

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

AUG 21 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 TO:)
12) NO. H-11445 SF
13 AMERICAN FIRST FINANCIAL CORP,)
14 a Corporation,) ORDER TO DESIST AND REFRAIN
15 ROSANA EYVAZNEJAD, and) (B&P Code Section 10086)
16 MICHAEL BARBIERI.)

16 The Real Estate Commissioner (Commissioner) of the California Department of
17 Real Estate (Department) caused an investigation to be made of the activities of AMERICAN
18 FIRST FINANCIAL CORP (AFFC) dba "The Mortgage Resolution" (TMR), ROSANA
19 EYVAZNEJAD (EYVAZNEJAD), and MICHAEL BARBIERI (BARBIERI). Based on that
20 investigation, the Commissioner has determined that AFFC, TMR, EYVAZNEJAD, and
21 BARBIERI have engaged in, are engaging in, or are attempting to engage in, acts or practices
22 constituting violations of the California Business and Professions Code (Code) and/or Title 10,
23 Chapter 6, California Code of Regulations (Regulations), including the business of, acting in
24 the capacity of, and/or advertising or assuming to act as, real estate brokers in the State of
25 California within the meaning of Section 10131(d) (performing services for borrowers in
26 connection with loans secured by real property) of the Code. Additionally, AFFC, TMR,
27 EYVAZNEJAD and BARBIERI have violated Sections 10130 (unlicensed activity), 10137

1 (unlawful compensation) 10085 (advanced fee agreements), 10085.5 (advance fee payments),
2 and 10177(d) (violating the real estate law) of the Code, and Sections 2970 (advance fee
3 materials) and 2972 (accounting content) of the Regulations. Furthermore, based on the
4 investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of
5 Law, and Desist and Refrain Order under authority of Section 10086 of the Code.

6 Whenever acts referred to below are attributed to AFFC, TMR, EYVAZNEJAD
7 and BARBIERI, those acts are alleged to have been done by AFFC, TMR, EYVAZNEJAD
8 and BARBIERI, acting either by themselves, or by and/or through one or more agents,
9 associates, affiliates, and/or co-conspirators, known or unknown.

10 FINDINGS OF FACT

11
12 1. EYVAZNEJAD has been licensed by the Department as a real estate broker
13 since August 31, 2007; said license will expire August 30, 2015.

14 2. AFFC has been licensed by the Department as a corporate real estate broker
15 since October 11, 2007; said license will expire August 30, 2015.

16 3. BARBIERI and TMR, are not now, and have never been, licensed by the
17 Department in any capacity.

18 4. During the period of time set out below, EYVAZNEJAD employed and
19 compensated BARBIERI dba TMR, to perform activities requiring a real estate license, in
20 violation of Sections 10130 and 10137 of the Code.

21 5. Between about November 1, 2008 and October 31, 2011, BARBIERI,
22 through AFFC dba TMR, claimed, demanded, charged, received, collected or contracted for
23 advance fees from the following property owners prior to submission to the Department of any
24 or all materials used in advanced fee agreements or performed services for the following
25 borrowers in connection with loans secured with real property before the borrowers became
26 obligated to complete said loans, and failed to deposit said advance fees into a trust account
27 with a bank or other recognized depository, in violation of Sections 10085 and 10085.5 of the

1 Code, and Sections 2970 (advance fee materials) and 2972 (accounting content) of the
 2 Regulations:

<u>Borrower Name</u>	<u>Property Address</u>	<u>Advance Fee</u>	<u>Date</u>
Deon L. H.	Wisteria Drive	\$1,000	06/09/12
Deon L. H.	Daphne Way	\$1,000	06/09/12
Michael A. P.	Duren Circle Fairfield, CA	\$3,000	06/18/09
William and Patricia S.	Kahaku Road Princiville, CA	\$2,995	06/30/09
Imelda O. and Edwardo F.	Emerald Oak Rd Roseville, CA	\$1,021	07/02/09
Gary W. Terry L. J.	Grayhorse Drive Auburn, CA	\$1,000 \$ 995	07/07/09 08/07/09
Angela H.	Canyon Creek Trail Olivehurst, CA	\$1,995	07/13/09
Dexter and Stephanie A. D.	Chilco St. Menlo Park, CA	\$ 995 \$1,000	07/27/09 09/01/09
Jose L. and Amanda G.	E. Lafayette Street Stockton, CA	\$1,000 \$1,000	08/07/09 09/30/09
Wayne B.	Jasmine Way Palo Alto, CA;	\$ 995	08/31/09

