DEPARTMENT OF REAL ESTATE
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FILED
JUL 18 2011
DEPARTMENT OF REAL ESTATE
By L. Frost

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

To: NATIONAL FORECLOSURE MEDIATORS, INC.; HOME 2 MORTGAGE, LLC; NATIONAL FOR SALE BY OWNER, INC.; and GREGORY ALLEN HILLENGAS	NO. H-11173 SF 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 NATIONAL FORECLOSURE MEDIATORS, INC. (hereinafter "NFMI"), HOME 2 MORTGAGE, LLC (hereinafter "H2M"), NATIONAL FOR SALE BY OWNER, INC. (hereinafter "NFSBO"), and GREGORY ALLEN HILLENGAS (hereinafter "HILLENGAS"). Based on that investigation, the Commissioner has determined that NFMI, H2H, NFSBO and HILLENGAS, each of them, have engaged in, is engaged in, or is attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (hereinafter "the Code") and/or Title 10, Chapter 6, California Code of Regulations (hereinafter "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 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.

FINDINGS OF FACT

1. NFMI is an inactive Florida Profit Corporation registered with the Florida Department of State, Division of Corporations. At no time mentioned herein has NFMI been licensed by the Department in any capacity.

2. H2M is an active Florida Limited Liability Company registered with the Florida Department of State, Division of Corporations. At no time mentioned herein has H2M been licensed by the Department in any capacity.

3. NFSBO is an inactive Florida Profit Corporation registered with the Florida Department of State, Division of Corporations. At no time mentioned herein has NFSBO been licensed by the Department in any capacity.

4. At no time mentioned has HILLENGAS been licensed by the Department in any capacity.

5. During the period of time set out below, NFMI, H2M, and NFSBO, acting by and through HILLENGAS and/or other agents, associates, affiliates and/or co-conspirators, 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 charge, demand or collect an advance fee for any of the services offered.

6. In December, 2008, Diana and Ahmad W. (hereinafter collectively referred to as "DIANA") contacted NFMI to assist them in modifying the mortgage on their Oakland, California home.

7. In furtherance of NFMI's scheme to provide services for borrowers and/or lenders in connection with loans secured by real property to DIANA, the representative of NFMI

requested an advanced fee of $700 to perform the loan modification services. In reliance upon the promise to perform loan modifications service, DIANA paid the $700 fee in cash to the NFMI representative.

8. In furtherance of NFMI's scheme to provide DIANA services for borrowers and/or lenders in connection with loans secured by real property, DIANA completed a "Service Agreement" indicating that NFMI is a "3rd party administrator" providing its members with many options to retain, sell, or refinance their home. The "Service Agreement" also makes reference to the other "membership benefits" available to "members" including real estate marketing services through NFMI's affiliate company NFSBO, as well as reverse mortgage and hard equity loan services through H2M.

9. After DIANA delivered the check to the representative of NFMI as mentioned above, NFMI failed to perform any services on DIANA's behalf in order to modify DIANA's loan. Therefore, in May, 2009, DIANA contacted NFMI to obtain an explanation for NFMI's non-performance of their agreement. During that phone conversation, the NFMI representative convinced DIANA to provide them with more money.

10. Therefore, in May, 2009, in furtherance of NFMI's scheme to provide loan modification services to DIANA, the representative of NFMI requested a second advanced fee, this time for $2,500, to perform the modification services previously discussed. In reliance upon the promise to perform loan modifications service, DIANA paid the $2,500 fee to the NFMI representative.

11. NFMI, H2M, and NFSBO, acting by and through HILLENGAS and/or other agents, associates, affiliates and/or co-conspirators, failed to provide DIANA with the services that NFMI, and/or the related entities, claimed they would perform.

CONCLUSIONS OF LAW

12. Based on the findings of fact contained in paragraphs 1 through 11, NFMI, H2M, and NFSBO and HILLENGAS, 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) (real estate license required for enumerated acts) and 10131.2 (real estate broker license required to charge or collect an advance fee) of the Code.

13. NFMI, H2M, and NFSBO and HILLENGAS, 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 (prior submission of advance fee materials required) and section 2970 (details for prior submission of advance fee materials) of the Regulations.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, NFMI, H2M, and NFSBO and HILLENGAS, whether doing business under your 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. 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 NFMI, H2M, and NFSBO and HILLENGAS:

(A) Have an advance fee agreement which has been submitted to the Department and which is in compliance with section 10085 of the Code and section 2970 of the Regulations;

(B) Have placed all previously collected advance fees into a trust account for that purpose and are in compliance with section 10146 of the Code;

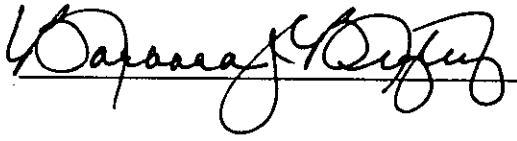
(C) Have provided an accounting to trust fund owner-beneficiaries pursuant to section 2972 of the Regulations; and

(D) Are 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.

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: 6/28/11

BARBARA BIGBY
Acting Real Estate Commissioner



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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cc: Spiegel & Utrera, PA,
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