

BEFORE THE
DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

In the Matter of the Accusation of
THE CALIFORNIA CORPORATIONS
COMMISSIONER,

Complainant,

v.

CHARLES T. CHRISTIANSEN,
ROOVEN AKIBA, and SEAN R.
ROBERTS,

Respondents.

Case No. 603-A620

OAH No.: 2009050155

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated December 23, 2009, is hereby adopted by the Department of Corporations as its Decision in the above-entitled matter.

This Decision shall become effective on 6 April 2010.

IT IS SO ORDERED this 5th day of April 2010.

CALIFORNIA CORPORATIONS COMMISSIONER

Preston DuFauchard

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PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on October 27, 2009, in Los Angeles, California. Complainant was represented by Judy L. Hartley, Senior Corporations Counsel. Rooven Akiba (Respondent) appeared and represented himself.¹

Oral and documentary evidence was received and argument was heard. The record was closed, and the matter was submitted for decision on October 27, 2009.

FACTUAL FINDINGS

1. On March 2, 2009, Complainant, Preston DuFauchard, filed the Accusation against Respondent in his official capacity as the California Corporations Commissioner (Commissioner), Department of Corporations (Department), State of California (State). Respondent filed a Notice of Defense.

2(a). On August 20, 2004, Liquid Financial Network, Inc. (LFN), filed its application for a lender license (application) with the Commissioner pursuant to the California Finance Lenders Law (CFLL) (California Financial Code, section 22000 et seq.)

¹ Respondents Charles T. Christiansen and Sean R. Roberts entered into stipulated settlements prior to the hearing and did not appear at the hearing.

section 22101. The application identified Stephen Alexander Tary (Tary) as the president, vice president, secretary, treasurer, sole director, sole shareholder and person in charge of LFN.²

2(b). CCR, title 10, section 1422, requires CFLL applications to include a Statement of Identity and Questionnaire form (SIQ) for all officers, directors, any person controlling, directly or indirectly, 10 percent or more of the applicant, and all person(s) who would be in charge of the business. As required by CCR, title 10, section 1422, the application included an SIQ for Tary.

2(c). As part of the application, Tary signed an Affidavit Regarding Law & Rules (application affidavit) attesting that he understood and agreed to comply with the CFLL and applicable regulations.

2(d). The application affidavit included several attestations, including:

4. That the applicant will file with the Commissioner of Corporations any report required by the Commissioner.

5. That the applicant will file with the Commissioner of Corporations an amendment to this application prior to any material change in the information contained in the application for licensure, including, without limitation the plan of operation.

3. On September 8, 2004, Tary notified the Department that LFN had changed its address to 4500 Campus Drive #127, Newport Beach, California 92660.

4. On November 29, 2004, LFN was issued finance lender's license number 603-A620.

5. On February 28, 2005, the Department received LFN's annual report for the year 2004 (2004 report). In Schedule K of the 2004 report, Tary was listed as the only owner or officer of LFN.³

6. On February 17, 2006, the name on finance lender's license number 603-A620 was changed from LFN to Champion's Group Equity Lending, Inc. (Champions, Inc.).

² CFLL section 22101 and California Code of Regulations (CCR), title 10, section 1422, require corporate applicants to disclose to the Commissioner in their application all officers, directors, any person owning or controlling, directly or indirectly, 10 percent or more of the applicant, and all person(s) who would be in charge of the business.

³ Schedule K is a "Directory of Directors, Officers, Branch Managers and Any Person Owning or Controlling (directly or indirectly) 10 % or More Interest or Equity Securities."

7. On March 2, 2006, the Department received a 2005 annual report from Champions, Inc. The 2005 report still listed LFN as the corporation name, but designated its website as www.championsgroup.com. The 2005 annual report was submitted by Tary, who was the only person listed on the Schedule K.

6. On March 9, 2006, Champions, Inc.'s address of record with the Department was changed to 4500 Campus Drive #340, Newport Beach, California 92660.

8(a). On August 16, 2006, Respondent purchased from sole owners Tary, Charles T. Christiansen (Christiansen), David Lemieux (Lemieux) and Greg Toscas (Toscas), a 50 percent interest in Champions Group, L.L.C., for a purchase price of \$50,000.

8(b). The purchase agreement did not indicate that Champions Group, L.L.C. was the same entity as that which held finance lender's license number 603-A620 (Champions, Inc.).

9(a). On August 30, 2007, Champions, Inc. filed its 2006 annual report. The 2006 report listed a new address of 959 South Coast Drive, Suite 495, Costa Mesa, California 92626, with a note, "[please] change it to the above new address." The 2006 report was signed by Christiansen. The attached Schedule K listed Christiansen as CEO, Respondent as president and Toscas as treasurer. No SIQs for Christiansen, Respondent or Toscas were provided with the application.

9(b). Respondent did not sign any portion of the 2006 annual report.

9(c). Respondent does not recall being asked to be an officer of Champions Group, L.L.C., and he understood that Christiansen was the president of that company.

10(a). CCR, title 10, section 1409 requires CFLL licensees to maintain a current list of officers and directors with the Commissioner, and in the event of any change, to file with the Commissioner information about new persons within thirty days from the date of the change.

10(b). Timely submission of information regarding new personnel is important to allow the Department to complete background checks on new individuals. The Department cannot provide such public protection if licensees do not provide timely information. Furthermore, the Schedule Ks filed with annual reports do not provide the Department with such timely notice. Thousands of annual reports are filed, and it is not feasible to have Department staff pull each licensee's file and compare the prior year's Schedule K to determine whether changes in personnel had been made. Therefore, it is a licensee's responsibility to provide information regarding changes to personnel via the SIQs.

