

1 DEPARTMENT OF REAL ESTATE

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FILED

JUL 18 2012

DEPARTMENT OF REAL ESTATE

By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 To:

12)
13 CALWIDE REALTY, INC. and)
14 MICHAEL FRANKLIN PALUBA.)
15)

No. H-4381 SD

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

16 The Commissioner of the California Department of Real Estate (hereinafter
17 "Department") caused an investigation to be made of the activities of CALWIDE REALTY,
18 INC. and MICHAEL FRANKLIN PALUBA. Based on that investigation, the Commissioner
19 has determined that CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA have
20 engaged in, are engaging in, or are attempting to engage in, acts or practices constituting
21 violations of the California Business and Professions Code (hereinafter "Code"), the California
22 Civil Code (hereinafter "Civil Code") and/or Title 10, Chapter 6, California Code of
23 Regulations (hereinafter "Regulations"), including, but not limited to the collection of advance
24 fees after October 10, 2009 in violation of Section 10085.6 of the Code and Section 2945.4 of
25 the Civil Code, and the conduct of business requiring a real estate license while CALWIDE
26 REALTY, INC.'s corporate license is suspended by the California Secretary of State in
27 violation of Section 2742(c) of the Regulations.

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

4 Whenever acts referred to below are attributed to CALWIDE REALTY, INC.
5 those acts are alleged to have been done by MICHAEL FRANKLIN PALUBA, acting by
6 himself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators,
7 and using the name "HOA Realty", "Calwide Realty Inc", or other names or fictitious names
8 unknown at this time.

9 FINDINGS OF FACT

10 1. CALWIDE REALTY, INC. ("CALWIDE") has been licensed by the
11 Department since May 26, 2005 as a corporate real estate broker, and its license expires on May
12 25, 2013. At all times relevant herein, CALWIDE REALTY, INC. was and is acting by and
13 through MICHAEL FRANKLIN PALUBA, as its designated officer broker.

14 2. MICHAEL FRANKLIN PALUBA ("PALUBA") has been licensed by
15 the Department as a real estate salesperson since May 24, 1982, and as a real estate broker since
16 July 12, 2002, whose license expires on July 7, 2015. At all times relevant herein, PALUBA
17 was licensed by the Department as the designated officer broker of CALWIDE, and was
18 responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the
19 officers, agents, real estate licensees and employees of CALWIDE for which a real estate
20 license is required.

21 3. During the period of November 1, 2009 through December 31, 2010,
22 CALWIDE and PALUBA solicited borrowers and negotiated to do one or more of the
23 following acts for another or others, for or in expectation of compensation: negotiate one or
24 more loans for, or perform services for, borrowers and/or lenders in connection with loans
25 secured directly or collaterally by one or more liens on real property, within the meaning of
26 Section 10131(d) of the Code; and charge, demand or collect an advance fee for any of the
27 services offered within the meaning of Section 10131.2 of the Code.

1 4. In connection with the operation and conduct of the activities described
2 in Paragraph 3, above, and after October 10, 2009, CALWIDE engaged in the business of
3 claiming, demanding, charging, receiving, collecting or contracting for the collection of
4 advance fees, which constitute trust funds, within the meaning of Sections 10026 and 10131.2
5 of the Code, including but not limited to the following:

Borrower	Advance Fee	Date Received
Andrew M.	\$1,200	10/29/10
Raul M.	\$1,600	10/18/10
Ramon D.	\$1,000	08/10/10
Nancy B.	\$1,500	06/05/10
Salvador C.	\$3,000	04/26/10 & 05/07/10
Armando G. and Marcella V.	\$1,500	04/26/10
Claudia C.	\$1,500	04/19/10
Milton B.	\$1,200	10/06/10

13 5. In connection with the operation and conduct of the activities described
14 in Paragraph 3, above, CALWIDE engaged in acts requiring a real estate license, including but
15 not limited to providing loan modification services to consumers within the meaning of
16 Sections 10131(d) and 10131.2 of the Code, while CALWIDE's corporate powers, rights, and
17 privileges were suspended by the California Secretary of State, in violation of Section 2742(c)
18 of the Regulations.

19 CONCLUSIONS OF LAW

20 1. Based on the findings of fact contained in Paragraphs 1 through 5,
21 above, CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA, acting alone, or by
22 and/or through one or more agents, associates, affiliates, and/or co-conspirators, including, but
23 not limited to PALUBA, violated Section 10085.6 of the Code, Section 2945.4 of the Civil
24 Code, and Section 2742(c) of the Regulations.

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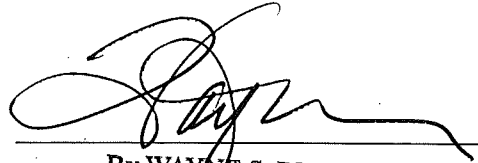
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1 3. Immediately desist and refrain from demanding, claiming, collecting
2 and/or receiving advance fees, as that term is defined in Section 10026 of the Code, in any
3 form, and under any conditions, with respect to the performance of loan modification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

6 DATED: July 13, 2012

7 REAL ESTATE COMMISSIONER

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10 

11 By WAYNE S. BELL
12 Chief Counsel

13 cc: CALWIDE REALTY, INC.
14 Attn: Alayna M. Paluba
15 Agent for Service of Process
16 1419 Franciscan Way
17 San Diego, CA 92116

18 CALWIDE REALTY, INC.
19 Attn: Michael Franklin Paluba
20 Designated Officer
21 28223 Red Stone Lane
22 Escondido, CA 92026

23 MICHAEL FRANKLIN PALUBA
24 28730 Faircrest Way
25 Escondido, CA 92026
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ATTY AEF/km