Commercial loan modifications and advance fees

Current law requires a real estate broker who intends to collect an advance fee for loan modification services to submit the agreement to the Department of Real Estate (DRE) prior to its use. If the DRE deems the agreement to be in compliance with the Real Estate Law, the DRE will issue the broker a “no objection” letter stating the broker may use the agreement to collect an advance payment for the specified services contained in the agreement. Almost all of the advance fee agreements submitted to date have been in connection with modification services for loans secured by residential property.

Now it appears that the market place may be poised for a second wave of loan modifications. In this case, commercial loan modifications. In recent months the DRE has received an increasing number of requests from brokers to obtain advance fee agreements for commercial loan modification services. The purpose of this column is to clarify the licensing requirements for anyone engaged in commercial loan modifications.

Unless narrow and specific statutory exemptions apply, negotiating a commercial or residential loan modification requires licensing as a lawyer, a real estate broker, or as a salesperson properly licensed and working under the supervision of his/her broker. Under Section 10131(d) of the California Business and Professions Code (B&P), real estate brokers can lawfully perform such loan modification services. Attorneys rendering legal services to a client are exempt from the real estate licensing requirements as long as they are engaged in the practice of law and not actively and principally engaged in the business of negotiating real estate-secured loans (B&P §10133.1[a][5]). In the current residential loan modification crisis, various business models have been utilized by attorneys, real estate licensees and unlicensed persons that violate the Real Estate Law and, potentially, the California State Bar’s Rules of Professional Conduct for attorneys. Brokers intending to do commercial loan modifications must ensure that — if entering into business arrangements with attorneys — they comply with the Real Estate Law and the State Bar’s rules.

In addition to the general real estate licensing requirement, there are other requirements that must be met before a real estate broker can accept an advance fee for performing loan modifications or any other services that require a real estate license. The rules and regulations governing the collection of advance fees have been a part of Real Estate Law for many decades. In fact, B&P §10085, which requires the submission of an advance fee agreement to the DRE, was added to the law in 1958, as were Commissioner’s Regulations 2970 and 2972. They were put in place to assure that consumers paying upfront money receive promised services. These rules are the same for any advance fee service. The rules require a licensed broker to submit his or her proposed advance fee agreement, accounting format, and any advertising or promotional materials to the DRE for review prior to its use. The broker cannot use the agreement or collect any fees in advance until he or she receives a “no objection” letter from the DRE.

There are rules that must be followed

Continued on page 11
Nonresident withholding requirements for California property managers

Reminder from Franchise Tax Board:

Like the Foreign Investment in Real Property Act of 1980 (FIRPTA), where California real property managers are required to withhold on rental income paid to foreign persons, California has similar laws for withholding on California source income paid to foreign persons and nonresident property owners. This includes rental income paid to nonresident property owners.

Unless certain exceptions apply, property managers who make California source income payments to nonresident property owners must withhold and send to Franchise Tax Board (FTB) seven percent of the amount that exceeds $1,500 in a calendar year. (California Revenue and Taxation Code Section 18662)

Pursuant to the California Revenue and Tax Code Section 18662 and the Internal Revenue Code 1441, both the FTB and the Internal Revenue Service consider California property managers as nonresident withholding agents for both foreign and nonresident property owners. For California purposes, that means property managers must withhold on rent payments to nonresident property owners and submit the amounts withheld to FTB. Failure to do so could cause property managers to be liable for the amounts that should have been withheld.

The FTB has been involved in extensive outreach to inform property managers of their responsibility under the law. In order to achieve optimal compliance the FTB has given the property managers until December 31, 2009, to inform their customers of nonresident withholding laws, establish their own internal process, and comply by January 1, 2010.

Is nonresident withholding a new tax?

No. While laws governing nonresident withholding were first enacted in 1951 (see Stats. 1951 ch. 257), FTB’s goal is to better educate withholding agents, in this case, property managers, on their responsibilities.

Nonresident withholding is a prepayment of tax similar to the Employment Development Department’s payroll tax withholding on California residents’ wages. After California property managers withhold on payments to nonresident property owners, the managers send the withheld amounts to FTB. The FTB distributes the withholding amount to the property owners’ tax account as a withholding credit. Property owners claim the withholding credit when they file their required California tax return.

Trust accounts: Complying with Department of Real Estate’s guidelines

The FTB and DRE are working together to provide long-term guidance on trust accounts and nonresident withholding for property managers.

As property managers have amended their property management contracts to include compliance with FIRPTA withholding laws, they should amend their contracts with their nonresident property owners to include remitting nonresident withholding to the FTB.

Find forms and additional information at FTB’s Web site, ftb.ca.gov and search for “withholding”. Or, you may email us at: wscs.gen@ftb.ca.gov. Please do not send confidential information via email. Or, you may call: 888-792-4900.
Contracting without a license is a crime in California, and hiring unlicensed people for improvement projects is potentially risky and costly. Unlicensed contractors expose consumers to significant financial harm if injury, property damage, or project abandonment occurs.

The least expensive bid for improvements or corrections before a home is sold or purchased may appeal to you or your client. But if that bid is not from a licensed contractor and exceeds the $500 threshold, it is illegal. Plus, unlicensed contractors are not likely to carry workers’ compensation insurance, license bonds, or general liability insurance.

If a disagreement occurs with an unlicensed contractor, the Contractors State License Board (CSLB) may not be able to help resolve a complaint; the only remedy available to a property owner may be civil court. Criminal courts may order a person convicted of contracting without a license to pay restitution. However, a convicted unlicensed contractor’s restitution payments may be based on the ability to pay. While a consumer may have paid the full contract amount up front, the convicted unlicensed contractor may only have to repay restitution in nominal amounts over an extended period of time.

Real estate licensees are specifically addressed in Business & Professions Code (B&P) Section 7044.1 which states, in part:

“. . .nothing in this section shall authorize a real estate licensee or a property manager to act in the capacity of a contractor unless licensed by the board.”

A real estate licensee found acting in the capacity of a contractor without a license could face administrative and/or criminal penalties. In addition, a financially harmed consumer could sue for monetary damages. B&P Code Section 7031 allows a consumer to recover all compensation paid to an unlicensed person in civil court and generally precludes an unlicensed person from being able to sue for works of improvement that require a contractor’s license.

By law, anyone who contracts for a construction project valued at $500 or more for labor and materials must be licensed by CSLB. State-licensed contractors generally have four years of verified journey-level experience in their trade, have passed trade and contractor license law exams, and have undergone professional background investigations. They post a license bond and carry workers’ compensation insurance for employees (and themselves if they are roofers). Contractors who have applied for or changed their license since January 2005 must also pass a criminal background check. The law requires contractors to include their license number in all advertisements; unlicensed contractors are required to say that they are not licensed in their advertisements.

