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FILED

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DEPARTMENT OF REAL ESTATE

By K. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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12 To:)
13 TOLLIVER YEN & ASSOCIATES) NO. H-10994 SF
14 and SUSAN YEN.) ORDER TO DESIST AND REFRAIN
15) (B&P. Code Section 10086)
16)

17 The Commissioner ("Commissioner") of the California Department of Real
18 Estate ("Department") caused an investigation to be made of the activities of TOLLIVER YEN
19 & ASSOCIATES ("TY&A") and SUSAN YEN ("YEN") (collectively "Respondents"). Based
20 on that investigation, the Commissioner has determined that TY&A and YEN, have engaged in,
21 are engaging in, or are attempting to engage in, acts or practices constituting violations of the
22 California Business and Professions Code ("Code") and/or Title 10, Chapter 6, California Code
23 of Regulations ("Regulations"), including acting in the capacity of, advertising or assuming to
24 act as a real estate broker in the State of California within the meaning of Sections 10131(d)
25 (performing services for borrowers and/or lenders in connection with loans secured by real
26 property), 10131.2 (collection of advance fees) and 10085 (collecting unauthorized advance fees)
27 of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the

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

3 FINDINGS OF FACT

4 1. At no time herein mentioned has TY&A been licensed by the Department in any
5 capacity.

6 2. At no time herein mentioned has YEN been licensed by the Department in any
7 capacity.

8 3. During the period of time set out below, Respondents performed services for one
9 or more borrowers and negotiated to do one or more of the following acts for another or others,
10 for or in expectation of compensation: negotiate one or more loans for, or perform services for,
11 borrowers and/or lenders with respect to the collection of advance fees and loan modification,
12 loan refinance, principal reduction, foreclosure abatement or short sale services and/or those
13 borrowers' lenders in connection with loans secured directly or collaterally by one or more liens
14 on real property; and charged, demanded or collected an advance fee for any of the services
15 offered.

16 4. Respondents charged clients \$3,500 to \$6,500 for "financial services", including
17 loan modification/foreclosure prevention, with an additional \$1,000 owed each month thereafter.
18 Respondents promised to shield homeowners from foreclosure by transferring the title of their
19 property into a trust, after which Respondents' attorneys would negotiate with lenders in bulk
20 for a fixed rate of 2.75% for five (5) years.

21 5. In furtherance of their plan and scheme to solicit advance fees and provide loan
22 modification services, on or about July 14, 2008, Respondents solicited Maria Gutierrez
23 ("GUTIERREZ") for foreclosure prevention/loan modification services. On or about that same
24 date, GUTIERREZ paid an advance fee of \$3,500 to Respondents. Respondents did not obtain
25 a loan modification for GUTIERREZ, nor was her advance fee refunded.

26 6. In furtherance of their plan and scheme to solicit advance fees and provide loan
27 modification services, on or about July 25, 2008, Respondents solicited Blanca Zamaniego

1 (“B. ZAMANIEGO”) for foreclosure prevention/loan modification services. On or about that
2 same date, B. ZAMANIEGO paid an advance fee of \$3,500 to Respondents. Respondents did
3 not obtain a loan modification for B. ZAMANIEGO, nor was her advance fee refunded.

4 7. In furtherance of their plan and scheme to solicit advance fees and provide loan
5 modification services, on or about July 28, 2008, Respondents solicited Emilio Villanueva
6 (“VILLANUEVA”) for foreclosure prevention/loan modification services. On or about that
7 same date, VILLANUEVA paid an advance fee of \$3,500 to Respondents. Respondents did not
8 obtain a loan modification for VILLANUEVA, nor was his advance fee refunded.

9 8. In furtherance of their plan and scheme to solicit advance fees and provide loan
10 modification services, on or about August 4, 2008, Respondents solicited Victorino Alejandro
11 (“ALEJANDRO”) for foreclosure prevention/loan modification services. On or about that same
12 date, ALEJANDRO paid an advance fee of \$3,500 to Respondents. Respondents did not obtain
13 a loan modification for ALEJANDRO, nor was his advance fee refunded.

14 9. In furtherance of their plan and scheme to solicit advance fees and provide loan
15 modification services, on or about August 19, 2008, Respondents solicited Javier Zamaniego
16 (“J. ZAMANIEGO”) for foreclosure prevention/loan modification services. On or about that
17 same date, J. ZAMANIEGO paid an advance fee of \$3,500 to Respondents. Respondents did
18 not obtain a loan modification for J. ZAMANIEGO, nor was his advance fee refunded.

19 CONCLUSIONS OF LAW

20 10. Based on the Findings of Fact contained in Paragraphs 1 through 9, above,
21 TOLLIVER YEN & ASSOCIATES and SUSAN YEN, acting by themselves or through one or
22 more agents, associates, affiliates and/or co-conspirators or fictitious names unknown at this
23 time, solicited borrowers and/or performed services for those borrowers with respect to the
24 collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure
25 abatement or short sale services and/or those borrowers’ lenders in connection with loans
26 secured directly or collaterally by one or more liens on real property; and charged, demanded or
27 collected advance fees for the services to be provided, which acts require a real estate broker

1 license under Sections 10131(d) and 10131.2 of the Code; and prior submission by a licensed
2 real estate broker of an advance fee agreement to the Department for its review under Section
3 10085 of the Code, and Sections 2970 (submission of advance fee materials) and 2972 (content
4 of verified accounting) of the Regulations, so that such acts of TOLLIVER YEN &
5 ASSOCIATES and SUSAN YEN violate Sections 10085, 10131(d) and 10131.2 of the Code,
6 and Sections 2970 and 2972 of the Regulations.

7 DESIST AND REFRAIN ORDER

8 Based on the Findings of Fact and Conclusions of Law stated herein, you,
9 TOLLIVER YEN & ASSOCIATES and SUSAN YEN, whether doing business under your own
10 name, or any other name or fictitious name, or by and/or through any related entity, ARE
11 HEREBY ORDERED to immediately desist and refrain from:

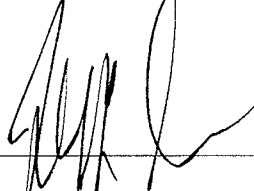
- 12 1. Performing acts that require a real estate license unless and until you are properly
13 licensed by the Department as a real estate broker; and
- 14 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
15 term is defined in Section 10026 of the Code, for any of the services you offer to others,
16 in any form, and particularly with respect to loan modification, loan refinance, principal
17 reduction, foreclosure abatement or short sale services, unless and until you demonstrate
18 and provide evidence satisfactory to the Commissioner that you are properly licensed by
19 the Department as a real estate broker and that you have:
 - 20 (a) an advance fee agreement which has been submitted to the Department and which
21 is in compliance with Sections 2970 and 2972 of the Regulations;
 - 22 (b) placed all previously collected advance fees into a trust account for that purpose
23 and are in compliance with Section 10146 (deposit of advance fees into trust account) of
24 the Code;
 - 25 (c) provided an accounting to trust fund owner-beneficiaries pursuant to Section 2972
26 of the Regulations; and

27 ///

1 (d) refunded to Maria Gutierrez, Blanca Zamaniego, Emilio Villanueva, Victorino
2 Alejandro and Javier Zamaniego any and all advance fees paid to you by each of them in
3 this matter.

4 DATED: 8/17, 2010

5 JEFF DAVI
6 Real Estate Commissioner

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9 -NOTICE-

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

15 cc: TOLLIVER YEN & ASSOCIATES
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18 TOLLIVER YEN & ASSOCIATES
19 c/o Incomp Services, Inc.
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21 SUSAN YEN
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