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BUREAU OF REAL ESTATE

By H dew

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8 Telephone: (916) 263-8672

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 To:) NO. H-3125 FR
12) AMY A. AGTARAP)
13)) ORDER TO DESIST AND REFRAIN
14)) (B&P Code Section 10086)

15 The Real Estate Commissioner (Commissioner) of the California Bureau of Real
16 Estate (Bureau) caused an investigation to be made of the activities of AMY A. AGTARAP
17 (Respondent). Based on that investigation, the Commissioner has determined that Respondent
18 has engaged in, is engaging in, or is attempting to engage in, acts or practices constituting
19 violations of the California Business and Professions Code (Code), including the business of,
20 acting in the capacity of, and/or advertising or assuming to act as a real estate broker in the State
21 of California within the meaning of Section 10131(d) (Performing Services for Borrowers and/or
22 Lenders in Connection with Loans Secured by Real Property), 10131.2 (Collection of Advance
23 Fees), 10085 (Advance Fee Agreements and Materials), and 10085.6 (Advanced Fee Prohibited-
24 Loan Modification) of the Code. Furthermore, based on the investigation, the Commissioner
25 hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order
26 under the authority of Section 10086 of the Code.

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FINDINGS OF FACT

1. At no time mentioned herein, was Respondent licensed by the Bureau as a real estate broker.

2. During the periods of time set forth below, Respondent, solicited borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiated one or more loans for, or performed services for, borrowers and/or lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered.

3. In or about December 2011, Respondent agreed to provide loan modification services in connection with a loan secured by real property located at 11 Saint Joseph Circle, Salinas, CA on behalf of the owner, Rosa G. Respondent demanded and received an advance fee of \$1,800 from Rosa G. for loan modification services. Respondent failed to obtain a loan modification for Rosa G. and has not refunded the advance fees.

4. On or about December 23, 2011, Respondent agreed to provide loan modification services in connection with a loan secured by real property located at 913 East Street, Salinas, CA on behalf of the owners, Rosa G. and Adolfo F. (Rosa and Adolfo). Respondent demanded an advance fee of \$3,500 from Rosa and Adolfo for loan modification services. Rosa and Adolfo paid an advance fee of \$1,000 to Respondent. Respondent failed to obtain a loan modification for Rosa and Adolfo and has not refunded the advance fees.

5. In or about February 2015, Respondent agreed to provide loan modification services in connection with a loan secured by real property located at 316 N. Sanborn Road, Salinas, CA on behalf of the owner, Martha G. Respondent demanded and received an advance fee of \$2,000 from Martha G. for loan modification services. On or about October 2015, Martha G. contacted her financial institution, Ocwen Financial Corporation, to verify if Respondent had submitted any loan modification paperwork. Ocwen Financial Corporation indicated that they had not received any documentation in reference to a loan modification. Martha G. then called

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1 Respondent to cancel her loan modification services. Martha G. requested Respondent to return
2 the advance fee of \$2,000. Respondent has not refunded the advance fees.

3 CONCLUSIONS OF LAW

4 6. Based on the findings of fact contained in paragraphs 1 through 5, above,
5 Respondent solicited one or more borrowers to perform services for those borrowers and/or those
6 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
7 on real property located within the State of California, and charged, demanded or collected
8 advance fees for the services to be provided, which acts require a real estate broker license under
9 Sections 10131(d) and 10131.2 of the Code, in violation of Section 10130, 10085 and 10085.6.

10 DESIST AND REFRAIN ORDER

11 Based on the Findings of Fact and Conclusions of Law stated herein, AMY A.
12 AGTARAP, whether doing business under your own name, or any other name or fictitious name,
13 IS HEREBY ORDERED to:

14 1. Immediately desist and refrain from performing any acts within the State
15 of California for which a real estate broker license is required. In particular, you are ordered to
16 desist and refrain from soliciting borrowers and/or performing services for borrowers or lenders
17 in connection with loans secured directly or collaterally by one or more liens on real property,
18 unless and until you obtain a real estate broker license issued by the Bureau.

19 2. Immediately desist and refrain from charging, demanding, claiming,
20 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code,
21 for any of the services you offer to others, unless and until you demonstrate and provide
22 evidence satisfactory to the Commissioner that you are properly licensed by the Bureau as a real
23 estate broker, and that Respondent:

24 (A) Have an advance fee agreement which has been submitted to the Bureau
25 and which is in compliance with Sections 2970 and 2972 of Chapter 6, Title 10, California Code
26 of Regulations (Regulations);

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1 (B) Have 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 (C) Have provided an accounting to trust fund owner-beneficiaries pursuant to
4 Section 2972 of the Regulations; and

5 3. Immediately desist and refrain from demanding, claiming, collecting and/or
6 receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and
7 under any conditions, with respect to the performance of loan modification or any other form of
8 mortgage loan forbearance services in connection with loans on residential property containing
9 four or fewer dwelling units.

10 DATED: 9/1/17

11 WAYNE S. BELL
12 REAL ESTATE COMMISSIONER

13 By: *Daniel J. Sandri*
14 DANIEL J. SANDRI
15 Chief Deputy Commissioner

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17 **- NOTICE -**

18 Business and Professions Code Section 10139 provides that, "Any person acting
19 as a real estate broker or real estate salesperson without a license or who advertises using words
20 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
21 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
22 imprisonment in the county jail for a term not to exceed six months, or by both fine and
23 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
24 (\$60,000) ..."