Home improvement construction contracts are among the top consumer complaints in the United States

The law is specific regarding home improvement contracts, service and repair contracts, and new home construction contracts. The maximum down payment a home improvement contractor may request is $1,000 or 10 percent, whichever is less, unless the contractor has a blanket performance and payment bond on file with CSLB. Always check their license record on the CSLB Web site. You can look up contractors by their license number, business name, or employee names.

Many local building departments routinely verify licensure before issuing permits. If an owner-builder permit is pulled, city or county building inspectors may verify that the work is actually being performed by the owner, not an unlicensed contractor. CSLB often partners with local and state agencies to conduct compliance checks. A homeowner who pulls an owner-builder permit assumes full responsibility for all phases of the project and its integrity. If an unlicensed contractor is hired to do the work, the homeowner could be responsible for:

- Registering with the state and federal government as an employer;
- Withholding state and federal income taxes, federal Social Security taxes, paying disability insurance, making employment compensation contributions; and
- Providing workers’ compensation insurance.

Verify a contractor’s license and its status by visiting the CSLB Web site: www.cslb.ca.gov or by calling the automated toll-free line: (800) 321-CSLB (2752).
Disciplinary action: March 2009 - May 2009

- A list of actions is not published in this Bulletin until the 30-day period allowed for court appeal has expired or, if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.
- Licensees are listed alphabetically by the District Office region of responsibility.
- The license type is listed in parentheses after the licensee’s name. [REB – Real Estate Broker; RREB – Restricted Real Estate Broker; RES – Real Estate Salesperson; RRES – Restricted Real Estate Salesperson; PRLS – Prepaid Rental Listing Service; RPRLS – Restricted Prepaid Rental Listing Service; REO – Real Estate Officer; REC – Real Estate Corporation]
- Below are brief summaries of various regulations and code sections. The full text of the sections is available on the DRE Web site www.dre.ca.gov under Real Estate Law and/or Regulations.
- Disciplinary actions that are “stayed” means there is “a delay in carrying out” all or part of the recommended discipline.

**COMMISSIONER’S REGULATIONS**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2715</td>
<td>Licensee’s failure to maintain current business or mailing address with DRE</td>
</tr>
<tr>
<td>2725</td>
<td>Failure of broker to exercise reasonable supervision over the activities of his or her salespersons</td>
</tr>
<tr>
<td>2726</td>
<td>Failure to have broker-salesperson agreements</td>
</tr>
<tr>
<td>2731</td>
<td>Unauthorized use of fictitious business name</td>
</tr>
<tr>
<td>2740</td>
<td>Performing licensed acts by corporation without a designated officer</td>
</tr>
<tr>
<td>2753</td>
<td>Broker's failure to retain salesperson’s license at main office or return license at termination of employment</td>
</tr>
<tr>
<td>2831</td>
<td>Failure to keep proper trust fund records</td>
</tr>
<tr>
<td>2831.1</td>
<td>Inadequate separate trust fund beneficiary records</td>
</tr>
<tr>
<td>2831.2</td>
<td>Failure to reconcile trust account</td>
</tr>
<tr>
<td>2832</td>
<td>Failure to comply with trust fund handling provisions</td>
</tr>
<tr>
<td>2832(a)</td>
<td>Failure of broker to place trust funds into hands of owner, into neutral escrow depository or trust fund account within three business days of receipt</td>
</tr>
<tr>
<td>2832(d)</td>
<td>Failure of broker holding trust funds contingent on offer of acceptance to properly place funds within three days of acceptance.</td>
</tr>
<tr>
<td>2832(e)</td>
<td>Failure of broker acting as escrow holder to deposit trust funds in trust account by next business day following receipt</td>
</tr>
<tr>
<td>2832.1</td>
<td>Failure to obtain permission to reduce trust fund balance in a multiple beneficiary account</td>
</tr>
<tr>
<td>2834</td>
<td>Trust account withdrawals by unauthorized or unbonded person</td>
</tr>
<tr>
<td>2835</td>
<td>Retention of broker funds in trust accounts</td>
</tr>
<tr>
<td>2840</td>
<td>Failure to give approved borrower disclosure</td>
</tr>
<tr>
<td>2950</td>
<td>Violation of broker-controlled escrow requirements</td>
</tr>
<tr>
<td>2950(d)</td>
<td>Failure of broker handling escrows to maintain records and accounts</td>
</tr>
<tr>
<td>2950(h)</td>
<td>Failure to disclose interest in the agency holding the escrow</td>
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<tr>
<td>2951</td>
<td>Improper record keeping for broker handled escrows</td>
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**FINANCIAL CODE**

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<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>4973(b)(1)</td>
<td>Violation of covered loan prohibitions regarding negative amortization &amp; installment payment totals</td>
</tr>
<tr>
<td>4973(k)(1)</td>
<td>Failure to provide covered loan consumer notice</td>
</tr>
<tr>
<td>4975 et seq.</td>
<td>Violation of covered loan requirements</td>
</tr>
</tbody>
</table>

**BUSINESS AND PROFESSIONS CODE**

<table>
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<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>480(a)(3)</td>
<td>Performance of act which would have been grounds for disciplinary action</td>
</tr>
<tr>
<td>490</td>
<td>Substantially related criminal conviction</td>
</tr>
<tr>
<td>10130</td>
<td>Acting without license</td>
</tr>
<tr>
<td>10137</td>
<td>Unlawful employment or payment of compensation</td>
</tr>
<tr>
<td>10145</td>
<td>Trust fund handling</td>
</tr>
<tr>
<td>10145(a)</td>
<td>Trust fund handling</td>
</tr>
</tbody>
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Bardiff, John Ralph (REB, REO)  
3731 Wilshire Blvd. #830, Los Angeles  
Effective: 4/30/09  
Violation: 10137, 10159.2, 10177(d)  

Barnabe, Donald Marcel (RES)  
108 Cliff Dr. #24, Laguna Beach  
Effective: 5/21/09  
Violation: 490, 10177(b)  

Baslow, Jessica Lynn (RES)  
21731 Saticoy St. #47, Canoga Park  
Effective: 4/16/09  
Violation: 490, 10177(b)  

Breger, Bruce Jay (RES)  
10501 Wilshire Blvd. #1803, Los Angeles  
Effective: 4/16/09  
Violation: 490, 10177(b)  

