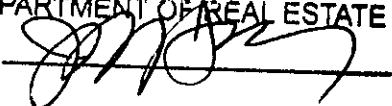


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1 Department of Real Estate  
320 West Fourth Street, Ste. 350  
2 Los Angeles, California 90013  
3 Telephone: (213) 576-6982

**FILED**

OCT 21 2010

DEPARTMENT OF REAL ESTATE  
BY: 

8 DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 To:	)	No.H-36877 LA
	)	
12     ADVOCATE FOR FAIR LENDING,	)	<u>ORDER TO DESIST</u>
13     LLC; MARK ALAN SHOEMAKER;	)	<u>AND REFRAIN</u>
14     and MARIANA RODRIGUEZ,	)	(B&P Code Section 10086)
	)	
15     _____	)	

16           The Commissioner ("Commissioner") of the California  
17 Department of Real Estate ("Department") caused an investigation  
18 to be made of the activities of ADVOCATE FOR FAIR LENDING, LLC  
19 ("ADVOCATE"), MARK ALAN SHOEMAKER ("SHOEMAKER"), and MARIANA  
20 RODRIGUEZ ("RODRIGUEZ"), and has determined that each of them  
21 engaged in or is engaging in acts or practices constituting  
22 violations of the California Business and Professions Code  
23 ("Code") and/or Title 10, California Code of Regulations  
24 ("Regulations"). Said parties are engaging in the business of,  
25 acting in the capacity of, advertising, or assuming to act, as a  
26 real estate broker in the State of California within the meaning  
27

1 of Section 10131(d) (soliciting borrowers or lenders or  
2 negotiating loans) and Section 10131.2 (advance fee handling).  
3 Based on the findings of that investigation, as set forth below,  
4 the Commissioner hereby issues the following Findings of Fact and  
5 Desist and Refrain Order pursuant to Section 10086 of the Code.

6 FINDINGS OF FACT

7 1. SHOEMAKER is presently licensed and/or has  
8 license rights under the Real Estate Law (Part 1 of Division 4  
9 of the Code) as a real estate broker.

10 2. At no time herein mentioned have ADVOCATE or  
11 RODRIGUEZ been licensed by the Department in any capacity.

12 3. Whenever acts referred to below are attributed to  
13 SHOEMAKER, those acts are alleged to have been done by SHOEMAKER,  
14 acting by himself, or by and/or through one or more agents,  
15 associates, affiliates, and/or co-conspirators, including but not  
16 limited to each of those named herein, and using the names  
17 ADVOCATE, or any fictitious name unknown at this time.

18 4. SHOEMAKER employed and/or compensated individuals,  
19 including those named herein, who were not licensed as real  
20 estate salespersons or as real estate brokers to perform some or  
21 all of the services alleged in Paragraph 7, below.

22 5. SHOEMAKER engaged in the business of claiming,  
23 demanding, charging, receiving, collecting or contracting for the  
24 collection of an advance fee, as defined by Code Section 10026,  
25 including but not limited to the activities described in  
26 Paragraph 7, below.  
27

1           6.     SHOEMAKER failed to submit the advance fee  
2 agreements and internet advertising referred to in Paragraph 7,  
3 below, to the Commissioner ten days before using them.

4           7.     At the times set forth below SHOEMAKER engaged in  
5 the business of, acted in the capacity of, or advertised a real  
6 estate loan service and advance fee brokerage offering to perform  
7 solicitation, negotiation and modification of loans secured by  
8 liens on real property for compensation or in expectation of  
9 compensation and for fees collected in advance including, but not  
10 limited to, the following:

11           a.     On or about May 15, 2008, Luisana G. paid an  
12 advance fee of \$1,742.30 to Luis Enrique Bahia on behalf of  
13 Respondent SHOEMAKER, doing business as ADVOCATE. At the time  
14 mentioned Luis Enrique Bahia was a licensed real estate  
15 salesperson employed by a broker other than Respondent  
16 SHOEMAKER. The advance fee was collected pursuant to the  
17 provisions of an agreement pertaining to loan solicitation,  
18 negotiation, and modification services to be provided by  
19 Respondent SHOEMAKER, doing business as ADVOCATE, with respect  
20 to a loan secured by real property.

21           b.     On or about December 5, 2008, Jose H. paid an  
22 advance fee of \$4,303.92 to Arturo Fernandez on behalf of  
23 Respondent SHOEMAKER, doing business as ADVOCATE. At the time  
24 mentioned Arturo Fernandez was a licensed real estate  
25 salesperson employed by a broker other than Respondent  
26 SHOEMAKER. The advance fee was collected pursuant to the  
27

1 provisions of an agreement pertaining to loan solicitation,  
2 negotiation, and modification services to be provided by  
3 Respondent SHOEMAKER through ADVOCATE with respect to loans  
4 secured by real property located in Mira Loma, California and  
5 Tucson, Arizona.

6 c. On or about December 17, 2008, Armando C. paid an  
7 advance fee of \$4,200 to RODRIGUEZ on behalf of Respondent  
8 SHOEMAKER, doing business as ADVOCATE. The advance fee was  
9 collected pursuant to the provisions of an agreement pertaining  
10 to loan solicitation, negotiation, and modification services to  
11 be provided with respect to a loan secured by real property  
12 located in Oxnard, California. RODRIGUEZ represented to Armando  
13 C. that the services would be provided by ADVOCATE.

