

1 Department of Real Estate
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FILED

DEC - 2 2011

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 To:)
12) NO. H-5724 SAC
13 GIJY CHURAR)
14) ORDER TO DESIST AND REFRAIN
15) (B&P Code Section 10086)

16 The Commissioner (hereafter "the Commissioner") of the California Department of Real
17 Estate (hereafter "the Department") caused an investigation to be made of the activities of GIJY
18 CHURAR, individually and doing business as "American Golden Technology Service" (hereafter
19 "Respondent"). Based on that investigation, the Commissioner has determined that Respondent
20 has engaged in, is engaging in, or is attempting to engage in, acts or practices constituting
21 violations of the California Business and Professions Code ("Code") and/or Title 10, Chapter 6,
22 California Code of Regulations ("Regulations"), including acting in the capacity of, advertising
23 or assuming to act as a real estate broker in the State of California within the meaning of Sections
24 10131(a) (activity involving selling, buying or exchanging real property), 10131(d) (performing
25 services for borrowers and/or lenders in connection with loans secured by real property), 10131.2
26 (collection of advance fees), 10085 (advance fee agreements and materials) and 10085.5
27 (collecting unauthorized advance fees) of the Code. Furthermore, based on the investigation, the

1 Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and
2 Refrain Order under the authority of Section 10086 of the Code.

3 FINDINGS OF FACT

4 1. At no time has Respondent, whether individually or doing business as "American
5 Golden Technology Service" (hereafter "AGTS"), been licensed by the Department in any
6 capacity.

7 2. During the period of time set out below, Respondent conducted activities
8 involving selling, buying or exchanging real property, and performed services for one or more
9 borrowers and negotiated to do one or more of the following acts for another or others, for or in
10 expectation of compensation: negotiate one or more loans for, or perform services for, borrowers
11 and/or lenders with respect to the collection of advance fees and loan modification, loan
12 refinance, principal reduction, foreclosure abatement or short sale services and/or those
13 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
14 on real property; charged, demanded or collected an advance fee for any of the services offered.

15 3. In or about January 2009, Respondent represented to Nicolae L. that he was a
16 licensed real estate salesperson in the State of California, and requested and collected an
17 advance fee of \$3,500 from Nicolae L. for loan modification services on Nicolae L.'s
18 property located at 260 Baurer Circle, Folsom, California.

19 4. Shortly after collecting the advance fee referred to above, CHURAR showed
20 Nicolae L. property for sale located at 465 South Lexington Drive, Folsom, California.
21 CHURAR informed Nicolae L. that he was approved by the bank for a loan and Nicolae L. paid
22 \$8,700 to CHURAR, dba AGTS, as a down-payment on the property. Ultimately, Nicolae L.
23 did not purchase the Lexington Drive property.

24 5. CHURAR informed Nicolae L. that the \$8,700 down-payment was safe in an
25 escrow account and he would assist Nicolae L. in finding another property to purchase.

26 6. CHURAR showed Nicolae L. property for sale located at 4385 Binchy Way,
27 Rancho Cordova, California. As requested, Nicolae L. gave CHURAR an additional \$10,700 to

1 be used as a down-payment on the Binchy Way property along with the \$8,700 he previously
2 paid to CHURAR. Nicolae L. later learned that the Binchy property had been sold to another
3 buyer and that his offer had never been presented to the seller by CHURAR.

4 7. CHURAR failed to obtain the properties in Folsom and Rancho Cordova for
5 Nicolae L. and has not refunded the money he received as down-payments on those properties.

6 CONCLUSIONS OF LAW

7 Based on the Findings of Fact contained in Paragraphs 1 through 7, above, Respondent
8 conducted activities involving selling, buying or exchanging real property; and solicited
9 borrowers and/or performed services for those borrowers with respect to the collection of
10 advance fees and loan modification services in connection with loans secured directly or
11 collaterally by one or more liens on real property; and charged, demanded or collected advance
12 fees for the services to be provided, which acts require a real estate broker license under Sections
13 10130 (real estate license requirement), 10131(d) and 10131.2 of the Code.

14 In addition, Respondent used a form of advance fee agreement which had not been
15 provided to the Department for its prior review and consideration, in violation of Sections 10085
16 and 10085.5 of the Code, and Section 2970 (submission of advance fee materials) of the
17 Regulations.

18 DESIST AND REFRAIN ORDER

19 Based on the Findings of Fact and Conclusions of Law stated herein, GIJY CHURAR,
20 individually and/or doing business as "American Golden Technology Service", whether doing
21 business under your own name, or any other name or fictitious name, IS HEREBY ORDERED to
22 immediately desist and refrain from:

- 23 1. Performing any acts within the State of California that require a real estate license
24 unless and until you are properly licensed by the Department.
- 25 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
26 term is defined in Section 10026 of the Code, for any of the services you offer to
27 others, unless and until you demonstrate and provide evidence satisfactory to the

1 Commissioner that you are properly licensed by the Department and that GIJY
2 CHURAR, individually and/or doing business as "American Golden Technology
3 Service" or any other name:

4 (a) Has an advance fee agreement which has been submitted to the Department
5 and which is in compliance with Section 2970 of the Regulations;

6 (b) Has placed all previously collected advance fees into a trust account for that
7 purpose and are in compliance with Section 10146 (deposit of advance fees
8 into trust account) of the Code;

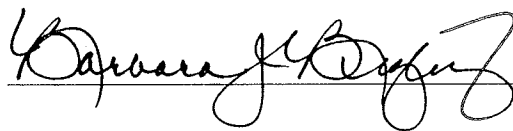
9 (c) Has provided an accounting to trust fund owner-beneficiaries pursuant to
10 Section 2972 of the Regulations; and

11 (d) Has refunded to Nicolae L. any and all monies paid to you by him in this
12 matter as either advance fees or down-payments on real property.

13 3. Demanding, claiming, collecting and/or receiving advance fees, as that term is
14 defined in Section 10026 of the Code, in any form, and under any conditions, with respect to the
15 performance of loan modification or any other form of mortgage loan forbearance services in
16 connection with loans on residential property containing four or fewer dwelling units.

17 DATED: 10/13/11

18 BARBARA J. BIGBY
19 Acting Real Estate Commissioner

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1 **Notice:** Business and Professions Code Section 10139 provides that, “Any person acting as a
2 real estate broker or real estate salesperson without a license or who advertises using words
3 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
4 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
5 imprisonment in the county jail for a term not to exceed six months, or by both fine and
6 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
7 (\$60,000)....”

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10 cc: Gijy Churar
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12 Sacramento, CA 95828

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