Burgess, Lauren Jean (RES)  
424 S. Grand St., Orange  
Effective: 4/13/09  
Violation: 490, 10177(b)  

Caremaria, Jacob Hico (RES)  
PO Box 342, Lake Arrowhead  
Effective: 4/16/09  
Violation: 490, 10177(b)  

Carey, Darrell (RES)  
7658 Yellow Iris Ct., Fontana  
Effective: 4/29/09  
Violation: 490, 10177(b)  

Chin, Fred Song Mo (RES)  
15057 Sherman Way #B, Van Nuys  
Effective: 5/26/09  
Violation: 490, 10177(b)  

Chism, Peter Maurice (RES)  
PO Box 84198, Los Angeles  
Effective: 4/16/09  
Violation: 490, 10177(b)  

Coastview Capital, Inc. (RES)  
131 N. Tustin Ave., Ste. 210, Tustin  
Effective: 4/30/09  
Violation: 10148, 10162, 10177(d)(f), 10177.5  

Coleman, Craig (RES)  
12736 Exoeve Ave., Sylmar  
Effective: 4/7/09  
Violation: 490, 10177(b)  

Cormwell, Jennie Lynn (RES)  
4222 Howard Ave., Apt. B, Los Alamitos  
Effective: 3/19/09  
Violation: 490, 10177(b)  

Cruz, Ever Orlando (RES)  
6129 Cahuenaga Blvd. #105, North Hollywood  
Effective: 5/20/09  
Violation: 490, 10177(b)  

De La Rosa, Octavio Esteban (RES)  
20389 E. Crestline Dr., Walnut  
Effective: 4/23/09  
Violation: 490, 10177(b)  

Evergreen Diversified Group, Inc. (REC)  
259 S. Randolph Ave., Ste. 200, Brea  
Effective: 4/30/09  
Violation: 10137, 10177(d)  

Farias, Ruth Georgenne (REB, REO)  
131 N. Tustin Ave., Ste. 210, Tustin  
Effective: 4/30/09  
Violation: 10137, 10177(d)  

First City Funding (REC)  
3840 Old Topanga Canyon Rd., Ste. E, Calabasas  
Effective: 3/30/09  
Violation: 2831, 2831.1, 2832.1, 2834, 2835, 2950(b), 10145, 10159.2, 10176(g), 10177(d)(g), 10177.5  

Galindo, Erwin Daniel (RES)  
7021 Goodland Ave., North Hollywood  
Effective: 3/25/09  
Violation: 490, 10177(b)  

Galvan, Rodrigo (REB)  
5250 E. Beverly Blvd., Los Angeles  
Effective: 5/26/09  
Violation: 490, 10177(a)  

Garcia, Felipe (RES)  
17418 Chatsworth St., Ste. 101, Granada Hills  
Effective: 5/21/09  
Violation: 490, 10177(b)  

Haines, Roland Randolph Jr. (RES)  
733 S. Hindry Ave., Inglewood  
Effective: 5/14/09  
Violation: 490, 10177(b)  

Hannes, Melodye Sue (REB)  
4419 Coldwater Canyon Ave., Ste. 1, Studio City  
Effective: 4/30/09  
Violation: 10177(f)  

Hanson, Thomas Eastman (RES)  
19744 Beach Blvd., Ste. 303, Huntington Beach  
Effective: 5/12/09  
Violation: 490, 10177(b)  

Hart, Michelle Lynn (RES)  
26711 Aliso Creek Rd. #20A, Aliso Viejo  
Effective: 3/23/09  
Violation: 10130, 10137, 10177(d)(j)(k)  

Howard, Takisha Lashonda (RES)  
8240 Elliot Green, Buena Park  
Effective: 5/19/09  
Violation: 490, 10177(b)  

Huizara, Alfredo (RES)  
PO Box 5510, Newport Beach  
Effective: 5/4/09  
Violation: 10130, 10137, 10177(j)  

Johnson, Randy Robert (RES)  
1403 N. Tustin Ave., Ste. 380, Santa Ana  
Effective: 4/21/09  
Violation: 490, 10177(b)  

Johnston, Mitchell E. (RES)  
1403 N. Tustin Ave., Ste. 380, Santa Ana  
Effective: 3/6/09  
Violation: 490, 10177(b)  

Kang, Jung Han (RES)  
5751 Marshall Ave., Buena Park  
Effective: 4/13/09  
Violation: 490, 10177(b)  

Kavousi, Kourosh (RES)  
27762 Antonio Parkway #1527, Ladera Ranch  
Effective: 4/22/09  
Violation: 10177(k)  

Keusgerian, Ara Louie (REB)  
451 W. Bonita Ave. #20, San Dimas  
Effective: 3/23/09  
Violation: 10177.5  

Khan, Atiya (REB)  
17322 Holmes Ctr., Cerritos  
Effective: 5/6/09  
Violation: 2725, 2731(a), 10137, 10176(i), 10177(d)(g)(h)  

Kim, Michael Dong (RES)  
1255 Paseo Dorado, Fullerton  
Effective: 4/16/09  
Violation: 490, 10177(b)  

Krasnay, Andre (RES)  
12055 Foster Rd. #5, Norwalk  
Effective: 4/20/09  
Violation: 490, 10177(b)  

Luu, Cynthia (RES)  
2309 England St. #4, Huntington Beach  
Effective: 5/14/09  
Violation: 490, 10177(b)  

Macon, Keshia La Shone (RES)  
2502 Artesia Blvd, Redondo Beach  
Effective: 5/7/09  
Violation: 490, 10177(b)  

Marks, Ondeya Denise (RES)  
231 E. Allessandro #A211, Riverside  
Effective: 3/26/09  
Violation: 490, 10177(b)  

Marovic, Stephen (RES)  
3638 E. Ridgeway Rd., Orange  
Effective: 3/20/09  
Violation: 490, 10177(b)  

Marquez, Cesar Omar (RES)  
8539 Devenia St., Downey  
Effective: 5/12/09  
Violation: 490, 10177(b)  

McClellan, Candace (RES)  
17800 E. Colima Rd. #347, Rowland Heights  
Effective: 5/21/09  
Violation: 10177(k)  

Mendoza, Tatiana Ashley (RES)  
1291 W. Cerritos Ave., Unit 83, Anaheim  
Effective: 5/12/09  
Violation: 490, 10177(b)  

Mijango, Carolina (RES)  
PO Box 5307, Santa Ana  
Effective: 4/27/09  
Violation: 490, 10177(b)  

Minasyan, Vitali (RES)  
7021 Goodland Ave., North Hollywood  
Effective: 3/25/09  
Violation: 490, 10177(b)  

