

FILED

JUL 26 2012

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-35133 LA

SYNERGY FINANCIAL MANAGEMENT CORPORATION, doing business as Directlender.com and Synergy Financial Corporation; LOUIS LEON PACIFIC, individually and as designated officer; YI FAN WU, individually and as former designated officer; and RONALD DEAN CUHA, individually and as former designated officer of Synergy Financial Management Corporation,
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 July 11, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents SYNERGY FINANCIAL MANAGEMENT CORPORATION; LOUIS LEON PACIFIC, YI FAN WU, and RONALD DEAN CUHA, individually and as former designated officers of Synergy Financial Management Corporation; express admissions; (2) affidavits; and (3) Department Audit Report LA 070056 (Synergy

Financial Management Corporation (4) Department Audit Report LA 080050 (Synergy Financial Management Corporation) (5) Complainant files and (6) other evidence.

FACTUAL FINDINGS

1.

On June 30, 2008 and on June 19, 2009, Robin Trujillo made the Accusation and the First Supplemental Accusation respectively in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation filed July 22, 2009 and the First Supplemental Accusation (Accusation) filed June 22, 2009, Statement to Respondent, and Notice of Defense were mailed by certified mail, to Respondents' last known mailing addresses on file with the Department on July 22, 2008 and June 22, 2009, respectively by regular mail and by certified mail.

2.

On August 5, 2008, Notice of Defenses having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents SYNERGY FINANCIAL MANAGEMENT CORPORATION; LOUIS LEON PACIFIC, individually and as former designated officer of Synergy Financial Management Corporation; YI FAN WU (August 8, 2012) failed to appear at the noticed hearing. The aforesaid Respondents' herein default was entered herein. On March 22, 2009, the Accusation against Respondent and YI FAN WU, decedent, was dismissed. On January 13, 2012, the Accusation against Respondent and RONALD DEAN CUHA, decedent, was dismissed.

3.

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.

4.

A. At all times mentioned, SYNERGY FINANCIAL MANAGEMENT CORPORATION ("SYNERGY") and LOUIS LEON PACIFIC ("PACIFIC"), YI FAN WU ("WU") and RONALD DEAN CUHA ("CHUA"), were licensed or had license rights issued by the Department of Real Estate ("Department") as real estate brokers.

B. At all times material herein, SYNERGY was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through PACIFIC, WU and CUHA, as the designated officers and broker responsible, pursuant to Code Section 10159.2 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf SYNERGY or by SYNERGY's officers, agents and employees, including

PACIFIC, WU AND CUHA. SYNERGY was originally licensed as a corporate real estate broker on April 18, 2001. PACIFIC, WU AND CUHA are former designated officers.

BROKERAGE

5.

At all times mentioned, in the City of Fountain Valley, County of Los Angeles, SYNERGY acted as a real estate broker conducting licensed activities within the meaning of:

A. Code Section 10131(d) by operating a mortgage and loan brokerage dba Directlender.com and Synergy Financial Corporation. In particular, Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance; and

B. Code Sections 10131(d) and 10131.2. SYNERGY engaged in the business of a loan modification service and an advance fee brokerage dba Directlender.com and Synergy Financial Corporation. SYNERGY contacted lenders on behalf of distressed homeowners seeking modification of the terms of their home loans including forbearance agreements, principal and interest reduction, foreclosure abatement, loan refinance, and/or short sale services.

(Mortgage Loan Audit)

6.

On March 28, 2008, the Department completed an audit examination of the books and records of SYNERGY pertaining to the mortgage and loan activities described in Finding 5, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2005 to November 30, 2007. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 070056 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

7.

During the audit period SYNERGY did not maintain a trust account pertaining to its mortgage loan activity or for the trust funds it collected and received in the form of deposits and reimbursements for credit reports and appraisal fees.

VIOLATIONS OF THE REAL ESTATE LAW

8.

In the course of activities described in Findings 5 and 7, above, and during the examination period described in Finding 6, Respondents SYNERGY and PACIFIC acted in violation of the Code and the Regulations in that Respondents:

(a) 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", in violation of Code Section 10145 and Regulation 2831. Credit report and appraisal fee reimbursement checks were not logged in a columnar control record.

