DEPARTMENT OF REAL ESTATE
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FILED

AUG 13 2010

DEPARTMENT OF REAL ESTATE

By C Henry

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

To: JOSEPH D. ACQUISTAPACE, and LEGAL MODIFICATION SERVICES, LLC	NO. H-5441 SAC 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 JOSEPH D. ACQUISTAPACE (ACQUISTAPACE) and LEGAL MODIFICATION SERVICES, LLC (LMS). Based on that investigation, the Commissioner has determined that ACQUISTAPACE and LMS 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 the business of, acting in the capacity of, and/or 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 in connection with loans secured by real property) 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 ACQUISTAPACE has been licensed by the Department as a real estate salesperson under Department license number 01465790 and at no time has he held a real estate broker license issued by the Department. Further, at all times relevant herein,

ACQUISTAPACE was not and is not employed by, nor working under the supervision of a real estate broker licensed by the Department. ACQUISTAPACE therefore, is unable to accept compensation for licensed acts in violation of Section 10137 of the Code (unlawful employment or payment of compensation).

2. At no time was LMS, a limited partnership organized by ACQUISTAPACE, licensed by the Department in any capacity and therefore cannot conduct acts for which a valid real estate license is required.

3. During the time periods set out below, ACQUISTAPACE and LMS and/or other agents, associates, affiliates, and/or co-conspirators solicited 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 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, in violation of Sections 10130 (real estate broker license required to perform certain acts), 10085.5 (real estate broker license required to charge or collect an advance fee), and 10139 (criminal penalties for unlicensed activity) of the Code.

4. On or around June 1, 2009 and continuing through September, 2009, ACQUISTAPACE and/or LMS acting through ACQUISTAPACE, entered into a written agreement with Kendell J. to negotiate loan modifications for promissory notes secured by his properties located in Marysville, California. ACQUISTAPACE and/or LMS acting through ACQUISTAPACE were to negotiate the loan modification. Kendell J. agreed to pay and did pay to ACQUISTAPACE and/or LMS acting through ACQUISTAPACE in advance the total sum of $4,585.00 for loan modification services. ACQUISTAPACE and/or LMS acting through ACQUISTAPACE accepted from Kendell J. the sum of $4,585.00 as its fee for the aforementioned loan modification services, all in violation of Sections 10130, 10137 and 10085.5, and 10139 of the Code.

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CONCLUSIONS OF LAW

5. Based on the findings of fact contained in paragraphs 1 through 4, above:

(i) ACQUISTAPACE and/or LMS acting through ACQUISTAPACE and/or through one or more agents, associates, affiliates, and/or co-conspirators, using the name LMS, or other names or fictitious names unknown at this time, solicited one or more 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, acts which require a real estate license under Section 10131(d) of the Code (soliciting borrowers or lenders in connections with loans secured by real property), during a period of time when ACQUISTAPACE and/or LMS acting through ACQUISTAPACE were not licensed by the Department to act as a real estate broker.

(ii) ACQUISTAPACE and/or LMS acting through ACQUISTAPACE and/or through one or more agents, associates, affiliates, and/or co-conspirators, using the name LMS, or other names or fictitious names unknown at this time for, or in expectation of, compensation negotiated 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 charged, demanded or collected an advance fee for any of the services offered, in violation of Sections 10130 (real estate broker license required to perform certain acts), 10085.5 (real estate broker license required to charge or collect an advance fee), and 10139 (criminal penalties for unlicensed activity) of the Code.

DESIST AND REFRAIN ORDER

Based on the findings of fact and conclusions of law stated herein, ACQUISTAPACE and/or LMS acting through ACQUISTAPACE and/or doing business under your own name, the name Legal Modification Services, LLC, or any other name or fictitious name, ARE HEREBY ORDERED TO:

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1. Immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular, you are ordered to desist and refrain from:

(i) 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,

(ii) from charging, demanding, or collecting an advance fee for any of the services you offer to others, unless and until you obtain a real estate broker license issued by the Department, and until you demonstrate and provide evidence satisfactory to the Commissioner that you are in full compliance with all of the requirements of the Code and Regulations relating to charging, collecting, and accounting for advance fees, including Section 10146 (place all previously collected advance fees into a trust account for that purpose) of the Code and Sections 2970 (an advance fee agreement must be submitted to the Department and be in compliance with the Regulations) and 2972 (must provide an accounting to trust fund owner-beneficiaries) of the Regulations and;

(iii) within five (5) business days of service of this Desist and Refrain Order you are to refund to Kendell J., the total sum of $4,585.00 you wrongfully and illegally collected from Kendell J., collected by or on behalf of you as you fee for the aforementioned loan modification services and provide proof to the Department of your compliance with this refund order.

DATED: 8-11, 2010

JEFF DAVI
Real Estate Commissioner

By _____

- 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) . . ."

TO: Loan Modification Services, LLC
c/o Joseph Acquistapace, Agent for Service of Process
1100 Melody Lane, #125
Roseville, CA 95678

Joseph Acquistapace
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Roseville, CA 95678

Joseph Acquistapace
3598 Bardolino Way
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