 19, 2007, and again on December 13, 2007, the Department requested in writing to
4 Tony Nelson, Designated Officer for Respondent SIERRA VISTA REALTY, INC., that
5 Respondent SIERRA VISTA REALTY, INC., submit evidence satisfactory to the Commissioner
6 to substantiate that Respondent SIERRA VISTA REALTY, INC., had purchased every home
7 that did not sell within 60 or 120 days. No evidence was submitted to the Department to
8 substantiate the claim, and the Department considers the claims of "Guaranteed Written Offer in
9 24 Hours," and "We'll give you a guaranteed written offer on your home within 24 hours of
10 your listing. This written guarantee will give you the assurance that if your home doesn't sell
11 within 120 days, we will buy it for your upfront guaranteed amount," or similar terms to be
12 misleading and prohibits the use of such terms pursuant to Section 10235 of the Code;

13 (c) The advertisement includes identification of "Sierra Vista Realty," a
14 fictitious business name that is not recorded with the Department as a properly licensed
15 fictitious business name for Respondents SIERRA VISTA REALTY, INC., STONECREEK
16 CAPITAL MORTGAGE CORPORATION, or JOSEPH PARKS, in violation of Section
17 10159.5 of the Code and Section 2731 of the Regulations;

18 (d) The advertisement address itself includes identification of "Joe Parks
19 Homes" a fictitious business name that is not recorded with the Department as a properly
20 licensed fictitious business name for Respondents SIERRA VISTA REALTY, INC.,
21 STONECREEK CAPITAL MORTGAGE CORPORATION, or JOSEPH PARKS, in violation
22 of Section 10159.5 of the Code and Section 2731 of the Regulations;

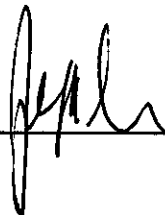
23 (e) The advertisement includes identification of an individual named "Joe
24 Parks," a name that is not recorded with the Department as a properly licensed real estate broker
25 or salesperson and properly registered employee of Respondents SIERRA VISTA REALTY,
26 INC., or STONECREEK CAPITAL MORTGAGE CORPORATION, a violation of Sections
27 10130, 10131, and 10161.8 of the Code; and,

1 (f) The advertisement fails to include the statement, "Real estate broker,
2 California Department of Real Estate," in violation of Section 2847.3 of the Regulations.

3 NOW THEREFORE, YOU, SIERRA VISTA REALTY, INC., AND YOU,
4 STONECREEK CAPITAL MORTGAGE CORPORATION, AND YOU, JOSEPH PARKS,
5 AND YOUR AGENTS AND EMPLOYEES, ARE HEREBY ORDERED TO DESIST AND
6 REFRAIN from causing to be published in any media, including the internet, advertisements
7 that include statements or representations with regard to rates, terms, or conditions for real
8 estate sales or purchases or making or negotiating loans that are false, misleading or deceptive
9 and using the fictitious business names "Sierra Vista Realty" and "Joe Parks Homes" and using
10 the Doing Business As ("DBA") name "Joe Parks" without first obtaining a license issued by
11 the Department.

12 DATED: 4-28-09

14 JEFF DAVI
15 Real Estate Commissioner

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19 cc: SIERRA VISTA REALTY, INC.
20 TONY NELSON, DESIGNATED OFFICER
21 2200 E. ROUTE 66, SUITE 103
22 GLENDORA, CA 91740

23 STONECREEK CAPITAL MORTGAGE CORPORATION
24 TONY NELSON, DESIGNATED OFFICER
25 2200 E. ROUTE 66, SUITE 101
26 GLENDORA, CA 91740

27 JOSEPH PARKS
5070 NORTH SIXTH STREET #188
FRESNO, CA 93710