

1 Department of Real Estate
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3 Los Angeles, California 90013

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FILED

MAY 02 2012

DEPARTMENT OF REAL ESTATE
BY: 

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 To:)	No. H-38095 LA
)	
12 YOUR MORTGAGE LENDER, and)	
13 MICHAEL ANTHONY COLEMAN,)	
14 Individually, and as)	<u>ORDER TO DESIST</u>
15 designated officer for)	<u>AND REFRAIN</u>
16 Your Mortgage Lender,)	(B&P Code Section 10086)
)	
)	

17 The Commissioner ("Commissioner") of the California
18 Department of Real Estate ("Department") caused an investigation
19 to be made of the activities of YOUR MORTGAGE LENDER ("MORTGAGE")
20 and MICHAEL ANTHONY COLEMAN ("COLEMAN"), individually, and as
21 designated officer for MORTGAGE. Based on that investigation the
22 Commissioner has determined that MORTGAGE and COLEMAN have acted
23 in the capacity of, or are acting in the capacity of, advertising
24 or assuming to act as a real estate broker in the State of
25 California within the meaning of California Business and
26 Professions Code ("Code") Section 10131(d) (performing services
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1 for borrowers in connection with loans secured by real property)
2 of the Code, and, further, have engaged in or are engaging in the
3 business of claiming, demanding, charging, receiving, collecting
4 or contracting for the collection of an advance fee in connection
5 with employment undertaken to promote the sale or lease of real
6 property or to obtain a loan or loans on real property, including
7 the performance of loan negotiation and loan modification
8 services with respect to loans which are secured by liens on real
9 property, within the meaning of Code Section 10131.2. In
10 addition, the Commissioner has determined that MORTGAGE and
11 COLEMAN have engaged in or are engaging in activities which
12 constitute violations of the Code and Title 10, California Code
13 of Regulations ("Regulations"). Based on the investigation, the
14 Commissioner hereby issues the following Findings of Fact,
15 Conclusions of Law, and Desist and Refrain Order under the
16 authority of Section 10086 of the Code.

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18 FINDINGS OF FACT

19 1. MORTGAGE is presently licensed and/or has license
20 rights under the Real Estate Law (Part 1 of Division 4 of the
21 Code) as a real estate corporation. The license of MORTGAGE
22 expired on February 20, 2012. Pursuant to Code Section 10201
23 Respondent retains renewal rights. Pursuant to Section 10103 of
24 the Code the Department retains jurisdiction.

25 2. COLEMAN is presently licensed and/or has license
26 rights under the Real Estate Law as a real estate broker.

27 COLEMAN was at all times relevant herein the designated broker

1 officer of MORTGAGE. The license of COLEMAN expired on February
2 22, 2011. Pursuant to Code Section 10201 Respondent retains
3 renewal rights. Pursuant to Section 10103 of the Code the
4 Department retains jurisdiction.

5 3. Whenever acts referred to below are attributed to
6 MORTGAGE, those acts are alleged to have been done by MORTGAGE,
7 acting by itself, or by and/or through one or more agents,
8 associates, affiliates, and/or co-conspirators, including but not
9 limited to COLEMAN, and using the name MORTGAGE or any fictitious
10 name unknown at this time.

11 4. MORTGAGE and COLEMAN engaged in the business of
12 claiming, demanding, charging, receiving, collecting or
13 contracting for the collection of an advance fee, including but
14 not limited to the activities described in Paragraph 5, below.

15 5. At the times set forth below MORTGAGE and COLEMAN
16 engaged in the business of, acted in the capacity of, or
17 advertised a real estate loan service and advance fee brokerage
18 offering to perform solicitation, negotiation and modification of
19 loans secured by liens on real property for compensation or in
20 expectation of compensation and for fees collected in advance
21 including, but not limited to, the following:

22 a. On or about October 21, 2009, Judy J. paid
23 MORTGAGE and COLEMAN an advance fee of \$1,747.50. On or about
24 December 4, 2009, Judy J. paid MORTGAGE and COLEMAN an
25 additional advance fee of \$1,748.00. The advance fees were
26 collected pursuant to the provisions of an agreement pertaining
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1 to loan solicitation, negotiation, and modification services to
2 be provided by MORTGAGE and COLEMAN with respect to a loan
3 secured by real property at 5501 Lakemont Boulevard SE, #102,
4 Bellevue, Washington 98006.

