

FILED

JUL -2 2012

DEPARTMENT OF REAL ESTATE
BY: CR

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
AFFORDABLE HOME ASSISTANCE.COM)
 a corporate real estate broker;)
 THOMAS AARON SIGNORELLI, individually,)
 and as former designated officer of)
 Affordable Home Assistance.com;)
ALI SHAH and BRITTANY WILSON,)
)
 Respondents.)
 _____)

No. H-37361 LA

DEFAULT DECISION

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 May 2, 2012, 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.

FINDINGS OF FACT

Default

1. On June 27, 2011, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate, State of California ("Department").

(a) On June 28, 2011, the Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent AFFORDABLE HOME ASSISTANCE.COM at its main office and mailing address on record with the Department at 3158 Red Hill Ave., Ste. 200B, Costa Mesa, CA 92626. This mailing was returned by the post office marked, "Attempted not known."

- (b) On June 28, 2011, the Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent ALI SHAH at his main office and mailing address of record with the Department at 3158 Red Hill Ave., Ste. 200B, Costa Mesa, CA 92626. This mailing was returned by the post office marked, "Attempted not known."
- (c) On November 10, 2011, the First Supplemental Accusation was mailed by certified mail, return receipt requested, to Respondent ALI SHAH at his address of record with the Department, 3158 Red Hill Ave., Suite 200, Costa Mesa, CA 92626. This mailing was returned marked by the post office marked "Attempted not know, unable to forward."
- (d) On November 10, 2011, the First Supplemental Accusation was mailed to Respondent AFFORDABLE HOME ASSISTANCE.COM at its main office address and mailing address on record with the Department, at 3158 Red Hill Ave., Suite 200, Costa Mesa, CA 92626. This mailing was returned by the post office marked "Attempted not known, unable to forward."
- (e) On November 23, 2011, the Accusation, First Supplemental Accusation, Statement to Respondent, Notice of Defense and Provisions of APA were mailed certified mail, return receipt requested, and by regular mail, to Respondent ALI SHAH at 5445 E. Big Sky Lane, Anaheim, CA 92807. No return receipt card has been received and the mailing was not otherwise returned by the post office as undeliverable.
- (f) No Notice of Defense was received from either Respondent.
- (g) No Notice of Defense having been received, Respondent AFFORDABLE HOME ASSISTANCE.COM's default was entered herein on May 2, 2012.
- (h) No Notice of Defense having been received, Respondent ALI SHAH's default was entered herein on May 2, 2012.

Parties and Entities

2. Respondent AFFORDABLE HOME ASSISTANCE.COM ("AHA") is licensed and/or has license rights as a corporate real estate broker under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code"). AHA was originally licensed by the Department of Real Estate of the State of California ("Department") on or about August 28, 2008.

3. Respondent AHA is a California corporation, incorporated on or about July 7, 2008. At all times relevant herein, Respondent ALI SHAH was a 75% owner of AHA, and Christopher J. Howder was the president, CEO and 25% owner of AHA. At all times, AHA's address of record with the Department and with the Secretary of State was, and now is, 3158 Redhill Ave., Suite 200, Costa Mesa, CA 92626. The corporate rights and privileges of AHA were suspended on or about April 1, 2011, and it has not been a corporation in good standing in this state since that time.

4. Respondent ALI SHAH, formerly known as Ali Shahvelayati ("SHAH"), is licensed by the Department as a real estate salesperson. At all times, SHAH's address of record with the Department is and was 3158 Red Hill Ave., Suite 200, Costa Mesa, CA 92626. SHAH's real estate license expired, but he retains renewal rights.

(a) Respondent SHAH was first licensed by the Department on or about December 12, 2002, in the employ of Sadak Inc.

(b) From June 22, 2005 to December 16, 2008, SHAH was employed as a salesperson by Flex Pay Home Loans Inc., a corporate real estate broker. SHAH was an officer with an ownership interest in Flex Pay Home Loans Inc.

(c) SHAH is not currently employed by a supervising broker.

5. Christopher J. Howder ("Howder") is not now and has never been licensed by the Department in any capacity. At times relevant herein, Howder was a 25% owner and manager of AHA.

