DEPARTMENT OF REAL ESTATE
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FILED
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DEPARTMENT OF REAL ESTATE
By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To: CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA.	No. H-4381 SD ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner of the California Department of Real Estate (hereinafter "Department") caused an investigation to be made of the activities of CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA. Based on that investigation, the Commissioner has determined that CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (hereinafter "Code"), the California Civil Code (hereinafter "Civil Code") and/or Title 10, Chapter 6, California Code of Regulations (hereinafter "Regulations"), including, but not limited to the collection of advance fees after October 10, 2009 in violation of Section 10085.6 of the Code and Section 2945.4 of the Civil Code, and the conduct of business requiring a real estate license while CALWIDE REALTY, INC.'s corporate license is suspended by the California Secretary of State in violation of Section 2742(c) of the Regulations.

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.

Whenever acts referred to below are attributed to CALWIDE REALTY, INC. those acts are alleged to have been done by MICHAEL FRANKLIN PALUBA, acting by himself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, and using the name "HOA Realty", "Calwide Realty Inc", or other names or fictitious names unknown at this time.

FINDINGS OF FACT

1. CALWIDE REALTY, INC. ("CALWIDE") has been licensed by the Department since May 26, 2005 as a corporate real estate broker, and its license expires on May 25, 2013. At all times relevant herein, CALWIDE REALTY, INC. was and is acting by and through MICHAEL FRANKLIN PALUBA, as its designated officer broker.

2. MICHAEL FRANKLIN PALUBA ("PALUBA") has been licensed by the Department as a real estate salesperson since May 24, 1982, and as a real estate broker since July 12, 2002, whose license expires on July 7, 2015. At all times relevant herein, PALUBA was licensed by the Department as the designated officer broker of CALWIDE, and was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of CALWIDE for which a real estate license is required.

3. During the period of November 1, 2009 through December 31, 2010, CALWIDE and PALUBA 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, within the meaning of Section 10131(d) of the Code; and charge, demand or collect an advance fee for any of the services offered within the meaning of Section 10131.2 of the Code.

4. In connection with the operation and conduct of the activities described in Paragraph 3, above, and after October 10, 2009, CALWIDE engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, which constitute trust funds, within the meaning of Sections 10026 and 10131.2 of the Code, including but not limited to the following:

Borrower	**Advance Fee**	**Date Received**
Andrew M.	$1,200	10/29/10
Raul M.	$1,600	10/18/10
Ramon D.	$1,000	08/10/10
Nancy B.	$1,500	06/05/10
Salvador C.	$3,000	04/26/10 & 05/07/10
Armando G. and Marcella V.	$1,500	04/26/10
Claudia C.	$1,500	04/19/10
Milton B.	$1,200	10/06/10

5. In connection with the operation and conduct of the activities described in Paragraph 3, above, CALWIDE engaged in acts requiring a real estate license, including but not limited to providing loan modification services to consumers within the meaning of Sections 10131(d) and 10131.2 of the Code, while CALWIDE's corporate powers, rights, and privileges were suspended by the California Secretary of State, in violation of Section 2742(c) of the Regulations.

CONCLUSIONS OF LAW

1. Based on the findings of fact contained in Paragraphs 1 through 5, above, CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA, acting alone, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including, but not limited to PALUBA, violated Section 10085.6 of the Code, Section 2945.4 of the Civil Code, and Section 2742(c) of the Regulations.

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DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, you, CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA, whether doing business under your own name, or any other name or fictitious name, ARE HEREBY ORDERED to:

1. Immediately desist and refrain from engaging in acts requiring a real estate license within the meaning of Section 10131 of the Code, 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 your corporate powers, rights, and privileges have been reinstated by the California Secretary of State.

2. Immediately desist and refrain from 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, that your corporate powers, rights, and privileges have been reinstated by the California Secretary of State, and that:

(a) you 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) you have placed all previously collected advance fees into a trust account for that purpose and are in compliance with Section 10146 of the Code;

(c) you have provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972 of the Regulations; and,

(d) you are in compliance with California law, as amended effective as of October 11, 2009, with respect to loan modification and/or forbearance services. Under the amended law, you can only collect advance fees for loan modification or other mortgage loan forbearance services related to commercial loans and loans for residential properties containing five or more dwelling units.

3. Immediately desist and refrain from 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: July 13, 2012

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

cc: CALWIDE REALTY, INC.
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