16 CONCLUSIONS OF LAW

17 1. Based on the Findings of Fact contained in Paragraphs 1 through 5 above,
 18 AFFC, TMR, EYVAZNEJAD and BARBIERI, acting either by themselves, or by and/or
 19 through one or more agents, associates, affiliates, and/or co-conspirators, performed services
 20 for those borrowers as described above in Paragraph 5 of the Findings of Fact, and their
 21 lenders in connection with loans secured directly or collaterally by one or more liens on real
 22 property, and charged, demanded or collected advance fees for the services to be provided,
 23 which acts require a real estate broker license under Sections 10130, 10131(d), and 10131.2
 24 (advance fees) of the Code, during a period of time when BARBIERI and TMR were not
 25 licensed by the Department in any capacity.

26 2. Based on the Findings of Fact contained in Paragraphs 1 through 5 above,
 27 AFFC, TMR, EYVAZNEJAD and BARBIERI, acting either by themselves, or by and/or

1 through one or more agents, associates, affiliates, and/or co-conspirators, known or unknown,
2 solicited borrowers and performed services for those borrowers and/or those borrowers' lenders
3 in connection with loans secured directly or collaterally by one or more liens on real property,
4 and charged, demanded or collected advance fees for the services to be provided, in violation
5 of Sections 10085, 10085.5 and 10177(d) of the Code, and Sections 2970 and 2972 of the
6 Regulations.

7 DESIST AND REFRAIN ORDER

8 1. Based on the Findings of Fact and Conclusions of Law stated herein, TMR
9 and BARBIERI, whether doing business under those names, or any other names or fictitious
10 names, ARE HEREBY ORDERED TO IMMEDIATELY DESIST AND REFRAIN from
11 performing any acts within the State of California for which a real estate broker license is
12 required until and unless a real estate broker is obtained. And, in particular, are ordered to
13 desist and refrain from:

14 (i) charging, demanding, claiming, collecting and/or receiving advance
15 fees, as that term is defined in Section 10026 of the Code, in any form, and under any
16 conditions, with respect to the performance of loan modifications or any other form of
17 mortgage loan forbearance service in connection with loans on residential property containing
18 four or fewer dwelling units (Section 10085.6 of the Code); and,

19 (ii) charging, demanding, claiming, collecting and/or receiving advance
20 fees, as that term is defined in Section 10026 of the Code, for any other real estate related
21 services offered by you to others.

22 2. Based upon the Findings of Fact and Conclusions of Law stated herein, it is
23 hereby ordered that AFFC and EYVAZNEJAD, whether doing business under those names, or
24 any other names, or any fictitious names, ARE HEREBY ORDERED TO IMMEDIATELY
25 DESIST AND REFRAIN from:

26 (i) charging, demanding, claiming, collecting and/or receiving advance
27 fees, as that term is defined in Section 10026 of the Code, in any form, and under any

1 conditions, with respect to the performance of loan modifications or any other form of
2 mortgage loan forbearance service in connection with loans on residential property containing
3 four or fewer dwelling units (Section 10085.6 of the Code); and,

4 (ii) charging, demanding, claiming, collecting and/or receiving advance
5 fees, as that term is defined in Section 10026 of the Code, for any other real estate related
6 services offered by you to others.

7
8 DATED: June 15, 2012

9
10 Real Estate Commissioner

11
12 

13 By WAYNE S. BELL
14 Chief Counsel

15 -NOTICE-

16 Business and Professions Code Section 10139 provides that "Any person acting
17 as a real estate broker or real estate salesperson without a license or who advertises using
18 words indicating that he or she is a real estate broker without being so licensed shall be guilty
19 of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
20 imprisonment in the county jail for a term not to exceed six months, or by both fine and
21 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
22 (\$60,000)."

23 cc: AMERICAN FIRST FINANCIAL CORP
24 dba The Mortgage Resolution
25 ROSANA EYVAZNEJAD
26 5450 Thornwood Drive, Suite P
27 San Jose, CA 95123

MICHAEL BARBIERI
8225 Mount Vernon Road
Auburn, CA 95603