



MORTGAGE LOAN BULLETIN

Serving Californians Since 1917

Arnold Schwarzenegger, Governor
Dale Bonner, Secretary, Business, Transportation and Housing Agency
Jeff Davi, Real Estate Commissioner

Spring 2009

Some cautionary notes to California real estate licensees regarding residential loan modifications

The tremendous problems in the California housing market continually blanket the news. Many homeowners are struggling or unable to make their payments, and others are anxious because of the bleak economy and/or as their adjustable rate mortgages are about to reset to higher rates.

Some of these homeowners have turned to real estate brokers to assist them with loan modifications in order to prevent foreclosure. Under section 10131(d) of the California Business and Professions Code (B&P), real estate brokers can lawfully perform such loan modification services. And under section 2945.1 of the California Civil Code, brokers are specifically exempt from the strict requirements of the Mortgage Foreclosure Consultants Act.

Some homeowners have sought the services of lawyers. Under the law, California licensed attorneys who render loan modification and/or foreclosure consultative services in the course of their practice as attorneys-at-law can lawfully perform such services.

Other financially distressed homeowners have fallen — and unfortunately continue to fall — prey to pervasive unlicensed loan modification and foreclosure rescue companies. In many cases, these unlicensed entities are nothing more than perpetrators of fraud, who promise timely and helpful modification services, ask for and collect monies up front, perform no valuable services, and simply pocket the

by Wayne S. Bell, Chief Counsel
monies paid in advance by the desperate homeowners.

In still other cases, some of the unlicensed persons are involved in more monstrous and unconscionable foreclosure rescue frauds, including ones where the unsophisticated homeowners surrender the home title to the unlicensed scam artist or to an accomplice.

Not all of the fraud purveyors or those who give underwater homeowners false hope are unlicensed. Some have real estate licenses and some are lawyers.

The purpose of this article is to provide some cautionary notes to California real estate licensees who are desirous of providing loan modification services within the confines of the law.

1. A real estate broker may not collect an advance fee for loan modification services once a notice of default is recorded against the property.

Once a residence is in foreclosure, a real estate broker cannot claim, demand, charge, collect, or receive any compensation for loan modification services respecting that residence until the services are performed. See section 2945.1(b)(3) of the California Civil Code.

It should be noted that unlike real estate brokers, lawyers are able, under current California law, to collect fees in advance from clients

California foreclosure prevention act

On February 20, 2009, Governor Schwarzenegger signed [Senate Bill X2 7](#) (Corbett) and [Assembly Bill X2 7](#) (Lieu). These identical bills enact the California Foreclosure Prevention Act. When effective, the law may preclude a foreclosure sale for an additional 90 days beyond the current law requirements in order to allow the parties to pursue a loan modification. Any broker who services first lien, owner occupied real estate loans will need to become familiar with the provisions of the law. The following is a summary of the bill:

In order to be eligible for the foreclosure sale moratorium of 90 days under SB X2 7, all of the following conditions must exist:

- ❖ The loan was made between 1/1/2003 and 1/1/2008, inclusive.
- ❖ The lien is in first position.
- ❖ The property is owner occupied.
- ❖ The notice of default has been recorded against the property.

The above 90-day foreclosure sale moratorium does not apply if any of the following conditions are met:

- ❖ The loan was made, purchased or serviced by a state or local public housing agency or authority, including CalHFA and the VA.
- ❖ The loan is collateral for securities purchased by an agency/authority described above.

MORTGAGE LOAN BULLETIN

Vol. 19 No. 1 Spring 2009

STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER
Governor

BUSINESS, TRANSPORTATION AND
HOUSING AGENCY
DALE BONNER
Secretary

DEPARTMENT OF REAL ESTATE
JEFF DAVI
Real Estate Commissioner

Principal Office

2201 Broadway
Sacramento, CA 95818

Mailing Address

P.O. Box 187000,
Sacramento, CA 95818-7000

Telephone

(916) 227-0770

Barbara Bigby
Chief Deputy Commissioner

Wayne Bell
Chief Counsel

Gary Sibner
*Managing Deputy Commissioner III
Mortgage Lending*

Sylvia Yrigollen
*Senior Deputy Commissioner
Mortgage Lending Advertising*

The *MORTGAGE LOAN BULLETIN* is published as an educational service to real estate licensees engaged in mortgage lending activities.

Reproduction, in whole or in part, is authorized with attribution to the DRE.

DRE's Internet address is:
<http://www.dre.ca.gov>



Safe mortgage licensing act

Title V – The Secure and Fair Enforcement Mortgage Licensing Act (SAFE Act) of the Housing and Economic Recovery Act of 2008 was signed into law on July 30, 2008 to enhance consumer protection and reduce fraud in mortgage loan transactions. It 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. The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have created, and will maintain, the Nationwide Mortgage Licensing System and Registry (NMLS&R) to streamline the licensing process with oversight by 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 participating jurisdiction. Three bills have been introduced in the California legislature to implement the SAFE Act in California – Senate Bill 36 (Calderon), Senate Bill 491 (Maldonado) and Assembly Bill 34 (Nava). The SAFE Act licensing system will be implemented in California once legislation has become effective, most likely in mid-to-late 2010. Information on these bills can be found at www.leginfo.ca.gov.



What does the SAFE Act require?

The SAFE Act mandates that each person who fits 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 in addition to the real estate salesperson or broker examination. Each mortgage loan originator will be required to provide fingerprints to the NMLS&R in order to obtain criminal background histories through the FBI and must authorize NMLS&R to obtain an independent credit report from a consumer reporting agency. The SAFE Act also mandates mortgage call reports, reporting of enforcement actions and certain public access to licensing information. When registering with the NMLS&R each person will be issued a unique identifier. This unique identifier will not replace the real estate license identification number but will allow information to be shared among states in the event of complaints and/or disciplinary actions. The Senate Bill 36 (Calderon), which would implement the provisions of SAFE, contemplate that an “endorsement” would be added to a real estate licensee’s broker or salesperson license for those persons engaging in mortgage loan activities. Each mortgage loan originator would hold a California real estate license plus the “endorsement”. The endorsement will be renewed annually while the real estate license will remain on a four-year renewal cycle. 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 Residential Mortgage Loan Act (Mortgage Bankers).

The DRE has been working with CSBS and AARMR staff on a number of issues that would affect current and future licensees such as pre-licensing education, testing and continuing education requirements. There will be emerging information in future bulletins and on the DRE Web site as the legislation and implementation progresses; so stay tuned. You can find additional information on the SAFE Act and NMLS&R at www.stateregulatoryregistry.org/NMLS and at www.csbs.org. 

Avoiding the unlawful influence of appraisers

There are many factors that led to the inflated property values we experienced a few short years ago, and ultimately resulted in the market conditions that we all are experiencing today. One of those factors involved real estate appraisers who were not objective in their appraisal work, but rather were unduly influenced to arrive at specified values by those who hired them. Appraisers were influenced in a variety of ways, ranging from subtle to overt, but the net effect was uncontrolled market appreciation that could not be sustained.

To address the problem of the improper influence of real estate appraisers, Civil Code section 1090.5, was enacted and became effective October 5, 2007. It provided in part that “No person with an interest in a real estate transaction involving an appraisal shall improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.” To further restrain undue influence upon appraisers, the law also provides that if a person who violates the law is licensed under any state licensing law, and the violation occurs within the course and scope of the person’s duties as a licensee, the violation shall be deemed a violation of that state licensing law.

To help real estate licensees avoid any potential impropriety, the DRE, working in conjunction with the Office of Real Estate Appraisers, the Department of Corporations and the Department of Financial Institutions, developed the following list of practices which may constitute evidence of a violation of California Law and should be avoided when engaging the services of a licensed real estate appraiser:

- ❖ withholding or threatening to withhold timely payment or partial payment for a completed appraisal report, regardless of whether a sale or financing transaction closes;
- ❖ withholding or threatening to withhold future business from an appraiser, or demoting or terminating

or threatening to demote or terminate an appraiser;

- ❖ expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
- ❖ conditioning the ordering of an appraisal report or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary value estimate requested from an appraiser;
- ❖ requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report prior to the completion of the appraisal report, or requesting that an appraiser provide estimated values or comparable sales at any time prior to the appraiser’s completion of an appraisal report;
- ❖ providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
- ❖ requesting the removal of language related to observed physical, functional or economic obsolescence, or adverse property conditions noted in an appraisal report;
- ❖ providing to an appraiser, appraisal company, appraisal management company, or any entity or person related to the appraiser, appraisal company, or appraisal management company, stock or other financial or non-financial benefits;
- ❖ allowing the removal of an appraiser from a list of qualified appraisers, or the addition of an appraiser to an exclusionary list of disapproved appraisers, used by any entity, without prior written notice to such appraiser, which notice shall include written evidence of the appraiser’s illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) or state licensing

standards, substandard performance, improper or unprofessional behavior or other substantive reason for removal;

- ❖ ordering, obtaining, using, or paying for a second or subsequent appraisal or automated valuation model (AVM) in connection with a mortgage financing transaction unless: (i) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or (ii) such appraisal or AVM is done pursuant to written, pre-established bona fide pre- or post-funding appraisal review or quality control process or underwriting guidelines, and so long as the lender adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value; or
- ❖ any other act or practice that impairs or attempts to impair an appraiser’s independence, objectivity, or impartiality or violates law or regulation, including, but not limited to, the Truth in Lending Act (TILA) and Regulation Z, or the USPAP.

It should be noted that neither Civil Code section 1090.5, nor any other California code section, prohibits a person with an interest in a real estate transaction from asking an appraiser to do any of the following: (1) consider additional, appropriate property information, (2) provide further detail, substantiation, or explanation for the appraiser’s value conclusion, and/or (3) correct objective factual errors in an appraisal report.

While the above list is illustrative of acts that may be evidence of violations of the prohibitions against undue influence contained in Civil Code section 1090.5, it is not exhaustive. It is, however, intended to alert real estate licensees of practices that could potentially lead to disciplinary action. In this regard, licensees are admonished to exercise caution when working with real estate appraisers and avoid actions that could be considered improper influence. 

Disciplinary Action: October 08 - March 09

- The following individuals and real estate corporations engaging in mortgage loan activities were the subject of license disciplinary actions or the issuance of a Desist and Refrain Order for one or more violations of the Real Estate Law, the Regulations of the Real Estate Commissioner or the conviction of a crime.
- 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 District Office region of responsibility.
- Where the type of discipline indicates “*Suspended*” the license may be indefinitely suspended, suspended with a stay, or the suspension released upon payment of a monetary fine. Details of the suspension of a real estate license may be found on the Department’s Web site at www.dre.ca.gov and using the “Check License Status” function to look up the license of an individual corporation, broker or salesperson.

REVOKED LICENSES

FRESNO REGION

21st Century Financial Resources, Inc.

License ID: 1257461
License Type: Corporation
Effective: 02/03/09

Cole, Carl

License ID: 1040694
License Type: Broker
Effective: 10/15/08

Crisp Cole & Associates

License ID: 1484276
License Type: Corporation
Effective: 10/15/08

Crisp, David

License ID: 1306479
License Type: Sales
Effective: 10/15/08

Kennedy, Linda Ann

License ID: 1110200
License Type: Broker
Effective: 02/03/09

Nguyen, Robinson

License ID: 1468034
License Type: Sales
Effective: 10/15/08

Tower Lending

License ID: 1485782
License Type: Corporation
Effective: 10/15/08

LOS ANGELES REGION

Alvarado, Liliana

License ID: 1040174
License Type: Broker
Effective: 11/28/08

AS Mortgage Corp

License ID: 1471932
License Type: Corporation
Effective: 03/24/09

Access Mortgages Group Corp.

License ID: 1520193
License Type: Corporation
Effective: 10/21/08

Garraway, Janina Naomi aka Janina Naomi Phillips

License ID: 171567
License Type: Sales
Effective: 03/17/09

Griggs, Richard

License ID: 1316340
License Type: Sales
Effective: 03/23/09

Heritage Financial Bancorp dba LS Gateway Mortgage Inc

License ID: 1343515
License Type: Corporation
Effective: 12/05/08

Iverson, Travis Corey

License ID: 1444339
License Type: Sales
Effective: 03/24/09

La Casita Mortgage Co.

License ID: 1475620
License Type: Corporation
Effective: 10/31/08

Marquee Mortgage

License ID: 1506325
License Type: Corporation
Effective: 10/30/08

Omega Investment & Loans

License ID: 1479301
License Type: Corporation
Effective: 10/07/08

Preferred Mortgage, Inc.

License ID: 1297910
License Type: Corporation
Effective: 12/31/08

R&G Lending

License ID: 1228790
License Type: Corporation
Effective: 10/03/08

Rodriguez, Berenice Eli

License ID: 1354073
License Type: Sales
Effective: 10/29/08

Supreme Team Real Estate, Inc.

License ID: 1333362
License Type: Corporation
Effective: 10/31/08

Wright, Claude Larry

License ID: 927549
License Type: Broker
Effective: 10/21/08

OAKLAND REGION

Burnham, Verna Lee

License ID: 1416500
License Type: Sales
Effective: 03/12/09

Garcia, Milagros S.

License ID: 1017624

License Type: Broker
Effective: 12/26/08

Home Equity Group

License ID: 1341078
License Type: Corporation
Effective: 12/26/08

Lakami Professional Services, Inc.

License ID: 1494538
License Type: Corporation
Effective: 02/18/09

Lorenzo, Yolanda

License ID: 1464669
License Type: Sales
Effective: 12/26/08

Mendaros, Edwin Devera

License ID: 769600
License Type: Broker
Effective: 03/24/09

Nguyen, Cindy

License ID: 1440285
License Type: Corporation
Effective: 02/18/09

Nguyen, Thanh Ngoc

License ID: 998289
License Type: Broker
Effective: 12/23/08

SACRAMENTO REGION

Ciurar, Magdalena F.

License ID: 1425124
License Type: Sales
Effective: 10/15/08

Fidelity Capital Lending, Inc.

License ID: 1300748
License Type: Corporation
Effective: 02/18/09

Portillo, Anthony Robert

License ID: 1257074
License Type: Broker
Effective: 02/18/09

Santa, Maria

License ID: 1422394
License Type: Sales
Effective: 10/15/08

Sava, Candit Cipri

License ID: 1337846
License Type: Sales
Effective: 10/15/08

SAN DIEGO REGION

American Heritage Financial Services

License ID: 1431164
License Type: Corporation
Effective: 12/26/08

REVOKED WITH RIGHT TO RESTRICTED LICENSE

FRESNO REGION

Curtright, Elizabeth Ann

License ID: 1334112
License Type: Sales
Effective: 12/26/08

LOS ANGELES REGION

Bagrameli, Irenka

License ID: 1098066
License Type: Broker
Effective: 10/30/08

Cruz, Louis

License ID: 1234185
License Type: Broker
Effective: 03/25/09

Encinas, Gloria Vasquez

License ID: 1035204
License Type: Broker
Effective: 10/31/08

Freedom Enterprises, Inc.

License ID: 1294644
License Type: Corporation
Effective: 03/25/09

Hughes, Deborah Aliene

License ID: 1039471
License Type: Sales
Effective: 11/07/08

Singh Sidhu, Shamsher

License ID: 1325370
License Type: Broker
Effective: 01/28/09

OAKLAND REGION

Berkley, Jessica Morgan

License ID: 1841662
License Type: Sales
Effective: 02/25/09

Campa, Corina

License ID: 1500231
License Type: Sales
Effective: 02/18/09

Chen, John

License ID: 1251432
License Type: Broker
Effective: 12/26/08

Dinh, Joseph Hai

License ID: 1353715
License Type: Broker
Effective: 12/29/08

SACRAMENTO REGION

Wright, Constance Helen
License ID: 484380
License Type: Broker
Effective: 02/18/09

SAN DIEGO REGION

Holbrook, Daniel Robert
License ID: 824495
License Type: Broker
Effective: 02/05/09

SUSPENDED

FRESNO REGION

Zentner, Kevin
License ID: 1469808
License Type: Sales
Effective: 03/18/09

LOS ANGELES REGION

AAV Real Estate Mortgage
License ID: 1154707
License Type: Corporation
Effective: 10/23/08

Adams Financial Services
License ID: 531447
License Type: Corporation
Effective: 10/30/08

