DEPARTMENT OF REAL ESTATE
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FILED
MAY 21 2012
DEPARTMENT OF REAL ESTATE
By R. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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TO:	
SYLVIA SUAREZ.	NO. H-2747 FR ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Real Estate Commissioner ("the Commissioner") of the California Department of Real Estate ("the Department") caused an investigation to be made of the activities of SYLVIA SUAREZ ("Respondent"). Based on the investigation, the Commissioner has determined that Respondent has engaged in, is engaging in, or is attempting to engage in, acts or practices constituting violations of the California Business and Professions Code ("the Code") and/or Title 10, Chapter 6, California Code of Regulations ("the 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 Sections 10131(d) (performing services for borrowers in connection with loans secured by real property) and 10085.5 (claiming/collecting/receiving advanced fees) of the Code. Furthermore, based on the

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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.

FINDINGS OF FACT

1. Respondent's real estate salesperson license expired on April 10, 2011. Respondent has never been licensed by the Department as a real estate broker in the State of California.

2. Respondent solicited borrowers to negotiate and/or perform 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; and solicited the payment of an advance fee in exchange for providing such services.

3. In or about October 2011, Respondent offered to perform loan modification services on behalf of Anthony R. related to his real property located at 3251 Alamo Avenue, Clovis, California. In exchange for providing such loan modification services, Respondent demanded the payment of a $150 advance fee.

4. On or about January 4, 2012, a Deputy Commissioner from the Department's Fresno District Office contacted Respondent using an assumed name seeking someone to provide loan modification services for him. During that telephone conversation, Respondent confirmed she was in the business of providing loan modification services and solicited an advance fee of $150 from the Deputy Commissioner in exchange for providing him with loan modification services.

CONCLUSIONS OF LAW

5. Based on the Findings of Fact contained in Paragraphs 1 through 4, above, Respondent, solicited borrowers and/or performed services for those borrowers with respect to the collection of advance fees for loan modification in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected advance fees for the services to be provided, which acts require a real estate

broker license under Sections 10130 (broker license requirement), 10131(d) and 10131.2 (advance fees) of the Code, in violation of Sections 10085 (failure to submit advance fee materials), 10085.5 and 10085.6 (unlawful charging or collection of advance fees for loan modification) of the Code and Section 2944.7 (loan modification services-prohibition of advance fees) and 2945.4 (prohibited practices regarding foreclosures) of the California Civil Code.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, SYLVIA SUAREZ, whether doing business under your own name, or any other name or fictitious name, IS HEREBY ORDERED to immediately desist and refrain from:

1. Performing any acts within the State of California for which a real estate broker license is required. In particular, you are ordered 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, unless and until you obtain a real estate broker license issued by the Department.

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

3. Charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for other than loan modifications which you offer to others, unless and until you demonstrate and provide evidence satisfactory to the Commissioner that you are properly licensed by the Department as a real estate broker, and that SYLVIA SUAREZ:

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

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

(c) Has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations.

DATED: 5/17/2012

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

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)."

cc: SYLVIA SUAREZ
10203 North Recreation Avenue
Fresno, CA 93730

ATTY JWB/km