Momoya, Paul Alejandro (RES)  
8112 9th St. #1, Buena Park  
Effective: 3/17/09  
Violation: 490, 10177(b)  

Moore, Michael Lawrence (RES)  
36850 Pond Ave., Palmdale  
Effective: 3/25/09  
Violation: 490, 10177(b)
Reiff, James Bruce (REB)  
460 S. Franklin St., Fort Bragg  
Effective: 3/4/09  
Violation: 490, 10177(b)

Reynolds, Dan Warren (RES)  
8216 Plumeria Ave., Fair Oaks  
Effective: 3/5/09  
Violation: 490, 10177(b)

Villalobos, Victor Manuel (RES)  
3822 Spring Meadow Ln., Stockton  
Effective: 4/23/09  
Violation: 490, 10177(b)

Webb, Erin Victoria (RES)  
6136 Van Alstine Ave., Carmichael  
Effective: 4/24/09  
Violation: 490, 10177(b)

SAN DIEGO REGION  
Abbott, Dustin Ryan (RES)  
6315 Ridge Manor Ave., San Diego  
Effective: 5/21/09  
Violation: 10176(a)

Arizola, Cesar Augusto (RES)  
27315 Jefferson Ave., Ste. J212, Temecula  
Effective: 4/30/09  
Violation: 490, 10177(b)

Griggs, Richard Cecil (RES)  
Smoke Tree Ranch, 100 S. Sunrise Way A-452, Palm Springs  
Effective: 3/23/09  
Violation: 10176(a)

Guzman, Carlos Frederico (REB, REO)  
2200 W. Wilson St. #14, Banning  
Effective: 3/24/09  
Violation: 10176(a)

Guzman, Carlos Frederico (REB, REO)  
2200 W. Wilson St. #14, Banning  
Effective: 4/20/09  
Violation: 10176(a)

Iverson, Travis Corey (RES)  
18683 Dallas Ave., Riverside  
Effective: 3/24/09  
Violation: 101377, 10176(a)(b)(e)(i), 10177(d)(g)

Jimenez, Bryan (RES)  
1303 Riverview Ave, El Centro  
Effective: 4/23/09  
Violation: 490, 10177(b)

Landers, Mark (RES)  
198 Caldera, Perris  
Effective: 3/17/09  
Violation: 490, 10177(b)

Luna, Irene (RES)  
6691 Morab St., Corona  
Effective: 4/27/09  
Violation: 490, 10177(b)

Martin, Gary Victor (RES)  
30240 Drucaea Ave., Moreno Valley  
Effective: 5/4/09  
Violation: 490, 10177(b)

Merrill, Damian Paul (RES)  
3076 Via Alicante, Apt. C, La Jolla  
Effective: 5/5/09  
Violation: 490, 10177(b)

Petersen, Arthur Robert (RES)  
3610 Central Ave., Ste. 400, Riverside  
Effective: 4/20/09  
Violation: 490(a)(i), 10177(b)

Ray, John Donald (RES)  
9310 Sage Ave., Riverside  
Effective: 4/7/09  
Violation: 490, 10177(b)

Sturdivant, Regina (RES)  
4835 A Street, San Diego  
Effective: 5/13/09  
Violation: 490, 10177(b)

Vaughn, Jovan Riste (REB)  
3395 N. Indian Canyon, Palm Springs  
Effective: 4/24/09  
Violation: 490, 10177(b)

FRESNO REGION  
Becerra, Eric Bernardino (RES)  
278 W. Esgue Ave., Fresno  
Effective: 5/6/09  
Violation: 10130, 10176(b), 10177(d)(g)  
Right to REER license on terms and conditions

Moraes, Giovanni Sergio (RES)  
3733 E. Vassar Ct., Visalia  
Effective: 5/10/09  
Violation: 10176(a)(i)  
Right to RREB license on terms and conditions

Better Mortgage Brokers, Inc. (REC)  
2335 W. Foothill Blvd., Ste. 18, Upland  
Effective: 4/2/09  
Violation: 2831, 2831.1, 2832(a), 10145, 10177(d)(g)  
Right to RREC license on terms and conditions

Herbert, Paul Wayne (REB)  
22287 Millholland Hwy. #412, Calabasas  
Effective: 3/25/09  
Violation: 490, 10177(b)  
Right to REER license on terms and conditions

Carpe, Bonnie Lee (RES)  
567 W. Channel Islands Blvd. Box 357, Port Hueneme  
Effective: 5/27/09  
Violation: 490, 10177(b)  
Right to RREB license on terms and conditions

Hove, Larry Gene (RES)  
740 Union Ave., Orcutt  
Effective: 4/8/09  
Violation: 490, 10177(b)  
Right to RREB license on terms and conditions

Hurd, Charles Christopher (REB)  
42265 Fox Farm Rd., Big Bear Lake  
Effective: 3/2/09  
Violation: 490, 10177(b)  
Right to RREC license on terms and conditions

Ishihata, Juan Carlos (RES)  
5135 E Avenue R 11, Palmdale  
Effective: 5/28/09  
Violation: 490, 10177(b)  
Right to RRES license on terms and conditions

Cruz, Louis (REB, REO)  
24790 Las Brisas Rd., Ste. 114, Murrieta  
Effective: 4/24/09  
Violation: 10130, 10176(a)(i), 10177(d)(g)(h), 10240(a)  
Right to RREC license on terms and conditions

De La Rosa, Renato A. (RES)  
6323 Matilija Ave., Van Nuys  
Effective: 3/5/09  
Violation: 490, 10177(b)  
Right to RREB license on terms and conditions

Dondaville, Karen Marie (RES)  
24641 Rollingwood Rd., Lake Forest  
Effective: 4/2/09  
Violation: 490, 10177(b)  
Right to RREB license on terms and conditions

Hamilton, Edwin Alexander (RES)  
3289 Box Elder Ct., Simi Valley  
Effective: 5/12/09  
Violation: 490, 10177(b)  
Right to RREC license on terms and conditions

Hogue, Larry Gene (RES)  
740 Union Ave., Orcutt  
Effective: 4/8/09  
Violation: 490, 10177(b)  
Right to RREB license on terms and conditions

N P Property Mangement, Inc. (REC)  
1915 W. Glenoaks Blvd. #201, Glendale  
Effective: 5/22/09  
Violation: 2832.1, 2834, 10145, 10177(d)  
Right to RREC license on terms and conditions

Nagy, Nicholas III (REB, REO)  
1915 W. Glenoaks Blvd. #201, Glendale  
Effective: 5/22/09  
Violation: 2832.1, 2834, 10145, 10177(d)  
Right to RREC license on terms and conditions