11. The Department was not notified of the owners/officers of Champions, Inc. until August 30, 2007, when the 2006 annual report and Schedule K were filed. No SIQs for Christiansen, Respondent or Toscas were ever provided to the Commissioner.

12. On September 6, 2007, Champions, Inc.'s address of record with the Department was changed to 959 South Coast Drive, Suite 495, Costa Mesa, California 92626.

13. On February 20, 2008, Respondent transferred his entire 50 percent interest in Champions Group, L.L.C. to Sean Roberts (Roberts) and Christiansen.

14. On March 19, 2008, Champions, Inc.'s address of record with the Department was changed to 133 Technology Drive, Suite 250, Irvine, California 92614.

15. On April 3, 2008, Champions, Inc. filed its 2007 annual report, listing its website as www.fivanta.com, with a new address of 2081 Business Center Drive, Suite 285, Irvine, California 92612. The 2007 report was signed by Christiansen, and the attached Schedule K listed only Christiansen and Toscas.

16. License number 603-A620 was revoked on April 9, 2008, for failing to maintain a surety bond as required by the CFLL. The last licensed location was 133 Technology Drive, Suite 250, Irvine, California.

17(a). Before his purchase and sale of his interest in Champions Group, L.L.C., Respondent held a finance lender's license with the Department. On July 29, 2003, Respondent filed with the Department an application for a finance lenders' license under the applicant name Loan Correspondents, Inc., with the fictitious business name Capital Funding Group. The address of record was 959 South Coast Drive #495, Costa Mesa, California 92926. Respondent was president and CEO. In filing the application, Respondent signed an Affidavit Regarding Law and Rules, attesting that he understood and agreed to comply with the CFLL and applicable regulations.

17(b). On January 29, 2004, Loan Correspondents, Inc., dba Capital Funding Group, was issued finance lender and broker license number 603-9479. Respondent allowed that license to expire.

17(c). As of July 23, 2003, Respondent should have been aware of the laws and regulations governing finance lenders in California.

18(a). At the administrative hearing, Respondent described his involvement in Champions Group, L.L.C. as an infusion of money into a company and subsequent loss of that money, with no participation in its management. In 2006, Respondent was approached by Christiansen and Toscas, who asked him to lend them money. Respondent described himself as a "passive investor," who was assured that all appropriate paperwork would be completed. Following his \$50,000 purchase, "nothing came out of that company," and he lost all of his investment. A year later he decided to "get out," and he asked them "to pay [him his] money, but they did not have it." Respondent turned over all of his shares to Christiansen and Roberts for "zero money."

18(b). When he purchased his fifty percent interest in Champions Group, L.L.C. in 2006, Respondent assumed that his attorney filed the required paperwork. According to Respondent, if he had been informed that he was late in filing any required paperwork, he would have ensured compliance through his attorney.

18(c). Respondent reported that he has been a licensed with the California Department of Real Estate for more than 30 years, and he “never did anything wrong or illegal.” He asked not to be barred from employment, management or control of a corporation merely “for buying a company [in which] I did not do anything, and I lost my money.” He insisted that no damage was done to the public or to the Department.

LEGAL CONCLUSIONS

1. Cause does not exist to censure, to suspend for a period not exceeding 12 months, or to bar Respondent from any position of employment, management, or control, pursuant to CFLR section 22169, for violation of CCR, title 10, section 1409, in that Complainant failed to establish that Respondent was responsible for maintaining Champions, Inc.’s current list of officers and directors with the Commissioner, as set forth in Factual Findings 1 through 18, and Legal Conclusions 2 through 4.

2. California Finance Code section 22169 provides, in pertinent part:

(a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any finance lender, broker, mortgage loan originator, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the finance lender, broker, or mortgage loan originator, or to the public.

3. California Code of Regulations, title 10, section 1409 provides:

A finance company shall at all times maintain on file with the Commissioner a current list of officers, directors, and partners in the case of a partnership, and other persons named in the application. Changes in partnerships are limited to the conditions set forth in Section 22151(b) of the Law. In the event of any change, other than transfers between branch offices, in the officers, directors, or partners, or other persons named in the application, a finance company shall file

with the Commissioner an amendment to the application containing the same information in relation to such new person(s) as is required in the application, within thirty days from the date of the change.

4. Complainant alleged that Respondent failed to maintain a current list of officers and directors with the Commissioner in violation of CCR, title 10, section 1409. However, Complainant did not establish that Respondent was responsible for filing the current list of officers and directors for Champions, Inc. Respondent purchased an interest in Champions Group, L.L.C., and the evidence did not establish that this was the same entity as the licensee, Champions, Inc. Furthermore, Respondent was not involved in the management of the company in which he invested and did not recall being asked to be an officer for that company. The fact that Christiansen filed the 2006 annual report listing Respondent as president of Champions, Inc. does not establish that Respondent was, in fact, the president of the licensee. Respondent's credible testimony proved the contrary. Given the lack of connection between Respondent's investment in Champions Group, L.L.C., and any responsibility for filing required reports on behalf of licensee Champions, Inc., no violation by Respondent was proven.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Accusation, No. 603-A620, filed against Respondent, Rooven Akiba, is hereby dismissed.

DATED: December 23, 2009

JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings