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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

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

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13 In the Matter of the Accusation of)
14 KELLY JOHNSON,) No. H-11203 SF
15) ACCUSATION
16 Respondent.)

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18 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the
19 State of California, for cause of Accusation against KELLY JOHNSON ("Respondent") is
20 informed and alleges as follows:

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22 The Complainant makes this Accusation in his official capacity.

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24 Respondent is presently licensed and/or has license rights under the Real Estate
25 Law, Part 1 of Division 4 of the Business and Professions Code ("the Code") as a real estate
26 salesperson. At no time mentioned, was Respondent licensed by the Department of Real Estate
27 as a real estate broker.

At all times mentioned, Respondent performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered.


On or about August 7, 2009, Respondent solicited and collected an advance in the amount of \$3,500 from Jimenez Gomez ("Gomez") and Maria Gomez Preciado ("Preciado") for loan modification services related to real property located at 1629 Dunn Avenue, Richmond, California. Respondent never obtained a loan modification for and has never refunded the advance fees paid by Gomez and Preciado.

In conjunction with the solicitation of an advance fee from Gomez and Preciado, Respondent represented that she was a "Realtor" employed by Century 21 Pinnacle. In fact, Respondent's employment had been terminated by Century 21 Pinnacle on or about December 22, 2008.

By the commission of the acts alleged in Paragraphs 4 and 5, above, Respondent engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Sections 10130 (broker license requirement) and 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by real property) of the Code. Such acts and/or omissions are grounds for the suspension or revocation of the license and license rights of Respondent under Sections 10085 (prior approval of advance fee

1 agreement materials), 10085.5 (collection of advance fee by someone other than real estate
2 broker), 10130, 10131(d), 10131.2 (collection of advance fees), 10137 (acceptance of
3 compensation from someone other than employing broker), 10177(j) (other conduct which
4 constitutes fraud or dishonest dealing) of the Code, and Section 2970 (submission of advance
5 fee materials) and 2972 (content of verified accounting) of Title 10, Chapter 6, California Code
6 of Regulations.

7 WHEREFORE, Complainant prays that a hearing be conducted on the
8 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
9 disciplinary action against all licenses and license rights of Respondent under the Code, and for
10 such other and further relief as may be proper under the provisions of law.

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14 E. J. HABERER II
Deputy Real Estate Commissioner

15 Dated at Oakland, California,
16 this 5 day of August, 2011.
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