AW2 Realty Inc.
License ID: 1388809
License Type: Corporation
Effective: 10/31/08

Cao, Hoa Xuan
License ID: 1245141
License Type: Broker
Effective: 12/05/08

Cole, Linda Eva
License ID: 1003752
License Type: Broker
Effective: 03/30/09

Cruz, Jorge Ricardo
License ID: 774298
License Type: Broker
Effective: 12/01/08

Cueva & Associates
License ID: 1338816
License Type: Corporation
Effective: 10/13/08

Cueva, Juan Antonio
License ID: 1317577
License Type: Broker
Effective: 10/13/08

Funk and Tracz Enterprises Inc.
License ID: 1525386
License Type: Corporation
Effective: 03/19/09

Funk, Michael
License ID: 1167612
License Type: Broker
Effective: 03/19/09

Leibovitch, Sydney
License ID: 858724
License Type: Broker
Effective: 10/20/08

McGee, Paul Edward
License ID: 794294
License Type: Broker
Effective: 10/31/08

Minor, Sky R.
License ID: 1380933

License Type: Broker
Effective: 03/16/09

Ordebegian, Meroojohn
License ID: 1064157
License Type: Broker
Effective: 10/23/08

Rangel, Joseph
License ID: 1325054
License Type: Sales
Effective: 01/12/09

Rodeo Realty, Inc.
License ID: 951359
License Type: Corporation
Effective: 10/20/08

Santillan, Antonio
License ID: 531446
License Type: Broker
Effective: 10/30/08

Tu, Michael
License ID: 861637
License Type: Broker
Effective: 11/07/08

Weiss, Joseph A.
License ID: 397175
License Type: Broker
Effective: 10/03/08

WLP Financial Services
License ID: 1190809
License Type: Corporation
Effective: 11/21/08

OAKLAND REGION

Pacific Northwest Mortgage Corp
License ID: 1013956
License Type: Corporation
Effective: 11/25/08

Williams, Jane Smith
License ID: 529491
License Type: Broker
Effective: 11/25/08

Zentner, Kevin
License ID: 1469808
License Type: Sales
Effective: 03/18/09

SACRAMENTO REGION

Apex Financial Group
License ID: 1208645
License Type: Corporation
Effective: 11/13/08

Cameron, Robert
License ID: 1218824
License Type: Broker
Effective: 10/31/08

Champlin, Mark Alan
License ID: 1024533
License Type: Broker
Effective: 03/24/09

Gonzales, Richard John
License ID: 1036541
License Type: Broker
Effective: 11/13/08

Gonzales, Richard John
License ID: 1036541
License Type: Broker
Effective: 11/13/08

Singal, Suneet
License ID: 1351638
License Type: Broker
Effective: 03/16/09

Stranske, Timothy Wayne
License ID: 1219546

License Type: Broker
Effective: 10/14/08

Syme, David Michael
License ID: 829494
License Type: Broker
Effective: 03/16/09

LICENSE SURRENDERED

FRESNO REGION

Capital One Investments, Inc.
License ID: 1250407
License Type: Corporation
Effective: 01/20/09

Harper, Charles L.
License ID: 1197271
License Type: Broker
Effective: 01/20/09

LOS ANGELES REGION

Bohuslavizki, Andrew Joseph
License ID: 1269927
License Type: Broker
Effective: 02/23/09

Clear Sky Lending
License ID: 1770015
License Type: Corporation
Effective: 03/16/09

Da Silva, David John
License ID: 1011496
License Type: Broker
Effective: 10/06/08

DE HDL, Inc.
License ID: 1759530
License Type: Corporation
Effective: 11/12/08

Pacific West Syndication Group, Inc.
License ID: 1333839
License Type: Corporation
Effective: 10/06/08

Platinum Equity Financial
License ID: 1482406
License Type: Corporation
Effective: 12/29/08

Skywin, Inc.
License ID: 1251861
License Type: Corporation
Effective: 10/28/08

Wolfe, Gerald
License ID: 1487645
License Type: Broker
Effective: 03/25/09

X-Prss Corp
License ID: 1495381
License Type: Corporation
Effective: 01/12/09

OAKLAND REGION

Atlantic Bancorp of California
License ID: 1439853
License Type: Corporation
Effective: 03/24/09

