

1 Department of Real Estate
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3 Sacramento, CA 95818-7007

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FILED

MAY 18 2011

DEPARTMENT OF REAL ESTATE

By *R. Mat*

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 To:)
12) NO. H-4196 SD
13 NM PROCESSING, LLC and)
14 MICHAEL JOHN STOUT)
15) ORDER TO DESIST AND REFRAIN
16) (B&P Code Section 10086)

17 The Commissioner (hereafter "the Commissioner") of the California Department
18 of Real Estate (hereafter "the Department") caused an investigation to be made of the activities
19 of NM PROCESSING, LLC (hereafter "NM"), individually and doing business as "National
20 Mitigators", and MICHAEL JOHN STOUT (hereafter "STOUT"). Based on that investigation,
21 the Commissioner has determined that Respondents have engaged in, are engaging in, or are
22 attempting to engage in, acts or practices constituting violations of the California Business and
23 Professions Code ("Code") and/or Title 10, Chapter 6, California Code of Regulations
24 ("Regulations"), including acting in the capacity of, advertising or assuming to act as a real
25 estate broker in the State of California within the meaning of Section 10131(d) (performing
26 services for borrowers and/or lenders in connection with loans secured by real property),
27 10131.2 (collection of advance fees), 10085 (advance fee agreements and materials) and
10085.5 (collecting unauthorized advance fees) of the Code. Furthermore, based on the

1 investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of
2 Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

3 FINDINGS OF FACT

4 1. At no time has NM been licensed by the Department in any capacity.

5 2. At no time has STOUT been licensed by the Department in any capacity. STOUT
6 is the "Executive Mortgage Planner" for NM.

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

15 4. In furtherance of their plan and scheme to solicit advance fees and provide loan
16 modification services, on or about April 2, 2009, NM entered in a loan modification agreement
17 with Ronald H. after he discussed the company's loan modification services with STOUT. On
18 that same date, Ronald H. paid an advance fee of \$1,500 to Respondents for loan modification
19 services. Respondents failed to obtain a loan modification for Ronald H. and have not repaid the
20 money received from him.

21 CONCLUSIONS OF LAW

22 Based on the Findings of Fact contained in Paragraphs 1 through 4, above, NM
23 PROCESSING, LLC, doing business as "National Mitigators", and MICHAEL JOHN STOUT,
24 solicited borrowers and/or performed services for those borrowers with respect to the collection
25 of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement
26 or short sale services and/or those borrowers' lenders in connection with loans secured directly
27 or collaterally by one or more liens on real property; and charged, demanded or collected

1 advance fees for the services to be provided, which acts require a real estate broker license under
2 Sections 10130 (real estate license requirement), 10131(d) and 10131.2 of the Code.

3 Respondents used a form of advance fee agreement which had not been provided
4 to the Department for its prior review and consideration, in violation of Sections 10085 and
5 10085.5 of the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

6 DESIST AND REFRAIN ORDER

7 Based on the Findings of Fact and Conclusions of Law stated herein, NM
8 PROCESSING, LLC, individually and doing business as "National Mitigators", and MICHAEL
9 JOHN STOUT, whether doing business under your own names, or any other names or fictitious
10 names, ARE HEREBY ORDERED to immediately desist and refrain from:

- 11 1. Performing any acts within the State of California that require a real estate license
12 unless and until you are properly licensed by the Department.
- 13 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
14 term is defined in Section 10026 of the Code, for any of the services you offer to
15 others, unless and until you demonstrate and provide evidence satisfactory to the
16 Commissioner that you are properly licensed by the Department and that NM
17 PROCESSING, LLC, individually and doing business as "National Mitigators",
18 and MICHAEL JOHN STOUT:
 - 19 (a) Have an advance fee agreement which has been submitted to the Department
20 and which is in compliance with Sections 2970 and 2972 of the Regulations;
 - 21 (b) Have placed all previously collected advance fees into a trust account for that
22 purpose and are in compliance with Section 10146 (deposit of advance fees
23 into trust account) of the Code;
 - 24 (c) Have provided an accounting to trust fund owner-beneficiaries pursuant to
25 Section 2972 of the Regulations; and
 - 26 (d) Have refunded to Ronald H. any and all advance fees paid to you by him in
27 this matter.

1 3. Demanding, claiming, collecting and/or receiving advance fees, as that term is
2 defined in Section 10026 of the Code, in any form, and under any conditions, with respect to the
3 performance of loan modification or any other form of mortgage loan forbearance services in
4 connection with loans on residential property containing four or fewer dwelling units.

5 DATED: 5/12/11

6 REAL ESTATE COMMISSIONER

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

18 cc: NM PROCESSING, LLC
19 dba: National Mitigators
20 c/o Todd Cunningham
21 Agent For Service of Process
22 302 Washington Street, Suite 940
23 San Diego, CA 92103

22 MICHAEL JOHN STOUT
23 12325 Calle Albara, Apt. 7
24 El Cajon, CA 92109

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26 ATTY: JWB/km
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