14 d. On or about November 22, 2008, Diana C. paid an  
15 advance fee of \$2,621.00 to SHOEMAKER, doing business as  
16 ADVOCATE. The advance fee was collected pursuant to the  
17 provisions of an agreement pertaining to loan solicitation,  
18 negotiation, and modification services to be provided by  
19 Respondent SHOEMAKER through ADVOCATE with respect to a loan  
20 secured by real property located in Oxnard, California.

21 e. In or around August, 2008, ADVOCATE conducted  
22 internet advertising via a website which stated that ADVOCATE  
23 would, among other things, negotiate with a homeowners lender to  
24 force it to modify mortgage terms, reduce rates, forgive debt,  
25 rescind the mortgage or allow the consumer to walk away and get  
26 back all the money put into the home, or force a short sale.  
27

CONCLUSIONS OF LAW

1           8.    The activities described in Paragraph 7, above,  
2  
3 require a real estate license under Section 10131(d) and Section  
4 10131.2 of the Code.

5           9.    Based on the information contained in Paragraph  
6 7, above, ADVOCATE and RODRIGUEZ performed and/or participated  
7 in loan solicitation, negotiation and modification activities  
8 which require a real estate broker license under the provisions  
9 of Code Sections 10131(d) and 10131.2 during a period of time  
10 when they were not licensed by the Department as a real estate  
11 broker nor employed as a real estate salesperson by the broker  
12 on whose behalf the activities were performed in violation of  
13 Section 10130 of the Code.

14           10. Based on the information contained in Paragraph  
15 7, above, SHOEMAKER violated Section 10137 of the Code by  
16 employing and/or compensating individuals who were not licensed  
17 as a real estate salesperson or as a broker to perform  
18 activities requiring a real estate license.

19           11. Based on the information contained in Paragraphs  
20 5, 6 and 7, above, SHOEMAKER collected fees pursuant to an  
21 agreement which constitutes an advance fee agreement within the  
22 meaning of Code Section 10085.

23           12. Based on the information contained in Paragraphs  
24 5, 6 and 7, above, the failure by SHOEMAKER to submit the  
25 advance fee agreement and radio advertising to the Commissioner  
26 ten days before using it constitutes a violation of Code Section  
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10085 and Section 2970 of the Regulations.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein:

1. IT IS HEREBY ORDERED that SHOEMAKER, whether doing business under the name ADVOCATE, or any other names, or any fictitious name:

(i) Immediately desist and refrain from charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and under any conditions, with respect to the performance of loan modification or any other form of mortgage loan forbearance services in connection with loans on residential property containing four or fewer dwelling units (Code Section 10085.6).

(ii) Immediately desist and refrain from charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for any of the other real estate related services offered to others, unless and until SHOEMAKER demonstrates and provides evidence satisfactory to the Commissioner that he:

(a) has an advance fee agreement which has been submitted to the Department and which is in compliance with Section 10085 of the Code and Section 2970 of the Regulations;

1 (b) has placed all previously collected advance fees  
2 into a trust account for that purpose and is in compliance with  
3 Section 10146 of the Code; and

4 (c) has provided an accounting to trust fund owner-  
5 beneficiaries from whom advance fees have previously been  
6 collected in compliance with Code Section 10146 and Section 2972  
7 of the Regulations.

8 2. SHOEMAKER immediately desist and refrain from  
9 employing or compensating any person for performing any act for  
10 which a real estate license is required unless that person is  
11 licensed as a real estate broker, or as a real estate salesperson  
12 licensed under the broker employing or compensating him. In  
13 particular, SHOEMAKER is ordered to desist and refrain from:

14 (i) employing or compensating any person who does not  
15 hold a real estate license from soliciting borrowers and/or  
16 performing services for borrowers or lenders in connection with  
17 loans secured directly or collaterally by one or more liens on  
18 real property.  
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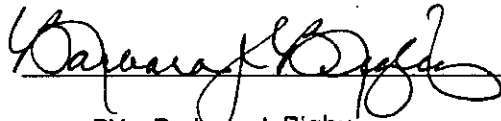
20 3. IT IS HEREBY ORDERED that ADVOCATE FOR FAIR  
21 LENDING, LLC and MARIANA RODRIGUEZ, whether doing business under  
22 their own names, or any other names, or any fictitious name, ARE  
23 HEREBY ORDERED to immediately desist and refrain from performing  
24 any acts within the State of California for which a real estate  
25 broker license is required. In particular each of them is  
26 ORDERED TO DESIST AND REFRAIN from:  
27

1 (i) charging, demanding, claiming, collecting and/or  
2 receiving advance fees, as that term is defined in Section 10026  
3 of the Code, in any form, and under any conditions, with respect  
4 to the performance of loan modifications or any other form of  
5 mortgage loan forbearance service in connection with loans on  
6 residential property containing four or fewer dwelling units  
7 (Code Section 10085.6); and

8 (ii) charging, demanding, claiming, collecting and/or  
9 receiving advance fees, as that term is defined in Section 10026  
10 of the Code, for any other real estate related services offered  
11 by them to others.

12  
13  
14 DATED: 10/19, 2010.

15 JEFF DAVI  
16 Real Estate Commissioner

17   
18 \_\_\_\_\_

19 BY: Barbara J. Bigby  
20 Chief Deputy Commissioner

21  
22 **Notice:** Business and Professions Code Section 10139 provides  
23 that "Any person acting as a real estate broker or real estate  
24 salesperson without a license or who advertises using words  
25 indicating that he or she is a real estate broker without being  
26 so licensed shall be guilty of a public offense punishable by a  
27 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)."



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cc: Mark Alan Shoemaker  
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