Carson, Tracy Lee
License ID: 1424909
License Type: Sales
Effective: 03/20/09

Dhillon, Tejinder
License ID: 1466714
License Type: Sales
Effective: 02/26/09

Dorris, Monica Renee
License ID: 1452469

License Type: Sales
Effective: 10/16/08

SACRAMENTO REGION

American International Mortgage
License ID: 1213220
License Type: Corporation
Effective: 12/03/08

Choyce, Dionne Edward
License ID: 1364227
License Type: Broker
Effective: 03/24/09

CMXL Corporation
License ID: 1477175
License Type: Corporation
Effective: 03/16/09

Landmark Realty Corporation
License ID: 1493007
License Type: Corporation
Effective: 03/24/09

Marsden, Michael Kenneth
License ID: 1186292
License Type: Broker
Effective: 12/03/08

Mortgagexl Corporation
License ID: 1432077
License Type: Corporation
Effective: 03/16/09

Straume, Lisa Andrea
License ID: 1421825
License Type: Sales
Effective: 01/28/09

Ward, Necole Chantel
License ID: 1346652
License Type: Broker
Effective: 02/18/09

SAN DIEGO REGION

The Advantage Group, Inc.
License ID: 1208636
License Type: Corporation
Effective: 02/05/09

PUBLIC REPROVAL

LOS ANGELES REGION

Smith, Leslie Renee
License ID: 1164708
License Type: Broker
Effective: 11/21/08

DESIST AND REFRAIN

FRESNO REGION

Anderson, Celia
License ID: Unlicensed
License Type: Unlicensed
Effective: 03/24/09

Fletes, Isela
License ID: Unlicensed
License Type: Unlicensed
Effective: 03/24/09

Preserving Your Home and Dreams
License ID: Unlicensed
License Type: Unlicensed
Effective: 03/24/09

Whitfield Financial Services, Inc.
License ID: 1792203
License Type: Corporation
Effective: 12/31/08

LOS ANGELES REGION**Affordable Home Assistance.Com**

License ID: 1851346
License Type: Corporation
Effective: 01/15/09

Anderson, Ben Alexander

License ID: Unlicensed
License Type: Unlicensed
Effective: 10/31/08

Arballo, Norma

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/04/09

Avalos, Sindey

License ID: 1329000
License Type: Broker
Effective: 11/26/08

Bridgeman, David

License ID: 1071891
License Type: Broker
Effective: 02/24/09

Cara, Anthony P.

License ID: 1301922
License Type: Broker
Effective: 11/17/08

Carmenate, Dinorah Annette

License ID: 1020632
License Type: Broker
Effective: 02/13/09

Dinorah Inc. dba Foreclosure Help Center

License ID: 1277139
License Type: Corporation
Effective: 02/13/09

Donnell, Jason

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/04/09

Dyer Beech Enterprises, Inc.

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Escalante, George dba California Foreclosure Specialists

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Federal Loan Modification, dba www.fedmod.com

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/23/09

First Housing of America

License ID: 1342467
License Type: Corporation
Effective: 11/26/08

Grand Masters Lending, Inc.

License ID: 1790109
License Type: Corporation
Effective: 02/23/09

Green, Terence

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/04/09

GTS, LLC dba GTS Credit Services

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/20/09

Hearthside Lending Corporation

License ID: 1460687
License Type: Corporation
Effective: 01/28/09

Home Owners Assistance

License ID: 1835400
License Type: Corporation
Effective: 11/26/08

Home Relief Services

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/04/09

Homeowners Assistance

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/09/09

Jones, Jason Michael

License ID: 1712537
License Type: Broker
Effective: 03/13/09

Konopka, Jeffrey Thomas

License ID: 1218824
License Type: Broker
Effective: 11/17/08

Liberty Mutual Loans

License ID: Unlicensed
License Type: Unlicensed
Effective: 10/31/08

Lonardo, Rob

License ID: 1703769
License Type: Sales
Effective: 02/04/09

Lopez, Cesar

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Lopez, Maru

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Marrero, Stefano Joseph

License ID: 1364211
License Type: Sales
Effective: 02/04/09

Menjivar, Maribel

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/09/09

Mitigation Online Consultants, Inc.

