

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0791

FILED

MAR - 5 2009

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 TO: ) H- 5171 SAC  
12 )  
13 BROOKE LORRAINE GAROUTTE ) ORDER TO DESIST AND REFRAIN  
14 ) (B&P Code Section 10086)

15 The Real Estate Commissioner of the State of California (herein "Commissioner")  
16 has determined from evidence available to him that you, BROOKE LORRAINE GAROUTTE  
17 (herein "you") while engaged in activities that require a real estate broker license under the  
18 provisions of Section 10131(d) of the California Business and Professions Code (herein the  
19 "Code"), have violated Sections 10130 and 10131(d) of the Code, and Section 14701 of the  
20 Code.

21 I

22 At all times mentioned herein, you, BROOKE LORRAINE GAROUTTE, were  
23 licensed by the Department of Real Estate (herein "Department") as a real estate broker.

24 II

25 At all times herein mentioned in or about June of 2008, you engaged in the  
26 business of, acted in the capacity of, or assumed to act as a real estate broker within the State of  
27 California within the meaning of Section 10131(d) of the Code, including the operation and

1 conduct of a mortgage brokerage business with the public wherein, on behalf of others for  
2 compensation or in expectation of compensation, you solicited borrowers or lenders for or  
3 negotiated loans or collected payments or performed services for borrowers or lenders or note  
4 owners in connection with loans secured directly or collaterally by liens on real property,  
5 including but not limited direct mail solicitations to mortgagors to refinance mortgage loans.

6 III

7 In or about June of 2008, you, BROOKE LORRAINE GAROUTTE, mailed a  
8 written solicitation for financial services directed to consumer Thomas M. Falcon of Anaheim,  
9 California, who had previously obtained a loan from lender Countrywide Home Loans Inc.

10 IV

11 Your solicitation described in Paragraph III, above, was not consented to by  
12 Countrywide Home Loans Inc. The written solicitation failed to state, in close proximity to the  
13 first and most prominent use of the name of Countrywide Home Loans Inc., that you, BROOKE  
14 LORRAINE GAROUTTE, are not sponsored by or affiliated with Countrywide Home Loans  
15 Inc., or that the solicitation by you was not authorized by Countrywide Home Loans Inc.

16 V

17 In acting as described in Paragraphs III and IV, above, you, BROOKE  
18 LORRAINE GAROUTTE, violated Section 14701 et seq of the Code.

19 VI

20 Your solicitation described in Paragraph III, above, was not consented to by  
21 Countrywide Home Loans Inc. The written solicitation:

- 22 (A) States that it is a "Mortgage Loan Terms Adjustment Notice",  
23 (B) Includes a "Client" reference number,  
24 (C) Refers to "the nature of your payment history,"  
25 (D) States that you are "extending a promotional term restructure on the  
26 account," and that you could not "extend the terms without (the  
27 consumer's) authorization,"

1 (E) Identifies the sender as Melissa Stewart in the "Loan Servicing  
2 Department" without any reference indicating that this individual or  
3 organization is separate from Countrywide Home Loans Inc.

4 Each of these statements, individually and/or collectively, indicates that the  
5 original lender, Countrywide Home Loans Inc., is communicating with the consumer. These  
6 statements by you to the consumer were false, misleading, or deceptive.

7 VII

8 In acting as described in Paragraphs III, IV, and VI, above, you, BROOKE  
9 LORRAINE GAROUTTE, violated Section 10235 of the Code.

10 VIII

11 Your solicitation described in Paragraph III, above, was not consented to by  
12 Countrywide Home Loans Inc., yet appears to be presented by that lender as described in  
13 Paragraph VI. The implication of such solicitation is that its author will act in the capacity of a  
14 lender rather than as an agent.

15 IX

16 In acting as described in Paragraphs III, VI, and VIII, above, you, BROOKE  
17 LORRAINE GAROUTTE, violated Section 2848(a)(4) of Chapter 6, Title 10, California Code  
18 of Regulations (herein the "Regulations").

19 X

20 Your solicitation described in Paragraph III, above, states, "Zero closing cost  
21 options available," falsely indicating that the borrower will be able to obtain a loan without  
22 deductions from the principal amount for the payment of commissions, costs and expenses  
23 customarily attendant upon mortgage loan broker transactions.

24 XI

25 In acting as described in Paragraphs III and X, above, you, BROOKE LORRAINE  
26 GAROUTTE, violated Section 2848(a)(4) of the Regulations.

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1 XII

2 Your solicitation described in Paragraph III, above, offers your toll free telephone  
3 number and states, "ID #01700863", providing the only indication of the true author of the  
4 solicitation in cryptic form. Your solicitation does not include identification of yourself as a real  
5 estate broker licensed by the California Department of Real Estate, appearing in a type size no  
6 less than the smallest type size used in the advertisement copy.

7 XIII

8 In acting as described in Paragraphs III and XIII, above, you, BROOKE  
9 LORRAINE GAROUTTE, violated Section 2847.3 of the Regulations.

10 NOW, THEREFORE, YOU, BROOKE LORRAINE GAROUTTE, YOUR  
11 EMPLOYEES, AGENTS, OFFICIAL SUCCESSORS AND ASSIGNS, ARE ORDERED TO  
12 DESIST AND REFRAIN from engaging in deceptive advertising and/or solicitation practices  
13 involving, but not limited to:

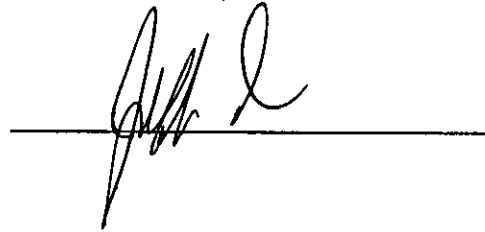
- 14 a) Failing to clearly identify your brokerage as the one and only source  
15 of the solicitations you produce, such identification of yourself to  
16 indicate you are a real estate broker licensed by the California  
17 Department of Real Estate, appearing in a type size no less than the  
18 smallest type size used in the advertisement copy, such failure in  
19 violation of Section 10235 of the Code and Section 2847.3 of the  
20 Regulations.
- 21 b) Failing to distinguish your company from the existing lenders  
22 already in business with the consumers to whom you send  
23 advertising and/or solicitations, such failure in violation of Sections  
24 14701 et seq of the Code.
- 25 c) Failing to identify yourself as a broker rather than a lender, such  
26 failure in violation of Section 2848(a)(4) of the Regulations.

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d) Falsely indicating that the borrower will be able to obtain a loan without deductions from the principal amount for the payment of commissions, costs and expenses customarily attendant upon mortgage loan broker transactions, such falsehood in violation of Section 2848(a)(4) of the Regulations.

DATED: 2-11, 2009

JEFF DAVI  
Real Estate Commissioner



cc: BROOKE LORRAINE GAROUTTE  
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