Department of Real Estate
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FILED

DEC 15 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To: MARK ARTHUR ROSS and AMERICAN DEBT SOLUTIONS, LLC.	NO. H-4160 SD ORDER TO DESIST AND REFRAIN (B & P Code Section 10086)

The Commissioner (hereafter "the Commissioner") of the California Department of Real Estate (hereafter "the Department") caused an investigation to be made of the activities of MARK ARTHUR ROSS (hereafter "ROSS"), individually and doing business as AMERICAN DEBT SOLUTIONS, LLC, (hereafter "AMERICAN DEBT"). Based on that investigation, the Commissioner has determined that Respondent has engaged in, is engaging in, or is 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), 10131.2 (collection of advance fees), 10085 (advance fee agreements and materials) and 10085.5 (collecting unauthorized advance fees) of the Code. Furthermore, 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.

FINDINGS OF FACT

1. At all times relevant herein, ROSS was and is licensed by the Department as a real estate salesperson.

2. At all times relevant herein, AMERICAN DEBT, was not licensed by the Department in any capacity.

3. During the period of time set out below, Respondent 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 his plan and scheme to solicit advance fees and provide loan modification services, on or about December 9, 2008, Respondent entered into a loan modification services agreement with Billy C. According to that agreement, Respondent agreed to negotiate a loan modification on behalf of Billy C. for his property located at 765 Hollowglen Road, Oceanside, California, in exchange for an advance fee payment of $5,500. On or about that same date, Billy C. paid the advance fee of $5,500 to Respondent. Billy C. eventually received reimbursement of $4,025 of his advance fee from a company named Fresh Start Financial Solutions, Inc., with which Respondent were affiliated. No loan modification was ever obtained by Respondent for Billy C., nor did Respondent ever refund the remaining balance of the advance fee paid to him by Billy C.

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CONCLUSIONS OF LAW

5. Based on the Findings of Fact contained in Paragraphs 1 through 4, above, ROSS, 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 of the Code.

6. ROSS used a form of advance fee agreement which had not been provided to the Department for its prior review and consideration, in violation of Section 10085 of the Code, and Sections 2970 (submission of advance fee materials) and 2972 (content of verified accounting) of the Regulations.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, MARK ARTHUR ROSS, individually and doing business as AMERICAN DEBT SOLUTIONS, LLC, and whether doing business under your own name, or any other name or fictitious name, IS HEREBY ORDERED to immediately desist and refrain from:

1. Performing any acts within the State of California that require a real estate broker license unless and until you are properly licensed by the Department as a real estate broker.

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, 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 MARK ARTHUR ROSS:

   (a) Has an advance fee agreement which has been submitted to the Department and which is in compliance with Section 2970 of the Regulations;

(b) Has 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; and

(c) Has provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations.

3. 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.

DATED: 12/14/2010

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: Mark Arthur Ross
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Agent for Service of Process
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Oceanside, CA 92054

ATTY JWB/km