

2.

On June 16, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent HOME ADVANTAGE FUNDING GROUP INC.'s default was entered herein.

3.

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

4.

At all times mentioned herein, Respondent HOME ADVANTAGE FUNDING GROUP INC. ("HAFGI") was licensed by the Department as a real estate corporation acting by and through GERALD JUERGEN LOTTER ("LOTTER"), pursuant to Code Sections 10211 and 10159.2 for supervising the activities requiring a real estate license conducted on behalf of HAFGI by its officers and employees. Effective November 16, 2008, HAFGI's real estate corporation license expired. The Department of Real Estate retains jurisdiction pursuant to Code Section 10103.

5.

At all times herein mentioned, Respondent HAFGI and LOTTER engaged in the business of an advance fee brokerage, within the definition of Code Sections 10131(d) and 10131.2, in that, for fees received in advance, as well as at the conclusion of transactions, Respondent HAFGI and LOTTER performed loan modification services with respect to loans which were secured by liens on real property, including, but not limited to, the following:

a) On or about October 1, 2008, HAFGI provided an advanced fee contract to Maria Pruett ("Pruett") for loan modification services on Pruett's existing mortgage on her home located at 8248 Country Ranch Drive, Sacramento, CA 95839.

b) Between on or about October 1, 2008 and on or about November 13, 2008, LOTTER employed Jacob Kim ("Kim"), an

unlicensed individual, to obtain clients for HAFGI's loan modification services.

c) On or about November 13, 2008, Kim, as a representative of HAGFI, demanded and received an advance fee of \$1,500 from Pruett.

6.

Respondent HAFGI and LOTTER collected the above described advance fees pursuant to the provisions of a document entitled "Loss Mitigation/Loan Modification and Presentation Fee Agreement," the written agreement described in Finding 5, herein above, which document constitutes an advance fee agreement within the meaning of Code Section 10085.

DETERMINATION OF ISSUES

1.

The conduct of Respondent HOME ADVANTAGE FUNDING GROUP INC., as described in Finding 5, herein above, is in violation of Code Section 10137 for employing and/or compensating an individual who was not licensed as a real estate salesperson or as a broker to perform activities requiring a real estate license.

2.

The conduct of Respondent HOME ADVANTAGE FUNDING GROUP INC., as described in finding 6, herein above, is in violation of Code Section 10085 and Regulation Section 2970 for failed to submit the written agreement referred to in Finding 6, herein above, to the Commissioner ten days before using them.

3.

The conduct, acts and/or omissions of Respondent HOME ADVANTAGE FUNDING GROUP INC., as set forth above, are cause for disciplinary action pursuant to Code Sections 10085, 10137 and 10177(d).

4.

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

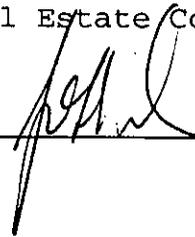
ORDER

The corporate real estate license and license rights of Respondent HOME ADVANTAGE FUNDING 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 SEP 27 2010.

DATED: 8-12-2010.

JEFF DAVI
Real Estate Commissioner



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FILED

JUN 16 2010

DEPARTMENT OF REAL ESTATE
BY: *R. Medeiros*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-36014 LA
)	
HOME ADVANTAGE FUNDING,)	
GROUP, INC., and GERALD)	
JUERGEN LOTTER,)	
)	
Respondents.)	

DEFAULT ORDER

Respondent HOME ADVANTAGE FUNDING GROUP, INC., having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is therefore, ordered that a default be entered on the record in this matter.

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IT IS SO ORDERED

June 9, 2010

JEFF DAVI
Real Estate Commissioner

Dolores Weeks

By: DOLORES WEEKS
Regional Manager

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1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 (213) 576-6982

FILED
JAN -7 2010
DEPARTMENT OF REAL ESTATE

K. Mederholz

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12
13 In the Matter of the Accusation of) NO. H-36014 LA
14) L-2009070379
15 HOME ADVANTAGE FUNDING,)
16 GROUP, INC. and GERALD)
17 JUERGEN LOTTER,) STIPULATION AND AGREEMENT
Respondent.)

18 It is hereby stipulated by and between GERALD JUERGEN
19 LOTTER, (sometimes referred to as "Respondent"), and the
20 Complainant, acting by and through Shari Sveningson, Counsel
21 for the Department of Real Estate, as follows for the purpose
22 of settling and disposing of the Accusation filed on June 2,
23 2009, in this matter.

