

1 DEPARTMENT OF REAL ESTATE
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FILED

JAN 17 2013

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 TO:) NO. H-5945 SAC
13 TAX NOTE, and)
14 LISA McHENRY.) ORDER TO DESIST AND REFRAIN
15) (B&P Code Section 10086)

16 The Real Estate Commissioner (Commissioner) of the California Department of
17 Real Estate (Department) caused an investigation to be made of the activities of TAX NOTE
18 and LISA McHENRY (McHENRY). Based on the investigation, the Commissioner has
19 determined that TAX NOTE and McHENRY have engaged in, are engaging in, or are
20 attempting to engage in, acts or practices constituting violations of the California Business and
21 Professions Code (Code), including the business of, acting in the capacity of, and/or advertising
22 or assuming to act as, real estate brokers in the State of California within the meaning of
23 Sections 10131(d) (performing services for borrowers in connection with loans secured by real
24 property) and 10085.5 (claiming/collecting/receiving advanced fees) of the Code. Furthermore,
25 based on the investigation, the Commissioner hereby issues the following Findings of Fact,
26 Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the
27 Code.

1 Whenever acts referred to below are attributed to TAX NOTE and McHENRY,
2 those acts are alleged to have been done by TAX NOTE and McHENRY, acting by themselves,
3 or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, or other
4 names or fictitious names unknown at this time.

5 FINDINGS OF FACT

6 1. At no time herein mentioned has TAX NOTE been licensed by the
7 Department in any capacity.

8 2. At no time herein mentioned has McHENRY been licensed by the
9 Department in any capacity.

10 3. At all times mentioned herein, TAX NOTE and McHENRY solicited
11 borrowers and negotiated to do one or more of the following acts for another or others, for or in
12 expectation of compensation: negotiate one or more loans for, or perform services for
13 borrowers and/or lenders in connection with loans secured directly or collaterally by one or
14 more liens on real property and claimed, received, and collected advanced fees for performing
15 such loan modifications.

16 4. Between about July 4, 2010 and November 20, 2010, TAX NOTE and
17 McHENRY solicited Linton and Barbara M., with an expectation of compensation, to perform
18 three (3) loan modifications on two (2) of their properties located on Buena Vista Drive in
19 Manteca, California and on W. Park Street, Stockton, California.

20 5. At all times mentioned herein, TAX NOTE and McHENRY claimed,
21 received, and collected advanced fees for performing said loan modifications, described in
22 Paragraph 4, above, in the amounts of about \$1,000 on about July 4, 2010; about \$500 on about
23 September 22, 2010; and about \$500 on about November 10, 2010.

24 CONCLUSIONS OF LAW

25 6. Based on the Findings of Fact contained in Paragraphs 1 through 5, TAX
26 NOTE and McHENRY, acting by themselves, or by and/or through one or more agents,
27 associates, affiliates, and/or co-conspirators or other names or fictitious names unknown at this

1 time, solicited borrowers and/or performed services for those borrowers and/or those
2 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
3 on real property, which requires a real estate license under Section 10130 of the Code, during a
4 period of time when TAX NOTE and McHENRY were not licensed by the Department in any
5 capacity.

6 7. Based on the Findings of Fact contained in Paragraphs 1 through 5, TAX
7 NOTE and McHENRY, acting by themselves, or by and/or through one or more agents,
8 associates, affiliates, and/or co-conspirators or other names or fictitious names unknown at this
9 time, charged, received and/or collected, or contracted for advanced fees, in violation of
10 Section 10085.5 of the Code.

11 DESIST AND REFRAIN ORDER


12
13 BASED UPON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW
14 STATED HEREIN, IT IS HEREBY ORDERED THAT, TAX NOTE and LISA McHENRY,
15 whether doing business under their own names, or any other names, or any fictitious name, are
16 HEREBY ORDERED to immediately desist and refrain from performing any acts within the
17 State of California for which a real estate broker license is required, and in particular is
18 ORDERED TO DESIST AND REFRAIN from:

- 19 1. soliciting borrowers and/or performing services for borrowers or
20 lenders in connection with loans secured directly or collaterally by one
21 or more liens on real property;
- 22 2. charging, demanding, claiming, collecting and/or receiving advance
23 fees, as that term is defined in Section 10026 of the Code, in any form,
24 and under any condition, with respect to the performance of loan
25 modifications or any other form of mortgage loan forbearance service
26 in connection with loans on residential property containing four or
27 fewer dwelling units (Section 10085.5 of the Code); and,

1 3. charging, demanding, claiming, collecting and/or receiving advance
2 fees, as that term is defined in Section 10026 of the Code, for any other
3 real estate related services offered by them to others.
4

5 DATED: 12/11/2012
6

7 Real Estate Commissioner

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10 By WAYNE S. BELL
Chief Counsel

11 -NOTICE-

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

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19 cc: **TAX NOTE**
LISA McHENRY
20 P.O. Box 148
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21 and
767 Cherry Hill Ct.
22 Lathrop, CA 95330
and
23 **LISA McHENRY**
24 1039 Mission Ridge Dr.
Manteca, CA 95337
25 and
17993 Hidden Wells Ln.
26 Lathrop, CA 95330

27 ATTY MFC/kc