

1 DEPARTMENT OF REAL ESTATE
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FILED

MAY 21 2012

DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 TO:)
13) NO. H-2747 FR
14 SYLVIA SUAREZ.) ORDER TO
15) DESIST AND REFRAIN
16) (B&P Code Section 10086)

17 The Real Estate Commissioner ("the Commissioner") of the California
18 Department of Real Estate ("the Department") caused an investigation to be made of the
19 activities of SYLVIA SUAREZ ("Respondent"). Based on the investigation, the Commissioner
20 has determined that Respondent has engaged in, is engaging in, or is attempting to engage in,
21 acts or practices constituting violations of the California Business and Professions Code ("the
22 Code") and/or Title 10, Chapter 6, California Code of Regulations ("the Regulations"),
23 including the business of, acting in the capacity of, and/or advertising or assuming to act as, a
24 real estate broker in the State of California within the meaning of Sections 10131(d)
25 (performing services for borrowers in connection with loans secured by real property) and
26 10085.5 (claiming/collecting/receiving advanced fees) of the Code. Furthermore, based on the

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1 investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of
2 Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

3 FINDINGS OF FACT

4 1. Respondent's real estate salesperson license expired on April 10, 2011.
5 Respondent has never been licensed by the Department as a real estate broker in the State of
6 California.

7 2. Respondent solicited borrowers to negotiate and/or perform one or
8 more of the following acts for another or others, for or in expectation of compensation:
9 negotiate one or more loans for, or perform services for borrowers and/or lenders in
10 connection with loans secured directly or collaterally by one or more liens on real property;
11 and solicited the payment of an advance fee in exchange for providing such services.

12 3. In or about October 2011, Respondent offered to perform loan
13 modification services on behalf of Anthony R. related to his real property located at 3251
14 Alamo Avenue, Clovis, California. In exchange for providing such loan modification
15 services, Respondent demanded the payment of a \$150 advance fee.

16 4. On or about January 4, 2012, a Deputy Commissioner from the
17 Department's Fresno District Office contacted Respondent using an assumed name seeking
18 someone to provide loan modification services for him. During that telephone conversation,
19 Respondent confirmed she was in the business of providing loan modification services and
20 solicited an advance fee of \$150 from the Deputy Commissioner in exchange for providing
21 him with loan modification services.

22 CONCLUSIONS OF LAW

23 5. Based on the Findings of Fact contained in Paragraphs 1 through 4,
24 above, Respondent, solicited borrowers and/or performed services for those borrowers with
25 respect to the collection of advance fees for loan modification in connection with loans
26 secured directly or collaterally by one or more liens on real property; and charged, demanded
27 or collected advance fees for the services to be provided, which acts require a real estate

1 broker license under Sections 10130 (broker license requirement), 10131(d) and 10131.2
2 (advance fees) of the Code, in violation of Sections 10085 (failure to submit advance fee
3 materials), 10085.5 and 10085.6 (unlawful charging or collection of advance fees for loan
4 modification) of the Code and Section 2944.7 (loan modification services-prohibition of
5 advance fees) and 2945.4 (prohibited practices regarding foreclosures) of the California Civil
6 Code.

7 DESIST AND REFRAIN ORDER

8 Based on the Findings of Fact and Conclusions of Law stated herein, SYLVIA
9 SUAREZ, whether doing business under your own name, or any other name or fictitious name,
10 IS HEREBY ORDERED to immediately desist and refrain from:

11 1. Performing any acts within the State of California for which a real estate
12 broker license is required. In particular, you are ordered to desist and refrain from soliciting
13 borrowers and/or performing services for borrowers or lenders in connection with loans secured
14 directly or collaterally by one or more liens on real property, unless and until you obtain a real
15 estate broker license issued by the Department.

16 2. Demanding, claiming, collecting and/or receiving advance fees, as that
17 term is defined in Section 10026 of the Code, in any form, and under any conditions, with
18 respect to the performance of loan modification or any other form of mortgage loan
19 forbearance services in connection with loans on residential property containing four or fewer
20 dwelling units.

21 3. Charging, demanding, claiming, collecting and/or receiving advance fees,
22 as that term is defined in Section 10026 of the Code, for other than loan modifications which
23 you offer to others, unless and until you demonstrate and provide evidence satisfactory to the
24 Commissioner that you are properly licensed by the Department as a real estate broker, and that
25 SYLVIA SUAREZ:

26 (a) Has an advance fee agreement which has been submitted to the
27 Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

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

3 (c) Has provided an accounting to trust fund owner-beneficiaries pursuant to
4 Section 2972 of the Regulations.

5 DATED: 5/17/2012

6 REAL ESTATE COMMISSIONER

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10 By WAYNE S. BELL
Chief Counsel

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12 **Notice:** Business and Professions Code Section 10139 provides that “Any
13 person acting as a real estate broker or real estate salesperson without a license or who
14 advertises using words indicating that he or she is a real estate broker without being so licensed
15 shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars
16 (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both
17 fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand
18 dollars (\$60,000).”

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23 cc: SYLVIA SUAREZ
10203 North Recreation Avenue
24 Fresno, CA 93730

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26
27 ATTY JWB/km