DEPARTMENT OF REAL ESTATE
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FILED
JUL 20 2012
DEPARTMENT OF REAL ESTATE
By L. Frost

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

To: CRAIG MICHAEL LAVERTY and NANCY TORRES,	NO. H-4386 SD ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner (hereinafter "Commissioner") of the California Department of Real Estate (hereinafter "Department") caused an investigation to be made of the activities of CRAIG MICHAEL LAVERTY (hereinafter "LAVERTY") and NANCY TORRES (hereinafter "TORRES"). Based on that investigation, the Commissioner has determined that LAVERTY and TORRES engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (hereinafter "the Code"), 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 and/or lenders 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 LAVERTY and TORRES, those acts are alleged to have been done by LAVERTY and/or TORRES, acting by himself and/or herself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, or other names or fictitious names unknown at this time (collectively referred to as "the related entities").

FINDINGS OF FACT

1. At no time has either LAVERTY or TORRES been licensed by the Department in any capacity.

2. During the period of time set forth below, LAVERTY and TORRES 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; and charge, demand or collect an advance fee for any of the services offered.

3. On or about August 16, 2009, LAVERTY and TORRES solicited Nadine L. in order to provide her with loan modification services in connection with loans secured by real property located at 540 Harbison Ave. South National City, CA 91950 and 3618-20 Central Ave. San Diego, CA 92105.

4. In furtherance of the related plan and scheme to provide loan modification services to Nadine L., LAVERTY and TORRES requested an advance fee of $2,600.00 from Nadine L. In reliance on the representations of LAVERTY and TORRES, Nadine L. issued a credit card payment to LAVERTY on August 21, 2009 in the amount of $1,300.00 to perform the activities described above in Paragraph 3. Also in reliance on the representations of LAVERTY and TORRES, Nadine L. issued a cashier's check to Patriot Mortgage on December 21, 2009 in the amount of $1,300.00 to perform the activities described above in Paragraph 3.

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5. After Nadine L. delivered the checks mentioned above to LAVERTY and Patriot Mortgage, Nadine L. did not obtain a successful and sustainable loan modification, obtain any other benefit from either LAVERTY and TORRES, or from anyone connected in any way with LAVERTY and TORRES, or receive a refund of the amount Nadine L. paid to either LAVERTY or Patriot Mortgage.

CONCLUSIONS OF LAW

6. Based on the findings of fact contained in paragraphs 1 through 5 above, LAVERTY and TORRES solicited borrowers and represented that they would perform services for those borrowers and/or the borrowers' lender in connection with one or more loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for the services to be provided, which acts require a real estate broker license under sections 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by real property) and 10131.2 (claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to obtain a loan secured by real property) of the Code, all in violation of sections 10130 (it is unlawful for any person to act as a real estate broker within this state without first obtaining a real estate license from the Department) and 10139 (any person acting as a real estate broker without a license or who advertises using words indicating that he 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) of the Code.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, CRAIG MICHAEL LAVERTY and NANCY TORRES, whether doing business under their own name, or any other name or fictitious name, 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; and,

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, in any form, and under any conditions, with respect to the performance of loan modifications or any other form of mortgage loan forbearance service in connection with loans on residential property containing four or fewer dwelling units (Code Section 10085.6).

DATED: 7/13/2012

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)."

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