FLAG

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FILED

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DEPARTMENT OF REAL ESTATE
BY: _____

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To:	No.H-36877 LA
ADVOCATE FOR FAIR LENDING, LLC; MARK ALAN SHOEMAKER; and MARIANA RODRIGUEZ,	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 ADVOCATE FOR FAIR LENDING, LLC ("ADVOCATE"), MARK ALAN SHOEMAKER ("SHOEMAKER"), and MARIANA RODRIGUEZ ("RODRIGUEZ"), and has determined that each of them engaged in or is engaging in acts or practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, California Code of Regulations ("Regulations"). Said parties are engaging in the business of, 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) (soliciting borrowers or lenders or negotiating loans) and Section 10131.2 (advance fee handling). Based on the findings of that investigation, as set forth below, the Commissioner hereby issues the following Findings of Fact and Desist and Refrain Order pursuant to Section 10086 of the Code.

FINDINGS OF FACT

1. SHOEMAKER 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.

2. At no time herein mentioned have ADVOCATE or RODRIGUEZ been licensed by the Department in any capacity.

3. Whenever acts referred to below are attributed to SHOEMAKER, those acts are alleged to have been done by SHOEMAKER, acting by himself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including but not limited to each of those named herein, and using the names ADVOCATE, or any fictitious name unknown at this time.

4. SHOEMAKER employed and/or compensated individuals, including those named herein, who were not licensed as real estate salespersons or as real estate brokers to perform some or all of the services alleged in Paragraph 7, below.

5. SHOEMAKER engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, as defined by Code Section 10026, including but not limited to the activities described in Paragraph 7, below.

6. SHOEMAKER failed to submit the advance fee agreements and internet advertising referred to in Paragraph 7, below, to the Commissioner ten days before using them.

7. At the times set forth below SHOEMAKER engaged in the business of, acted in the capacity of, or advertised a real estate loan service and advance fee brokerage offering to perform solicitation, negotiation and modification of loans secured by liens on real property for compensation or in expectation of compensation and for fees collected in advance including, but not limited to, the following:

a. On or about May 15, 2008, Luisana G. paid an advance fee of $1,742.30 to Luis Enrique Bahia on behalf of Respondent SHOEMAKER, doing business as ADVOCATE. At the time mentioned Luis Enrique Bahia was a licensed real estate salesperson employed by a broker other than Respondent SHOEMAKER. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondent SHOEMAKER, doing business as ADVOCATE, with respect to a loan secured by real property.

b. On or about December 5, 2008, Jose H. paid an advance fee of $4,303.92 to Arturo Fernandez on behalf of Respondent SHOEMAKER, doing business as ADVOCATE. At the time mentioned Arturo Fernandez was a licensed real estate salesperson employed by a broker other than Respondent SHOEMAKER. The advance fee was collected pursuant to the

provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondent SHOEMAKER through ADVOCATE with respect to loans secured by real property located in Mira Loma, California and Tucson, Arizona.

c. On or about December 17, 2008, Armando C. paid an advance fee of $4,200 to RODRIGUEZ on behalf of Respondent SHOEMAKER, doing business as ADVOCATE. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided with respect to a loan secured by real property located in Oxnard, California. RODRIGUEZ represented to Armando C. that the services would be provided by ADVOCATE.

d. On or about November 22, 2008, Diana C. paid an advance fee of $2,621.00 to SHOEMAKER, doing business as ADVOCATE. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondent SHOEMAKER through ADVOCATE with respect to a loan secured by real property located in Oxnard, California.

e. In or around August, 2008, ADVOCATE conducted internet advertising via a website which stated that ADVOCATE would, among other things, negotiate with a homeowners lender to force it to modify mortgage terms, reduce rates, forgive debt, rescind the mortgage or allow the consumer to walk away and get back all the money put into the home, or force a short sale.

CONCLUSIONS OF LAW

8. The activities described in Paragraph 7, above, require a real estate license under Section 10131(d) and Section 10131.2 of the Code.

9. Based on the information contained in Paragraph 7, above, ADVOCATE and RODRIGUEZ performed and/or participated in loan solicitation, negotiation and modification activities which require a real estate broker license under the provisions of Code Sections 10131(d) and 10131.2 during a period of time when they were not licensed by the Department as a real estate broker nor employed as a real estate salesperson by the broker on whose behalf the activities were performed in violation of Section 10130 of the Code.

10. Based on the information contained in Paragraph 7, above, SHOEMAKER violated 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.

11. Based on the information contained in Paragraphs 5, 6 and 7, above, SHOEMAKER collected fees pursuant to an agreement which constitutes an advance fee agreement within the meaning of Code Section 10085.

12. Based on the information contained in Paragraphs 5, 6 and 7, above, the failure by SHOEMAKER to submit the advance fee agreement and radio advertising to the Commissioner ten days before using it constitutes a violation of Code Section

10085 and Section 2970 of the Regulations.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein:

1. IT IS HEREBY ORDERED that SHOEMAKER, whether doing business under the name ADVOCATE, or any other names, or any fictitious name:

(i) 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, 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 (Code Section 10085.6).

(ii) 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 other real estate related services offered to others, unless and until SHOEMAKER demonstrates and provides evidence satisfactory to the Commissioner that he:

(a) has an advance fee agreement which has been submitted to the Department and which is in compliance with Section 10085 of the Code and Section 2970 of the Regulations;

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

(c) has provided an accounting to trust fund owner-beneficiaries from whom advance fees have previously been collected in compliance with Code Section 10146 and Section 2972 of the Regulations.

2. SHOEMAKER immediately desist and refrain from employing or compensating any person for performing any act for which a real estate license is required unless that person is licensed as a real estate broker, or as a real estate salesperson licensed under the broker employing or compensating him. In particular, SHOEMAKER is ordered to desist and refrain from:

(i) employing or compensating any person who does not hold a real estate license from 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.

3. IT IS HEREBY ORDERED that ADVOCATE FOR FAIR LENDING, LLC and MARIANA RODRIGUEZ, whether doing business under their own names, or any other names, or any fictitious name, ARE HEREBY ORDERED to immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular each of them is ORDERED TO DESIST AND REFRAIN from:

(i) charging, 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 modifications or any other form of mortgage loan forbearance service in connection with loans on residential property containing four or fewer dwelling units (Code Section 10085.6); and

(ii) charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any other real estate related services offered by them to others.

DATED: 10/19, 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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