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FILED

MAR 21 2012

DEPARTMENT OF REAL ESTATE

BY: 

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 To:) No. H-37988 LA
12)
13 U.S. MORTGAGE ADVOCATES) ORDER TO DESIST
14 INCORPORATED; CONSUMER LEGAL) AND REFRAIN
15 SERVICES; JASON JEROME HILT;) (B&P Code Section 10086)
16 ROBERT SUSNAR; JAMES HOFFMAN;)
17 _____)

16 The Commissioner ("Commissioner") of the California
17 Department of Real Estate ("Department") caused an investigation
18 to be made of the activities of U.S. MORTGAGE ADVOCATES
19 INCORPORATED ("U.S. MORTGAGE"), CONSUMER LEGAL SERVICES
20 ("CONSUMER"); JASON JEROME HILT ("HILT"), ROBERT SUSNAR
21 ("SUSNAR"), and JAMES HOFFMAN ("HOFFMAN"), and has determined
22 that each of them engaged in or is engaging in acts or practices
23 constituting violations of the California Business and
24 Professions Code ("Code") and/or Title 10, California Code of
25 Regulations ("Regulations"). Said parties are engaging in the
26 business of, acting in the capacity of, advertising, or assuming
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1 to act, as a real estate broker in the State of California within
2 the meaning of Section 10131(d) (soliciting borrowers or lenders
3 or negotiating loans) and Section 10131.2 (advance fee handling).
4 Based on the findings of that investigation, as set forth below,
5 the Commissioner hereby issues the following Findings of Fact and
6 Desist and Refrain Order pursuant to Section 10086 of the Code.

7 FINDINGS OF FACT

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

11 2. At no time herein mentioned have U.S. MORTGAGE,
12 CONSUMER, SUSNAR, or HOFFMAN been licensed by the Department in
13 any capacity.

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

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

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

3 6. HILT failed to submit the advance fee agreements
4 referred to in Paragraph 7, below, to the Commissioner ten days
5 before using them.

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

13 a. On or about November 5, 2009, HILT, doing business
14 as U.S. MORTGAGE, and HOFFMAN solicited Andrew W. to pay an
15 initial advance fee of \$850.00 to HILT, doing business as U.S.
16 MORTGAGE. The advance fee was to be paid pursuant to the
17 provisions of an agreement pertaining to loan solicitation,
18 negotiation, and modification services to be provided by HILT,
19 doing business as U.S. MORTGAGE, with respect to a loan secured
20 by real property located at 2 Commodore Drive, #d372, Emeryville,
21 California 94608.

22
23 b. On or about November 13, 2009, Michelle L. paid an
24 advance fee of \$2,600 to HILT, doing business as U.S. MORTGAGE,
25 by means of a credit card transaction. The advance fee was
26 collected pursuant to the provisions of an agreement pertaining
27 to loan solicitation, negotiation, and modification services to

1 be provided by HILT, doing business as U.S. MORTGAGE, with
2 respect to a loan secured by real property located at 350 San
3 Miguel Court, #2, Milpitas, California 95035.

4 c. On or about April 20, 2010, HILT, doing business as
5 CONSUMER, and SUSNAR solicited Michael and Anna E. to pay an
6 initial advance fee of \$1,000 to HILT, doing business as
7 CONSUMER. The advance fee was to be paid pursuant to the
8 provisions of an agreement pertaining to loan solicitation,
9 negotiation, and modification services to be provided by HILT,
10 doing business as CONSUMER, with respect to a loan secured by
11 real property located at 1216 Whistler Hollow Drive, Colorado
12 Springs, Colorado 80906.

13 8. On October 11, 2009, Code Section 10085.6 went into
14 effect. By its terms Section 10085.6 prohibits any real estate
15 licensee who negotiates, attempts to negotiate, arranges,
16 attempts to arrange, or otherwise offers to perform a loan
17 modification with respect to residential property to "claim,
18 demand, charge, collect, or receive any compensation until after
19 the licensee has fully performed each and every service the
20 licensee contracted to perform or represented that he, she, or
21 it would perform."

