

1 10131(d) (advertising, soliciting borrowers for, and offering to negotiate loans or perform loan
2 modification services for borrowers in connection with loans secured by liens on real property)
3 and 10131.2 (collecting advance fees in connection with those services).

4 In addition, based on that investigation, the Commissioner has determined that
5 SOLUTIONS NOW LOAN MODIFICATIONS INC., R&E DOCUMENT PROCESSING
6 CORP., MAHMOUD S. ELACKER, MATTHEW JAMES SOLUM, JOE KAHN, and
7 EFRAIN ZAVALA have engaged in or are engaging in acts or are attempting to engage
8 practices constituting violations of the California Business and Professions Code (“Code”)
9 and/or Title 10, California Code of Regulations (“Regulations”). Based on the findings of that
10 investigation, set forth below, the Commissioner hereby issues the following Findings of Fact,
11 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the
12 Code.

13 FINDINGS OF FACT

14 1. From April 22, 2009, through the present, SOLUTIONS NOW LOAN
15 MODIFICATIONS INC. (“SOLUTIONS NOW”) has been licensed by the Department of Real
16 Estate (“Department”) as a real estate corporation, license no. 01862791.

17 2. From December 15, 2009, through the present, SOLUTIONS NOW has been
18 licensed “NBA” (no broker affiliation) which precludes SOLUTIONS NOW from engaging in
19 activities that require a real estate license.

20 3. At no time mentioned herein, have MAHMOUD S. ELACKER aka Michael
21 Elackkar (“ELACKER”), MATTHEW JAMES SOLUM, JOE KAHN, EFRAIN ZAVALA, or
22 R&E DOCUMENT PROCESSING CORP. ever been licensed by the Department in any
23 capacity.

24 4. On or about May 15, 2009, SOLUTIONS NOW submitted an advance fee
25 agreement and accounting format to the Department for approval. On April 28, 2009, the
26 Department issued a “no objection” letter of approval of the advance fee agreement and
27 accounting format submitted by SOLUTIONS NOW. Said advance fee agreement included a

1 provision that if the principal cancelled the agreement before the agreed completion date or
2 before the agreed upon services are completed, all unearned advance fees would be refunded to
3 the principal. In addition, where the broker [SOLUTIONS NOW] failed to perform any or all of
4 the specified services, the principal is entitled to a full refund of any and all fees not earned by
5 the broker within 5 business days of request.

6 5. On October 11, 2009, then Governor Arnold Schwarzenegger signed Senate
7 Bill 94 (Calderon), and the legislation took effect immediately upon his signature. Thus,
8 California law prohibited any person, including real estate licensees and attorneys, from
9 demanding or collecting an advance fee from a consumer for loan modification or mortgage loan
10 forbearance services affecting 1 – 4 unit residential dwellings.

11 6. The following notice was prominently featured on the Department's website as
12 of October 11, 2009:

13 "IF YOU ARE A REAL ESTATE BROKER, OR THE DESIGNATED
14 OFFICER OF A LICENSED CORPORATION, WHO HAS BEEN ISSUED A
15 "NO OBJECTION" LETTER BY THE DEPARTMENT OF REAL ESTATE
16 FOR LOAN MODIFICATION OR OTHER MORTGAGE LOAN
17 FORBEARANCE SERVICES, YOU CAN NO LONGER ENTER INTO THESE
18 AGREEMENTS EFFECTIVE AS OF OCTOBER 11, 2009, NOR CAN YOU
19 COLLECT ANY ADVANCE FEES FOR SUCH SERVICES. Agreements
20 entered into and advance fees collected prior to October 11, 2009 are not affected.
21 Advance fees inadvertently collected after October 11, 2009 must be fully
22 refunded. All real estate licensees should become familiar with the provisions of
23 SB94 as there are substantial administrative and criminal penalties for violations."

24 7. On or about October 25, 2009, JOE KAHN solicited and offered to assist
25 borrower Tom R. with loan modification and negotiation services on behalf of SOLUTIONS
26 NOW. Tom R. entered into a written advance fee agreement with SOLUTIONS NOW for loan
27 modification and negotiation services in connection with a loan secured by a lien on real

1 property. On November 18, 2009, SOLUTIONS NOW charged an advance fee of \$1,850.00 to
2 Tom R.'s credit card. SOLUTIONS NOW failed to perform the loan modification and
3 negotiation services that had been promised to Tom R. Tom R. did not obtain a loan
4 modification through SOLUTIONS NOW. SOLUTIONS NOW refused Tom R.'s request for a
5 refund of the advance fee paid to SOLUTIONS NOW.

