

AUG 25 2011

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DEPARTMENT OF REAL ESTATE
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7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-37477 LA

12 AMERICAN HOME MODIFICATION INC and)
13 JASON ANTHONY MUCHA, individually)
14 and as designated officer of)
15 American Home Modification Inc,)

A C C U S A T I O N

16 Respondents.)

17 The Complainant, Joseph Aiu, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against AMERICAN HOME MODIFICATION INC and JASON ANTHONY MUCHA,
20 individually and as designated officer of American Home
21 Modification Inc, alleges as follows:

22 1.

23 The Complainant, Joseph Aiu, acting in his official
24 capacity as a Deputy Real Estate Commissioner of the State of
25 California, makes this Accusation against AMERICAN HOME
26 MODIFICATION INC and JASON ANTHONY MUCHA.

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1 2.

2 All references to the "Code" are to the California
3 Business and Professions Code and all references to "Regulations"
4 are to Title 10, Chapter 6, California Code of Regulations.

5 LICENSE HISTORY

6 3.

7 A. AMERICAN HOME MODIFICATION INC ("AHMI") is
8 presently licensed and/or has license rights with the Department
9 of Real Estate ("Department") as a corporate real estate broker.

10 B. JASON ANTHONY MUCHA ("MUCHA") is presently
11 licensed and/or has license rights issued by the Department as a
12 real estate broker.

13 C. From January 12, 2009, through the present, AHMI
14 was licensed by the Department as a corporate real estate broker
15 by and through MUCHA, as the designated officer and broker
16 responsible, pursuant to Code Section 10159.2 for supervising the
17 activities requiring a real estate license conducted on behalf of
18 AHMI or by AHMI's officers, agents and employees, including
19 MUCHA.

20 BROKERAGE

21 AMERICAN HOME MODIFICATION INC

22 4.

23 At all times mentioned, in the City of Corona, County
24 of Riverside, AHMI acted as a real estate broker conducting
25 licensed activities within the meaning of Code Section 10131(d):
26 negotiating loans or performing services for borrowers in
27 connection with loans secured by liens on real property.

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AUDIT

AMERICAN HOME MODIFICATION INC

5.

On March 25, 2010, the Department completed audit examinations of the books and records of AHMI pertaining to the activities described in Paragraph 4 which require a real estate license. The audit examinations covered a period of time from January 12, 2009 to December 31, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and as more fully discussed in Audit Report SD100041 and the exhibits and workpapers attached to said audit report.

VIOLATIONS OF THE REAL ESTATE LAW

6.

In the course of activities described in Paragraph 4 above and during the examination period described in Paragraph 5, Respondent AHMI acted in violation of the Code and the Regulations in that:

(a) There was a shortage of \$28,875 in AHMI's trust account as of August 10, 2010, in violation of Code Section 10145 and Regulation 2832.1.

(b) AHMI did not maintain a control record of trust funds received and disbursed in connection with loan modification activity during the audit period, in violation of Code Section 10145 and Regulation 2831.

(c) AHMI did not maintain a separate record for each beneficiary of the trust funds received and disbursed during the

1 audit period, in violation of Code Section 10145 and Regulation
2 2831.1.

3 (d) AHMI did not maintain the monthly reconciliation
4 of all the separate records to the control records of all the
5 trust funds received and disbursed, in violation of Code Section
6 10145 and Regulation 2831.2.

7 (e) Unlicensed individuals without fidelity bond
8 insurance were allowed to sign for withdrawals from the trust
9 account, in violation of Code Section 10145 and Regulation 2834.

10 (f) AHMI collected some advance fees through a credit
11 card company, which deposited the advance fees into AHMI's
12 general business account, where they were commingled with AHMI's
13 funds. AHMI also transferred advance fees collected and not yet
14 earned from a trust account into a general business account, in
15 violation of Code Section 10176(e) and Regulation 2835.

16 (g) Some advance fees collected by AHMI for loan
17 modification services were not deposited into a trust account, in
18 violation of Code Section 10146.

19 (h) AHMI collected advance fees from principals for
20 loan modification services, without providing an accounting to
21 the principals showing the services rendered, identifying the
22 trust account into which the advance fees were deposited and
23 providing details of how the funds were disbursed, in violation
24 of Regulation 2972.

25 (i) AHMI employed and compensated Colleen Acosta, an
26 unlicensed individual to negotiate loan modifications for
27 borrowers, in violation of Code Section 10137.

1 7.

2 The conduct of Respondents AHMI and MUCHA, described in
3 Paragraph 6, above, violated the Code and the Regulations as set
4 forth below:

5 PARAGRAPH

PROVISIONS VIOLATED

6		
7	6(a)	Code Section 10145 and Regulation
8		2832.1
9	6(b)	Code Section 10145 and Regulation
10		2831
11	6(c)	Code Section 10145 and Regulation
12		2831.1
13	6(d)	Code Section 10145 and Regulation
14		2831.2
15	6(e)	Code Section 10145 and Regulation
16		2834
17	6(f)	Code Section 10176(e) and
18		Regulation 2835
19	6(g)	Code Section 10146
20	6(h)	Regulation 2972
21	6(i)	Code Section 10137

22 8.

23 Said conduct, acts, and/or omissions are cause for the
24 suspension or revocation of the real estate license and license
25 rights of AHMI and MUCHA, under the provisions of Code Sections
26 10176(e), 10177(d) and/or 10177(g).

1 NEGLIGENCE

2 9.

3 The overall conduct of Respondents AHMI and MUCHA
4 constitutes negligence or incompetence. This conduct and
5 violation are cause for the suspension or revocation of the real
6 estate license and license rights of said Respondents pursuant to
7 Code Section 10177(g).

8 SUPERVISION AND COMPLIANCE

9 10.

10 The overall conduct of Respondent MUCHA constituted a
11 failure on his part, as a former officer designated by a
12 corporate broker licensee, to exercise reasonable supervision and
13 control over the licensed activities of AHMI as required by Code
14 Section 10159.2, and to keep AHMI in compliance with the Real
15 Estate Law, and is cause for the suspension or revocation of the
16 real estate license and license rights of MUCHA pursuant to the
17 provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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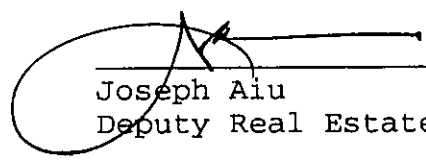
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the licenses and license rights of Respondents AMERICAN HOME MODIFICATION INC and JASON ANTHONY MUCHA, individually and as designated officer of American Home Modification Inc, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California

this 04 day of August, 2011



Joseph Aiu
Deputy Real Estate Commissioner

cc: AMERICAN HOME MODIFICATION INC
JASON ANTHONY MUCHA
Joseph Aiu
Sacto
Audits