

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

FILED

MAY -4 2012

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 To:)
12)
13 JAMES ALFRED SANTANA, doing business as)
14 Above Board Realty, Bankers First Real Estate)
15 and West Pointe Escrow,)
16)
17 Respondents)
18)

No. H- 38106 LA

ORDER TO
DESIST AND REFRAIN
(B&P 10086)

17 The Commissioner ("Commissioner") of the California Department of Real Estate
18 ("Department") caused an investigative audit to be made of the activities of JAMES ALFRED
19 SANTANA ("SANTANA").
20

21 Based on the findings of that investigative audit, set forth below, the
22 Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and
23 Refrain Order under the authority of Section 10086 of the Code.

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FINDINGS OF FACT

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JAMES ALFRED SANTANA ("SANTANA"). At all times mentioned,
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4 Respondent SANTANA was licensed or had license rights issued by the Department as a real
5 estate broker. On March 28, 1995, SANTANA was originally licensed as a real estate broker.
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2.
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At all times mentioned, in the Cities of Fountain Valley and Anaheim, County of
8
9 Orange, Respondent SANTANA acted as a real estate broker conducting licensed activities
10 within the meaning of:

A. Code Section 10131(a). Respondent operated a residential resale brokerage
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12 doing business as Above Board Realty and Bankers First Real Estate. Respondent engaged in the
13 business of acted in the capacity of, advertised or assumed to act a as real estate broker, including
14 the solicitation for listings of and the negotiation of sale of real property as the agent of others.
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B. Code Section 10131(d). Respondent engaged in activities with the public
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17 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on
18 real property, wherein such loans were arranged, negotiated, processed and consummated on
19 behalf of others for compensation or in expectation of compensation and for fees often collected
20 in advance including loan modification, short sales and short sale-repurchase financing; and
21

C. In addition, Respondent conducted broker-controlled escrows through his
22
23 escrow operation doing business as and West Pointe Escrow, under the exemption set forth in
24 California Financial Code Section 17006(a)(4) for real estate brokers performing escrows
25 incidental to a real estate transaction where the broker is a party and where the broker is
26 performing acts for which a real estate license is required.
27

(Broker-Controlled Escrow Audit)

3.

On September 7, 2011, the Department completed an audit examination of the books and records of SANTANA pertaining to the broker-controlled activities described in Paragraph 2, herein above, which require a real estate license. The audit examination covered a period of time beginning on August 1, 2007 and ending on February 28, 2011. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully set forth in Audit Report LA 100153 and the exhibits and workpapers attached thereto.

4.

In the course of activities described in Finding 2, above, and during the examination period, described in Finding 3, SANTANA, acted in violation of the California Finance Code in that SANTANA conducted third party sales escrows for borrowers including, but not limited to, Louis R, Luna R, Patricia V., and Jose G G. and Maria E. C. , wherein SANTANA was not performing acts in the course of or incidental to a real estate transaction, in which SANTANA was an agent or party to the transaction and in which SANTANA were performing acts for which a real estate license is required for escrow parties,

CONCLUSIONS OF LAW

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The conduct of SANTANA, described in Finding 4, violated California Financial Code Section 17006(a)(4) for performing third party escrows.

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1 DESIST AND REFRAIN ORDER

2 Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated
3 herein, it is hereby ordered that:

4 JAMES ALFRED SANTANA shall immediately desist and refrain from
5 performing third party escrows within the State of California, unless JAMES ALFRED
6 SANTANA is in compliance with the Real Estate Law and California Finance Code Section
7 17006(a)(4).

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9 DATED: May 3, 2012.

10 REAL ESTATE COMMISSIONER

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14 By WAYNE S. BELL
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