DEPARTMENT OF REAL ESTATE
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FILED
MAY 29 2012
DEPARTMENT OF REAL ESTATE
By

BEFORE THE STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

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To: MARK WORKMAN	No. H-4356 SD
	ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner of the California Department of Real Estate (hereinafter "Department") caused an investigation to be made of the activities of MARK WORKMAN (hereinafter "WORKMAN"). Based on that investigation, the Commissioner has determined that WORKMAN has engaged in, is engaging in, or is attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (hereinafter "Code"), the California Civil Code (hereinafter "Civil Code"), and/or Title 10, Chapter 6, California Code of Regulations (hereinafter "Regulations"), including, but not limited to the collection of advance fees after October 10, 2009 in violation of Section 10085.6 of the Code and Section 2945.4 of the Civil Code, and engaging in 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

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meaning of Sections 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by real property) and 10131.2 (real estate broker license required to charge and collect an advance fee) 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.

Whenever acts referred to below are attributed to WORKMAN, those acts are alleged to have been done by WORKMAN, acting by himself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, and using other names or fictitious names unknown at this time.

FINDINGS OF FACT

1. At no time has WORKMAN been licensed by the Department in any capacity.

2. At all times mentioned herein, WORKMAN was employed by Axis Real Estate Inc., a real estate corporation licensed by the Department.

3. During the period of time set forth below, WORKMAN solicited borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation; negotiated one or more loans for, or performed services for, borrowers and/or 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. Beginning in or about September 2009, WORKMAN solicited Joe G. (hereinafter "Joe") in order to provide loan modification and negotiation services on behalf of Joe in connection with a loan secured by real property located at 8581 Lakewood Avenue, Cotati, California.

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5. On or about September 9, 2009, WORKMAN demanded and received an advance fee of $1,500 from Joe for the activities described in Paragraph 4, above. WORKMAN deposited the funds received by Joe into his personal bank account. On or about October 14, 2009, the loan modification application submitted by WORKMAN on Joe's behalf was denied by the lender, Indymac.

6. After October 14, 2009 when the loan modification was denied by the lender, WORKMAN solicited Joe in order to provide loan forbearance negotiation services on behalf of Joe.

7. On or about November 9, 2009, WORKMAN demanded and received an advance fee of $500 from Joe for the activities described in Paragraph 6, above. WORKMAN deposited the funds received by Joe into his personal bank account.

8. At all times mentioned herein, WORKMAN acted without the knowledge or consent of his employer, Axis Real Estate Inc.

CONCLUSIONS OF LAW

9. Based on the findings of fact contained in Paragraphs 1 through 8, above, WORKMAN solicited one or more borrowers to perform 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 located within the State of California, 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), 10131.2, and 10085.5 of the Code, and after October 10, 2009, WORKMAN engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, which constitute trust funds, within the meaning of Sections 10026 and 10131.2 of the Code, in violation of Sections 10130 and 10085.6 of the Code and Section 2945.4 of the Civil Code.

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DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, WORKMAN, whether doing business under your own name, or any other name or fictitious name, 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, 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. 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 WORKMAN:

(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;

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

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

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3. 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 24, 2012

REAL ESTATE COMMISSIONER

By: _____
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: MARK WORKMAN
347 Quail Place
Chula Vista, CA 91911-5519

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