

1 Department of Real Estate
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FILED
MAY - 4 2011

DEPARTMENT OF REAL ESTATE
By R. Mar

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 To:)
12) NO. H-2627 FR
13 MARIO OJEDA)
14) ORDER TO DESIST AND REFRAIN
15) (B&P Code Section 10086)

16 The Commissioner (hereafter "the Commissioner") of the California Department
17 of Real Estate (hereafter "the Department") caused an investigation to be made of the activities
18 of MARIO OJEDA (hereafter "Respondent"). Based on that investigation, the Commissioner
19 has determined that Respondent has engaged in, is engaging in, or is attempting to engage in,
20 acts or practices constituting violations of the California Business and Professions Code
21 ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including
22 acting in the capacity of, advertising or assuming to act as a real estate broker in the State of
23 California within the meaning of Section 10131(d) (performing services for borrowers and/or
24 lenders in connection with loans secured by real property), 10131.2 (collection of advance fees),
25 10085 (advance fee agreements and materials) and 10085.5 (collecting unauthorized advance
26 fees) of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the

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

3 FINDINGS OF FACT

4 1. At no time has Respondent been licensed by the Department in any capacity.

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

13 3. In furtherance of his plan and scheme to solicit advance fees and provide loan
14 modification services, on or about December 9, 2010, Respondent offered loan modification
15 services to "Diego L.", a Deputy Commissioner of the Department. In exchange for \$4,000,
16 Respondent offered to negotiate a loan modification for "Diego L.", with \$2,000 of that amount
17 due in advance to initiate the loan modification process.

18 CONCLUSIONS OF LAW

19 Based on the Findings of Fact contained in Paragraphs 1 through 3, above,
20 MARIO OJEDA solicited borrowers and/or performed services for those borrowers with respect
21 to the collection of advance fees and loan modification, loan refinance, principal reduction,
22 foreclosure abatement or short sale services and/or those borrowers' lenders in connection with
23 loans secured directly or collaterally by one or more liens on real property; and charged,
24 demanded or collected advance fees for the services to be provided, which acts require a real
25 estate broker license under Sections 10130 (real estate license requirement), 10131(d) and
26 10131.2 of the Code.

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1 Respondent used a form of advance fee agreement which had not been provided
2 to the Department for its prior review and consideration, in violation of Sections 10085 and
3 10085.5 of the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

4 DESIST AND REFRAIN ORDER

5 Based on the Findings of Fact and Conclusions of Law stated herein, MARIO
6 OJEDA, whether doing business under your own name, or any other name or fictitious name, IS
7 HEREBY ORDERED to immediately desist and refrain from:

- 8 1. Performing any acts within the State of California that require a real estate license
9 unless and until you are properly licensed by the Department.
- 10 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
11 term is defined in Section 10026 of the Code, for any of the services you offer to
12 others, unless and until you demonstrate and provide evidence satisfactory to the
13 Commissioner that you are properly licensed by the Department and that MARIO
14 OJEDA:
 - 15 (a) Has an advance fee agreement which has been submitted to the Department
16 and which is in compliance with Sections 2970 and 2972 of the Regulations;
 - 17 (b) Has placed all previously collected advance fees into a trust account for that
18 purpose and are in compliance with Section 10146 (deposit of advance fees
19 into trust account) of the Code; and
 - 20 (c) Has provided an accounting to trust fund owner-beneficiaries pursuant to
21 Section 2972 of the Regulations.
- 22 3. Demanding, claiming, collecting and/or receiving advance fees, as that term is
23 defined in Section 10026 of the Code, in any form, and under any conditions, with respect to the

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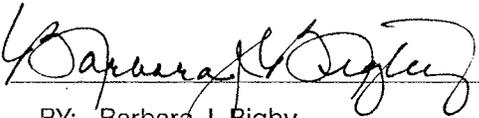
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1 performance of loan modification or any other form of mortgage loan forbearance services in
2 connection with loans on residential property containing four or fewer dwelling units.

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4 DATED: 5/2/11

5 REAL ESTATE COMMISSIONER

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8 By: 
9 BY: Barbara J. Bigby
Chief Deputy Commissioner

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

18 cc: MARIO OJEDA
15436 Cassidy Court
Delhi, CA 95315

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23 ATTY: JWB/km
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