

FILED
MAR 15 2013
DEPARTMENT OF REAL ESTATE

By James B. Olin

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-37778 LA
)
TMG FINANCIAL SERVICES INC; and)
KIRK LAWRENCE CONRAD,)
individually and as designated)
officer of TMG Financial)
Services Inc,)
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 February 15, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent TMG Financial Services Inc's ("TMG") express admissions; (2) affidavits; and (3) Department Audit Report LA100037 and (4) other evidence.

FACTUAL FINDINGS

1.

On November 22, 2011, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The

Accusation, Statement to Respondent, and Notice of Defense were mailed by certified and regular mail, to TMG's last known mailing address on file with the Department of Real Estate ("Department") on January 10, 2012.

2.

On , 2013, no Notice of Defense having been filed by TMG within the time prescribed by Section 11506 of the Government Code, TMG's default was entered herein.

LICENSE HISTORY

3.

At all times mentioned, TMG was licensed or had license rights issued by the Department as a corporate real estate broker. TMG was originally licensed as a corporate real estate broker on April 20, 1992.

BROKERAGE

4.

At all times mentioned, in the City of Anaheim, County of Orange, TMG acted as a real estate broker and conducted licensed activities, within the meaning of Business & Professions Code ("Code") Section 10131(d), by soliciting borrowers and lenders and negotiating loans secured by real property.

AUDIT

5.

On January 31, 2011, the Department completed an audit examination of the books and records of TMG pertaining to the activities described in Finding 4, which require a real estate license. The audit examination covered a period of time beginning on September 1, 2007 to August 31, 2010. The audit examinations revealed violations of the Code and Title 10, California Code of Regulations ("Regulations") as set forth in the following paragraphs, and more fully discussed in Audit Report LA100037 and the exhibits and workpapers attached to said audit report.

VIOLATIONS

6.

In the course of activities described in Finding 4 above, and during the examination period described in Finding 5,

Respondents TMG acted in violation of the Code and the Regulations in as follows:

(a) Credit report fees charged to borrowers at the close of escrow and advance fees charged for loan modifications were both deposited into TMG's general business account, in violation of Code Section 10176(e), and not under any exception listed in Regulation 2835.

(b) TMG failed to keep a record of all trust funds received and disbursed for credit report fees and advance fees, in violation of Code Section 10145 and Regulation 2831.

(c) With respect to credit report fees and advance fees received, there were no separate records kept and no reconciliation with records of all trust funds received and disbursed, in violation of Code Section 10145 and Regulation 2831.2.

(d) TMG failed to maintain separate records for each beneficiary of credit reports received and deposited into TMG's general business account, in violation of Code Section 10145 and Regulation 2831.1.

(e) TMG collected advance fees from borrowers and deposited them into a general account, instead of a trust account, in violation of Code Section 10146.

(f) TMG collected advance fees from borrowers in connection with loan modification transactions without having an advance fee agreement approved by the Department, in violation of Code Section 10085 and Regulation 2970.

(g) TMG collected advance fees from borrowers without providing an accounting of the fees to its clients, in violation of Code Section 10146 and Regulation 2972.

(h) TMG failed to provide an approved Mortgage Loan Disclosure Statement to borrowers in 3 out of 5 loan files examined. TMG failed to disclose that it received a yield spread premium from the lender in one file. Good Faith Estimates provided to borrowers failed to state that they did not constitute a loan commitment and did not disclose TMG's corporate license number, in violation of Code Section 10240 and Regulation 2840.

7.

On February 16, 2011, the California Secretary of State suspended the domestic corporation license of TMG. This is in violation of Regulation 2742, and subjects TMG's real estate license and license rights to suspension or revocation pursuant to Code Section 10177(d), 10177(g) and 10177(f).

DETERMINATION OF ISSUES

1.

The conduct of Respondent TMG as described in Findings 6 and 7 herein above, is in violation of Code Sections 10085, 10145, 10146, 10176(e) and 10240 and Title 10, Chapter 6, California Code of Regulations ("Regulations") 2742, 2831, 2831.1, 2831.2, 2835, 2840, 2970 and 2972, and is cause for disciplinary action pursuant to Code Sections 10085, 10176(e), 10177(d), 10177(g) and 10177(f)

2.

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

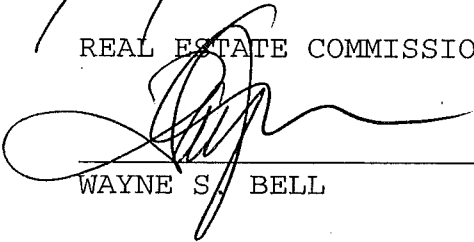
ORDER

The real estate license and license rights of Respondent TMG FINANCIAL SERVICES INC 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 APR 4 2013,

DATED: 3/12/2013,

REAL ESTATE COMMISSIONER


WAYNE S. BELL

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

4 (213) 576-6982

FILED
FEB 25 2013
DEPARTMENT OF REAL ESTATE

James B. Olson

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)

No. H-37778 LA

11 TMG FINANCIAL SERVICES INC; and)
12 KIRK LAWRENCE CONRAD, individually)
13 and as designated officer of TMG)
14 Financial Services Inc,)

Respondents)

15 DEFAULT ORDER

16 Respondent TMG FINANCIAL SERVICES INC, having failed
17 to file a Notice of Defense within the time required by Section
18 11506 of the Government Code, is now in default. It is,
19 therefore, ordered that a default be entered on the record in
20 this matter.

21 IT IS SO ORDERED FEB 25 2013

22 WAYNE S. BELL
23 Real Estate Commissioner

24 *Dolores Weeks*
25 By: DOLORES WEEKS
26 Regional Manager
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