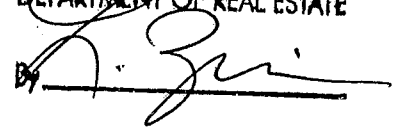


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FILED

JUN 30 2009

DEPARTMENT OF REAL ESTATE
By 

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 OLEG ARTISHUK) NO. H-5234 SAC
14 Respondent.) ACCUSATION
15)

16 The Complainant, JOE CARILLO, a Deputy Real Estate Commissioner of the
17 State of California, for Accusation against OLEG ARTISHUK (Respondent), is informed and
18 alleges as follows:

19 1

20 The Complainant makes this Accusation in his official capacity.

21 2

22 At all times mentioned herein Respondent was and now is licensed by the State
23 of California Department of Real Estate (the Department) or has license rights as a real estate
24 salesperson.

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2 At all times mentioned herein, Respondent was employed by or acted on behalf
3 of several unlicensed entities including, but not limited to, 2nd Chance Negotiations, Inc., Green
4 Tree Lending, and New Leaf Modifications (hereafter referred to as "the related entities"). In
5 his employment with or representation of the related entities, Respondent engaged in the
6 business of, acted in the capacity of, advertised, or assumed to act as a real estate licensee within
7 the State of California within the meaning of Section 10131(d) of the California Business and
8 Professions Code (the Code), for or in expectation of compensation, in that Respondent solicited
9 and/or performed services for borrowers in connection with loans secured directly or collaterally
10 by liens on real property, for or in expectation of compensation and claimed, demanded,
11 charged, received, collected or contracted for an advanced fee for such services.

12
13 In approximately October 2008, Respondent, acting on behalf of one or more of
14 the related entities, solicited Daniel and Caroline Billings (Billings) to apply for a loan
15 modification for the loan securing Billings real property located at 9705 Splendor Way,
16 Sacramento, CA. Respondent represented to Billings that he, through one or more of the related
17 entities, would arrange a successful and beneficial modification of the Billings' current mortgage
18 loan on their Splendor Way property. Respondent requested Billings to sign a fee agreement,
19 thereby charging Billings' credit card the amount of \$3,581 payable to 2nd Chance Negotiations,
20 Inc. Respondent also requested Billings to sign a "Borrower's Financial Statement, a Client
21 Authorization form, and a Credit Card Authorization form. In reliance on Respondent's
22 representations, Billings complied with Respondent's requests and signed all of the forms
23 presented to them by Respondent.

24
25 After Billings signed the documents, Respondent requested them to sign, and
26 paid the funds Respondent requested them to pay, neither Respondent nor any of the related
27 entities obtained a successful and beneficial loan modification for Billings, as he represented he

1 would do. Neither Respondent nor any of the related entities ever accounted for any of the
2 funds paid to them by Billings; and have denied Billings demand for a refund of the amount
3 paid.

4 6

5 A person, including a business entity such as the related entities in this case, may
6 not perform services for borrowers or lenders in connection with one or more liens secured by
7 an interest in real property without first being licensed by the Department as a real estate broker.
8 In addition, a licensed California real estate broker may not legally charge or accept an "advance
9 fee" from a client or principal unless that broker first meets the requirements of Sections 10085
10 (have his or her "advance fee agreement" reviewed by the Department to make sure it meets the
11 requirements of that section of the Code) and 10146 (all advance fees collected pursuant to a
12 proper advance fee agreement must be deposited into a broker's trust account and treated as
13 "trust funds"; and must be accounted for at the termination of the engagement) of the Code and
14 Section 2970 of Title 10, Chapter 6 of the California Code of Regulations (the Regulations) . In
15 this case, neither Respondent nor any of the related entities were licensed by the Department as
16 real estate brokers, nor did they treat Billings funds as trust funds or provide an accounting at
17 the termination of the engagement.

18 7

19 At all times mentioned herein, Respondent failed to submit to the Department
20 any or all materials used in the advanced fee agreement presented to Billings, including but not
21 limited to the contract form, any letters or cards used to solicit prospective sellers, and radio and
22 television advertising, at least 10 calendar days before it was used in obtaining said advance fee
23 agreement, as described in Paragraph 4, above, in violation of Section of 10085 of the Code and
24 Section 2970 of the Regulations.

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At all times mentioned herein, Respondent collected an advance fee from Billings, as described in Paragraph 4, above, and failed to deposit such advanced fee, when collected, into a trust account with a bank or other recognized depository, in violation of Section 10146 of the Code.

9

At all times mentioned herein, Respondent commingled said trust funds with his own funds, in that he deposited said advanced fee, as described in Paragraph 3, above, into his general business account or the general business account of one or more of the related entities, in violation of Section 10176(e) of the Code.

10

At all times mentioned herein, Respondent failed to provide Billings with an accounting of said advance fee, in violation of Section 10146 of the Code and Section 2972 of the Regulations.

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The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondent under the following provisions of the Code and/or the Regulations:

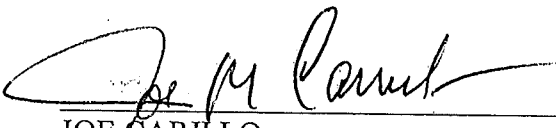
- (a) As to Paragraphs 3 through 7, under Section 10085 of the Code, and Section 2970 of Regulations in conjunction with Section 10177(d) of the Code, and Section 10176(a),(c), and (i) or Section 10177(j) of the Code;
- (b) As to Paragraph 8, under Section 10146 of the Code;
- (c) As to Paragraph 9, under Section 10176(e) of the Code; and,
- (d) As to Paragraph 10, under Section 10146 of the Code, and Section 2972 of the Regulations in conjunction with Section 10177(d) of the Code.

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2 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
3 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of
5 Division 4 of the Business and Professions Code) and for such other and further relief as may be
6 proper under other applicable provisions of law.

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JOE CARILLO
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 24 day of June, 2009.