6. Beginning on or before July 7, 2008, and continuing through on or after January 31, 2009, Respondents AHA and SHAH, along with unlicensed co-owner and manager Howder, engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Sections 10131(d) and 10131.2 of the Code, for or in expectation of compensation. Respondents offered to provide borrowers with loan modification services in exchange for payment of advance fees within the meaning of Code Sections 10026 and 10085.

Desist and Refrain Order (H-35619 LA)

7. On or about January 15, 2009, in Department of Real Estate Case No.H-35619 LA, the Commissioner issued a Desist and Refrain Order against Respondent AHA ordering it to desist and refrain from collecting advance fees, unless and until it did so pursuant to written agreements that comply with Code Section 10085 and Regulation 2970.

Unlicensed Loan Modification Activities and Advance Fee Violations

8. Beginning on or before July 7, 2008, and continuing through on or after January 31, 2009, Respondent AHA engaged in the business of representing borrowers in negotiating and modifying terms of loans and in obtaining mortgage loans. Respondents also collected advance fees within the meaning of Code Sections 10026 and 10131.2, pursuant to written agreements which constituted advance fee agreements within the meaning of Code Section 10085.

9. Respondent AHA did not, at any time prior to collecting advance fees from clients, submit an advance fee agreement to the Commissioner for review, and have never received a "no objection" letter from the Department regarding the use of such an agreement.

10. Between on or before July 7, 2008 and January 31, 2009, Respondent AHA collected in excess of \$46,511.00 in advance fees from clients. These funds were not placed into a trust account, and trust accounting records were not maintained properly as required under the Real Estate Law. In many cases, Respondent AHA did not perform services as promised and refused to refund advance fees collected.

11. Examples of borrowers from whom AHA collected advance fees for loan modification services pursuant to agreements which were not submitted to the Department for review include, but are not limited to:

<u>Borrower</u>	<u>Agreement Date</u>	<u>Date Fee Received</u>	<u>Amount</u>
Diane B.	9/23/08	9/23/08	\$2,000.00
Francisco G.	9/8/08	9/9/08	\$2,495.00
Ana V.	7/10/08	7/14-8/15/08	\$3,500.00
Nickolas A.	6/30/08	6/30/08	\$1995.00
Willie D.	8/2/08	8/2/08	\$1996.00
Peter & Maura L.	9/4/08	9/4/08	\$1000.00
Chris S.	8/13/08	8/13/08	\$1995.00
Bruce B.	10/24/08	11/22/08	\$3,000.00
Joan W.	9/30/08	9/30/08	\$ 995.00
Deborah M.	12/3/08	12/3/08-1/20/09	\$2,500.00
Beverly C.	11/6/08	11/5/08	\$1,200.00
Douglas & Carol P.	11/23/08	12/01/08	\$2,000.00

12. Respondent AHA was not licensed by the Department in any capacity prior to August 28, 2008. Respondent AHA engaged in activities requiring a real estate license prior to August 28, 2008. Examples include, but are not limited to, collecting advance fees for loan modification services from Willie D. on or about August 2, 2008, and collecting advance fees for loan modification services from Chris S. on or about August 13, 2008, as set forth in Finding No. 11 above.

13. Beginning on or about August 28, 2008, Respondent AHA, acting by and through Respondent SHAH and Howder as managers and owners, employed individuals to perform activities requiring a real estate license when those individuals were not licensed by the Department in any capacity, and/or were salespersons employed by brokers other than AHA. Specifically, Respondent AHA employed Alex Sadak, Amin Anotio Arhami, and Dave Lewis, to solicit borrowers and collect advance fees for loan modification services, activities requiring a real estate license, when none of these individuals were ever licensed by the Department in any capacity. Respondents AHA and SHAH compensated Christopher J. Howder to manage the office and real estate activities of the corporation, when Christopher J. Howder was never licensed by the Department in any capacity. Respondents also employed Brittany Wilson to conduct activities requiring a real estate license prior to her being licensed by the Department.

Dishonest Dealing

14. Beginning at a time no later than June 30, 2008, and continuing through on or after January 31, 2009, Respondent SHAH, along with unlicensed associate Christopher Howder, conspired in a scheme to defraud distressed homeowners seeking loan modification and related loan services.