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/04/09

Money Management Services

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/13/09

Nguyen, Dan Thanh

License ID: 124114
License Type: Broker
Effective: 03/09/09

Pacific Coast Financial Services

License ID: 1213260
License Type: Corporation
Effective: 02/24/09

Pope Financial Center Inc.

License ID: 1524994
License Type: Corporation
Effective: 12/05/08

Pope Mortgage & Associates Inc.

License ID: 1444782
License Type: Corporation
Effective: 12/05/08

Pope, Paul N.

License ID: 1379795
License Type: Broker
Effective: 12/05/08

Quinones, Jose

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Ramirez, Jorge

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Roberts, Sean R. dba Debt Barter, Inc.

License ID: Unlicensed
License Type: Unlicensed
Effective: 01/09/09

Rodriguez, Edgar Clara

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/04/09

Rodriguez, Shawn J.

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Rojano, Miguel

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/09/09

Russell, Mark B.

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/13/09

Sabedra, Michael Louis Curtis

License ID: 1839206
License Type: Sales
Effective: 03/25/09

Sadak, Alex

License ID: Unlicensed
License Type: Unlicensed
Effective: 01/15/09

Safehouse 911

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/13/09

Safehouse Professional Mortgage

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/13/09

Signorelli, Thomas Aaron

License ID: 1430943
License Type: Broker
Effective: 01/15/09

Spencer, Scott

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/13/09

The Firm-Loans Insurance & Investments

License ID: 1799665
License Type: Corporation
Effective: 10/30/08

Toro, Dean Eric

License ID: 966784
License Type: Broker
Effective: 11/26/08

Truwest Financial Inc.

License ID: 1523494
License Type: Corporation
Effective: 03/13/09

Urbina, Martin

License ID: Unlicensed
License Type: Unlicensed
Effective: 11/06/08

Wayman, Michael Baille

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/13/09

Winkel & Associates LLC

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Winkel, Alan

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/17/09

Zepeda, Antonio

License ID: 1102316
License Type: Broker
Effective: 02/23/09

OAKLAND REGION**Bradford, Leslie**

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/27/09

Financial Alliance Group

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/27/09

Pongru, Tom aka Tom Pongrujaporn

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/04/09

Quickloan2u.net

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/04/09

SACRAMENTO REGION**Burton, John**

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/11/09

Carter, Blake

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/27/09

Davis, Derek

License ID: Unlicensed
License Type: Unlicensed
Effective: 10/15/08

Franklin, Leon dba Wayne Financial

License ID: Unlicensed
License Type: Unlicensed
Effective: 10/14/08

Garoutte, Brooke Lorraine

License ID: 1700863
License Type: Broker
Effective: 03/09/09

Hasoppe, Todd

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/26/09

Hintz, Brandon

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/11/09

Homeloan Preservation, et al

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/12/09

J.R. Financial

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/18/09

JW Financial Solutions

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/27/09

Residential mortgage loan report reminder

Reminder! Real estate brokers who are direct lenders in certain types of loan transactions are required, pursuant to Health and Safety Code §35815 and §35816, to report to the Department of Real Estate (DRE) activities related to the number of applications received from, and number and dollar amount of loans made to, the public for home purchase and/or home improvement purposes. If a real estate broker reports such lending activity to the U.S. Department of Housing and Urban Development (HUD) under the provisions of the federal Home Mortgage Disclosure Act (HMDA), it is NOT necessary for the real estate broker to report to the DRE. Licensees who only broker, and do not make, loans are not required to report.

Please review the following criteria from the federal HMDA Web site to determine if you meet the federal reporting criteria:



2008 Reporting Criteria for Non-Depository Institutions

Use information and data from the preceding December 31 date when determining whether you meet the reporting criteria. The following questions for a non-depository institution should be answered to

determine if you should report calendar year (CY) 2008 HMDA data in 2009.

