

1 Department of Real Estate
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FILED

SEP 1 8 2010

DEPARTMENT OF REAL ESTATE

By H. Mar

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 To:)
11) NO. H-2530 FR
12 FRANCISCO J. AVILEZ)
13) ORDER TO DESIST AND REFRAIN
14) (B&P Code Section 10086)

15 The Commissioner (hereafter "the Commissioner") of the California Department
16 of Real Estate (hereafter "the Department") caused an investigation to be made of the activities
17 of FRANCISCO J. AVILEZ, also known as "Frank J. Avilez" (hereafter "Respondent"). Based
18 on that investigation, the Commissioner has determined that Respondent has engaged in, is
19 engaging in, or is attempting to engage in, acts or practices constituting violations of the
20 California Business and Professions Code ("Code") and/or Title 10, Chapter 6, California Code
21 of Regulations ("Regulations"), including acting in the capacity of, advertising or assuming to
22 act as a real estate broker in the State of California within the meaning of Section 10131(d)
23 (performing services for borrowers and/or lenders in connection with loans secured by real
24 property), 10131.2 (collection of advance fees), 10085 (advance fee agreements and materials)
25 and 10085.5 (collecting unauthorized advance fees) of the Code. Furthermore, based on the
26 investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of
27 Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

1 FINDINGS OF FACT

2 1. At all times relevant herein, Respondent was and is licensed by the Department as
3 a real estate salesperson.

4 2. During the period of time set out below, Respondent performed services for one
5 or more borrowers and negotiated to do one or more of the following acts for another or others,
6 for or in expectation of compensation: negotiate one or more loans for, or perform services for,
7 borrowers and/or lenders with respect to the collection of advance fees and loan modification,
8 loan refinance, principal reduction, foreclosure abatement or short sale services and/or those
9 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
10 on real property; and charged, demanded or collected an advance fee for any of the services
11 offered.

12 3. In furtherance of his plan and scheme to solicit advance fees and provide loan
13 modification services, on or about March 9, 2009, Respondent entered into a loan modification
14 services agreement with Marcelino U. According to that agreement, Respondent agreed to
15 negotiate a loan modification on behalf of Marcelino U. for his property located at 516 Santa
16 Gertrudis Way, Gonzales, California, in exchange for an advance fee payment of \$1,500. On or
17 about that same date, Marcelino U. paid the advance fee of \$1,500 to Respondent. No loan
18 modification was ever obtained by Respondent for Marcelino U., nor did Respondent ever refund
19 the advance fee paid to him by Marcelino U.

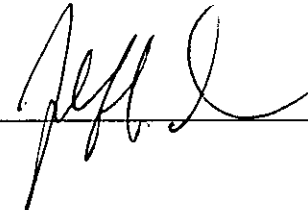
20 CONCLUSIONS OF LAW

21 4. Based on the Findings of Fact contained in Paragraphs 1 through 3, above,
22 FRANCISCO J. AVILEZ, solicited borrowers and/or performed services for those borrowers
23 with respect to the collection of advance fees and loan modification, loan refinance, principal
24 reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in
25 connection with loans secured directly or collaterally by one or more liens on real property; and
26 charged, demanded or collected advance fees for the services to be provided, which acts require
27 a real estate broker license under Sections 10131(d) and 10131.2 of the Code.

1 mortgage loan forbearance services in connection with loans on residential property containing
2 four or fewer dwelling units.

3 DATED: 01/05/2010

4 JEFF DAVI
5 Real Estate Commissioner

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9 **-NOTICE-**

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

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18 cc: Francisco J. Avilez
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20 Fresno, CA 93727

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