(b) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed for credit report and appraisal fee reimbursements, as required by Code Section 10145 and Regulation 2831.1.

(c) Mixed and commingled trust funds and personal funds by depositing credit report fees received from escrow into SYNERGY's general operating account and issuing checks from said account to credit companies after the escrow checks were deposited therein, in violation of Code Sections 10145 and 10176(e) and Regulation 2832(d).

(d) Failed to notify the Department of the employment of salesperson Michael Timoschuk, as required by Code Section 10161.8 and Regulation 2752. (PACIFIC only).

(e) Failed to retain the salesperson license certificate for ten salespersons, in violation of Code Section 10160 and Regulation 2753. (PACIFIC only).

(f) Failed to exercise adequate supervision over the mortgage and loan activities to ensure compliance the Real Estate Laws and Regulations and had no system in place for regularly monitoring his compliance with the Real Estate Law especially in regard to establishing policies to review trust fund handling and salesperson employment and termination, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725 (PACIFIC only).

(Loan Modification Audit)

9.

On January 27, 2008, the Department completed an audit examination of the books and records of SYNERGY pertaining to the loan modification activities described in Finding 5, which require a real estate license. The audit examination covered a period of time beginning on December 1, 2007 to August 11, 2008. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs and more fully discussed in Audit Report LA 080050 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNT

10.

During the audit period SYNERGY did not maintain a trust account for its loan modification brokerage.

VIOLATIONS OF THE REAL ESTATE LAW (Loan Modification Audit)

11.

In the course of activities described in Finding 5 and during the examination period described in Finding 9, Respondents SYNERGY and PACIFIC acted in violation of the Code and the Regulations in which Respondents:

(a) SYNERGY used the fictitious name of "DirectLender", to conduct licensed activities including a loan modification and advanced fee brokerage, without first obtaining from the Department a license bearing said fictitious business name, in violation of Code Section 10159.5 and Regulation 2731.

(b) SYNERGY dba DirectLender conducted loan modification services by unlicensed persons for the following distressed homeowners in violation of Code Sections 10176(i) and 10177(g):

Homeowner	Property Address	Date of Agreement	Amount of Payment	Unlicensed Agent
Erick Alvarado	2949 Wellington Rd. Los Angeles,	January 14, 2007	\$3,995	Rey Reyes
Simeon Callender	17057 La Vesu Rd. Fontana	February 1, 2008	\$4,995	Mike Hill
Harold Pound	1825 Wilbur Dr. Modesto	March 18, 2008	\$2,700	Robert Martinez
Alfredo Andres	1245 Santa Ynez Chula Vista	December 24, 2007	\$450	Michael J. Hill
Pilar Mora	Not Stated	10/2/08	\$1,050	Tony Perry/ Daniel Reyes

(c) SYNERGY failed to submit an advance fee agreement to the Department prior to its use in its loan modification activity including an allocation and disbursement of the amount collected as the advance fee, in violation of Code Sections 10085 and 10146 and Regulations 2970 and 2972.

(d) After notice and subpoena on January 5, 2009, SYNERGY failed to show proof of retention of all records of SYNERGY's loan modification activity during the audit period requiring a real estate broker license, in violation of Code Section 10148.

(e) PACIFIC failed to exercise adequate supervision over the mortgage and loan activities to ensure compliance the Real Estate Laws and Regulations and had no system in place for regularly monitoring his compliance with the Real Estate Law especially in regard to establishing policies to review trust fund handling, in violation of Code Sections 10159.2 and 10177(h).

(Deceit by Misrepresentation)

12.

Respondents SYNERGY and PACIFIC intentionally engaged in the conduct above set forth in Finding 11 Alternatively, Respondents SYNERGY and PACIFIC engaged in negligent misrepresentation to homeowners, in violation of Code Sections 10176(a), 10176(i) and/or 10177(g).

13.

The overall conduct of Respondents SYNERGY and PACIFIC constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

14.