15. On or about July 7, 2008, Respondent SHAH, along with unlicensed associate Christopher Howder, formed AHA. Articles of Incorporation were filed with the Secretary of State. SHAH and Howder applied to the Department for a real estate broker license for AHA on or about August 11, 2008, and a corporate real estate license was issued for AHA on or about August 28, 2008. According to the license application, the designated broker-officer of another company owned by SHAH, which was also SHAH's "supervising employing broker" of record at the time, Thomas Signorelli, was listed as the broker to be responsible for supervising the activities of the AHA as a corporate broker.¹

16. On or about September 9, 2008, Respondent SHAH and unlicensed associate Christopher Howder entered into an agreement pursuant to which Howder purchased a 25% interest in AHA from SHAH, who retained the remaining 75% interest in the company. Pursuant to the agreement, Howder agreed to pay SHAH \$94,000.00, in installments of \$10,000.00 per month beginning on October 1, 2008, through May 2009.

17. Between September 9, 2008 and on or about January 31, 2009, Howder deposited money collected from loan modification clients of AHA into one of three general bank accounts, held in the name of AHA and himself. This money collected from AHA's loan modification clients included advance fees for loan services, and included, in some cases, fees for services which were never in fact rendered. Pursuant to his agreement with SHAH, Howder made disbursements from AHA's bank accounts to pay SHAH.

18. Respondent SHAH and Howder, in concert with other unlicensed individuals, operated AHA as a loan modification business without proper licensure and/or supervision.

19. Respondent SHAH failed to maintain a current mailing address on record with the Department. SHAH has avoided contact with the Department and with his business associates since the Department's audit in 2009.

Audit Violations (DRE Audit No. LA 080156)

20. After receiving complaints from several members of the public, the Department performed an audit examination of Respondent AHA's books and records pertaining to the mortgage lending activities described above. The audit covered a period from approximately June 1, 2008 to January 31, 2009, and was completed on or about February 19, 2009.

¹ Signorelli subsequently denied authorizing AHA to list him as its designated broker-officer. The Department resolved its accusation against Signorelli and Brittany Wilson pursuant to separate Stipulated Decisions.

21. Thomas Signorelli attended the audit, and asserted that he had not authorized the use of his name in association with AHA, and was not acting as designated broker-officer for the corporation.

22. Christopher Howder also attended the audit, and made written and verbal statements describing his arrangement with Respondent SHAH and the operation of AHA's loan modification business, which he acknowledged managing. Howder provided the Department's representatives with the documentation from which the audit findings were gleaned.

23. During the examination period, Respondent AHA did not maintain a trust account. Rather, funds, including trust funds, were deposited into and/or disbursed from one of the following three general business accounts:

- a. "General Account 1 (G/A 1)": This business checking account, account number XXX-X917-3, was named, "Christopher J. Howder," and was maintained at the Bank of America, South Coast Center Dr., P.O. Box 37176, San Francisco, CA 94137-0001. Advance fees for loan modification services were deposited into this account. Disbursements were made for general business and personal expenses of the account holder. Christopher J. Howder was a signatory on this account.
- b. "General Account 2 (G/A 2)": This account, account number XXX-XXX925-9, was named "Affordable Home Assistance.com" and was maintained at Washington Mutual, P.O. Box 660022, Dallas, Texas. Advance fees for loan modification services were deposited into this account. Disbursements were made for general business and personal expenses of the account holder. Christopher J. Howder was a signatory on this account.
- c. "General Account 3 (G/A 3)": This account, account number XXX-XXX924-1, was named, "Affordable Home Assistance.com.," and was maintained at Washington Mutual Bank, P.O. Box 660022, Dallas, Texas. Advanced fees for loan modification services were deposited into this account. Disbursements were made for general business and personal expenses of the account holder. Christopher J. Howder was a signatory on this account.

24. The audit of AHA's books and records pertaining to its loan modification activities during late June of 2008 through the end of January of 2009 revealed that Respondent AHA acted in violation of the Code and provisions of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") as follows:

(a) AHA collected up front, advance fees from borrowers for loan modification services. During the audit period, AHA collected advance fees ranging from approximately \$2,490.00 to \$5,370.00 per transaction, with more than \$46,511.00 collected from over ninety-three borrowers. Respondents failed to provide borrowers (beneficiaries) with accountings for the advance fees collected (trust funds). The advance fees were deposited into AHA's general business accounts, which were not set up as trust accounts. AHA's handling of the advance fees

collected, placing them into general accounts without providing accountings to the borrowers, was in violation of Code Section 10146 and Regulation 2972.

