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DEPARTMENT OF REAL ESTATE
BY: _____

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To:	No. H-37517 LA
AMERITRUST FINANCIAL, LLC; and TOM STEVE CHIOLES,	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 AMERITRUST FINANCIAL, LLC ("AMERITRUST") and TOM STEVE CHIOLES ("CHIOLES"). Based on that investigation the Commissioner has determined that AMERITRUST has acted in the capacity of, or is acting in the capacity of, advertising or assuming to act as a real estate broker in the State of California within the meaning of California Business and Professions Code ("Code") Section 10131(d) (performing services for borrowers in connection with loans secured by real property).

That investigation has further determined that CHIOLES has engaged in or is engaging in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with employment undertaken to promote the sale or lease of real property or to obtain a loan or loans on real property, including the performance of loan negotiation and loan modification services with respect to loans which are secured by liens on real property, within the meaning of Code Section 10131.2. In addition, the Commissioner has determined that CHIOLES has engaged in or is engaging in activities which constitute violations of the Code and Title 10, California Code of Regulations ("Regulations"). Based on that 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. CHIOLES is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) ("Code") as a real estate broker.

2. At no time has AMERITRUST been licensed by the Department.

3. At all times relevant herein, CHIOLES was the chief executive officer of the unlicensed entity, AMERITRUST. Whenever acts referred to below are attributed to CHIOLES, those acts are alleged to have been done by CHIOLES, acting by himself, or by and/or through one or more agents, associates,

affiliates, and/or co-conspirators, including but not limited to AMERITRUST, and using the name AMERITRUST, or any fictitious name unknown at this time.

4. CHIOLES 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 6, below.

5. CHIOLES failed to submit the advance fee agreements referred to in Paragraph 6, below, to the Commissioner ten days before using them.

6. At the times set forth below CHIOLES 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 October 6, 2008, Rafael N. paid CHIOLES, doing business as AMERITRUST, an advance fee of $5,000. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by CHIOLES, doing business as AMERITRUST, with respect to a loan secured by real property in San Leandro, California.

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b. On or about October 24, 2008, and November 24, 2008, Alberto B. paid CHIOLES, doing business as AMERITRUST, and advance fees totaling $13,500. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by CHIOLES, doing business as AMERITRUST, with respect to a loan secured by five separate real properties.

c. On or about December 9, 2008, Edith S. paid CHIOLES, doing business as AMERITRUST, an advance fee of $3,500. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by CHIOLES, doing business as AMERITRUST, with respect to a loan secured by real property in Van Nuys, California.

d. On or about January 30, 2009, Manuel O. paid CHIOLES, doing business as AMERITRUST, an advance fee of $2,500. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by CHIOLES, doing business as AMERITRUST, with respect to a loan secured by real property in Riverside, California.

e. On or about January 17, 2009, Fred P. paid CHIOLES, doing business as AMERITRUST, an advance fee of $3,000. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by CHIOLES, doing business

as AMERITRUST, with respect to a loan secured by real property in Sun City, California.

f. On or about March 16, 2009, Jaime A. paid CHIOLES, doing business as AMERITRUST, an advance fee of $2,500. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by CHIOLES, doing business as AMERITRUST, with respect to a loan secured by real property in Victorville, California.

CONCLUSIONS OF LAW

7. The activities described in Paragraph 6, above, require a real estate license under Section 10131(d) and Section 10131.2 of the Code.

8. Based on the information contained in Paragraph 6, above, AMERITRUST 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 it was 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.

9. Based on the information contained in Paragraphs 4, 5, and 6, above, CHIOLES collected fees pursuant to an agreement which constitutes an advance fee agreement within the meaning of Code Section 10085.

10. Based on the information contained in Paragraphs 4, 5, and 6, above, the failure by CHIOLES to submit the advance fee agreement 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 TOM STEVE CHIOLES, whether doing business under the name AMERITRUST, 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).

2. IT IS HEREBY ORDERED that AMERITRUST FINANCIAL, LLC immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular AMERITRUST FINANCIAL, LLC is ORDERED TO DESIST AND REFRAIN from:

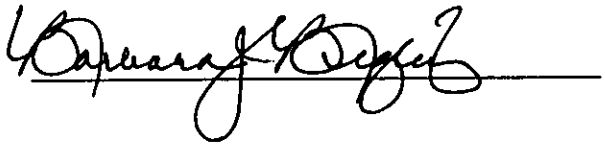
(i) charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and under any conditions, with respect

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: 9/7, 2011.

BARBARA BIGBY
Acting Real Estate 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)."

cc: Tom Steve Chioles
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