

1 Department of Real Estate  
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**FILED**

AUG 19 2009

DEPARTMENT OF REAL ESTATE

BY: [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

To:	)	No. H-36184 LA
	)	
NEWPORT LENDING CORPORATION,	)	
and MATT SHANE GREEN, indi-	)	
vidually, and as designated	)	<u>ORDER TO DESIST</u>
broker officer for Newport	)	<u>AND REFRAIN</u>
Lending Corporation,	)	(B&P Code Section 10086)
	)	
	)	
	)	

17 The Commissioner ("Commissioner") of the California  
18 Department of Real Estate ("Department") caused an investigation  
19 to be made of the activities of NEWPORT LENDING CORPORATION  
20 ("NEWPORT LENDING") and MATT SHANE GREEN ("GREEN"), individually,  
21 and as designated broker officer for NEWPORT LENDING. Based on  
22 that investigation the Commissioner has determined that NEWPORT  
23 LENDING and GREEN have acted in the capacity of, or are acting in  
24 the capacity of, advertising or assuming to act as a real estate  
25 broker in the State of California within the meaning of  
26 California Business and Professions Code ("Code") Section  
27

1 10131(d) (performing services for borrowers in connection with  
2 loans secured by real property) of the Code, and, further, have  
3 engaged in or are engaging in the business of claiming,  
4 demanding, charging, receiving, collecting or contracting for the  
5 collection of an advance fee in connection with employment  
6 undertaken to promote the sale or lease of real property or to  
7 obtain a loan or loans on real property, including the  
8 performance of loan negotiation and loan modification services  
9 with respect to loans which are secured by liens on real  
10 property, within the meaning of Code Section 10131.2. In  
11 addition, the Commissioner has determined that NEWPORT LENDING  
12 and GREEN have engaged in or are engaging in activities which  
13 constitute violations of the Code and Title 10, California Code  
14 of Regulations ("Regulations"). Based on the investigation, the  
15 Commissioner hereby issues the following Findings of Fact,  
16 Conclusions of Law, and Desist and Refrain Order under the  
17 authority of Section 10086 of the Code.  
18

19 FINDINGS OF FACT

20 1. NEWPORT LENDING is presently licensed and/or has  
21 license rights under the Real Estate Law (Part 1 of Division 4  
22 of the Code) as a real estate corporation.

23 2. GREEN is presently licensed and/or has license  
24 rights under the Real Estate Law as a real estate broker. GREEN  
25 is the designated broker officer of NEWPORT LENDING.

26 3. Whenever acts referred to below are attributed to  
27 NEWPORT LENDING, those acts are alleged to have been done by

1 NEWPORT LENDING, acting by itself, or by and/or through one or  
2 more agents, associates, affiliates, and/or co-conspirators,  
3 including but not limited to GREEN, and using the name NEWPORT  
4 LENDING or any fictitious name unknown at this time.

5 4. NEWPORT LENDING and GREEN engaged in the business  
6 of claiming, demanding, charging, receiving, collecting or  
7 contracting for the collection of an advance fee, including but  
8 not limited to the activities described in Paragraph 5, below.

9  
10 5. On or about June 6, 2008, NEWPORT LENDING and  
11 GREEN entered into an agreement with Timothy Doran ("Doran") to  
12 negotiate a loan modification with respect to a loan secured by a  
13 lien(s) on the real property located at 1826 Lancewood Avenue,  
14 Hacienda Heights, California 91745 in exchange for an advance fee  
15 payment by Doran of \$2,995.

16 6. NEWPORT LENDING and GREEN collected the advance fees  
17 described in Paragraphs 4 and 5, above, pursuant to the  
18 provisions of a document entitled "Loan Modification - Home Saver  
19 Program."

20  
21 7. NEWPORT LENDING and GREEN failed to submit the  
22 advance fee agreement referred to in Paragraph 6, above, to the  
23 Commissioner ten days before using it.

24 8. NEWPORT LENDING and GREEN accepted or received trust  
25 funds from borrowers, and thereafter made disbursements of such  
26 funds in connection with the activities referred to in Paragraphs  
27 4-6, above.

