Department of Real Estate
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FILED

AUG 26 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To: DAWN M. MILLER	NO. H-4138 SD 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 of DAWN M. MILLER, also known as "Dawn-Marie Wherley" and "Dawn-Marie Boyer" ("MILLER"), individually and doing business as GIVE ME HOPE ("GMH") (collectively "Respondents"). Based on that investigation, the Commissioner has determined that MILLER and GMH, 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 acting in the capacity of, advertising or assuming to 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). Furthermore, based on the investigation, the Commissioner hereby issues the

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following Findings of Fact, Conclusions of Law and Desist and Refrain Order under the authority of Section 10086 of the Code.

FINDINGS OF FACT

1. At all times relevant herein, MILLER has been licensed by the Department as a real estate salesperson.

2. At no time herein mentioned has GMH been licensed by the Department in any capacity.

3. During the period of time set out below, Respondents performed services for one or more 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 with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services 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 an advance fee for any of the services offered.

4. In furtherance of their plan and scheme to solicit advance fees and provide loan modification services, on or about June 11, 2008, Respondents entered into a loan modification services contract with Kirk Carson. According to that agreement, Respondents agreed to negotiate a loan modification on behalf of Kirk Carson for his property located at 2113 Castillo, #A, Santa Barbara, California, in exchange for an advance fee payment of $525. On or about June 11, 2008, Kirk Carson paid the advance fee of $525 to Respondents. The advance fee was characterized as the cost for Respondents' "Fast Track Case Management" program. No loan modification was ever obtained by Respondents for Kirk Carson, nor was Kirk Carson ever refunded the advance fee he paid to Respondents.

CONCLUSIONS OF LAW

5. Based on the Findings of Fact contained in Paragraphs 1 through 4, above, DAWN M. MILLER and GIVE ME HOPE, acting by themselves or through one or more agents,

associates, affiliates and/or co-conspirators or fictitious names unknown at this time, solicited borrowers and/or performed services for those borrowers with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services 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, which acts require a real estate broker license under Sections 10131(d) and 10131.2 (collection of advance fees) of the Code; and prior submission by a licensed real estate broker of an advance fee agreement to the Department for its review under Section 10085 of the Code, and Sections 2970 (submission of advance fee materials) and 2972 (content of verified accounting) of the Regulations, so that such acts of DAWN M. MILLER and GIVE ME HOPE violate Sections 10085, 10085.5 (collecting unauthorized advance fees), 10131(d) and 10131.2 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, DAWN M. MILLER, whether doing business under your own name, or any other name or fictitious name, or by and/or through any related entity, ARE HEREBY ORDERED to immediately desist and refrain from:

1. Performing any acts that require a real estate broker license unless and until you are properly licensed by the Department as a real estate broker; and
2. 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, in any form, and particularly with respect to loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services, unless and until you demonstrate and provide evidence satisfactory to the Commissioner that you are properly licensed by the Department as a real estate broker and that you have:

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(a) 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) 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) provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and

(d) refunded to Kirk Carson any and all advance fees paid to you by him in this matter.

DATED: 8/23/2010

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy 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)...."

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cc: Dawn M. Miller
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