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FILED

FEB 19 2014

BUREAU OF REAL ESTATE

By

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 To:) No. H- 11656 SF
12)
13 MORTGAGE RESOLUTION SPECIALISTS) ORDER TO DESIST
14 and FULVIO MAGPAYO.) AND REFRAIN
15) (B&P Code Section 10086)

16 The Commissioner ("Commissioner") of the California Bureau of Real Estate
17 ("Bureau") caused an investigation to be made of the activities of MORTGAGE RESOLUTION
18 SPECIALISTS ("MRS") and FULVIO MAGPAYO ("MAGPAYO"). Based on that
19 investigation the Commissioner has determined that MRS and MAGPAYO have engaged in or
20 are engaging in acts or are attempting to engage in the business of, acting in the capacity of,
21 and/or advertising or assuming to act as real estate brokers in the State of California within the
22 meaning of Business and Professions Code Sections 10131(d) (soliciting, negotiating and
23 performing services for borrowers in connection with loans secured by real property), 10131.2
24 (advance fee handling), and acts involving the collection of advance fees for loan modification
25 services after October 10, 2009, in violation of Sections 10085.5 and 10085.6 of the Code and
26 Sections 2944.7 and 2945.4 of the Civil Code.

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1 In addition, based on that investigation, the Commissioner has determined that
2 MRS and MAGPAYO have engaged in or are engaging in acts or are attempting to engage
3 practices constituting violations of the California Business and Professions Code (“Code”)
4 and/or Title 10, California Code of Regulations (“Regulations”). Based on the findings of that
5 investigation, set forth below, the Commissioner hereby issues the following Findings of Fact,
6 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the
7 Code.

8 Whenever acts referred to below are attributed to MRS and MAGPAYO, those
9 acts are alleged to have been done by MRS and MAGPAYO, acting alone, or by and/or through
10 one or more agents, associates, affiliates, and/or co-conspirators, and using the name “Mortgage
11 Resolution Specialists”, or other names or fictitious names unknown at this time.

12 FINDINGS OF FACT

13 1. MRS is not now, and has never been, licensed by the Department in any
14 capacity.

15 2. MAGPAYO is not now, and has never been, licensed by the Department in
16 any capacity.

17 3. At the time set forth below MRS and MAGPAYO solicited borrowers and
18 negotiated to do one or more of the following acts for another or others, for or in expectation of
19 compensation: engaged in the business of, acted in the capacity of, or advertised a loan
20 modification and negotiation service and advance fee brokerage using their individual names
21 and/or any other names, soliciting, offering to negotiate or perform loan modification services
22 with respect to loans which were secured by liens on real property for compensation or in
23 expectation of compensation and for fees collected in advance of the transaction.

24 4. On or about January 21, 2011, MAGPAYO, as a representative of MRS,
25 entered into an agreement with Carlito and Marita P. (“Borrowers”) for loan modification and
26 negotiation services on Borrowers’ existing mortgage on their home located in the City of
27 Vallejo, California.

1 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as
2 that term is defined in Section 10026 of the Code, in any form, and under any conditions, with
3 respect to the performance of loan modifications or any other form of mortgage loan forbearance
4 service in connection with loans on residential property containing four or fewer dwelling units;

5 3. Charging, demanding, claiming, collecting and/or receiving advance fees, as
6 that term is defined in Section 10026 of the Code, for any of the services they offer to others,
7 unless and until they demonstrate and provide evidence satisfactory to the Commissioner that
8 they are properly licensed by the Bureau and that they:

9 (a) Have an advance fee agreement which has been submitted to the Bureau
10 and which is in compliance with Sections 2970 and 2972 of the
11 Regulations;

12 (b) Have placed all previously collected advance fees into a trust account for
13 that purpose and are in compliance with Section 10146 (deposit of
14 advance fees into trust account) of the Code;

15 (c) Have provided an accounting to trust fund owner-beneficiaries pursuant to
16 Section 2972 of the Regulations;

17 (d) Are in compliance with California law, as amended effective as of October
18 11, 2009, with respect to loan modification and/or forbearance services.

19 Under the amended law, advance fees may be collected only for loan
20 modification or other mortgage loan forbearance services related to
21 commercial loans and loans for residential properties containing five or
22 more dwelling units; and,

23 (e) Have refunded to Carlito and Marita P. the advance fees paid by them in
24 this matter as set forth above.

25 DATED: OCT 24 2013

Real Estate Commissioner



By: **JEFFREY MASON**
Chief Deputy Commissioner

1 **Notice:** Business and Professions Code Section 10139 provides that “Any person acting as a
2 real estate broker or real estate salesperson without a license or who advertises using words
3 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
4 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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