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

FILED

June 11, 2012

DEPARTMENT OF REAL ESTATE

By L. Jones

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

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TO: WHITEHALL MONTAGUE PARTNERS, DEMPSEY MORK, an individual, MICKI DELP, an individual, and WHITEHALL MONTAGUE, an individual	No. H-4366 SD ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner ("Commissioner") of the California Department of Real Estate (Department) caused an investigation to be made of the activities of WHITEHALL MONTAGUE PARTNERS ("WMP"), DEMPSEY MORK, ("MORK"), an individual, MIKI DELP, ("DELP"), an individual, and WHITEHALL MONTAGUE ("MONTAGUE"), an individual. Based on the investigation, the Commissioner has determined WMP, MORK, DELP and/or MONTAGUE, have engaged in, are engaging in, or are 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 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.

Whenever acts referred to below are attributed to WMP those acts are alleged to have been done by, MORK, DELP and/or MONTAGUE, acting by themselves, or by and/or through one or more agent, associate, affiliate, and/or co-conspirator whose name is presently unknown.

FINDINGS OF FACT

1. At all times relevant herein WMP, MORK, DELP and MONTAGUE did not hold a valid California real estate license issued by the Department.

2. At all times relevant herein DELP was and is the President and an Officer of WMP and is responsible for oversight of the business operations of WMP, which include, but are not limited to, WMP's mortgage loan modification business.

3. At all times relevant herein MONTAGUE, MORK and/or other agents, associates, affiliates, and/or co-conspirators on behalf of WMP 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; and 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.

4. On or about February 19, 2009, MORK and/or MONTAGUE met with Jeffrey B. (the "Borrower") concerning a possible residential mortgage loan modification for the Borrower's La Quinta, California residential property. During this meeting the Borrower was informed by MONTAGUE that WMP would charge the Borrower and the Borrower would pay an advance fee in the amount of $1,500.00 to begin the loan modification process. On or about March 10, 2009, the Borrower paid to MONTAGUE the initial advance fee of $1,500.00 to begin the loan modification process. On or about May 22, 2009 an additional

payment of $1,500.00 was made by the Borrower. At no time did the Borrower receive the promised loan modification nor a refund of the $3,000.00 paid to WMP by the Borrower.

CONCLUSIONS OF LAW

5. Based on the findings of fact contained in paragraphs 1 through 4, above, WMP, acting by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including others whose names or fictitious names are 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 WMP, MORK, DELP nor MONTAGUE 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:

MONTAGUE, doing business as WMP and/or doing business as any other corporation which does not hold a valid real estate license issued by the Department and/or is doing business under any other business names or fictitious business names which do not hold a valid license issued by the Department, is HEREBY ORDERED to:

1. Immediately desist and refrain from performing any acts within the State of California for which a real estate license is required. In particular, MONTAGUE is 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 MONTAGUE obtains the appropriate real estate brokers 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 MONTAGUE demonstrates and provides

evidence satisfactory to the Commissioner that MONTAGUE is properly licensed by the Department as a real estate broker and:

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

(C) MONTAGUE has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and

(D) MONTAGUE 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, MONTAGUE 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.

MORK doing business as WHITEHALL MONTAGUE PARTNERS and/or doing business as any other corporation which does not hold a valid real estate license issued by the Department and/or is doing business under any other business names or fictitious business names which do not hold a valid license issued by the Department, are 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, MORK is 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 MORK obtains the appropriate real estate brokers 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 MORK demonstrates and provides

evidence satisfactory to the Commissioner that MORK obtains the appropriate real estate brokers license issued by the Department and:

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

(C) MORK has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and

(D) MORK 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, MORK 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.

DELP, as the President and an Officer of WMP and/or doing business as any other entity which does not hold a valid real estate license issued by the Department and/or is doing business under any other business names or fictitious business names which do not hold a valid license issued by the Department, 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, DELP is 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 DELP obtains 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 offer to others, unless and until DELP demonstrates and provides

evidence satisfactory to the Commissioner that DELP is properly licensed by the Department and:

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

(C) DELP has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and

(D) DELP 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, DELP 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.

WHITEHALL MONTAGUE PARTNERS, doing business as WMP and/or doing business as any other corporation which does not hold a valid California Department Real Estate Corporate Broker License issued by the Department and/or is doing business under any other business names or fictitious business names which do not hold a valid license issued by the Department, 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, WMP is 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 WMP obtains a corporate 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 offer to others, unless and until WMP demonstrates and provides evidence

satisfactory to the Commissioner that WMP obtains the appropriate real estate brokers license issued by the Department and:

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

(C) WMP has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and

(D) WMP 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, WMP 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: May 20, 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:

Whitehall Montague Partners
Spiegel & Utrera, Agent for Service of Process
4727 Wilshire Blvd., Suite 601
Los Angeles, CA 90010

Dempsey Mork
55051 Riviera
La Quinta, CA 92253

Micki Delp
Personal and President of Whitehall Montague Partners
73726 Alessandro Drive, Suite 103
Palm Desert, CA 92260

Whitehall Montague
73726 Alessandro Drive, Suite 103
Palm Desert, CA 92260

KCE