

1 DEPARTMENT OF REAL ESTATE
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FILED

SEP 21 2009

DEPARTMENT OF REAL ESTATE

By R. Henry

7 STATE OF CALIFORNIA
8 DEPARTMENT OF REAL ESTATE
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11 To:)
12 BRIAN MAXWELL FABIAN, individually,) NO. H- 10763 SF
13 and doing business as) ORDER TO DESIST AND REFRAIN
14 FIRST INTERBANK MORTGAGE) (B&P Code Section 10086)
15)

16 The Commissioner (Commissioner) of the California Department of Real Estate
17 (Department) caused an investigation to be made of the activities of BRIAN MAXWELL
18 FABIAN ("FABIAN"), individually, and doing business as FIRST INTERBANK MORTGAGE.
19 Based on that investigation, the Commissioner has determined that FABIAN, individually and
20 doing business as FIRST INTERBANK MORTGAGE, has engaged in, is engaging in, or is
21 attempting to engage in, acts or practices constituting violations of the California Business and
22 Professions Code (Code) and/or Title 10, Chapter 6, California Code of Regulations
23 (Regulations) including acting in the capacity of, advertising, or assuming to act as a real estate
24 broker in the State of California within the meaning of Section 10131(a) (representing clients in
25 the purchase of real property) of the Code. Furthermore, based on the investigation, the
26 Commissioner hereby issues the following Findings of Fact and Desist and Refrain Order under
27 the authority of Section 10086 of the Code.

1 FINDINGS OF FACT

2 1. On or about December 26, 1996, FABIAN's real estate salesperson license
3 was revoked outright pursuant to the order of the Commissioner of the Department of Real
4 Estate entered in Department of Real Estate Case Number H-7048 SF.

5 2. Since December 26, 1996 to the present and including all times relevant
6 herein, FABIAN was not licensed by the Department in any capacity.

7 3. At all times relevant herein, FIRST INTERBANK MORTGAGE was not
8 licensed by the Department of Real Estate to conduct activities which require a real estate license
9 under Section 10131(a) of the Code and, in addition, FABIAN doing business as FIRST
10 INTERBANK MORTGAGE is not, nor ever has been, affiliated with First Interbank Mortgage
11 Center, a licensee of the Department of Real Estate, with its main office located in Carlsbad,
12 California.

13 4. During the periods of time set out below, FABIAN, individually, and doing
14 business as FIRST INTERBANK MORTGAGE negotiated to do one or more of the following
15 acts for another or others, for or in expectation of compensation: sell or offer to sell, buy or offer
16 to buy, solicit prospective sellers or purchasers of real property or obtain listings of, or negotiate
17 the purchase, sale or exchange of real property or business opportunity located within the State
18 of California.

19 5. On or about July 27, 2007, FABIAN illegally acting in the capacity of a real
20 estate licensee represented Jeannette Kim and Harrison Huynh ("Buyers") in their attempt to
21 purchase a residential property located at 2332 Dashwood Avenue, Oakland, California, a
22 property not owned by FABIAN. FABIAN, on behalf of Buyers, prepared a Residential
23 Purchase Contract for the purchase of the Dashwood Avenue property, and solicited and received
24 from the Buyers the sum of \$5,000 in the form of a check made payable to "First Interbank" as a
25 deposit toward the purchase of the Dashwood Avenue property. Upon receipt of the Buyers'
26 deposit check, FABIAN endorsed Buyers' check and deposited Buyers' check into the Bank of
27 America, bank account number 0269201410, titled First Interbank Mortgage. According to

1 Bank of America account records, First Interbank Mortgage is located at 3515 Grand Avenue,
2 Suite 2, Oakland, California and FABIAN is the CEO of FIRST INTERBANK MORTGAGE
3 and a contact person for the account.

4 CONCLUSIONS OF LAW

5 6. Based on the findings of fact contained in paragraphs 1 through 5, above,
6 FABIAN, individually in his own name and/or doing business as FIRST INTERBANK
7 MORTGAGE, has performed and/or participated in real estate sales activities which require a
8 real estate license under Section 10131(a) of the Code during a period of time when neither
9 FABIAN nor FIRST INTERBANK MORTGAGE were licensed by the Department in any
10 capacity.

11 DESIST AND REFRAIN ORDER

12 Based upon the findings of fact and conclusions of law stated herein, you BRIAN
13 MAXWELL FABIAN, individually, and doing business as FIRST INTERBANK MORTGAGE
14 are ordered to immediately desist and refrain from performing any acts within the State of
15 California for which a real estate broker license is required, and in particular, that you
16 immediately desist and refrain from providing or participating in real estate services for others
17 and for compensation and/or the expectation of compensation unless and until you, individually,
18 obtain an appropriate license issued by the Department.

19 DATED: 9-15 2009

21 JEFF DAVI
22 Real Estate Commissioner

23 By 
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- NOTICE -

Business and Professions Code Section 10139 provides that, "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a 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) . . ."

cc: BRIAN MAXWELL FABIAN
130 Florence Ave.
Oakland, CA 94611