Department of Real Estate
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DEPARTMENT OF REAL ESTATE

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STATE OF CALIFORNIA

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To: HOME ADVANTAGE FUNDING GROUP, INC., GERALD J. LOTTER and JACOB KIM	No. H-36050 LA 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 HOME ADVANTAGE FUNDING GROUP, INC. ("HAFGI"), GERALD J. LOTTER ("LOTTER") and JACOB KIM ("KIM"). Based on that investigation the Commissioner has determined that HAFGI, LOTTER and KIM have engaged in or are engaging in acts or are attempting to engage in practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, 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 Code Section 10131(d)(performing services for borrowers in connection with loans secured by real property). Based on the findings of that investigation, set forth below, 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. HAFGI is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a real estate corporation. Effective November 16, 2008, HAFGI'S real estate corporation license expired.

2. LOTTER is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker. LOTTER was the designated officer of HAFGI until its real estate corporation license expired on November 16, 2008.

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

4. At the time set forth below HAGFI, LOTTER and KIM solicited borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: engaged in the business of, acted in the capacity of, or advertised a loan modification service and advance fee brokerage using the name Home Advantage Funding Group, Inc.

offering to negotiate or perform loan modification services with respect to loans which were secured by liens on real property for compensation or in expectation of compensation and for fees collected in advance of the transaction.

5. On or about October 1, 2008, HAGFI provided an advance fee contract to Maria Pruett ("Pruett") for loan modification services on Pruett's existing mortgage on her home located at 8248 Country Ranch Drive, Sacramento, CA 95839.

6. Between on or about October 1, 2008 and on or about November 13, 2008, LOTTER employed KIM to obtain clients for HAGFI's loan modification services.

7. On or about November 13, 2008, KIM, as a representative of HAGFI, demanded and received an advance fee of $1,500 from Pruett for the activities described in paragraph 4, above.

CONCLUSIONS OF LAW

8. Based on the information contained in Paragraphs 4 through 7, above, HAFGI and LOTTER violated Section 10085 of the Code by not having an approved advance fee agreement on file with the Department.

9. Based on the information contained in Paragraphs 4 through 7, above, HAGFI and LOTTER violated Code Section 10137 of the Code by employing and/or compensating individuals who were not licensed as a real estate salesperson or as a broker to perform activities requiring a real estate license.

10. Based on the information contained in Paragraphs 4 through 7, above, KIM violated Section 10130 of the Code by engaging in the activities without first obtaining a broker license from the Department.

DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ordered that HAFGI, LOTTER and KIM immediately desist and refrain from:

(a) performing any acts within the State of California for which a real estate broker license is required, unless you are so licensed;

(b) employing and/or compensating individuals who are not licensed as a real estate salesperson or as a broker to perform activities requiring a real estate license;

(c) from charging, demanding, or collecting an advance fee for any of the services you offer to others, unless 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 California Code of Regulations relating to charging, collecting, and accounting for advance fees;

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(d) in addition, you LOTTER are ordered to: immediately desist and refrain from collecting advance fees, as that term in defined in Section 10026 of the Code, 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 have:

(i) an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

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

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

DATED: 6/8, 2009.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

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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: Home Advantage Funding Group, Inc.
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