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FILED
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DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 To:)
12) NO. H-5646 SAC
13 LEGACY HOME LOANS & REAL ESTATE)
14 and BRETT JOSEPH TOLIVER.) ORDER TO DESIST AND REFRAIN
15) (B&P Code Section 10086)

16 The Commissioner ("the Commissioner") of the California Department of Real
17 Estate ("the Department") caused an investigation to be made of the activities of LEGACY
18 HOME LOANS & REAL ESTATE, ("LEGACY"), and BRETT JOSEPH TOLIVER,
19 ("TOLIVER"), (collectively "Respondents"). Based on that investigation, the Commissioner
20 has determined that Respondents have engaged in, are engaging in, or are attempting to engage
21 in, acts or practices constituting violations of the California Business and Professions Code
22 ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including
23 acting in the capacity of, advertising or assuming to act as a real estate broker in the State of
24 California within the meaning of Section 10131(d) (performing services for borrowers and/or
25 lenders in connection with loans secured by real property), 10131.2 (collection of advance
26 fees), 10085 (advance fee agreements and materials) and 10085.5 (collection of advance fee)
27 and 10085.6 (collecting unauthorized advance fee prior to performance) of the Code.

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

4 FINDINGS OF FACT

5 1. At all times relevant, LEGACY was and now is licensed by the State of
6 California Department of Real Estate (“the Department”) as a corporate real estate broker.

7 2. At all times relevant, TOLIVER was and now is licensed by the Department as
8 a real estate broker, individually and as the designated officer/broker of LEGACY. As said
9 designated officer/broker, TOLIVER was at all times relevant responsible pursuant to Section
10 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
11 licensees, and employees of LEGACY for which a license is required.

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

20 4. In furtherance of their plan and scheme to solicit advance fees and provide
21 loan modification services, on or about January 1 2010, LEGACY entered into a loan
22 modification services agreement with Dora O. According to that agreement, LEGACY
23 agreed to negotiate a loan modification on behalf of Dora O. for her real property located at
24 1509 Foley Avenue, San Jose, California, in exchange for an advance fee payment of \$1,000.
25 On that same date, Dora O. paid the advance fee of \$1,000 to LEGACY. No loan
26 modification was obtained by LEGACY for Dora O. and her money was not refunded by
27 LEGACY.

1 **Notice:** Business and Professions Code Section 10139 provides that, "Any person acting as a
2 real estate broker or real estate salesperson without a license or who advertises using words
3 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
4 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
5 imprisonment in the county jail for a term not to exceed six months, or by both fine and
6 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
7 (\$60,000)...."

8 cc: Legacy Home Loans & Real Estate
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