

1 of real property) and Section 10131(d) (solicit borrowers for or negotiate loans or perform
2 services for borrowers in connection with loans secured by liens on real property). Furthermore,
3 based on that investigation, the Commissioner hereby issues the following Findings of Fact,
4 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the
5 Code.

6 FINDINGS OF FACT

7 1. From January 24, 2008, through the present, ORANGE COUNTY METRO
8 REALTY, INC. ("OCMRI") has been licensed as a real estate corporation. From June 27, 2008,
9 through January 4, 2010, OCMRI was acting by and through DEREK WALTER MARKOVIC
10 ("MARKOVIC") as its designated broker-officer pursuant to Code Section 10159.2 to be
11 responsible for ensuring compliance with the Real Estate Law. JOSEPH ALOIS BRODERICK
12 ("BRODERICK") is the Chief Executive Officer, Director and President of Respondent OCMRI.

13 2. From April 17, 2002, through April 16, 2010, ORANGE COUNTY METRO
14 PROPERTIES ("OCMP") was licensed as a real estate corporation. From April 17, 2006,
15 through April 17, 2010, OCMP was acting by and through BRODERICK as its designated
16 broker-officer pursuant to Code Section 10159.2 to be responsible for ensuring compliance with
17 the Real Estate Law. BRODERICK is the Chief Executive Officer, Director and President of
18 Respondent OCMP.

19 3. From February 15, 1985, through February 14, 2009, BRODERICK was
20 licensed as a real estate broker. BRODERICK's renewal rights have expired pursuant to Code
21 Section 10201.

22 4. From November 14, 1983, through the present, MARKOVIC has been
23 individually licensed as a real estate broker. From June 27, 2008, through January 4, 2010,
24 MARKOVIC was licensed as the broker-officer of OCMRI.

25 5. From May 3, 2007, through the present, Ines P. Soriano Née Ines Osorio
26 ("Soriano") has been licensed as a real estate salesperson. From July 15, 2008, through January
27 3, 2010, Soriano was acting in the employ of OCMRI. From January 5, 2010, through April 16,

1 2010, Soriano was acting in the employ of OCMF.

2 6. From January 26, 2000, through the present, Ezequiel Martin Palomino
3 (“Palomino”) has been licensed as a real estate salesperson. From July 15, 2008, through
4 January 3, 2010, Palomino was acting in the employ of OCMRI. From January 13, 2010,
5 through April 26, 2010, Palomino was acting in the employ of OCMF.

6 7. From February 14, 1996, through the present, Juan Carlos Ferrufino
7 (“Ferrufino”) has been licensed as a real estate salesperson. From July 23, 2009, through
8 January 6, 2010, Ferrufino was acting in the employ of OCMRI. From January 7, 2010, through
9 April 16, 2010, Ferrufino was acting in the employ of OCMF.

10 8. At no time mentioned herein has HOME DEFENDERS CENTER ever been
11 licensed by the Department in any capacity.

12 Maria M. and Antonio M.

13 9. On or about February 16, 2009, Soriano and Palomino, solicited loan
14 negotiation and modification services to Maria M. and Antonio M. in connection with a loan
15 secured by real property located in the city of Coachella, California. Soriano and Palomino
16 solicited loan negotiation and modification services to Maria M. and Antonio M. on behalf of
17 OCMF, OCMRI, MARKOVIC and BRODERICK, who were doing business as HOME
18 DEFENDERS CENTER. Maria M. and Antonio M. paid an advance fee totaling \$3,000 to
19 HOME DEFENDERS CENTER for the loan negotiation and modification services. Soriano and
20 Palomino failed to provide copies of any written agreement or contract pertaining to the loan
21 modification services promised to Maria M. and Antonio M. HOME DEFENDERS CENTER
22 failed to perform the services promised or to obtain any loans for the subject property on more
23 favorable terms. HOME DEFENDERS CENTER failed to refund the advance fee paid by Maria
24 M. and Antonio M.

25 10. The advance fee agreement used by OCMF, OCMRI, MARKOVIC and
26 BRODERICK, while doing business as HOME DEFENDERS CENTER, had not been approved
27 by the Department prior to use as is required under Code Section 10085 and Regulation 2970.

1 11. The advance fees collected by OCMP, OCMRI, MARKOVIC and
2 BRODERICK, while doing business as HOME DEFENDERS CENTER, were not deposited in a
3 trust account as required under Code Section 10146.

