

FILED

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DEPARTMENT OF REAL ESTATE

By F. Jones

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9 STATE OF CALIFORNIA
10 DEPARTMENT OF REAL ESTATE

11 To:)
12) NO. H-5622 SAC
13 TARA POTTS, and)
14 LYNDA LOY,) ORDER TO DESIST AND REFRAIN
) (B&P Code Section 10086)
)

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 TARA POTTS (hereinafter "POTTS") and LYNDA LOY (hereinafter "LOY"). Based on that
18 investigation, the Commissioner has determined that POTTS and LOY have engaged in, is
19 engaging in, or is attempting to engage in, acts or practices constituting violations of the
20 California Business and Professions Code (hereinafter "the Code") and/or Title 10, Chapter 6,
21 California Code of Regulations (hereinafter "the Regulations"), including the business of, acting
22 in the capacity of, and/or advertising or assuming to act as, a real estate broker in the State of
23 California within the meaning of Sections 10131(d) (performing services for borrowers and/or
24 lenders in connection with loans secured by real property) and 10131.2 (real estate broker
25 license required to charge and collect an advance fee) of the Code. Furthermore, based on the
26 investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of
27 Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

1 FINDINGS OF FACT

2 1. At no time mentioned has POTTS been licensed by the Department in
3 any capacity.

4 2. At no time mentioned has LOY been licensed by the Department in any
5 capacity.

6 3. During the period of time set forth below, POTTS and LOY, solicited
7 borrowers and negotiated to do one or more of the following acts for another or others, for or in
8 expectation of compensation; negotiate one or more loans for, or perform services for, borrowers
9 and/or lenders in connection with loans secured directly or collaterally by one or more liens on
10 real property; and charge, demand or collect an advance fee for any of the services offered.

11 4. Beginning on or about March 2, 2010, POTTS and LOY, solicited
12 Stephanie P. (hereinafter "Stephanie") in order to provide loan modification and negotiation
13 services on behalf of Stephanie in connection with a loan secured by real property located at
14 2213 Dorothy June Way, Sacramento, California.

15 5. On or about March 9, 2010, POTTS and LOY, demanded and received an
16 advance fee totaling \$500 from Stephanie for the activities described in Paragraph 4.

17 CONCLUSIONS OF LAW

18 6. Based on the findings of fact contained in paragraphs 1 through 5,
19 POTTS and LOY, solicited one or more borrowers to perform services for those borrowers
20 and/or those borrowers' lenders in connection with loans secured directly or collaterally by one
21 or more liens on real property located within the State of California, and charged, demanded or
22 collected advance fees for the services to be provided, which acts require a real estate broker
23 license under Sections 10131(d) (real estate license required for enumerated acts) and 10131.2
24 (real estate broker license required to charge or collect an advance fee) of the Code.

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1 (d) Are in compliance with California law, as amended effective as of
2 October 11, 2009, with respect to loan modification and/or forbearance services. Under the
3 amended law, you can only collect advance fees for loan modification or other mortgage loan
4 forbearance services related to commercial loans and loans for residential properties
5 containing five or more dwelling units.

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

11 DATED: May 23, 2011

12 BARBARA J. BIGBY
13 Acting Real Estate Commissioner

14 By 

17 **Notice:** Business and Professions Code Section 10139 provides that “Any person acting as a
18 real estate broker or real estate salesperson without a license or who advertises using words
19 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
20 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
21 imprisonment in the county jail for a term not to exceed six months, or by both fine and
22 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
23 (\$60,000).”
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