6 8. On or about October 29, 2009, EFRAIN ZAVALA solicited and offered to
7 assist borrower Detric E. with loan modification and negotiation services on behalf of
8 SOLUTIONS NOW. Detric E. entered into a written advance fee agreement with SOLUTIONS
9 NOW for loan modification and negotiation services in connection with a loan secured by a lien
10 on real property. On October 29, 2009, SOLUTIONS NOW collected an advance fee of
11 \$2,995.00 from Detric E. MATTHEW JAMES SOLUM represented himself to Detric E. as
12 chief negotiator for SOLUTIONS NOW. Detric E. did not obtain a loan modification through
13 SOLUTIONS NOW. SOLUTIONS NOW refused Detric E.'s request for a refund of the
14 advance fee paid to SOLUTIONS NOW.

15 9. On or about December 12, 2010, ELACHKAR solicited and offered to assist
16 borrower Sandra E. with loan modification and negotiation services on behalf of SOLUTIONS
17 NOW. On December 12, 2010, SOLUTIONS NOW collected an advance fee of \$395.00 from
18 Sandra E. On January 12, 2011, Sandra E. paid an additional advance fee of \$300.00.
19 ELACHKAR instructed Sandra E. to make the payment to R&E DOCUMENT PROCESSING
20 CORP. Sandra E. did not obtain a loan modification through SOLUTIONS NOW or R&E
21 DOCUMENT PROCESSING CORP. SOLUTIONS NOW refused Sandra E.'s request for a
22 refund of the advance fee paid to SOLUTIONS NOW.

23 CONCLUSIONS OF LAW

24 1. Based on the information contained in Paragraphs 1 through 9, above,
25 SOLUTIONS NOW violated Code Sections 10085.5 and 10085.6 by claiming, charging,
26 receiving, collecting or contracting for advance fees to perform mortgage loan modifications
27 after October 11, 2009.

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2 2. Based on the information contained in Paragraphs 1 through 9, above, R&E
3 DOCUMENT PROCESSING CORP., MAHMOUD S. ELACKER, MATTHEW JAMES
4 SOLUM, JOE KAHN, and EFRAIN ZAVALA violated Code Section 10130 by engaging in
5 activities requiring a real estate license without first obtaining a broker license from the
6 Department or acting as a salesperson under the employment of a licensed real estate broker.

7 DESIST AND REFRAIN ORDER

8 Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated
9 herein, IT IS HEREBY ORDERED THAT R&E DOCUMENT PROCESSING CORP.,
10 MAHMOUD S. ELACKER, MATTHEW JAMES SOLUM, JOE KAHN, and EFRAIN
11 ZAVALA, whether doing business under his own name or any other fictitious business name,
12 immediately desist and refrain from: performing any acts within the State of California for which
13 a real estate broker license is required, including:

14 (i) soliciting borrowers and/or performing services for borrowers or lenders
15 in connection with loans secured directly or collaterally by one or more liens on real property,
16 and

17 (ii) charging, demanding, or collecting a fee for any of the services you offer
18 to others, unless and until you obtain a real estate broker license issued by the Department, and
19 until you demonstrate and provide evidence satisfactory to the Commissioner that you are in full
20 compliance with all of the requirements of the Code and Commissioner's Regulations relating to
21 charging, collecting, and accounting for fees.

22 IT IS FURTHER ORDERED THAT SOLUTIONS NOW immediately desist and
23 refrain from:

24 1. Charging, demanding, claiming, collecting and/or receiving advance fees, as
25 that term is defined in Section 10026 of the Code, in any form, and under any conditions, with
26 respect to the performance of loan modifications or any other form of mortgage loan
27

1 forbearance service in connection with loans on residential property containing four or fewer
2 dwelling units (Code Section 10085.6); and

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

6 DATED: August 10, 2012.

7
8 Real Estate Commissioner

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11 By WAYNE S. BELL
12 Chief Counsel

13 **Notice:** Business and Professions Code Section 10139 provides that "Any person acting as a
14 real estate broker or real estate salesperson without a license or who advertises using words
15 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
16 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
17 imprisonment in the county jail for a term not to exceed six months, or by both fine and
18 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
19 (\$60,000)."

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21
22 cc: Solutions Now Loan Modifications Inc.
23 R&E Document Processing Corp.
24 Michael Elachker
25 Matthew James Solum
26 Joe Kahn
27 Efrain Zavala
14111 Freeway Dr., Ste. 402
Santa Fe Springs, CA 90670