

1 DEPARTMENT OF REAL ESTATE
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FILED

SEP - 9 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 STATE OF CALIFORNIA
9 DEPARTMENT OF REAL ESTATE

10 To:)
11)
12)
13)

MARIA TERESA GARCIA.

NO. H- 2419 FR

ORDER TO DESIST AND REFRAIN
(B&P Code Section 10086)

14 The Commissioner (Commissioner) of the California Department of Real Estate
15 (Department) caused an investigation to be made of the activities of MARIA TERESA GARCIA
16 (GARCIA). Based on that investigation, the Commissioner has determined that GARCIA has
17 engaged in, is engaging in, or is attempting to engage in, acts or practices constituting violations
18 of the California Business and Professions Code (the Code) and/or Title 10, Chapter 6, California
19 Code of Regulations (the Regulations), including the business of, acting in the capacity of,
20 and/or advertising or assuming to act as, a real estate broker in the State of California within the
21 meaning of Section 10131(d) (performing services for borrowers and/or lenders in connection
22 with loans secured by real property) of the Code. Furthermore, based on the investigation, the
23 Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and
24 Refrain Order under the authority of Section 10086 of the Code.

25 Whenever acts referred to below are attributed to GARCIA, those acts are alleged
26 to have been done by GARCIA, acting by herself, or by and/or through one or more agents,
27 associates, affiliates, and/or co-conspirators, and using the names "Joshua 1:9 Inc.", "RE/MAX

1 New Generation”, or other names or fictitious names unknown at this time (collectively referred
2 to as “the related entities”).

3 FINDINGS OF FACT

4 1.

5 GARCIA has been licensed by the Department as a real estate salesperson since
6 August 21, 1991.

7 2.

8 Joshua 1:9 Inc., has been licensed by the Department of Corporations since
9 January 12, 2001.

10 3.

11 The Department has not approved solicitation materials used in obtaining advance
12 fee agreements for GARCIA or any of the related entities.

13 4.

14 During the period of time set out below, GARCIA, while employed by or acting
15 on behalf of one or more of the related entities, solicited borrowers and negotiated to do one or
16 more of the following acts for another or others, for or in expectation of compensation: negotiate
17 one or more loans for, or perform services for, borrowers and/or lenders in connection with loans
18 secured directly or collaterally by one or more liens on real property; and charge, demand or
19 collect an advance fee for any of the services offered.

20 5.

21 In approximately April, 2009, GARCIA placed an advertisement on the Craigslist
22 website to solicit borrowers in order to provide them with loan modification services.

23 6.

24 On or about June 8, 2009, GARCIA was contacted via telephone by an
25 Investigator of the Department.

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7.

During the telephone conversation on or about June 8, 2009, GARCIA admitted that she charges an advance fee of \$350 -\$750 for submission of loan modification packages to a lender.

CONCLUSIONS OF LAW

8.

Based on the Findings of Fact contained in Paragraphs 1 through 7, GARCIA, acting by herself, or by and/or through one or more of the related entities, or other names or fictitious names unknown at this time, solicited borrowers and represented that she would perform services for those borrowers and/or the borrowers' lender in connection with one or more loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for the services to be provided, which acts require a real estate broker license under Sections 10131(d) of the Code, and prior submission by the broker of an advance fee agreement to the Department for its review under Section 10085 of the Code.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, you, MARIA TERESA GARCIA, whether doing business under your own name, or any other name or fictitious name, ARE HEREBY ORDERED to immediately desist and refrain from charging, demanding, or collecting advance fees, as that term is defined in Section 10026 of the Code, for any of the services you offer to others, in any form, and particularly with respect to loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services, unless and until you demonstrate and provide evidence satisfactory to the Commissioner that you are properly licensed by the Department as a real estate broker, and that you have:

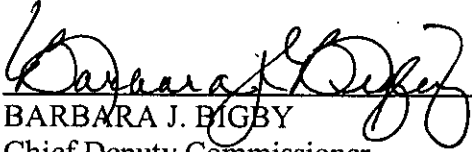
- (1) an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

- 1 (2) placed all previously collected advance fees into a trust account for
2 that purpose and are in compliance with Section 10146 of the Code;
3 and,
4 (3) provided an accounting to trust fund owner-beneficiaries pursuant to
5 Section 2972 of the Regulations.
6

7 DATED: _____ 8/24 _____, 2009
8

9 JEFF DAVI
10 Real Estate Commissioner

11
12 By:


13 BARBARA J. BIGBY
14 Chief Deputy Commissioner

15 **- NOTICE -**

16 Business and Professions Code Section 10139 provides that, "Any person acting
17 as a real estate broker or real estate salesperson without a license or who advertises using words
18 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
19 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
20 imprisonment in the county jail for a term not to exceed six months, or by both fine and
21 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
22 (\$60,000) . . ."

23 cc: MARIA TERESA GARCIA
24 RE/MAX New Generation
25 3550 Stine Road, Suite 101
26 Bakersfield, CA 93309
27

TTY DEK/kc