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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondent
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement.
8

9 2. Respondent has received, read and understands the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Department of Real Estate
12 ("Department") in this proceeding.
13

14 3. On June 18, 2009, Respondent filed a Notice of
15 Defense, pursuant to Section 11506 of the Government Code for the
16 purpose of requesting a hearing on the allegations in the
17 Accusation. Respondent hereby freely and voluntarily withdraws
18 said Notice of Defense. Respondent acknowledges that he
19 understands that by withdrawing said Notice of Defense he will
20 thereby waive his right to require the Commissioner to prove the
21 allegations in the Accusation at a contested hearing held in
22 accordance with the provisions of the APA and that he will waive
23 other rights afforded to him in connection with the hearing, such
24 as the right to present evidence in defense of the allegations in
25 the Accusation and the right to cross-examine witnesses.
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1 4. Respondent, pursuant to the limitations set forth
2 below, hereby admits that the factual allegations set forth in
3 the Accusation filed in this proceeding are true and correct and
4 the Real Estate Commissioner shall not be required to provide
5 further evidence of such allegations.
6

7 5. It is understood by the parties that the Real
8 Estate Commissioner may adopt the Stipulation and Agreement as
9 his decision in this matter, thereby imposing the penalty and
10 sanctions on Respondent's real estate licenses and license rights
11 as set forth in the below "Order". In the event that the
12 Commissioner in his discretion does not adopt the Stipulation and
13 Agreement, it shall be void and of no effect, and Respondent
14 shall retain the right to a hearing and proceeding on the
15 Accusation under all the provisions of the APA and shall not be
16 bound by any admission or waiver made herein.
17

18 6. The Order or any subsequent Order of the Real
19 Estate Commissioner made pursuant to this Stipulation and
20 Agreement shall not constitute an estoppel, merger or bar to any
21 further administrative or civil proceedings by the Department of
22 Real Estate with respect to any matters which were not
23 specifically alleged to be causes for accusation in this
24 proceeding.
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1 conditions and restrictions imposed under authority of Section
2 10156.6 of that Code:

3 1. The restricted license issued to Respondent may
4 be suspended prior to hearing by Order of the Real Estate
5 Commissioner in the event of Respondent's conviction or plea of
6 nolo contendere to a crime which is substantially related to
7 Respondent's fitness or capacity as a real estate licensee.

8 2. The restricted license issued to Respondent may
9 be suspended prior to hearing by Order of the Real Estate
10 Commissioner on evidence satisfactory to the Commissioner that
11 Respondent has violated provisions of the California Real
12 Estate Law, the Subdivided Lands Law, Regulations of the Real
13 Estate Commissioner or conditions attaching to the restricted
14 license.

15 3. Respondent shall not be eligible to apply for
16 issuance of an unrestricted real estate license nor for the
17 removal of any of the conditions, limitations or restrictions
18 of a restricted license until two (2) years have elapsed from
19 the effective date of this Decision.

20 4. Respondent shall submit with any application
21 for license under an employing broker, or any application for
22 transfer to a new employing broker, a statement signed by the
23 prospective employing real estate broker, on a form approved by
24 the Department, which shall certify:

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(a) That the employing broker has read the Decision
of the Commissioner which granted the right to a restricted
license; and

(b) That the employing broker will exercise close
supervision over the performance by the restricted licensee
relating to activities for which a real estate salesperson
license is required.

5. Respondent shall, within nine (9) months from the
effective date of this Decision, present evidence satisfactory
to the Real Estate Commissioner that Respondent has, since the
most recent issuance of an original or renewal real estate
license, taken and successfully completed the continuing
education requirements of Article 2.5 of Chapter 3 of the Real
Estate Law for renewal of a real estate license. If Respondent
fails to satisfy this condition, the Commissioner may order the
suspension of the restricted license until the Respondent
presents such evidence. The Commissioner shall afford
Respondent the opportunity for a hearing pursuant to the
Administrative Procedure Act to present such evidence.

DATED: 11/9/09


SHARI SVENINGSON
Real Estate Counsel

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I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 11-9-09

Gerald F. Lato

1
2 I have read the Stipulation and Agreement, and its
3 terms are understood by me and are agreeable and acceptable to
4 me. I understand that I am waiving rights given to me by the
5 California Administrative Procedure Act (including but not
6 limited to Sections 11506, 11508, 11509 and 11513 of the
7 Government Code), and I willingly, intelligently and
8 voluntarily waive those rights, including the right of
9 requiring the Commissioner to prove the allegations in the
10 Accusation at a hearing at which I would have the right to
11 cross-examine witnesses against me and to present evidence in
12 defense and mitigation of the charges.
13

14 Respondent can signify acceptance and approval of the
15 terms and conditions of this Stipulation and Agreement by
16 faxing a copy of its signature page, as actually signed by
17 Respondent, to the Department at the following telephone/fax
18 number (213) 576-6917. Respondent agrees, acknowledges, and
19 understands that by electronically sending to the Department a
20 fax copy of his actual signature as it appears on the
21 Stipulation and Agreement, that receipt of the faxed copy by
22 the Department shall be as binding on Respondent as if the
23 Department had received the original signed Stipulation and
24 Agreement.
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27 DATED: _____

GERALD JUERGEN LOTTER
Respondent

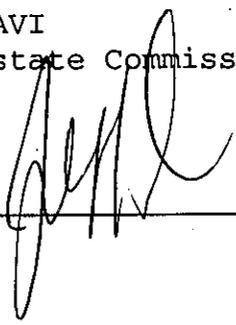
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* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on JAN 27 2010

IT IS SO ORDERED 12/16/, 2009.

