DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007
Telephone: (916) 227-0791

FILED

JAN 25 2012

DEPARTMENT OF REAL ESTATE

By R. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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TO: ASPERA HOUSING, INC., and RANDALL GUERRA, an individual	No. H-2706 FR ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner of the California Department of Real Estate ("Commissioner") caused an investigation to be made of the activities of ASPERA HOUSING, INC. ("AHI") and RANDALL GUERRA ("RG"). Based on the investigation, the Commissioner has determined AHI and RG have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including the business of, acting in the capacity of, and/or advertising or assuming to act as, a real estate broker in the State of California within the meaning of Section 10131(d) (performing services for borrowers in connection with loans secured by real property) of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

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Whenever acts referred to below are attributed to AHI, those acts are alleged to have been done by RG, acting by himself, as the alter ego of AH, or by and/or through one or more agent, associate, affiliate, and/or co-conspirator, and using the name ASPERA HOUSING, INC.

FINDINGS OF FACT

1. At all times relevant herein neither AHI nor RG held a valid California Department of Real Estate ("Department") license in any capacity.

2. During the period of time set out below, AHI, RG, and/or other agents, associates, affiliates, and/or co-conspirators solicited one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders in connection with loans secured directly or collaterally by one or more liens on real property; charge or demand a fee for any of the services offered, in violation of Sections 10130 (real estate broker license required to perform certain acts) and 10139 (criminal penalties for unlicensed activity) of the Code.

3. In addition, neither AHI nor RG complied with the provisions of the Foreclosure Consultant Act as set forth in California Civil Code Sections 2945 *et. seq.*, including, but not limited to, the use of contracts which fail to comply with the requirements of the Foreclosure Consultant Act and the collection of an advance fee in connection with an attempt to stop or postpone a foreclosure sale and/or obtain a forbearance from any beneficiary or mortgagee.

4. On or about June 25, 2011, approximately three days before a Trustee Sale was scheduled to be held and after a notice of default had been recorded against Pedro O's (Borrower") Angus Street, Fresno, California property, RG met with the Borrower concerning a possible residential mortgage loan modification for the Borrower's residential property. During this meeting, the Borrower was informed by RG that AHI's fee to represent the Borrower for a loan modification was a $250 initial evaluation fee, paid in advance, and an

additional fee would be charged during the loan modification process. On June 25, 2011, the Borrower provided a check payable to AHI in the amount of $250 as an advance payment for loan modification services to be rendered by AHI.

5. On or about August 23, 2011, a Deputy Real Estate Commissioner, acting undercover, contacted RG about the possibility of obtaining a loan modification. The deputy was informed that RG would charge $100, in advance, for an "initial assessment" which would be applied to AHI's $350 intake fee. RG further stated that if a loan modification is made, an additional fee of $250 would be collected.

CONCLUSIONS OF LAW

6. Based on the findings of fact contained in paragraphs 1 through 5, above, AHI, acting by and/or through RG and one or more agents, associates, affiliates, and/or co-conspirators, unknown at this time, solicited one or more borrowers and performed services for those borrowers and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property, acts which require a real estate license under Section 10131(d) of the Code, during a period of time when AHI and RG were not licensed by the Department in any capacity.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, RANDALL GUERRA doing business under your own name and the corporate name ASPERA HOUSING, INC., and/or any other corporation which does not hold a valid California Department Real Estate Corporate Broker License or any other names or fictitious names, is HEREBY ORDERED to:

1. Immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular, to desist and refrain from soliciting borrowers and/or performing services for borrowers or lenders in connection with loans secured directly or collaterally by one or more liens on real property until and unless obtaining a broker license issued by the Department.

2. Immediately desist and refrain from charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any of the services offer to others, unless and until demonstrating and providing evidence of proper licensing by the Department and:

(a) have an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Commissioner's Regulations;

(b) have placed all previously collected advance fees into a trust account for that purpose and is in compliance with Section 10146 of the Code;

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

(d) have complied with California law, as amended effective as of October 11, 2009, with respect to loan modification and/or forbearance services. Under the amended law, a Department licensee can only collect advance fees for loan modifications or other mortgage loan forbearance services related to commercial loans and loans for residential properties containing five or more dwelling units.

DATED: 12/13, 2011

BARBARA J. BIGBY
Acting Real Estate Commissioner

NOTICE:

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

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cc:

Aspera Housing, Inc.
Lee Ayres, Agent for Service of Process
4949 East Kings Canyon Road, Suite 106
Fresno, CA 93727

Aspera Housing, Inc.
5132 N Palm Avenue, PMB 102
Fresno, CA 93704

Randall Guerra
4949 East Kings Canyon Road, Suite 106
Fresno, CA 93727

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