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FILED

MAY 23 2012

DEPARTMENT OF REAL ESTATE

BY: CA

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 To:) No. H-38154 LA
12)
13 ALCON REAL ESTATE,) ORDER TO DESIST
14 KENNETH A. STEELE, and) AND REFRAIN
15 ROBERT GUY MC LELLAN.) (B&P Code Section 10086)
16)

16 The Commissioner ("Commissioner") of the California Department of Real Estate
17 ("Department") caused an investigation to be made of the activities of ALCON REAL ESTATE,
18 KENNETH A. STEELE, and ROBERT GUY MC LELLAN. Based on that investigation, the
19 Commissioner has determined that ALCON REAL ESTATE, KENNETH A. STEELE, and
20 ROBERT GUY MC LELLAN have engaged in or are engaging in acts or attempting to engage
21 in the business of, acting in the capacity of, and/or advertising or assuming to act as real estate
22 brokers in the State of California within the meaning of Business and Professions Code Sections
23 10131(d) (solicit borrowers for or negotiate loans or perform services for borrowers in
24 connection with loans secured by liens on real property), and 10131.2 (engage in the business of
25 claiming, demanding, charging, receiving, collecting or contracting for the collection of an
26 advance fee in connection with offering to obtain a loan real property).

27 In addition, based on that investigation, the Commissioner has determined that

1 ALCON REAL ESTATE, KENNETH A. STEELE, and ROBERT GUY MC LELLAN have
2 engaged in or are engaging in acts or are attempting to engage practices constituting violations of
3 the California Business and Professions Code (“Code”) and/or Title 10, California Code of
4 Regulations (“Regulations”). Based on the findings of that investigation, set forth below, the
5 Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and
6 Refrain Order under the authority of Section 10086 of the Code.

7 All further references to ALCON REAL ESTATE include KENNETH A.
8 STEELE and ROBERT GUY MC LELLAN as well as the officers, agents and employees of
9 ALCON REAL ESTATE. KENNETH A. STEELE and ROBERT GUY MC LELLAN engaged
10 in the activities set forth below while doing business as ALCON REAL ESTATE and any other
11 fictitious business names not known at this time.

12 FINDINGS OF FACT

13 1. From February 6, 2003, through January 31, 2012, ROBERT GUY
14 MC LELLAN (“MC LELLAN”) was licensed by the Department as a restricted real estate
15 salesperson, license no. 00520763. The Department issued a restricted real estate salesperson
16 license to MC LELLAN in Department Case No. H-29550 LA. On January 3, 2012,
17 MC LELLAN’s restricted real estate salesperson license was revoked in Department Case No.
18 H-37153 LA. From March 6, 2009, through August 16, 2009, MC LELLAN was licensed under
19 the employment of broker Dove Capital Corporation, license no. 01316943.

20 2. At no time mentioned herein have KENNETH A. STEELE (“STEELE”) or
21 ALCON REAL ESTATE ever been licensed by the Department in any capacity. STEELE owns
22 and is a director of ALCON REAL ESTATE.

23 3. Code Section 10132 defines a real estate salesperson as a person who, for
24 compensation or in expectation of compensation, is employed by a licensed real estate broker to
25 do one or more of the acts set forth in Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and
26 10131.6. Code Section 10131 defines a real estate broker as a person who: (d) solicit borrowers,
27 negotiate loans, collect payments or perform services for borrowers in connection with loans

1 secured directly or collaterally by liens on real property. Code Section 10131.2 defines a real
2 estate broker as a person who engages in the business of claiming, demanding, charging,
3 receiving, collecting or contracting for the collection of an advance fee in connection with any
4 employment undertaken to promote the sale or lease of real property or of a business opportunity
5 by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or
6 a business opportunity, or to obtain a loan or loans thereon.

7 4. On or about May 12, 2009, MC LELLAN solicited and offered to assist
8 borrowers Roy and Peggy B. with loan modification and negotiation services on behalf of
9 ALCON REAL ESTATE. Roy and Peggy B. entered into a written advance fee agreement with
10 ALCON REAL ESTATE for loan modification and negotiation services in connection with a
11 loan secured by a lien on real property. Roy and Peggy B. paid an initial advance fee of \$999.99
12 to ALCON REAL ESTATE. Roy and Peggy B. subsequently received a letter from ALCON
13 REAL ESTATE which contained numerous substantial misrepresentations regarding efforts
14 made by ALCON REAL ESTATE's agents to negotiate a modification with Roy and Peggy B.'s
15 lender. ALCON REAL ESTATE failed to perform the loan modification and negotiation
16 services that had been promised to Roy and Peggy B. ALCON REAL ESTATE and MC
17 LELLAN refused Roy and Peggy B.'s request for a refund of the advance fee paid to ALCON
18 REAL ESTATE.

19 CONCLUSIONS OF LAW

20 5. Based on the information contained in Paragraphs 1 through 4, above,
21 STEELE, MC LELLAN, and ALCON REAL ESTATE violated Code Section 10130 by
22 engaging in activities requiring a real estate license without first obtaining a broker license from
23 the Department.

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DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, IT IS HEREBY ORDERED THAT ALCON REAL ESTATE, KENNETH A. STEELE, and ROBERT GUY MC LELLAN, whether doing business in their own name or any other fictitious business name, immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required, unless you are so licensed.

DATED: May 17, 2012.

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

Notice: Business and Professions Code Section 10135 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: AlCon Real Estate and Kenneth A. Steele
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