JEFF DAVI
Real Estate Commissioner



*Access
files*

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SHARI SVENINGSON SBN# 195298
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-5770

FILED
JUN - 2 2009
DEPARTMENT OF REAL ESTATE

Michael

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-36014 LA
HOME ADVANTAGE FUNDING)	
GROUP, INC. and GERALD)	
JUERGEN LOTTER,)	<u>A C C U S A T I O N</u>
Respondents.)	

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOME ADVANTAGE FUNDING GROUP, INC. ("HAFGI"), and GERALD JUERGEN LOTTER (LOTTER"), individually, and as designated officer of HAFGI, is informed and alleges as follows:

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1.

1 The Complainant, Robin Trujillo, a Deputy Real Estate
2 Commissioner of the State of California, makes this Accusation
3 in her official capacity.
4

2.

5 Respondent HAFGI is presently licensed and/or has
6 license rights under the Real Estate Law (Part 1 of Division 4
7 of the Business and Professions Code, hereinafter "Code"), as a
8 real estate corporation acting by and through Respondent LOTTER
9 as its designated broker-officer. Effective November 16, 2008
10 HAFGI's real estate corporation license expired.
11
12

3.

13 Respondent LOTTER is presently licensed and/or has
14 license rights under the Real Estate Law as a real estate
15 broker. LOTTER was the designated broker-officer of HAFGI from
16 November 17, 2004 through November 16, 2008, when its real
17 estate corporation license expired.
18
19

4.

20 From November 17, 2004 through November 16, 2008,
21 Respondent LOTTER, as the officer designated by Respondent
22 HAFGI pursuant to Section 10211 of the Code, was responsible
23 for the supervision and control of the activities conducted on
24 behalf of Respondent HAFGI by its officers and employees as
25
26
27

1 necessary to secure full compliance with the Real Estate Law as
2 set forth in Section 10159.2 of the Code.

3 5.

4 At all times herein mentioned, Respondents HAGFI and
5 LOTTER engaged in the business of an advance fee brokerage,
6 within the definition of Code Sections 10131(d) and 10131.2, in
7 that, for fees received in advance, as well as at the
8 conclusion of transactions, Respondents performed loan
9 modification services with respect to loans which were secured
10 by liens on real property, including, but not limited to, the
11 following:
12

13 a) On or about October 1, 2008, HAGFI provided an
14 advance fee contract to Maria Pruett ("Pruett") for loan
15 modification services on Pruett's existing mortgage on her home
16 located at 8248 Country Ranch Drive, Sacramento, CA 95839.
17

18 b) Between on or about October 1, 2008 and on or
19 about November 13, 2008, LOTTER employed Jacob Kim ("Kim"), an
20 unlicensed individual, to obtain clients for HAGFI's loan
21 modification services.

22 c) On or about November 13, 2008, Kim, as a
23 representative of HAGFI, demanded and received an advance fee
24 of \$1,500 from Pruett.

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6.

1
2 Respondents collected the above described advance
3 fees pursuant to the provisions of a document entitled "Loss
4 Mitigation/Loan Modification and Presentation Fee Agreement,"
5 the written agreement described in Paragraph 5, above, which
6 document constitutes an advance fee agreement within the
7 meaning of Code Section 10085.

8
9 7.

10 Respondent LOTTER ordered, caused, authorized or
11 participated in the conduct of Respondent HAGFI, as is alleged
12 in this Accusation.

13 8.

14 Respondents HAGFI and LOTTER failed to submit the
15 written agreement referred to in Paragraph 6, above, to the
16 Commissioner ten days before using them in violation of Code
17 Section 10085 and Section 2970, title 10, Chapter 6, California
18 Code of Regulations.
19

20 9.

21 Based on the information contained in Paragraph 7,
22 above, HAGFI and LOTTER violated Code Section 10137 of the Code
23 by employing and/or compensating an individual who was not
24 licensed as a real estate salesperson or as a broker to perform
25 activities requiring a real estate license.

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10.

1
2 The conduct, acts and/or omissions of Respondents
3 HAFGI and LOTTER, as set forth above, are cause for the
4 suspension or revocation of the licenses and license rights of
5 Respondent HAFGI and Respondent LOTTER pursuant to Code
6 Sections 10085, 10177(d) and/or 10177(h).
7

8
9 11.

10 The conduct, acts and/or omissions of Respondent
11 LOTTER, as set forth above, in failing to adequately supervise
12 HAFGI are cause for the suspension or revocation of the
13 licenses and license rights of Respondent LOTTER pursuant to
14 Code Sections 10159.2, 10177(d), 10177(g) and/or 10177(h).
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of
5 Respondent HOME ADVANTAGE FUNDING GROUP, INC. and Respondent
6 GERALD JUERGEN LOTTER, individually, and as designated broker-
7 officer of Respondent HAFGI, under the Real Estate Law (Part 1
8 of Division 4 of the Business and Professions Code), and for
9 such other and further relief as may be proper under other
10 applicable provisions of law.

11
12 Dated at Los Angeles, California
13 this 28 day of May, 2009.
14

15
16
17 
18 Robin Trujillo
19 Deputy Real Estate Commissioner
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23

24 cc: Home Advantage Funding Group, Inc.
25 Gerald Juergen Lotter
26 Robin Trujillo
27 Phil Ihde
SB