Napol, Joseph Martin (RES)  
235 Santa Isabel Ave., Costa Mesa  
Effective: 5/27/09  
Violation: 490, 10177(b)  
Right to RRES license on terms and conditions

Perez, Isidro O. (RES)  
834 West 14th St., Upland  
Effective: 4/21/09  
Violation: 490, 10177(b)  
Right to RRES license on terms and conditions

Pintado, Enrique (RES)  
684 Peckham Dr, Whittier  
Effective: 4/27/09  
Violation: 490, 10177(b)  
Right to RREB license on terms and conditions

Reiff, James Bruce (REB)  
460 S. Franklin St., Fort Bragg  
Effective: 3/4/09  
Violation: 490, 10177(b)

Reynolds, Dan Warren (RES)  
8216 Plumeria Ave., Fair Oaks  
Effective: 3/5/09  
Violation: 490, 10177(b)

Villalobos, Victor Manuel (RES)  
3822 Spring Meadow Ln., Stockton  
Effective: 4/23/09  
Violation: 490, 10177(b)

Webb, Erin Victoria (RES)  
6136 Van Alstine Ave., Carmichael  
Effective: 4/24/09  
Violation: 490, 10177(b)
### PAGE 8  REAL ESTATE BULLETIN  FALL 2009

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Effective</th>
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<tr>
<td>Aziz, Nadim Akhtar (REB)</td>
<td>PO Box 39007, Downey</td>
<td>3/16/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td></td>
<td></td>
<td>5/26/09</td>
<td>2831, 10240, 10177(d) Right to RRE license on terms and conditions</td>
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<tr>
<td>Rauh, Douglas Alan (RES)</td>
<td>2694 E. Garvey Ave. S #223, West Covina</td>
<td>3/3/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Romero, Daniel Louis (RES)</td>
<td>2547 Coolidge Ave., Los Angeles</td>
<td>5/26/09</td>
<td>10177(f) Right to RRE license on terms and conditions</td>
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<tr>
<td>Sigman, Kimberly Ann (RES)</td>
<td>3843 Longview Valley Rd., Sherman Oaks</td>
<td>4/14/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Velasquez, Pascual Joseph (REB)</td>
<td>3814 Park Balboa Ave., Orange</td>
<td>4/6/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Wilson, Westley Allen (REB)</td>
<td>1244 W. Avenue H4, Lancaster</td>
<td>5/27/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Aziz, Nadim Akbar (REB)</td>
<td>1477 Lesher Cln., San Jose</td>
<td>4/30/09</td>
<td>10130, 10137, 10177(d)(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Burnham, Verna Lee (RES)</td>
<td>5942 MacArthur Blvd. #B, Oakland</td>
<td>3/12/09</td>
<td>10176(a)(b)(i) Right to RRE license on terms and conditions</td>
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<tr>
<td>Fang, Wilson C. (REB)</td>
<td>874 D Blossom Hill Rd., San Jose</td>
<td>4/16/09</td>
<td>10176(a)(b)(ii) Right to RRE license on terms and conditions</td>
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<tr>
<td>Frost, Robin Paula (RES)</td>
<td>PO Box 783, Clayton</td>
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<td>10176(a)(b)(iii) Right to RRE license on terms and conditions</td>
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### OAKLAND REGION

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<th>Name</th>
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<tbody>
<tr>
<td>Kerner, Mark Stephen (RES)</td>
<td>2564 Crown Dr., El Dorado Hills</td>
<td>5/19/09</td>
<td>490(a), 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Wright, Constance Helen (REB)</td>
<td>1166 Esplanade, Ste. 2, Chico</td>
<td>3/11/09</td>
<td>10176(a), 10177(i) Right to RRE license on terms and conditions</td>
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### SACRAMENTO REGION

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<th>Name</th>
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<tr>
<td>Fernstrom, Kris Emil (RES)</td>
<td>1621 Am Arbor Cln., San Jacinto</td>
<td>3/17/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Kurtin, Jon Robert (REB)</td>
<td>8091 Run of the Knolls, San Diego</td>
<td>3/11/09</td>
<td>10177(f) Right to RRE license on terms and conditions</td>
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### LOS ANGELES REGION

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<th>Name</th>
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<tbody>
<tr>
<td>McNeill, Frank J. (REB)</td>
<td>2550 Sth Ave., Ste. 172 &amp; 115, San Diego</td>
<td>3/10/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Lyons, Gregory Steven (REB)</td>
<td>1 Lakeside Dr. #906, Oakland</td>
<td>3/11/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Mott, William Henry III (REB)</td>
<td>3619 E. Laurel Creek Dr., San Mateo</td>
<td>4/23/09</td>
<td>2831, 2831.1, 2832, 2950, 2951, 10145, 10159.5, 10176(e), 10177(d)(b), 10234, 10240, 10241 Right to RRE license on terms and conditions</td>
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<tr>
<td>Negga, Yohannes (RES)</td>
<td>PO Box 62313, Sunnyvale</td>
<td>5/28/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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<tr>
<td>Ramsdell, Susan Michele (RES)</td>
<td>5218 Henderson Cln., Antioch</td>
<td>4/15/09</td>
<td>10176(a)(b)(ii), 10177(g)(j) Right to RRE license on terms and conditions</td>
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<tr>
<td>Zazo, Michele Robbin (RES)</td>
<td>502 Beach St., Encinitas</td>
<td>5/14/09</td>
<td>490, 10177(b) Right to RRE license on terms and conditions</td>
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### SUSPENDED WITH STAY