23 CONCLUSIONS OF LAW

24 9. The activities described in Paragraph 7, above,
25 require a real estate license under Section 10131(d) and Section
26 10131.2 of the Code.

27 10. Based on the information contained in Paragraph

1 7, above, U.S. MORTGAGE, CONSUMER, SUSNAR, and HOFFMAN performed
2 and/or participated in loan solicitation, negotiation and
3 modification activities which require a real estate broker
4 license under the provisions of Code Sections 10131(d) and
5 10131.2 during a period of time when they were not licensed by
6 the Department as a real estate broker nor employed as a real
7 estate salesperson by the broker on whose behalf the activities
8 were performed in violation of Section 10130 of the Code.

9 11. Based on the information contained in Paragraph
10 7, above, HILT violated Section 10137 of the Code by employing
11 and/or compensating individuals who were not licensed as a real
12 estate salesperson or as a broker to perform activities
13 requiring a real estate license.

14 12. Based on the information contained in Paragraphs
15 5, 6 and 7, above, HILT collected fees pursuant to an agreement
16 which constitutes an advance fee agreement within the meaning of
17 Code Section 10085.

18 13. Based on the information contained in Paragraphs
19 5, 6 and 7, above, the failure by HILT to submit the advance fee
20 agreement to the Commissioner ten days before using it
21 constitutes a violation of Code Section 10085 and Section 2970
22 of the Regulations.

23 14. By virtue of the application of newly enacted Code
24 Section 10085.6 to the advance fee transactions described in
25 Paragraph 7, above, HILT violated the statute's provisions when
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1 he collected advance fees after such fees were prohibited by Code
2 Section 10085.6.

3 DESIST AND REFRAIN ORDER

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

6 1. IT IS HEREBY ORDERED that HILT, whether doing
7 business under the name U.S. Mortgage Advocates Incorporated or
8 Consumer Legal Services, or any other name(s), or any fictitious
9 name:

10 (i) Immediately desist and refrain from charging,
11 demanding, claiming, collecting and/or receiving advance fees,
12 as that term is defined in Section 10026 of the Code, in any
13 form, and under any conditions, with respect to the performance
14 of loan modification or any other form of mortgage loan
15 forbearance services in connection with loans on residential
16 property containing four or fewer dwelling units (Code Section
17 10085.6).

18 (ii) Immediately desist and refrain from charging,
19 demanding, claiming, collecting and/or receiving advance fees, as
20 that term is defined in Section 10026 of the Code, for any of the
21 other real estate related services offered to others, unless and
22 until HILT demonstrates and provides evidence satisfactory to the
23 Commissioner that he:
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25 (a) has an advance fee agreement which has been
26 submitted to the Department and which is in compliance with
27 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. HILT immediately desist and refrain from employing
9 or compensating any person for performing any act for which a
10 real estate license is required unless that person is licensed as
11 a real estate broker, or as a real estate salesperson licensed
12 under the broker employing or compensating him. In particular,
13 HILT 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.

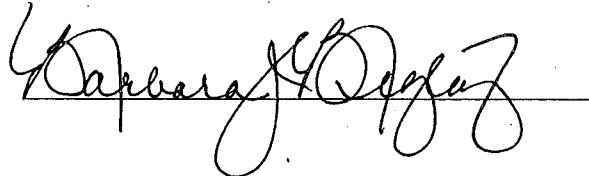
20 3. IT IS HEREBY ORDERED that U.S. MORTGAGE,
21 CONSUMER, SUSNAR and HOFFMAN, whether doing business under their
22 own names, or any other names, or any fictitious name, ARE
23 HEREBY ORDERED to immediately desist and refrain from performing
24 any acts within the State of California for which a real estate
25 broker license is required. In particular each of them is
26 ORDERED TO DESIST AND REFRAIN from:
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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.
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14 DATED: 3/14, 2012.

15 BARBARA J. BIGBY
16 Acting Real Estate Commissioner

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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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