Department of Real Estate
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FILED
MAR - 3 2011
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To: TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR.	No. H-37099 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 TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR. Based on that investigation the Commissioner has determined that TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR have engaged in or are engaging in acts or are attempting to engage in the business of, acting in the capacity of, and/or advertising or assuming to act as real estate brokers in the State of California within the meaning of Business and Professions Code Sections 10131(d) (soliciting, negotiating and performing services for borrowers in connection with loans secured by real property) and 10131.2 (advance fee handling).

In addition, based on that investigation, the Commissioner has determined that TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR have engaged in or are

engaging in acts or are attempting to engage practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, California Code of Regulations ("Regulations"). 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. CLAUDIO YAMILE ESCOBAR 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. TERESA ESTER CONTRERAS is not now, and has never been, licensed by the Department in any capacity.

3. At the time set forth below TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR 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 and negotiation service and advance fee brokerage soliciting, 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.

4. On or about December 20, 2008, TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR solicited loan modification and negotiation services to borrower Raul S. in connection with loans secured by real property. TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR charged and collected an advance fee of $6,000 from Raul S. TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR failed to provide a copy of any written advance fee agreement to Raul S. for the loan modification and negotiation services. TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR failed to place the advance fees into a trust fund account and/or provide an

accounting of trust funds to the borrower. TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR failed to perform the loan modification and negotiation services that had been promised to Raul S.

5. CLAUDIO YAMILE ESCOBAR did not have an advance fee agreement approved by the Department to charge or collect advance fees within the meaning of Code Sections 10026 and 10085.

6. In or around April of 2009, TERESA ESTER CONTRERAS contacted Raul S. and charged him an additional $1,500 advance fees in order to save his properties from foreclosure. Raul S. paid an advance fee of $1,500 to S.P.S. & Associates, according to TERESA ESTER CONTRERAS' instructions. Raul S. did not receive a modification of his mortgages and his properties were foreclosed by the lender.

CONCLUSIONS OF LAW

7. Based on the information contained in Paragraphs 1 through 6, above, CLAUDIO YAMILE ESCOBAR violated Section 10085 of the Code and Regulation 2970, by not having an approved advance fee agreement on file with the Department.

8. Based on the information contained in Paragraphs 1 through 6, above, TERESA ESTER CONTRERAS 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 TERESA ESTER CONTRERAS immediately desist and refrain from: performing any acts within the State of California for which a real estate broker license is required, unless TERESA ESTER CONTRERAS is so licensed.

IT IS FURTHER ORDERED THAT CLAUDIO YAMILE ESCOBAR immediately desist and refrain from:

1. charging, demanding, claiming, collecting and/or receiving advance fees, as that term is TERESA ESTER CONTRERAS and

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).

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 other real estate related services offered to others, unless and until CLAUDIO YAMILE ESCOBAR demonstrates and provides evidence satisfactory to the Commissioner 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 Section 10146 of the Code and Section 2972 of the Regulations.

IT IS FURTHER ORDERED THAT TERESA ESTER CONTRERAS and CLAUDIO YAMILE ESCOBAR immediately desist and refrain from:

1. 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

2. 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: 2/23, 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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