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FILED

AUG 19 2009

DEPARTMENT OF REAL ESTATE

BY: 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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11 To:) No. H-36186 LA
12)
13 PATRICK B. SMALL,)
14)
15) ORDER TO DESIST
16) AND REFRAIN
17) (B&P Code Section 10086)
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17 The Commissioner ("Commissioner") of the California
18 Department of Real Estate ("Department") caused an investigation
19 to be made of the activities of PATRICK B. SMALL ("SMALL").
20 Based on that investigation the Commissioner has determined that
21 SMALL has engaged in or is engaging in activities, including
22 engaging in the business of claiming, demanding, charging,
23 receiving, collecting or contracting for the collection of an
24 advance fee in connection with employment undertaken to promote
25 the sale or lease of real property or to obtain a loan or loans
26 on real property, and including the performance of loan
27

1 negotiation and loan modification services with respect to loans
2 which are secured by liens on real property, all within the
3 meaning of California Business and Professions Code ("Code")
4 Section 10131.2. In connection with said activities, the
5 Commissioner has determined that SMALL has engaged in activities
6 which constitute violations of the Code and Title 10, California
7 Code of Regulations ("Regulations"). Based on the investigation,
8 the Commissioner hereby issues the following Findings of Fact,
9 Conclusions of Law, and Desist and Refrain Order under the
10 authority of Section 10086 of the Code.

11 FINDINGS OF FACT

12 1. SMALL is presently licensed and/or has license
13 rights under the Real Estate Law (Part 1 of Division 4 of the
14 Code) as a real estate broker.

15 2. SMALL engaged in the business of claiming,
16 demanding, charging, receiving, collecting or contracting for the
17 collection of an advance fee, as defined by Code Section 10026,
18 including but not limited to the activities described in
19 Paragraph 3, below.

20 3. On or about August 13, 2008, SMALL, using the
21 fictitious business name "Small & Small Paralegal," collected an
22 advance fee of \$950 from Kelly Bruchhauser pursuant to the
23 provisions of a written agreement pertaining to loan negotiation
24 and modification services to be provided by SMALL with respect to
25 a loan secured by the real property located at 5496 North
26 Edgemont Drive, San Bernardino, California 92404.
27

1 4. SMALL collected the advance fee described in
2 Paragraph 3, above, pursuant to the provisions of an untitled
3 written agreement.

4 5. SMALL failed to submit the advance fee agreement
5 referred to in Paragraphs 3 and 4, above, to the Commissioner ten
6 days before using it.

7 CONCLUSIONS OF LAW

8 6. Based on the information contained in Paragraphs 3
9 and 4, above, the untitled document constitutes an advance fee
10 agreement within the meaning of Code Section 10085.

11 7. Based on the information contained in Paragraphs 3,
12 4 and 5, above, the failure by SMALL to submit the advance fee
13 agreement to the Commissioner ten days before using it
14 constitutes a violation of Code Section 10085 and Section 2970
15 of the Regulations.
16

17 DESIST AND REFRAIN ORDER

18 Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW
19 stated herein, it is hereby ordered that SMALL immediately desist
20 and refrain from collecting advance fees, as that term is defined
21 in Section 10026 of the Code, in any form and particularly with
22 respect to loan modification, loan negotiation, loan refinance,
23 principal reduction, foreclosure abatement or short sale

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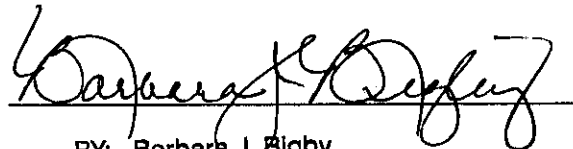
1 services, unless and until SMALL demonstrates and provides
2 evidence satisfactory that SMALL has done the following:

3 (i) submitted an advance fee agreement to the
4 Commissioner in compliance with Code Section 10085 and Section
5 2970 of the Regulations; and

6 (ii) is in full compliance with all the requirements of
7 the Code and Regulations relating to charging, collecting and
8 accounting for advance fees.

9 DATED: 8/17, 2009.

11 JEFF DAVI
12 Real Estate Commissioner

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15 BY: Barbara J. Bigby
16 Chief Deputy Commissioner

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26 cc: Patrick B. Small
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