DEPARTMENT OF REAL ESTATE
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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

TO: TAX NOTE, and LISA McHENRY.	NO. H-5945 SAC ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Real Estate Commissioner (Commissioner) of the California Department of Real Estate (Department) caused an investigation to be made of the activities of TAX NOTE and LISA McHENRY (McHENRY). Based on the investigation, the Commissioner has determined that TAX NOTE and McHENRY have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (Code), including the business of, acting in the capacity of, and/or advertising or assuming to act as, real estate brokers 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 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 TAX NOTE and McHENRY, those acts are alleged to have been done by TAX NOTE and McHENRY, acting by themselves, 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.

FINDINGS OF FACT

1. At no time herein mentioned has TAX NOTE been licensed by the Department in any capacity.

2. At no time herein mentioned has McHENRY been licensed by the Department in any capacity.

3. At all times mentioned herein, TAX NOTE and McHENRY solicited 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 claimed, received, and collected advanced fees for performing such loan modifications.

4. Between about July 4, 2010 and November 20, 2010, TAX NOTE and McHENRY solicited Linton and Barbara M., with an expectation of compensation, to perform three (3) loan modifications on two (2) of their properties located on Buena Vista Drive in Manteca, California and on W. Park Street, Stockton, California.

5. At all times mentioned herein, TAX NOTE and McHENRY claimed, received, and collected advanced fees for performing said loan modifications, described in Paragraph 4, above, in the amounts of about $1,000 on about July 4, 2010; about $500 on about September 22, 2010; and about $500 on about November 10, 2010.

CONCLUSIONS OF LAW

6. Based on the Findings of Fact contained in Paragraphs 1 through 5, TAX NOTE and McHENRY, acting by themselves, 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, solicited borrowers and/or 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, which requires a real estate license under Section 10130 of the Code, during a period of time when TAX NOTE and McHENRY were not licensed by the Department in any capacity.

7. Based on the Findings of Fact contained in Paragraphs 1 through 5, TAX NOTE and McHENRY, acting by themselves, 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, charged, received and/or collected, or contracted for advanced fees, in violation of Section 10085.5 of the Code.

DESIST AND REFRAIN ORDER

BASED UPON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW STATED HEREIN, IT IS HEREBY ORDERED THAT, TAX NOTE and LISA McHENRY, whether doing business under their own names, or any other names, or any fictitious name, are HEREBY ORDERED to immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required, and in particular is ORDERED TO DESIST AND REFRAIN from:

1. 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;
2. 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 condition, 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 (Section 10085.5 of the Code); and,

3. charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any other real estate related services offered by them to others.

DATED: 12/11/2012

Real Estate Commissioner

By WAYNE S. BELL
Chief Counsel

-NOTICE-

Notice: Business and Professions Code Section 10139 (Penalties for Unlicensed Person) provides that: "Any person acting as a real estate broker, real estate salesperson, or mortgage loan originator without a license or license endorsement, or who advertises using words indicating that he or she is a real estate broker, real estate salesperson, or mortgage loan originator without being so licensed or without having obtained a license endorsement, 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: **TAX NOTE**
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