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<th>Name</th>
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<tbody>
<tr>
<td>Alvarado, Martin (REB)</td>
<td>1044 W. Town &amp; Country Blvd., Orange</td>
<td>4/9/09</td>
<td>2725, 2831, 2831.1, 2831.2, 2832(a)(e), 2950(d), 10145, 10177(d)(h) Suspended for 60 days—stayed for 2 years on terms and conditions</td>
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<tr>
<td>Bennett, Randall K. (REB, REO)</td>
<td>901 Harvey Dr., Brea</td>
<td>5/13/09</td>
<td>490, 10177(g) Right to RRE license on terms and conditions</td>
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<tr>
<td>Alvarado, Martin (REB)</td>
<td>2301 Lake Center Dr., Ste. 345/CFA, Lake Forest</td>
<td>5/13/09</td>
<td>10145, 10177(d), 10236.4 Suspended for 90 days—45 days stayed for 2 years on terms and conditions</td>
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<tr>
<td>Carla, Anthony P. (REB, REO)</td>
<td>1095 Bonita Ave., La Verne</td>
<td>5/11/09</td>
<td>10177(g) Right to RRE license on terms and conditions</td>
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<tr>
<td>Cirrito, Michael David (REB, REO)</td>
<td>23332 Mill Creek Rd. Cln. 115, Laguna Hills</td>
<td>5/14/09</td>
<td>10177(g) Right to RRE license on terms and conditions</td>
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<tr>
<td>Dalsimer, Robert Edward (REB, REO)</td>
<td>6250 Seabourne Dr., Huntington Beach</td>
<td>4/1/09</td>
<td>3/16/09 Violation: 10177(g) Right to RRE license on terms and conditions</td>
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### First Choice Realty and Mortgage (REC) 6250 Seabourne Dr., Huntington Beach 4/1/09 Violation: 10177(g) Suspended for 30 days—stayed for 1 year on terms and conditions
Funk and Tracz Enterprises, Inc. (REC)
237 E. Palmdale Blvd., Ste. C, Palmdale
Effective: 3/19/09
Violation: 2832(a), 2834, 10137, 10145, 10177(d), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Funk, Michael Dale (REB, REO)
237 E. Palmdale Blvd., Ste. C, Palmdale
Effective: 3/19/09
Officer of: Funk and Tracz Enterprises, Inc.
Violation: 2832(a), 2834, 10137, 10145, 10177(d), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Granada Hills Assets and Investments Management, Inc. (REC)
19420 Business Center Dr., Ste. 107, Northridge
Effective: 5/15/09
Violation: 2726, 2753, 2831, 2831.1, 2832(a), 2835, 10145, 10148, 10160, 10161.8, 10176(a)(e), 10177(d)(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Hernandez, Francisco Guillermo (REB, REO)
5/13/09
Officer of: A P M Realty Services, Inc.
Violation: 2832(d), 2840, 10145, 10159.2, 10177(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

Johnson, Patricia Ann (REB)
Management, Inc. (REC)
Effective: 5/13/09
Violation: 2726, 2753, 2831, 2831.1, 2832(a), 2835, 10145, 10177(d), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Lueker, Marilyn Lou (REB, REO)
2540 E. Highland Ave., Highland
Effective: 5/14/09
Officer of: Choice Estates, Inc.
Violation: 10177(g)
Suspended for 30 days—stayed for one year on terms and conditions

Marcell, John Thomas (REB, REO)
2353 W. Foothill Blvd., Ste. 18, Upland
Effective: 4/2/09
Officer of: Better Mortgage Brokers, Inc.
Violation: 2831, 2831.1, 2832(a), 10145, 10159.2, 10177(d)(b), 10240
Suspended for 30 days—stayed for 2 years on terms and conditions

McMenamin, Sinead Martina (RES)
1 Park Plaza, 6th Floor, Irvine
Effective: 4/1/09
Violation: 10177(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

New Day Trust Mortgage (REC)
15520 Rockfield Blvd., Ste D, Irvine
Effective: 5/22/09
Violation: 2725, 2831, 2831.1, 2832(a), 2950(d), 10145, 10177(d), 10240
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

New Generation Realty, Inc. (REC)
9920 Lakewood Blvd., Downey
Effective: 5/22/09
Violation: 2726, 2753, 2831, 2831.1, 2832(a), 2950(d), 10145, 10177(d), 10240
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Olarte, Napoleon B. (REB, REO)
19420 Business Center Dr., Ste. 107, Northridge
Effective: 5/15/09
Officer of: Granada Hills Assets and Investments Management, Inc.
Violation: 2726, 2753, 2831, 2831.1, 2832(a), 2835, 10145, 10148, 10160, 10161.8, 10176(a)(e), 10177(d)(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Pioneer Financial Corporation (REB)
18838 Norwalk Blvd., Artesia
Effective: 5/13/09
Violation: 2840, 10240, 10177(d)
Suspended for 60 days—stayed for 2 years on terms and conditions

RM CER Corporation (REC)
13405 Artesia Blvd., Ste. 100, Cerritos
Effective: 5/13/09
Violation: 2832(d), 10145, 10177(d)
Suspended for 60 days—stayed for 2 years on terms and conditions

Sherman, Alan Lee (REB, REO)
19 Hubbard Way, Trabuco Canyon
Effective: 4/3/09
Officer of: Datacom Investment Company, Inc.
Violation: 2840, 2846, 10145, 10175, 10177(d)(g), 10232(e), 10232.4, 10232.5, 10234, 10238(h)(a)(d)(1)(e)(f)(1), 10240, 1973(b)(1)(e)(f)(1)
Suspended for 60 days—stayed for 1 year on terms and conditions

Sipes, Michael Grant (REB, REO)
1500 Palma Dr, Ventura
Effective: 5/21/09
Officer of: Evans/Sipes, Inc.
Violation: 10159.2, 10177(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

South Bay Brokers Incorporated (REC)
2501 N. Sepulveda Blvd., 2nd Fl., Manhattan Beach
Effective: 5/13/09
Violation: 10177(g)
Suspended for 15 days—suspension stayed

Terraciano, Peter J. (REB, REO)
43832 20th St., West, Lancaster
Effective: 5/15/09
Officer of: Palm-Lan Real Estate Agents Company
Violation: 2831, 2832, 2835, 2950, 10145, 10159.2, 10177(d)(g)
Suspended for 90 days—stayed for 2 years on terms and conditions

Tindimwebwa, Issy Kanyubure (REB)
12070 Telegraph Rd., Ste. 360, Santa Fe Springs
Effective: 5/22/09
Violation: 2725, 2831, 2831.1, 2832(a), 2832(b), 2950(d), 10145, 10177(d), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Van Zanten, James D. (REB, REO)
2501 N. Sepulveda Blvd., 2nd Fl., Manhattan Beach
Effective: 5/13/09
Officer of: South Bay Brokers Incorporated
Violation: 10177(h)
Suspended for 15 days—suspension stayed

Violet, Jamie Lee (REB, REO)
2540 E. Highland Ave., Highland
Effective: 5/14/09
Officer of: Choice Estates, Inc.
Violation: 10177(g)
Suspended for 30 days—stayed for one year on terms and conditions

Walter, Robert (REB, REO)
2731, 2832(a), 2834, 10145, 10148, 10160, 10161.8, 10176(a)(e), 10177(d)(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Zhu, Wen (REB, REO)
2335 W. Foothill Blvd., Ste. 18, Upland
Effective: 4/2/09
Officer of: Better Mortgage Brokers, Inc.
Violation: 2831, 2831.1, 2832(a), 10145, 10159.2, 10177(d)(b), 10240
Suspended for 30 days—stayed for 2 years on terms and conditions
LICENSE SURRENDER
(licenses voluntarily surrendered per B&P Code §10100.2 during an administrative action/investigation)

