Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED
MAY 24 2012
DEPARTMENT OF REAL ESTATE
By L. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To: MOHAMAD FOUZI HAFFAR and HAFFAR & ASSOCIATES.	NO. H-4355 SD 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 MOHAMAD FOUZI HAFFAR ("HAFFAR"), individually and doing business as HAFFAR & ASSOCIATES, ("H&A"). Based on that 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 ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including acting in the capacity of, 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 and/or lenders in connection with loans secured by real property), 10131.2 (collection of advance fees), 10085 (advance fee agreements and materials) and 10085.5 (collecting unauthorized advance fees) 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.

FINDINGS OF FACT

1. At all times relevant herein, HAFFAR was and is licensed by the Department as a real estate broker.

2. At all times relevant herein, H&A was not licensed by the Department in any capacity.

3. During the period of time set out below, HAFFAR performed services for 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 with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered.

4. In furtherance of his plan and scheme to solicit advance fees and provide loan modification services, HAFFAR entered into loan modification services agreements and collected advance fees from, but not limited to the following:

Homeowner	Payment Dates	Amount	Property
Patricia C.	11/01/09	$3,500	Gamble Court Hayward, CA
Gary and Gloria G.	05/21/10	$3,500	Marquette Street Burney, CA
Charles G.	10/02/09 10/13/09	$1,750 $1,750	Gable Court Stockton, CA

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Melody F.	04/14/10 05/14/10	$1,750 $1,750	Wisconsin Street San Francisco, CA
William H.	03/22/10	$3,500	Atherstone Drive Indio, CA
Shelly Y.	02/10/10 02/25/10 03/18/10	$1,500 $1,500 $ 500	Fountainhead Court Martinez, CA
Charles M.	03/03/10 04/02/10 08/16/10	$1,750 $1,750 $ 495	Pheasant Hollow Drive West Sacramento, CA
John L.	12/21/09	$1,750	Vista Pointe Drive Watsonville, CA

After receiving advance fee payments from each of the borrowers listed above, HAFFAR failed to obtain loan modifications for them and did not repay the advance fees received from those borrowers.

5. In connection with the collection and handling of advance fees as alleged in Paragraph 4, above, HAFFAR failed to submit the advance fee contract and all materials used in obtaining those advance fee agreements to the Department of Real Estate for approval prior to their use in obtaining advance fees from those borrowers.

CONCLUSIONS OF LAW

6. Based on the Findings of Fact contained in Paragraphs 1 through 5, above, HAFFAR, individually and doing business as H&A, solicited borrowers and/or performed services for those borrowers with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders 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 10131(d) and 10131.2 of the Code.

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7. HAFFAR used a form of advance fee agreement which had not been provided to the Department for its prior review and consideration, in violation of Section 10085 of the Code, and Sections 2970 (submission of advance fee materials) and 2972 (content of verified accounting) of the Regulations.

8. The acts and/or omissions of HAFFER, as set out in Paragraphs 4 and 5, above, violate Section 10177(q) of the Code and Section 2944.7 of the California Civil Code.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, MOHAMAD FOUZI HAFFAR and HAFFAR & ASSOCIATES, whether doing business under your own name, or any other name or fictitious name, ARE HEREBY ORDERED to:

1. 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 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 MOHAMAD FOUZI HAFFAR and HAFFAR & ASSOCIATES:

(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 (deposit of advance fees into trust account) of the Code;

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

(d) Refunded to each borrower listed in Paragraph 4, above, any and all advance fees paid to you by each of them in this matter.

2. Immediately desist and refrain from 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.

DATED: May 22, 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: MOHAMAD FOUZI HAFFAR
113 W. G Street, Unit 526
San Diego, CA 92101

MOHAMAD F. HAFFAR
As Agent for Service of Process
HAFFAR & ASSOCIATES
625 Broadway, Suite 825
San Diego, CA 92101

ATTY JWB/km