

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

FILED

MAY 13 2010

4 Telephone: (916) 227-0789

5 DEPARTMENT OF REAL ESTATE

6 *[Signature]*
7

8 STATE OF CALIFORNIA

9 DEPARTMENT OF REAL ESTATE

11 To:)	
)	NO. H-10923 SF
12 INVESTA CAPITAL GROUP, INC.,)	
13 and KYONG HUN KANG)	<u>ORDER TO DESIST AND REFRAIN</u>
)	(B&P Code Section 10086)
14)	

15 The Commissioner (hereinafter "Commissioner") of the California Department
16 of Real Estate (hereinafter "Department") caused an investigation to be made of the activities of
17 INVESTA CAPITAL GROUP, INC. (hereinafter "INVESTA"), and KYONG HUN KANG
18 (hereinafter "KYONG"). Based on that investigation, the Commissioner has determined that
19 INVESTA and KYONG have engaged in, is engaging in, or is attempting to engage in, acts or
20 practices constituting violations of the California Business and Professions Code (hereinafter
21 "the Code") and/or Title 10, Chapter 6, California Code of Regulations (hereinafter "the
22 Regulations"), including the business of, acting in the capacity of, and/or advertising or
23 assuming to act as, a real estate broker in the State of California within the meaning of Sections
24 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by
25 real property) and 10131.2 (real estate broker license required to charge and collect an advance
26 fee) of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the

27 ///

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

3 Whenever acts referred to below are attributed to INVESTA, those acts are
4 alleged to have been done by KYONG, acting by himself, or by and/or through one or more
5 agents, associates, affiliates, and/or co-conspirators, and using the name "Investa Capital Group,
6 Inc.", or other names or fictitious names unknown at this time.

7 FINDINGS OF FACT

8 1. At no time herein mentioned has INVESTA and/or KYONG been
9 licensed by the Department in any capacity.

10 2. During the period of time set forth below, KYONG acting on behalf of
11 INVESTA, solicited borrowers and negotiated to do one or more of the following acts for another
12 or others, for or in expectation of compensation; negotiate one or more loans for, or perform
13 services for, borrowers and/or lenders in connection with loans secured directly or collaterally by
14 one or more liens on real property; and charge, demand or collect an advance fee for any of the
15 services offered.

16 3. On approximately April 7, 2009, INVESTA acting through KYONG
17 solicited Linda Walden (hereinafter "Walden") in order to provide a loan modification/refinance
18 on behalf of Walden in connection with a loan secured by real property located at 2587 Windsor
19 Court, Union City, California. In furtherance of INVESTA's plan and scheme to provide loan
20 modification services to Walden, KYONG requested an advance fee of \$3,000 from Walden.

21 CONCLUSIONS OF LAW

22 4. Based on the findings of fact contained in paragraphs 1 through 3,
23 INVESTA and KYONG, solicited one or more borrowers to perform services for those
24 borrowers and/or those borrowers' lenders in connection with loans secured directly or
25 collaterally by one or more liens on real property located within the State of California, and
26 charged, demanded or collected advance fees for the services to be provided, which acts require
27 a real estate broker license under Sections 10131(d) (real estate license required for enumerated

1 acts) and 10131.2 (real estate broker license required to charge or collect an advance fee) of the
2 Code..

3 5. INVESTA and KYONG, used a form of advance fee agreement which
4 had not been provided to the Department for its prior review and consideration, in violation of
5 Section 10085 of the Code (prior submission of advance fee materials required) and Section
6 2970 (details for prior submission of advance fee materials) of the Regulations.

7 DESIST AND REFRAIN ORDER

8 Based on the Findings of Fact and Conclusions of Law stated herein, INVESTA
9 and KYONG, whether doing business under your own name, or any other name or fictitious
10 name, ARE HEREBY ORDERED to:

11 1. Immediately desist and refrain from charging, demanding, claiming,
12 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code,
13 for any of the services you offer to others, unless and until you demonstrate and provide
14 evidence satisfactory to the Commissioner that you are properly licensed by the Department as a
15 real estate broker, and that INVESTA and KYONG:

16 (A) Have an advance fee agreement which has been submitted to the
17 Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

18 (B) Have placed all previously collected advance fees into a trust account
19 for that purpose and are in compliance with Section 10146 of the Code;

20 (C) Have provided an accounting to trust fund owner-beneficiaries
21 pursuant to Section 2972 of the Regulations; and

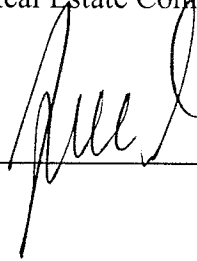
22 (D) Are in compliance with California law, as amended effective as of
23 October 11, 2009, with respect to loan modification and/or forbearance services. Under the
24 amended law, you can only collect advance fees for loan modification or other mortgage loan
25 forbearance services related to commercial loans and loans for residential properties
26 containing five or more dwelling units.

27 ///

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

6 DATED: _____ 5-4-2010

7 JEFF DAVI
8 Real Estate Commissioner

9
10 By _____
11 

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

17 cc: KYONG HUN KANG
18 INVESTA CAPITAL GROUP INC.
19 4231 COBBLESTONE DRIVE
20 CONCORD, CA 94521