1           9. On or about March 11, 2009, the Department completed  
2 an audit examination of the books and records of NEWPORT LENDING  
3 pertaining to the real estate activities described in Paragraphs  
4 4-6, above, covering a period from March 1, 2006, to February 28,  
5 2009. The audit examination revealed violations of the Code and  
6 of the Regulations, as set forth in the following paragraphs, and  
7 more fully discussed in Audit Report No. LA 080213 along with the  
8 exhibits and work papers attached to the audit report.

9           10. NEWPORT LENDING and GREEN failed to keep a trust  
10 account during the period of the audit.

11                           CONCLUSIONS OF LAW

12           11. Based on the information contained in Paragraph 6,  
13 above, the document entitled "Loan Modification - Home Saver  
14 Program" constitutes an advance fee agreement within the meaning  
15 of Code Section 10026.

16           12. Based on the information contained in Paragraphs  
17 4-7, above, the failure by NEWPORT LENDING and GREEN to submit  
18 the advance fee agreement to the Commissioner ten days before  
19 using it constitutes a violation of Code Section 10085 and  
20 Section 2970 of the Regulations.

21           13. Based on the information contained in Paragraphs  
22 4-10, above, NEWPORT LENDING and GREEN failed to deposit the  
23 advance fees collected into a real estate broker trust account in  
24 violation of Code Section 10146.

25           14. Based on the information contained in Paragraphs  
26 4-10, above, NEWPORT LENDING and GREEN failed to maintain a  
27

1 control record in the form of a columnar record in chronological  
2 order of all trust funds including advance fees received,  
3 deposited and disbursed, in violation of Code Section 10145 and  
4 Section 2831 of the Regulations.

5 15. Based on the information contained in Paragraphs  
6 4-10, above, NEWPORT LENDING and GREEN failed to maintain a  
7 separate record for each beneficiary or transaction, thereby  
8 failing to account for all advance fees collection, in violation  
9 of Code Section 10145 and Section 2831.1 of the Regulations.

10 16. Based on the information contained in Paragraphs  
11 4-10, above, NEWPORT LENDING and GREEN failed to maintain a  
12 monthly reconciliation of the balance of all separate beneficiary  
13 or transaction records maintained pursuant to Section 2831.1 of  
14 the Regulations with the record of all trust funds received and  
15 disbursed from the general account for loan modification  
16 services, in violation of Code Section 10145 and Section 2831.2  
17 of the Regulations.

18 17. Based on the information contained in Paragraphs  
19 4-10, above, NEWPORT LENDING and GREEN failed to provide a  
20 complete description of the services to be rendered to each  
21 borrower in ten (10) point type font and failed to provide an  
22 allocation and disbursement of the amount collected as an  
23 advance fee in violation of Code Section 10146 and Section 2972  
24 of the Regulations.

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DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ordered that NEWPORT LENDING CORPORATION and MATT SHANE GREEN immediately desist and refrain from collecting advance fees, as that term is defined in Section 10026 of the Code, in any form and particularly with respect to loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services, unless and until they demonstrate and provide evidence satisfactory to the Commissioner that they have done the following:

(i) submitted an advance fee agreement to the Commissioner in compliance with Code Section 10085 and Section 2970 of the Regulations;

(ii) placed all previously collected advance fees into a trust account for that purpose in compliance with the provisions of Code Sections 10146;

(iii) complied with the provisions of Code Section 10145 and Sections 2831, 2831.1 and 2831.2 of the Regulations with respect to any trust account into which advance fees are deposited; and

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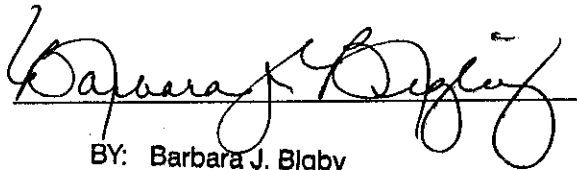
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1 (iv) provided an accounting to trust fund owner-  
2 beneficiaries from whom advance fees have previously been  
3 collected in compliance with Code Section 10146 and Section 2972  
4 of the Regulations.

5 DATED: 8/17, 2009.

7 JEFF DAVI  
8 Real Estate Commissioner

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11 BY: Barbara J. Bigby  
12 Chief Deputy Commissioner

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23  
24 cc: Newport Lending Corporation  
25 3 San Joaquin Plaza, Suite 255  
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27 Matt Shane Green  
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