FRESNO REGION
Breen, Kevin (RES)
1830 S. Mooney Blvd., Ste. C, Visalia
Effective: 5/26/09

WINSTON, Matthew (RES)
11511 Shanklin St., Bakersfield
Effective: 3/3/09

LOS ANGELES REGION
Brent, Anna Marie (RES)
401 W. Orangethorpe 203-D, Fullerton
Effective: 5/26/09

Citicom Commercial Real Estate, Inc. (REC)
PO Box 7399, Redlands
Effective: 5/18/09

Clear Sky Lending (REC)
1954 Hillhurst #171, Los Angeles
Effective: 3/16/09

Danyko, Donald Alexander (RES)
PO Box 503, Tustin
Effective: 5/20/09

DOYLE, Joanne Louise (RES)
5178 Sky Ridge Dr., Glendale
Effective: 3/10/09

First Mortgage of America, Inc. (REC)
2911 S. Bristol St., Santa Ana
Effective: 4/21/09

Golden State Financial Services, Inc. (REC)
901 Harvey Dr., Brea
Effective: 5/13/09

Howell, Doyle Clinton Jr. (REC, REO)
4774 Phelan Rd., Ste. 5, Phelan
Effective: 4/30/09

Investors Trust Realty Group (REC)
1095 Bonita Ave., La Verne
Effective: 3/11/09

Kook Min Finance, Inc. (REC)
3435 Wilshire Blvd. #105, Los Angeles
Effective: 5/5/09

Lee, Kwan (REC, REO)
3700 Wilshire Blvd. Ste. 880, Los Angeles
Effective: 5/5/09

Leggitt, Jason Derek (REC)
610 Anacapa St., Santa Barbara
Effective: 5/4/09

Patterson, Thomas Harold (REC)
6176 Trappeto Dr., Fontana
Effective: 4/29/09

Phelan Escrow, Inc. (REC)
4774 Phelan Rd., Ste. 6, Phelan
Effective: 4/30/09

Phelan Financial Services, Inc. (REC)
4774 Phelan Rd., Ste. 5, Phelan
Effective: 4/30/09

Pope Financial Center, Inc. (REC)
800 S. Milliken Ave., Ste. H, Ontario
Effective: 5/27/09

Pope Mortgage & Associates, Inc. (REC)
800 S. Milliken Ave., Ste. H, Ontario
Effective: 5/27/09

Pope, Paul N. (REC, REO)
800 S. Milliken Ave., Ste. H, Ontario
Effective: 5/27/09


Richards, William S. (REC)
1654 E. Alvin Ave., Santa Maria
Effective: 6/10/09

The Firm-Loans Insurance & Investments, Inc. (REC)
10374 Trademark St., Rancho Cucamonga
Effective: 3/31/09

Weiss, Barry B. (REC)
4270 Satsuma Dr., Toluca Lake
Effective: 3/11/09

Wolfe, Gerald L. (REB)
8001 Irvine Center Dr., 4th Floor, Irvine
Effective: 4/21/09

OAKLAND REGION
Atlantic Bancorp of California (REC)
5980 Stoneridge Dr. Ste. 117, Pleasanton
Effective: 3/24/09

Atlantic Financial Mortgage, Inc. (REC)
5776 Stoneridge Mall Rd., Ste. 338, Pleasanton
Effective: 3/24/09

Aziz Industries (REC)
1477 Lesher Ct., San Jose
Effective: 4/30/09

Bay Funding Corporation (REC)
3619 E. Laurel Creek Dr., San Mateo
Effective: 4/23/09

Bay Funding Corporation (REC)
3619 E. Laurel Creek Dr., San Mateo
Effective: 4/23/09

Carson, Tracy Lee (REC)
151 Revere Ave., Hayward
Effective: 3/20/09

Choyce, Dionne Edward (REB)
5012 Escalon Circle, Richmond
Effective: 3/24/09

Crain, Richard Steven (REC)
770 Kiely Blvd., Ste. C, Santa Clara
Effective: 5/14/09

Cummam, Francis Xavier III (REC)
3806 Sebastopol Rd., Santa Rosa
Effective: 5/26/09

Janet Financial (REC)
770 Kiely Blvd., Ste. C3, Santa Clara
Effective: 5/14/09

Landmark Realty Corporation (REC)
5012 Escalon Circle, Richmond
Effective: 3/24/09

Lee, Julie Yang (REC)
1327 Taraval St., San Francisco
Effective: 3/19/09

Montes, A. Elizabeth (REC)
2415 San Ramon Valley Blvd., San Ramon
Effective: 4/8/09

Mortgaged Corporation (REC)
3130 Crow Canyon Pl, Ste. 180, San Ramon
Effective: 3/16/09

Real Estate Experts (REC)
40795 Las Palmas Ave., Fremont
Effective: 4/30/09

Rocha, Janet Kaye (REC)
894 Pepper tree Ct., Santa Clara
Effective: 5/14/09

SACRAMENTO REGION
CMXL Corporation (REC)
1300 National Dr., Ste. 150, Sacramento
Effective: 3/16/09

Peters, Nadine (RES)
1736 Apache, South Lake Tahoe
Effective: 5/21/09

SAN DIEGO REGION
Ohlsson, Dennis Belter (REC)
1617 Hawk Ridge Pl., Escondido
Effective: 4/23/09

Tuck, Gregory William (REC)
24885 Whitewood Rd., #101A, Murrieta
Effective: 4/27/09

PUBLIC REPROVAL

LOS ANGELES REGION
Chilcote, James Roland (REC)
11599 Bartlett Dr., Adelanto
Effective: 5/12/09
Violation: 10177(g)

OAKLAND REGION
Pham, Leon (REC)
35384 Alvarengo-Niles Rd., Union City
Effective: 4/14/09
Violation: 2831.2, 2834

SAN DIEGO REGION
Boccker, Theodore James (REC, REO)
23580 Sunnymead Blvd., Moreno Valley
Effective: 5/25/09

INDEFINITE SUSPENSIONS
(under Recovery Act provisions)

LOS ANGELES REGION
Castaneda, John Manuel (REC)
830 N. Wilcox Ave., Montebello
Effective: 3/30/09

Davis, John Corry (REC)
28 Rose Trellis, Irvine
Effective: 4/17/09

Farias, Ruth Georganne (REC)
131 N. Tustin Ave., Ste. 210, Tustin
Effective: 05/28/09

