

1 DEPARTMENT OF REAL ESTATE
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FILED

FEB 23 2012

DEPARTMENT OF REAL ESTATE

By *D. Jones*

9 STATE OF CALIFORNIA

10 DEPARTMENT OF REAL ESTATE

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JOHN E. WYRICK, INCORPORATED,
and JOHN E. WYRICK

No. H-11332 SF

ORDER TO DESIST AND REFRAIN
(B&P Code Section 10086)

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

1 broker license required to charge or collect an advance fee) of the Code, in violation of Section
2 10130 of the Code.

3 7. JEWI and WYRICK used a form of advance fee agreement which had not
4 been provided to the Department for its prior review and consideration, in violation of Section
5 10085 of the Code (prior submission of advance fee materials required) and Section 2970
6 (details for prior submission of advance fee materials) of the Regulations.

7 DESIST AND REFRAIN ORDER

8 Based on the Findings of Fact and Conclusions of Law stated herein, JEWI and
9 WYRICK, whether doing business under your own name, or any other name or fictitious name,
10 are HEREBY ORDERED to:

11 1. Immediately desist and refrain from performing any acts within the State
12 of California for which a real estate broker license is required. In particular, you are ordered to
13 desist and refrain from soliciting borrowers and/or performing services for borrowers or lenders
14 in connection with loans secured directly or collaterally by one or more liens on real property,
15 unless and until you obtain a real estate broker license issued by the Department.

16 2. Immediately desist and refrain from charging, demanding, claiming,
17 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code,
18 for any of the services you offer to others, unless and until you demonstrate and provide
19 evidence satisfactory to the Commissioner that you are properly licensed by the Department as a
20 real estate broker, and that JEWI and WYRICK:

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

23 (b) Have placed all previously collected advance fees into a trust
24 account for that purpose and are in compliance with Section 10146 of the Code;

25 (c) Have provided an accounting to trust fund owner-beneficiaries
26 pursuant to Section 2972 of the Regulations; and

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1 (d) Are in compliance with California law, as amended effective as
2 of October 11, 2009, with respect to loan modification and/or forbearance services. Under
3 the amended law, you can only collect advance fees for loan modification or other mortgage
4 loan 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: 1/26/12

13 BARBARA J. BIGBY
14 Real Estate Commissioner

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18 **- NOTICE -**

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