

1 Department of Real Estate
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

AUG - 2 2011

DEPARTMENT OF REAL ESTATE

By R. Mar

6
7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

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10 To:)
11 SALAS PROPERTIES, LLC.) NO. H-5648 SAC
12) ORDER TO DESIST AND REFRAIN
13) (B&P Code Section 10086)
14)

15 The Commissioner ("the Commissioner") of the California Department of Real
16 Estate ("the Department") caused an investigation to be made of the activities of SALAS
17 PROPERTIES, LLC, ("SALAS"), ("Respondent"). Based on that investigation, the
18 Commissioner has determined that Respondent has engaged in, is engaging in, or is attempting
19 to engage in, acts or practices constituting violations of the California Business and Professions
20 Code ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"),
21 including acting in the capacity of, advertising or assuming to act as a real estate broker in the
22 State of California within the meaning of Section 10131(d) (performing services for borrowers
23 and/or lenders in connection with loans secured by real property), 10131.2 (collection of advance
24 fees), 10085 (advance fee agreements and materials) and 10085.5 (collecting unauthorized
25 advance fees) of the Code. Furthermore, based on the investigation, the Commissioner hereby
26 issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under
27 the authority of Section 10086 of the Code.

1 FINDINGS OF FACT

2 1. At all times relevant, SALAS was not licensed by the Department to conduct real
3 estate activity in the State of California.

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

12 3. On or about January 1 2010, Legacy Home Loans ("LEGACY") entered into a
13 loan modification services agreement with Dora O. According to that agreement, LEGACY
14 agreed to negotiate a loan modification on behalf of Dora O. for her real property located at
15 1509 Foley Avenue, San Jose, California, in exchange for an advance fee payment of \$1,000.
16 On that same date, Dora O. paid the advance fee of \$1,000 to LEGACY. No loan modification
17 was obtained by LEGACY for Dora O. and her money was not refunded by LEGACY.

18 4. In furtherance of their plan and scheme to solicit advance fees and provide loan
19 modification services, on or about March 2010, Dora O. was informed by an employee of
20 LEGACY that her loan modification was thereafter being handled by SALAS. Dora O. signed a
21 new loan modification counseling agreement with SALAS. The new agreement stated that a fee
22 of \$1,000 would be due to SALAS no later than the completion date of the loan modification.
23 In addition, the agreement required Dora O. to pay an additional \$1,000 to SALAS for providing
24 loan modification services. On or about March 2010, Dora O. paid SALAS \$2,000 for loan
25 modification services on her property located on Foley Avenue in San Jose, California. No loan
26 modification was obtained by SALAS for Dora O. and her money was not refunded by SALAS.

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1 CONCLUSIONS OF LAW

2 5. Based on the Findings of Fact contained in Paragraphs 1 through 4, above,
3 SALAS PROPERTIES, LLC, solicited borrowers and/or performed services for those borrowers
4 with respect to the collection of advance fees and loan modification, loan refinance, principal
5 reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in
6 connection with loans secured directly or collaterally by one or more liens on real property; and
7 charged, demanded or collected advance fees for the services to be provided, which acts require
8 a real estate broker license under Sections 10130 (broker license requirement), 10131(d) and
9 10131.2 of the Code.

10 6. SALAS PROPERTIES, LLC, used a form of advance fee agreement which had
11 not been provided to the Department for its prior review and consideration, in violation of
12 Sections 10085, 10085.5 and 10085.6 of the Code, and Sections 2970 (submission of advance fee
13 materials) and 2972 (content of verified accounting) of the Regulations.

14 DESIST AND REFRAIN ORDER

15 Based on the Findings of Fact and Conclusions of Law stated herein, SALAS
16 PROPERTIES, LLC, whether doing business under your own name, or any other names or
17 fictitious names, ARE HEREBY ORDERED to immediately desist and refrain from:

18 1. Performing any acts that require a real estate license unless and until you are
19 properly licensed by the Department;

20 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
21 term is defined in Section 10026 of the Code, for any of the services you offer to others, unless
22 and until you demonstrate and provide evidence satisfactory to the Commissioner that SALAS
23 PROPERTIES, LLC:

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

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- 1 (b) Have placed all previously collected advance fees into a trust account for that
2 purpose and are in compliance with Section 10146 (deposit of advance fees
3 into trust account) of the Code; and
4 (c) Have provided an accounting to trust fund owner-beneficiaries pursuant to
5 Section 2972 of the Regulations.

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

10 DATED: 8/1/11

11 BARBARA J. BIGBY
12 Acting Real Estate Commissioner

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

20 cc: Salas Properties, LLC
21 Nathaniel R. Salas, II
22 Agent For Service of Process
23 1803 West March Lane #M
Stockton, CA 95207

24 Michael F. Babitzke
25 Attorney at Law
26 6 South El Dorado Street, Suite 305
Stockton, CA 95202

27 ATTY JWB:km