5 b. On or about May 1, 2009, Dabelus D. paid MORTGAGE
6 and COLEMAN two advance fees, each totaling \$1,745. The advance
7 fees were collected pursuant to the provisions of an agreement
8 pertaining to loan solicitation, negotiation, and modification
9 services to be provided by MORTGAGE and COLEMAN with respect to a
10 loan secured by real property at 570 East 87th Street, Brooklyn,
11 New York 11236.

12 6. MORTGAGE and COLEMAN collected the advance fees
13 described in Paragraph 5, above, pursuant to the provisions of an
14 agreement meeting the definition of an advance fee agreement in
15 Code Section 10026.

16 7. MORTGAGE and COLEMAN failed to submit the advance
17 fee agreements referred to in Paragraph 5, above, to the
18 Commissioner ten days before using it.

19 8. On October 11, 2009, Code Section 10085.6 went into
20 effect. By its terms Section 10085.6 prohibits any real estate
21 licensee who negotiates, attempts to negotiate, arranges,
22 attempts to arrange, or otherwise offers to perform a loan
23 modification with respect to residential property to "claim,
24 demand, charge, collect, or receive any compensation until after
25 the licensee has fully performed each and every service the
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1 licensee contracted to perform or represented that he, she, or it
2 would perform."

3 CONCLUSIONS OF LAW

4 9. Based on the information contained in Paragraphs 5,
5 6, and 7, above, MORTGAGE and COLEMAN collected fees pursuant to
6 an agreement which constitutes an advance fee agreement within
7 the meaning of Code Section 10085.

8 10. Based on the information contained in Paragraphs 5,
9 6, 7, and 8, above, the failure by MORTGAGE and COLEMAN to submit
10 the advance fee agreement to the Commissioner ten days before
11 using it constitutes a violation of Code Section 10085 and
12 Section 2970 of the Regulations.

13 11. By virtue of the application of Code Section
14 10085.6 to the advance fee transactions described in Paragraph
15 5(a), above, MORTGAGE and COLEMAN additionally violated the
16 provisions of Code Section 10085.6 when MORTGAGE and COLEMAN
17 accepted advance fees after October 11, 2009, when such fees were
18 prohibited by Code Section 10085.6.

19 DESIST AND REFRAIN ORDER

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21 Based on the Findings of Fact and Conclusions of Law
22 stated herein, it is hereby ordered that YOUR MORTGAGE LENDER and
23 MICHAEL ANTHONY COLEMAN, whether doing business under their own
24 names, or any other names, or any fictitious name, ARE HEREBY
25 ORDERED to:

26 1. Immediately desist and refrain from charging,
27 demanding, claiming, collecting and/or receiving advance fees, as

1 that term is defined in Section 10026 of the Code, in any form,
2 and under any conditions, with respect to the performance of loan
3 modification or any other form of mortgage loan forbearance
4 services in connection with loans on residential property
5 containing four or fewer dwelling units (Code Section 10085.6).

6 2. Immediately desist and refrain from charging,
7 demanding, claiming, collecting and/or receiving advance fees, as
8 that term is defined in Section 10026 of the Code, for any of the
9 other real estate related services offered to others, unless and
10 until YOUR MORTGAGE LENDER and MICHAEL ANTHONY COLEMAN, and each
11 of them, demonstrate and provide evidence satisfactory to the
12 Commissioner that each:

13 (a) has an advance fee agreement which has been
14 submitted to the Department and which is in compliance with
15 Section 10085 of the Code and Section 2970 of the Regulations;

16 (b) has placed all previously collected advance fees
17 into a trust account for that purpose and is in compliance with
18 Section 10146 of the Code; and
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1 (c) has provided an accounting to trust fund owner-
2 beneficiaries from whom advance fees have previously been
3 collected in compliance with Code Section 10146 and Section 2972
4 of the Regulations.

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6 DATED: 4/22, 2012.

8 REAL ESTATE COMMISSIONER

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11 By WAYNE S. BELL
12 Chief Counsel

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