Department of Real Estate
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FILED

MAY 02 2012

DEPARTMENT OF REAL ESTATE
BY: _____

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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To:	No. H-38095 LA
YOUR MORTGAGE LENDER, and MICHAEL ANTHONY COLEMAN, Individually, and as designated officer for Your Mortgage Lender,	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 YOUR MORTGAGE LENDER ("MORTGAGE") and MICHAEL ANTHONY COLEMAN ("COLEMAN"), individually, and as designated officer for MORTGAGE. Based on that investigation the Commissioner has determined that MORTGAGE and COLEMAN have acted in the capacity of, or are 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) of the Code, and, further, have engaged in or are 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 MORTGAGE and COLEMAN have engaged in or are engaging in activities which constitute violations of the Code and Title 10, California Code of Regulations ("Regulations"). 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. MORTGAGE 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 corporation. The license of MORTGAGE expired on February 20, 2012. Pursuant to Code Section 10201 Respondent retains renewal rights. Pursuant to Section 10103 of the Code the Department retains jurisdiction.

2. COLEMAN is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. COLEMAN was at all times relevant herein the designated broker

officer of MORTGAGE. The license of COLEMAN expired on February 22, 2011. Pursuant to Code Section 10201 Respondent retains renewal rights. Pursuant to Section 10103 of the Code the Department retains jurisdiction.

3. Whenever acts referred to below are attributed to MORTGAGE, those acts are alleged to have been done by MORTGAGE, acting by itself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including but not limited to COLEMAN, and using the name MORTGAGE or any fictitious name unknown at this time.

4. MORTGAGE and COLEMAN engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, including but not limited to the activities described in Paragraph 5, below.

5. At the times set forth below MORTGAGE and COLEMAN 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 21, 2009, Judy J. paid MORTGAGE and COLEMAN an advance fee of $1,747.50. On or about December 4, 2009, Judy J. paid MORTGAGE and COLEMAN an additional advance fee of $1,748.00. The advance fees were collected pursuant to the provisions of an agreement pertaining

to loan solicitation, negotiation, and modification services to be provided by MORTGAGE and COLEMAN with respect to a loan secured by real property at 5501 Lakemont Boulevard SE, #102, Bellevue, Washington 98006.

b. On or about May 1, 2009, Dabelus D. paid MORTGAGE and COLEMAN two advance fees, each totaling $1,745. The advance fees were collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by MORTGAGE and COLEMAN with respect to a loan secured by real property at 570 East 87th Street, Brooklyn, New York 11236.

6. MORTGAGE and COLEMAN collected the advance fees described in Paragraph 5, above, pursuant to the provisions of an agreement meeting the definition of an advance fee agreement in Code Section 10026.

7. MORTGAGE and COLEMAN failed to submit the advance fee agreements referred to in Paragraph 5, above, to the Commissioner ten days before using it.

8. On October 11, 2009, Code Section 10085.6 went into effect. By its terms Section 10085.6 prohibits any real estate licensee who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a loan modification with respect to residential property to "claim, demand, charge, collect, or receive any compensation until after the licensee has fully performed each and every service the

licensee contracted to perform or represented that he, she, or it would perform."

CONCLUSIONS OF LAW

9. Based on the information contained in Paragraphs 5, 6, and 7, above, MORTGAGE and COLEMAN 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 5, 6, 7, and 8, above, the failure by MORTGAGE and COLEMAN to submit the advance fee agreement to the Commissioner ten days before using it constitutes a violation of Code Section 10085 and Section 2970 of the Regulations.

11. By virtue of the application of Code Section 10085.6 to the advance fee transactions described in Paragraph 5(a), above, MORTGAGE and COLEMAN additionally violated the provisions of Code Section 10085.6 when MORTGAGE and COLEMAN accepted advance fees after October 11, 2009, when such fees were prohibited by Code Section 10085.6.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, it is hereby ordered that YOUR MORTGAGE LENDER and MICHAEL ANTHONY COLEMAN, whether doing business under their own names, or any other names, or any fictitious name, ARE HEREBY ORDERED to:

1. 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. 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 YOUR MORTGAGE LENDER and MICHAEL ANTHONY COLEMAN, and each of them, demonstrate and provide evidence satisfactory to the Commissioner that each:

(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

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(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.

DATED: 4/22, 2012.

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

cc: Your Mortgage Lender
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