Larsen, Richard Arlen (REC)
2539 Lone Jack Rd., Encinitas
Effective: 04/13/09

Larsen, Richard Arlen (REC)
2539 Lone Jack Rd., Encinitas
Effective: 04/17/09

OAKLAND REGION
Bullard, Rodney Alonzo (REC)
4935 Bridle Way, Antioch
Effective: 5/12/09

Primewest Residential Loans, Inc. (REC)
P.O. Box 2340, Dublin
Effective: 4/09/09

SACRAMENTO REGION
Anyanwu, Katrina Chimakua (REC)
P.O. Box 668, Stockton
Effective: 4/21/09

King’s Way United, Inc. (REC)
525 E. Main, Stockton
Effective: 4/21/09
The California Housing Finance Agency is pleased to announce the introduction of the Cal30 first mortgage loan. Cal30 combines the predictability of a low fixed interest rate with the attainability of an achievable credit score. This new loan program is available for eligible first-time homebuyers across the entire state, offering fixed mortgage payments for the life of the loan—with no changes in the monthly payment and no surprises for borrowers. Cal30 marks a return to California-wide lending after a brief period in which CalHFA concentrated on REO properties.

"We are eager to use Cal30 and our other assistance programs to help meet the housing needs of California families," said Steve Spears, Acting Executive Director of CalHFA. "While the financial market turmoil continues and California faces unique challenges economically, there is perhaps no more important time for our agency to work on behalf of families statewide."

"Because of the decline in real estate prices, the number of Californians who can now afford to buy their first home is twice what it was at this same time last year," Spears said. "CalHFA is excited to introduce this new program as we begin to mark National Homeownership Month and recognize that homeownership enhances entire communities."

To use CalHFA’s programs, homebuyers must meet certain income and sales price guidelines for low and moderate income families. The guidelines are set according to county and are quite generous in most areas. For example, a family of four or more in Santa Clara County could use CalHFA’s programs if the household income is $126,600 or less and the home being purchased is $637,645 or less.

"Cal30 is a positive step forward for CalHFA to be able to again offer a safe, 30-year mortgage to the market," Spears said. "As the financial markets improve, we will continue to identify additional opportunities to assist first-time homebuyers."

CalHFA will also be working closely with lenders and loan officers to shorten processing times on Cal30 and our other loan programs. Cal30 can be combined with other forms of CalHFA assistance, including the California Homebuyer’s Downpayment Assistance Program and Affordable Housing Partnership Program.

For information on Cal30 and other ways CalHFA can help first-time homebuyers, please visit www.calhfa.ca.gov.

In the Spring 2009 issue of the Mortgage Loan Bulletin and the Summer 2009 issue of the Real Estate Bulletin we discussed the Secure and Fair Enforcement Mortgage Licensing Act (SAFE Act) of the Housing and Economic Recovery Act of 2008. The bill was signed into law on July 30, 2008 to enhance consumer protection and reduce fraud in mortgage loan transactions. SAFE requires all 50 states and 5 territories to put into place a licensing system for mortgage loan originators that meets the minimum requirements of the SAFE Act. We reported that the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) created, and will maintain, the Nationwide Mortgage Licensing System and Registry (NMLS&R) to streamline the licensing process with oversight by the Department of Housing and Urban Development (HUD). The NMLS&R will contain a single license record for each mortgage loan lender, broker, branch and mortgage loan originator which can be used to apply for, amend, and renew a license in any state.

The SAFE Act mandates that each person who meets the definition of a mortgage loan originator must meet certain minimum pre-licensing and continuing education requirements in order to be licensed in any state. Each person must also take and pass a test consisting of a national component and a state component. Those tests are currently being developed and will be required in addition to the real estate salesperson or broker examination. Each mortgage loan originator will be required to provide fingerprints to the NMLS&R to obtain criminal background histories through the FBI and must authorize NMLS&R to obtain an independent credit report.

Commercial loan modifications

Continued from page 1

to ensure that the broker performs all of the promised services or makes appropriate refunds to the clients (principals). If approached for referrals by a company that purports to be in the commercial loan modification business, licensees must be cautious. If a licensee makes such a referral and the consumer is victimized or harmed by that company, the licensee may be at risk of being investigated by the DRE for potential violations of the Real Estate Law. Licensees have a duty to determine that the company is properly licensed (or has a bona fide exemption) and, if charging advance fees, that the company has completed the review process by DRE. A list of those brokers who have completed the review process is available on the DRE Web site by clicking on News Flash. Brokers wishing to submit an advance fee contract for commercial loan modification services should consult “The Essential Elements of an Advance Fee Agreement” available on the DRE’s Web site under the Industry section. The major difference between a residential loan modification and a commercial loan modification is that in a commercial loan modification there is no legal prohibition which would prevent a licensee from collecting an advance fee from a principal where a Notice of Default has been recorded against the property.

To apply for a “no objection” letter, the broker must submit the proposed agreement, sample verified accounting (B&P §10146) and any advertising or promotional materials that may be used to the DRE’s Mortgage Loan Activities Unit. The DRE’s sample advance fee contract and sample verified accounting format for residential loan modification services may be consulted as a basis for drafting a commercial agreement. Brokers should also provide a cover letter stating they are submitting an advance fee contract for commercial loan modifications.

Please direct any questions about this article to the Mortgage Loan Activities Unit at (916) 227-0770. More information regarding advance fee contracts and the address for submission may be found on the DRE’s Web site under the “Industry” Tab.
Update on SAFE Act

Continued from page 11

Two bills, Senate Bill 36 (Calderon) and Assembly Bill 34 (Nava), were introduced this year in the state legislature to implement the SAFE Act in California. SB 36 passed both houses, is enrolled and on its way to the Governor’s desk for signature, while AB 34 failed passage in the Senate. Information on these bills can be found at www.leginfo.ca.gov. If the Governor signs SB 36 into law, the Department of Real Estate will begin transitioning to the NMLS&R on March 1, 2010 with endorsements being issued after that date. The Department of Corporations is also working to implement a SAFE-compliant licensing system for all mortgage loan originators under the California Finance Lenders Licensing Law (CFL) and California Mortgage Loan Act (Mortgage Bankers).

Details regarding pre-licensing education and testing for existing real estate licensees who would apply for the SAFE mortgage loan originator endorsement as well as the fees involved are still being discussed and will be provided at a later date. You can find much more information on the SAFE Act and NMLS&R at www.stateregulatoryregistry.org/NMLS and at www.csbs.org. Questions can also be directed to the Mortgage Loan Activities Unit at (916) 227-0770.