The overall conduct of Respondent PACIFIC constitutes a failure on Respondent's part, as former officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the licensed activities of SYNERGY, as required by Code Sections 10211 and 10159.2, and to keep SYNERGY in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of PACIFIC pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h) and Regulation 2725.

DETERMINATION OF ISSUES

1.

The conduct of Respondents SYNERGY FINANCIAL MANAGEMENT CORPORATION and LOUIS LEON PACIFIC, described in Finding 8, 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 Regulation <u>2831</u>
7(b)	Code Section 10145 and Regulation <u>2831.1</u>
7(c)	Code Sections 10145 and <u>10176(e)</u> and Regulation <u>2832(d)</u> .
7(d)	Code Section <u>10161.8</u> and Regulation <u>2752</u> (PACIFIC only)

- 7(e) Code Section 10160 and Regulation 2753
(PACIFIC only)
- 7(f) Code Sections 10159.2 and 10177(h) and
Regulation 2725 (PACIFIC only)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of SYNERGY and PACIFIC, under the provisions of Code Sections 10176(e), 10177(d), 10177(g) and 10177(h) (PACIFIC).

2.

The conduct of Respondents SYNERGY FINANCIAL MANAGEMENT CORPORATION and LOUIS LEON PACIFIC, described in Finding 11, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10(a)	Code Section <u>10159.5</u> and Regulation <u>2731</u> .
10(b)	Code Sections <u>10176(i)</u> and <u>10177(g)</u>
10(c)	Code Section <u>10085</u> and Regulation <u>2970</u> , and Code Section <u>10146</u> and Regulation <u>2972</u> .
10(d)	Code Section <u>10148</u> .
10(e)	Code Sections <u>10159.2</u> and <u>10177(h)</u> (PACIFIC only)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of SYNERGY and PACIFIC under the provisions of Code Sections 10176(i), 10177(d), 10177(g) and 10177(h) (PACIFIC only).

3.

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

ORDER

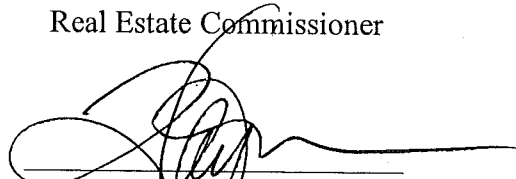
The real estate license and license rights of Respondents SYNERGY FINANCIAL MANAGEMENT CORPORATION and LOUIS LEON PACIFIC, individually and as former designated officer of Synergy Financial Management Corporation, under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on

August 15, 2012

DATED: July 20, 2012

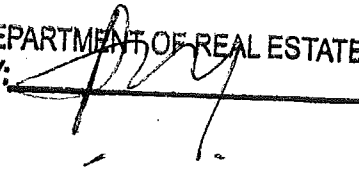
Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

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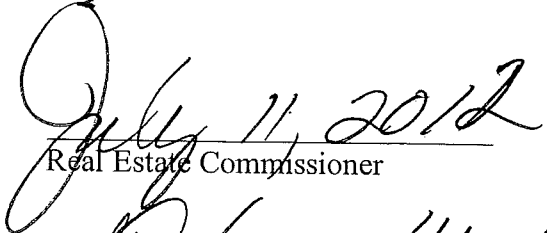
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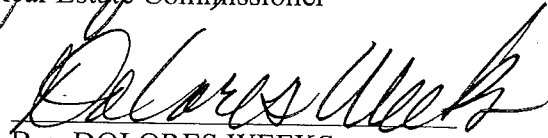
SYNERGY FINANCIAL MANAGEMENT CORPORATION, doing business as Directlender.com and Synergy Financial Corporation; LOUIS LEON PACIFIC, individually and as designated officer; YI FAN WU, individually and as former designated officer; and RONALD DEAN CUHA, individually and as former designated officer of Synergy Financial Management Corporation,
Respondents,

DEFAULT ORDER

Respondents SYNERGY FINANCIAL MANAGEMENT CORPORATION and LOUIS LEON PACIFIC, failed to appear at a duly scheduled Hearing on July 11, 2012, after notice, are now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED


Real Estate Commissioner


By: DOLORES WEEKS
Regional Manager