DEPARTMENT OF REAL ESTATE
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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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TO: HERIBERTO AVILA, JR., AVILA VENTURE PARTNERS INC., 21st COLONIAL REAL ESTATE, 21ST COLONIAL MORTGAGE, NATIONAL MORTGAGE BAILOUT INC., and SINGER & VENTURA, LLP.	NO. H-2478 FR ORDER TO DESIST AND REFRAIN (B & P Code Section 10086)

The Commissioner (Commissioner) of the California Department of Real Estate (Department) caused an investigation to be made of the activities HERIBERTO AVILA, JR. (AVILA), AVILA VENTURE PARTNERS INC. (AVPI), 21st COLONIAL REAL ESTATE (21 CRE), 21st COLONIAL MORTGAGE (21 CM), NATIONAL MORTGAGE BAILOUT INC. (NMBOI), and SINGER & VENTURA, LLP (S & V) (collectively referred to as "Respondents"). As a result of the investigation, the Commissioner has determined that Respondents have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (Code) and/or Title 10, Chapter 6, California Code of Regulations (Regulations), including engaging in the business of, acting in the capacity of, and/or advertising or assuming to act as, real estate brokers in the State of California within the meaning of Section 10131(d) (performing services for borrowers in

connection with loans secured by real property) of the Code. Additionally, the Commissioner has determined that Respondents have violated Sections 10130 (unlicensed activity), 10131.2 (advance fees), 10085 (advanced fee agreements), 10085.5 (advance fee payments), 10146 (depositing advanced fees into a trust account), 10176(a) (misrepresentation), (b) (false promises), (c) (continued and flagrant course of misrepresentation and/or making false promises), and (i) (fraud and dishonest dealing by licensee), and 10177(d) (violating the real estate law), (g) (negligence) and/or (j) (fraud and dishonest dealing) of the Code and Sections 2970 (advance fee materials) and 2972 (accounting content) of the Regulations. 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.

Whenever acts referred to below are attributed to AVILA, AVPI, 21 CRE, 21 CM, NMBOI, and S & V those acts are alleged to have been done by AVILA, AVPI, 21 CRE, 21 CM, NMBOI, and S & V acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, known or unknown.

FINDINGS OF FACT

1. AVILA is not now, and has never been, licensed by the Department in any capacity. Effective March 25, 2009, in Case No. H-2305 FR, the Real Estate Commissioner denied AVILA's application for a real estate salesperson license.

2. AVPI has been licensed by the Department as a real estate broker since June 28, 2006; said license will expire June 27, 2010.

3. 21 CRE is a dba of AVPI.

4. 21 CM is a dba of AVPI.

5. NMBOI is not now, and has never been, licensed by the Department in any capacity.

6. S & V is not now, and has never been, licensed by the Department in any capacity.

7. During the period of time set out below, AVILA, AVPI, 21 CRE, 21 CM, NMBOI, and S & V, 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.

Jose L. Ponce Transaction

8. On about January 29, 2009, AVPI, acting through AVILA dba 21 CM, met with and solicited Jose L. Ponce (Ponce) to engage in loan modification services to save Ponce's home on 1375 E. Millard Way, Dinuba, CA, from being lost in foreclosure.

9. In furtherance of AVPI's plan and scheme to provide loan modification services to Ponce, AVILA, assuring Ponce that he would obtain an affordable loan modification within 30 to 90 days, requested and collected the following advance fees from Ponce:

Date	Amount	On Behalf of
1/29/09	$3,500	NMBO;
1/29/09	$1,500	S & V;
2/8/09	$1,500	S & V; and,
3/27/09	$250	S & V.

10. AVILA failed to provide a successful and sustainable loan modification.

11. Between about March 28, 2009 and March 31, 2009, upon the request of Ponce for a return of the advance fees, AVILA refused to return the advanced fees to Ponce.

AVILA's solicitation of Department employee Rene Esquivel

12. On about August 25, 2009, AVILA, on behalf of AVPI dba 21 CM, Fresno, California, solicited Department employee, Rene Esquivel (Esquivel), to engage AVPI and its employees and agents to represent Esquivel in negotiating with his lender, a loan modification of one or more loans which was represented to AVILA to be in arrears or in default. In connection with that solicitation, AVILA represented to Esquivel that he had obtained hundreds of loan modifications and that an advance fee in the amount of $3,500 would be charged and collected

from Esquivel for services to be performed by AVPI and S & V in obtaining a modification of loan terms for one or more loans secured by real property owned by Esquivel.

CONCLUSIONS OF LAW

1. Based on the Findings of Fact contained in Paragraphs 1 through 12, AVILA, NMBOI, and S & V, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, solicited borrowers and the Department's own employee to perform services for those borrowers and said employee and their lenders in connection with loans secured directly or collaterally by one or more liens on real property, and charged, demanded or collected advance fees, which acts require a real estate broker license under Sections 10130, 10131(d), 10131.2, 10085, 10085.5 and 10146 of the Code, during a period of time when AVILA, NMBOI, and S & V were not licensed by the Department as real estate brokers.

2. Based on the Findings of Fact contained in Paragraphs 1 through 12, AVPI, 21 CRE, and 21 CM, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, known or unknown, solicited borrowers and performed 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, and charged, demanded or collected advance fees for the services to be provided, in violation of Sections 10131.2, 10085, 10085.5, 10146, 10176(a), (b), (c), and (i), and 10177(d), (g) and/or (j) of the Code, and Sections 2970 and 2972 of the Regulations.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, you, HERIBERTO AVILA, JR., NATIONAL MORTGAGE BAILOUT INC., and SINGER & VENTURA, LLP, whether doing business under your own names, or any other names or fictitious names, ARE HEREBY ORDERED to: immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required until and unless you have obtained a broker license. And, 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, and from charging, demanding, or collecting advance fees under any conditions in connection with loan modification or other foreclosure rescue services..

Based on the Findings of Fact and Conclusions of Law stated herein, you, AVILA VENTURE PARTNERS INC., 21st COLONIAL REAL ESTATE, and 21st COLONIAL MORTGAGE, whether doing business under your own names, or any other names or fictitious names, ARE HEREBY ORDERED to: immediately desist and refrain from charging, demanding, or collecting advance fees for any of the services you offer to others under any conditions in connection with loan modification or other foreclosure rescue services.

DATED: 4/14, 2010

JEFF DAVI
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) … ."

cc:

HERIBERTO AVILA, JR. 1612 11st Street Reedley, CA 93654	AVILA VENTURE PARTNERS INC. dba 21st COLONIAL REAL ESTATE dba 21st COLONIAL MORTGAGE ATTN: PEDRO GALVAN JR. 1612 11st Street Reedley, CA 93654
NATIONAL MORTGAGE BAILOUT INC. ATTN: PEDRO GALVAN JR. 1612 11st Street Reedley, CA 93654	
SINGER & VENTURA, LLP Attn: Agent for Service of Process 4431 S. Eastern Ave., Ste 1 Las Vegas, NV 89119	SINGER & VENTURA, LLP Attn: Daniel I. Singer/Agent for Service Law Offices of Daniel I. Singer 4870 Santa Monica Avenue, Suite 2B San Diego, CA 92107

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