4 12. Use of a fictitious business name for activities requiring the issuance of a real
5 estate license requires the filing of an application for the use of such name with the Department
6 in accordance with the provisions of Code Section 10159.5.

7 13. OCMP, OCMRI, MARKOVIC and BRODERICK acted without Department
8 authorization in using the fictitious business name HOME DEFENDERS CENTER to engage in
9 activities requiring the issuance of a real estate license.

10 Agustin E and Lidia E.

11 14. On or about March 18, 2009, Soriano and Palomino, while acting on behalf
12 of OCMP, OCMRI, MARKOVIC and BRODERICK, who were doing business as HOME
13 DEFENDERS CENTER, solicited loan negotiation and modification services to Agustin E. and
14 Lidia E. in connection with a loan secured by real property located in Salton City, California.
15 Agustin E. and Lidia E. paid an advance fee totaling \$3,000 for loan negotiation and
16 modification services. Soriano and Palomino induced Agustin E. to sign a durable power of
17 attorney for Metro Escrow, Re/Max Metro, HOME DEFENDERS CENTER, attorney Kevin
18 Spainhour, and his employees and/or associates. Agustin E. never met with Kevin Spainhour.
19 HOME DEFENDERS CENTER failed to perform the services promised or to obtain any loans
20 for the subject property on more favorable terms. HOME DEFENDERS CENTER failed to
21 provide Agustin E. and Lidia E. with an accounting of the advance fee trust funds deposited in a
22 trust account for Agustin E. and Lidia E. as the beneficiaries. HOME DEFENDERS CENTER
23 failed to refund the advance fee paid by Agustin E. and Lidia E.

24 Manuel N.

25 15. On or about August 22, 2009, Ferruffino, while acting on behalf of OCMRI
26 and BRODERICK, doing business as Re/Max Metro, solicited loan negotiation and modification
27 services to Manuel N. in connection with a loan secured by real property located in the city of

1 Fresno, California. Ferrufino charged Manuel N. an advance fee totaling \$3,000 for loan
2 negotiation and modification services. Ferrufino collected an advance fee of \$1,500 from Mr.
3 Navarro. Ferrufino failed to provide copies of any written agreement or contract pertaining to
4 the loan modification services for the subject property. OCMRI failed to perform the services
5 promised or to obtain any loans for the subject property on more favorable terms. OCMRI failed
6 to refund the advance fee paid by Manuel N.

7 CONCLUSIONS OF LAW

8 16. Based on the information contained in Paragraphs 1 through 15, above,
9 OCMP, OCMRI and MARKOVIC violated Code Sections 10085 and 10085.6 of the Code and
10 Regulation 2970 by failing to submit advance fee agreements and materials to the Department of
11 Real Estate prior charging and collecting advance fees from any person.

12 17. Based on the information contained in Paragraphs 1 through 15, above,
13 OCMP, OCMRI and MARKOVIC violated Code Section 10146 and Regulation 2972 by failing
14 to furnish a verified copy of accounting content which includes identification of the trust fund
15 account into which the advance fee had been deposited, description of services rendered, the
16 amount allocated or disbursed from the advance fee at the end of each calendar quarter and when
17 the contract has been completely performed by the licensee.

18 18. Based on the information contained in Paragraphs 1 through 15, above,
19 OCMP, OCMRI and MARKOVIC violated Code Section 10159.5 of the Code and Regulation
20 2731 by using HOME DEFENDERS CENTER, an unlicensed fictitious business name, to
21 conduct activities requiring the issuance of a real estate license.

22 19. Based on the information contained in Paragraphs 1 through 15, above,
23 HOME DEFENDERS CENTER violated Code Section 10130 by engaging in activities requiring
24 a real estate license without first obtaining a broker license from the Department.

25 20. Based on the information contained in Paragraphs 3 through 15, above,
26 BRODERICK violated Code Section 10130 by engaging in activities requiring a real estate
27 license during a period of time when his broker license from the Department was expired.

1 DATED: 6/28, 2011.

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3 BARBARA J. BIGBY
Acting Real Estate Commissioner

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9 **Notice:** Business and Professions Code Section 10139 provides that "Any person acting as a
10 real estate broker or real estate salesperson without a license or who advertises using words
11 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
12 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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