

1 Department of Real Estate
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FILED

MAY 21 2012

DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 To:)
13) NO. H-4350 SD
14 EPIFANY PROPERTIES, INC. and)
15 RICHARD PATRICK ANTHONY) ORDER TO DESIST AND REFRAIN
16 ST. ROSE.) (B & P Code Section 10086)
17)
18)

19 The Real Estate Commissioner ("the Commissioner") of the California
20 Department of Real Estate ("the Department") caused an investigation to be made of the
21 activities of RICHARD PATRICK ANTHONY ST. ROSE, ("ST. ROSE"), and EPIFANY
22 PROPERTIES, INC., ("EPIFANY"), (collectively, "Respondents"). Based on that
23 investigation, the Commissioner has determined that Respondents have engaged in, are
24 engaging in, or are attempting to engage in, acts or practices constituting violations of the
25 California Business and Professions Code ("Code") and/or Title 10, Chapter 6, California Code
26 of Regulations ("Regulations"), including acting in the capacity of, advertising or assuming to
27 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), 10131.2 (collection of advance fees), 10085 (advance fee agreements and materials)

1 and 10137 (unlawful employment or payment of compensation) of the Code. Furthermore,
2 based on the investigation, the Commissioner hereby issues the following Findings of Fact,
3 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the
4 Code.

5 FINDINGS OF FACT

6 1. At all times relevant herein, ST. ROSE was and is licensed by the
7 Department as a real estate broker, and is licensed by the Department as the designated
8 broker/officer of EPIFANY.

9 2. At all times relevant herein, EPIFANY was and is licensed by the
10 Department as a corporate real estate broker.

11 3. Michele Hrivnak is licensed by and/or has license rights by the
12 Department as a real estate salesperson.

13 4. At no time has Breanna Walulik been licensed in any capacity by the
14 Department to conduct real estate activity in the State of California.

15 5. During the period of time set out below, Respondents performed services
16 for one or more borrowers and negotiated to do one or more of the following acts for another or
17 others, for or in expectation of compensation: negotiate one or more loans for, or perform
18 services for, borrowers and/or lenders with respect to the collection of advance fees and loan
19 modification, loan refinance, principal reduction, foreclosure abatement or short sale services
20 and/or those borrowers' lenders in connection with loans secured directly or collaterally by one
21 or more liens on real property; and charged, demanded or collected an advance fee for any of
22 the services offered.

23 6. In connection with the collection and handling of advance fees as alleged
24 above, Respondents failed to submit the advance fee contract and all materials used in obtaining
25 those advance fees to the Department of Real Estate for approval prior to their use in obtaining
26 advance fees.

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1 7. EPIFANY allowed non-licensee Michele Hrivnak to withdraw funds
2 from its bank accounts into which funds related to its real estate activities were deposited after
3 Michele Hrivnak's real estate salesperson license expired on January 8, 2010, and failed to
4 provide adequate fidelity bond coverage for her.

5 8. EPIFANY and ST. ROSE allowed non-licensee Breanna Walulik to enter
6 into at least three (3) lease/rental agreements on behalf of EPIFANY.

7 CONCLUSIONS OF LAW

8 9. Based on the Findings of Fact contained in Paragraphs 1 through 8,
9 above, RICHARD PATRICK ANTHONY ST. ROSE and EPIFANY PROPERTIES, INC.,
10 solicited borrowers and/or performed services for those borrowers with respect to the collection
11 of advance fees and loan modification, loan refinance, principal reduction, foreclosure
12 abatement or short sale services and/or those borrowers' lenders in connection with loans
13 secured directly or collaterally by one or more liens on real property; and charged, demanded or
14 collected advance fees for the services to be provided, which acts require a real estate broker
15 license under Sections 10131(d) and 10131.2 of the Code.

16 10. RICHARD PATRICK ANTHONY ST. ROSE and EPIFANY
17 PROPERTIES, INC., used a form of advance fee agreement which had not been provided to the
18 Department for its prior review and consideration, in violation of Section 10085 of the Code,
19 and Section 2970 (submission of advance fee materials) of the Regulations.

20 11. RICHARD PATRICK ANTHONY ST. ROSE and EPIFANY
21 PROPERTIES, INC., allowed non-licensee Michele Hrivnak to be listed as a signatory on their
22 bank account in which trust funds related to real estate activities were deposited. Thereafter,
23 Michele Hrivnak was allowed to withdraw funds from that bank account, including trust funds.

24 12. RICHARD PATRICK ANTHONY ST. ROSE and EPIFANY
25 PROPERTIES, INC., employed and compensated Breanna Walulik for activities related to real
26 estate while Breanna Walulik was not licensed by the Department to conduct real estate
27 activities in the State of California.

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DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein,
RICHARD PATRICK ANTHONY ST. ROSE and EPIFANY PROPERTIES, INC., whether
doing business under your own names, or any other names or fictitious names, ARE
HEREBY ORDERED to immediately desist and refrain from:

1. 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:
 - (a) Have an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 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 (deposit of advance fees into trust account) of the Code;
 - (c) Have provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations;
2. 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.
3. Employing or paying compensation to real estate salespersons which are not licensed under your corporate real estate broker license or real estate broker license.
4. Employing or paying compensation to persons without a California real estate license for activities related to real estate that requires a real estate license.

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1 5. Allowing persons without a California real estate license to be
2 signatories on any of your bank accounts which contain trust funds related to real estate
3 activity.

4 DATED: 5/17/2012

5 REAL ESTATE COMMISSIONER

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8 By WAYNE S. BELL
9 Chief Counsel

10 **Notice:** Business and Professions Code Section 10139 provides that, "Any
11 person acting as a real estate broker or real estate salesperson without a license or who
12 advertises using words indicating that he or she is a real estate broker without being so licensed
13 shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars
14 (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both
15 fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand
16 dollars (\$60,000)...."

17 cc: RICHARD PATRICK ANTHONY ST. ROSE
18 1230 Columbia Street, Suite 850
19 San Diego, CA 92101

20 RICHARD PATRICK ANTHONY ST. ROSE
21 As Agent for Service of Process
22 EPIFANY PROPERTIES, INC.
23 1230 Columbia Street, Suite 850
24 San Diego, CA 92101

25
26 ATTY JWB/km
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