

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: 9213) 576-6982

FILED

JUN - 5 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

10 TO:)	No. H- 36031 LA
)	
11 FASTLINK FINANCIAL INC.; and)	<u>ORDER TO DESIST</u>
12 ZYAD MALUF, individually and)	
13 as designated officer of)	<u>AND REFRAIN</u>
14 Fastlink Financial Inc.)	

15 The Real Estate Commissioner of the State of California
16 has caused an investigation to be made of your activities as a
17 real estate broker, and based on the findings of that
18 investigation is of the opinion that you, FASTLINK FINANCIAL INC.
19 and ZYAD MALUF, have violated Sections 10085, 10145, 10146 and
20 10176(e) of the Business and Professions Code (hereinafter Code),
21 as well as Regulations 2831.1, 2831.2, 2832(a), 2970 and 2972
22 (all references herein to Regulations refer to the California
23 Code of Regulations, Title 10, Chapter 6).

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1 A. At all times herein mentioned, you, FASTLINK
2 FINANCIAL INC. and ZYAD MALUF, were licensed by the Department of
3 Real Estate of the State of California (hereinafter "Department")
4 as a real estate broker.

5 B. Loan modification services were conducted by
6 FASTLINK FINANCIAL INC. from the beginning of the audit period on
7 November 1, 2006 to December 31, 2008.

2.

9 At all times herein mentioned, you, FASTLINK FINANCIAL
10 INC. and ZYAD MALUF on behalf of homeowners, for and in
11 expectation of compensation and for fees often collected in
12 advance, engaged in the business, acted in the capacity of,
13 advertised or assumed to act as real estate brokers in the State
14 of California within the meaning of Code Sections 10131(d) and
15 10131.2, by providing loan modification, re-finance, foreclosure
16 abatement, and short sale services to distressed homeowners.

3.

18 From November 2006 through December 2008, in connection
19 with the aforesaid brokerage activities, you accepted or received
20 trust funds from borrowers and lenders and thereafter made
21 disbursements of such funds.

4.

23 On February 23, 2009, the Department of Real Estate
24 completed an audit examination of the books and records of
25 FASTLINK FINANCIAL INC. pertaining to the activities described in
26 Paragraph 2, which require a real estate license. The audit
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1 examination covered a period of time beginning on November 1,
2 2006 to December 31, 2008. The audit examination revealed
3 violations of the Code and the Regulations as set forth in the
4 following paragraphs, and more fully discussed in Audit Report LA
5 080149 and the exhibits and work papers attached to said audit
6 report. FASTLINK FINANCIAL INC. did not maintain a trust account
7 during the audit period.

8 5.

9 In connection with your activities as real estate
10 brokers, as described above, you, FASTLINK FINANCIAL INC. and
11 ZYAD MALUF, acted in violation of the Real Estate Law as follows:

12 (a) Mixed and commingled trust funds and personal funds
13 by depositing advance fees for loan modification services to be
14 rendered for borrowers and homeowners, including but not limited
15 to A. Villa, C. Reyes, M. Romero, V. Collazo, M. Ochoa, A.
16 Molano, L. Wilson and E. Munoz, received from said borrowers and
17 homeowners and deposited therein into FASTLINK FINANCIAL INC.'s
18 general business operating account, instead of depositing said
19 trust funds into a trust account in the name of the broker, as
20 required by Code Sections 10145 and 10176(e) and Regulation
21 2832(a).

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23 (b) Failed to maintain a separate record for each
24 beneficiary or transaction, thereby failing to account for all
25 advance fees collected from the aforesaid borrowers and
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1 homeowners for loan modification services, as required by Code
2 Section 10145 and Regulation 2831.1.

3 (c) Failed to perform a monthly reconciliation of the
4 balance of all separate beneficiary or transaction records
5 maintained pursuant to Regulation 2831.1 with the record of all
6 trust funds received and disbursed by FASTLINK FINANCIAL INC.'s
7 general business operating account for loan modification
8 services, as required by Code Section 10145 and Regulation
9 2831.2.

10 (d) Collected advance fees within the meaning of Code
11 Section 10026 from homeowners seeking loan modification services
12 wherein FASTLINK FINANCIAL INC. failed to provide the aforesaid
13 borrowers and homeowners with a pre-approved advance fee
14 agreement by the Department. The failure of FASTLINK FINANCIAL
15 INC. to submit an advance fee agreement to the Department five
16 days prior to its use is in violation of Code Section 10085 and
17 Regulation 2970.

18 (e) Failed to establish and maintain a trust account at
19 a bank or other recognized financial institution in the name of
20 the broker for deposit of advance fees collected by FASTLINK
21 FINANCIAL INC., as required by Code Section 10146.

22 (f) With reference to the lack of an advance fee
23 agreement, FASTLINK FINANCIAL INC. failed to provide a complete
24 description of services to be rendered provided to each
25 prospective borrower and homeowner, in 10 point type font an
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1 allocation and disbursement of the amount collected as the
2 advance fee, as required by Code Section 10146 and Regulation
3 2972.

4 YOU, FASTLINK FINANCIAL INC. and ZYAD MALUF, ARE
5 ORDERED TO DESIST AND REFRAIN from performing any and all acts
6 requiring a real estate license in California unless and until
7 you are in compliance with Code Sections 10085, 10145, 10146 and
8 10176(e) and Regulations 2831.1, 2831.2, 2832(a), 2970 and 2972.

9 AND FURTHERMORE, YOU, FASTLINK FINANCIAL INC. and ZYAD
10 MALUF, ARE ORDERED TO DESIST AND REFRAIN from collecting advance
11 fees as that term is defined in Code Section 10026, in any form
12 particularly with respect to loan modification, forbearance
13 agreements, loan refinance, principal/interest reduction,
14 foreclosure abatements or short sale services unless and until
15 you demonstrate and provide evidence satisfactory to the Real
16 Estate Commissioner that you have:

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1 (1) An advance fee agreement which has been submitted
2 to the Department of Real Estate and which is in compliance with
3 Regulations 2970 and 2972;

4 (2) Placed all previously collected advance fees into a
5 trust account for that purpose and which is in compliance with
6 Code Section 10146; and

7 (3) Provided an accounting to trust fund owner-
8 beneficiaries pursuant to Regulations 2972.

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11 DATED: 6/1, 2009.

12 JEFF DAVI
13 Real Estate Commissioner

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16 BY: Barbara J. Bigby
17 Chief Deputy Commissioner

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25 cc: Fastlink Financial Inc.
26 Zyad Maluf
27 505 S. Villa Real Drive, Suite 101
Anaheim, CA 92807