(b) The advance fee agreement used by AHA in connection with its loan modification activity during the audit period was not submitted to the Department for approval prior to collecting advance fees, in violation of Code Sections 10026 and 10085 and Regulations 2970.

(c) By placing advance fees into general accounts, Respondent AHA commingled trust funds, in violation of Code Sections 10145 and 10176(e), and Regulation 2832.

(d) AHA did not maintain a control record for the advance fees collected, in violation of Code Section 10145 and Regulation 2831.

(e) AHA did not maintain a separate record for each beneficiary of trust funds collected (advance fees), in violation of Code Section 10145 and Regulation 2831.1.

(f) AHA did not maintain the monthly reconciliation of the separate records to the control record of all trust funds received and disbursed during the audit period, in violation of Code Section 10145 and Regulation 2831.2.

(g) AHA allowed Christopher Howder, who was unlicensed, to be a signatory on the general accounts into which trust funds were placed without fidelity bond coverage, in violation of Code Section 10145 and Regulation 2834.

(h) AHA did not retain and make all books and records used for the handling of advance fees during the audit period available for the audit, in violation of Code Section 10148.

(j) AHA was engaged in activities requiring a real estate license prior to being licensed in August of 2008, in violation of Code Section 10130. In addition, no broker-officer was in fact supervising the activities of the corporation.

DETERMINATION OF ISSUES

1. Evidence considered in this matter included the sworn statements and complaints of consumers; written statements of witnesses; public records pertaining to the corporate status of AHA, as well as licensing records from the Department; the audit report; bank records; and loan modification records provided to the Department during the course of the audit.

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

AFFORDABLE HOME ASSISTANCE.COM

3. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent AFFORDABLE HOME ASSISTANCE.COM pursuant to Code Sections 10177(d) and 10176(i) for collecting advance fees from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, in violation of Code Section 10085 and Regulation 2970.

4. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent AFFORDABLE HOME ASSISTANCE.COM pursuant to Code Sections 10137, 10177(d) and 10176(i) for employing and compensating unlicensed individuals to perform acts requiring a real estate license.

5. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent AFFORDABLE HOME ASSISTANCE.COM pursuant to Code Sections 10130 and 10137 for engaging in activities requiring a real estate broker license when it was not licensed as a real estate broker, and when it was not operating through a broker-officer designated pursuant to Code Section 10159.2 to be responsible for supervising the activities of the corporations employees and agents to ensure compliance with the Real Estate Law.

6. Grounds exist to revoke or suspend the corporate real estate broker license and license rights of Respondent AFFORDABLE HOME ASSISTANCE.COM pursuant to Code Sections 10177(d), 10176(e), 10176(i), 10177(j), 10137 and 10085 for violating Code Sections 10145, 10146, 10130 and 10148, and Regulations 2972, 2970, 2832, 2831, 2831.1, 2831.2, and 2834.

ALI SHAH

7. Grounds exist to revoke or suspend the real estate salesperson license of Respondent ALI SHAH pursuant to Code Sections 10137 and 10177(d) for employing and/or compensating unlicensed individuals, including but not limited to Christopher Howder, Brittany Wilson, Alex Sadak, Amin Antonio Arhami, and Dave Lewis, to solicit borrowers and collect up front fees for loan modification services.

8. Grounds exist to revoke or suspend the real estate salesperson license of Respondent ALI SHAH pursuant to Code Sections 10177(j) for engaging in dishonest dealing and fraud.

9. Grounds exist to revoke or suspend the real estate salesperson license of Respondent ALI SHAH pursuant to Code Section 10177(d) for failing to maintain his current mailing address on file with the Department, in violation of Regulation 2715.

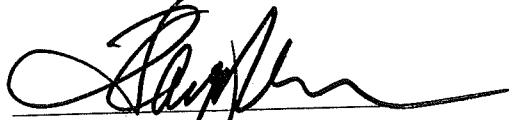
ORDER

All licenses and license rights of Respondent AFFORDABLE HOME ASSISTANCE.COM and Respondent ALI SHAH 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 July 23, 2012.

DATED: June 8, 2012

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