1. Is the non-depository institution a for-profit lender?
2. In the preceding calendar year, did the institution's home purchase loan originations (including refinancings of home purchase loans) equal or exceed 10 percent of its total loan originations, measured in dollars, or equal \$25 million or more?
3. Did the non-depository institution either: (a) have a home or branch office in an MSA/MD on the preceding December 31, or (b) receive applications for, originate, or purchase 5 or more home purchase or home improvement loans on property located in an MSA/MD in the preceding calendar year?
4. Did the non-depository institution either: (a) have assets (when combined with the assets of any parent corporation) exceeding \$10 million on the preceding December 31, or (b) originate 100 or more home purchase loans (including refinancings of home purchase loans) in the preceding calendar year?

If a non-depository institution responds 'YES' to question 1 above and 'YES' to at least one question in 2, and one question in 3, and one question in 4, then HMDA applies to the institution's loan originations, purchases, and applications in the current calendar year. A negative response to question 1, or to all the questions in 2, 3, or 4 exempts the institution from filing HMDA data for the current calendar year.

For non-depository institutions, a branch office is any office of the institution that takes applications from the public

for home purchase or home improvement loans. It does not include offices of affiliates or other third parties such as loan brokers.

If you are a lender and do not meet the above federal HMDA reporting criteria please review the following:

The State of California Residential Mortgage Loan Report (RE 857) must be submitted to the DRE by all real estate brokers whose assets total \$10 million or less and who regularly make real estate purchase and/or home improvement loans. "Regularly" is defined to mean twelve or more transactions annually during the immediately preceding calendar year that, in aggregate, total more than \$500,000.

Mortgage lending data is to be collected annually and reported on the RE 857 by March 31 of the following year. The form and instructions are available on the DRE Web site. If you qualify to file the Residential Mortgage Loan Report for calendar year 2008 and have not yet done so, or if you have any questions, please contact the Mortgage Loan Activities Unit at (916) 227-0770. 

Disciplinary Action

Continued from page 6

Lopez, Henry

License ID: Unlicensed
License Type: Unlicensed
Effective: 01/14/09

Missildine, Phil

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/26/09

Murphy, Curtis

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/30/09

Negotiation Center of America

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/26/09

Norton, David

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/27/09

Reed, Tracey Lynn

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/11/09

Riess, John A.

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/18/09

Shortrefinow.com

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/11/09

Smith, Geoffrey

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/05/09

Verdeo Funding, Inc.

License ID: 1443764
License Type: Corporation
Effective: 02/17/09

Welsh, Elizabeth

License ID: Unlicensed

License Type: Unlicensed
Effective: 03/30/09

Wheeler, Jesse

License ID: Unlicensed
License Type: Unlicensed
Effective: 02/27/09

Williams, David Meredith

License ID: 1345114
License Type: Broker
Effective: 02/17/09

Your Property Connection Inc

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/30/09

Zubiryor Properties

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/05/09

SAN DIEGO REGION

Butcherine, John J.

License ID: 1277998
License Type: Broker
Effective: 01/08/09

Home Loan Consultants, Inc.

License ID: 1362793
License Type: Corporation
Effective: 01/08/09

People's First Financial

License ID: 1768177
License Type: Corporation
Effective: 02/09/09

U.S. Consumer Bailout Services

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/17/09

Willis, Roderick Dwayne

License ID: Unlicensed
License Type: Unlicensed
Effective: 03/17/09

Lender notification reminder

The lender notification that became an annual requirement as of January 1, 2005 is again due from direct lenders who meet specific criteria.

The criteria, excerpted from Business and Professions Code Section 10131.8, are as follows:

(a) A real estate broker who acts pursuant to subdivision (d) of Section 10131 and who meets all of the following requirements shall notify the department annually in writing on a form that is acceptable to the commissioner:

(1) The real estate broker is an approved lender for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Administration, or the Federal Home Loan Mortgage Corporation.

(2) The real estate broker makes residential mortgage loans to a loan applicant for a residential mortgage loan by using or advancing the broker's

own funds, or by making a commitment to advance the broker's own funds.

(3) The real estate broker makes the credit decision in the loan transaction.

(4) The real estate broker at all times maintains a tangible net worth, computed in accordance with generally accepted accounting standards, of a minimum of two hundred fifty thousand dollars (\$250,000).

(b) As used in paragraph (2) of subdivision (a), "own funds" means (1) cash, corporate capital, or credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on the real estate broker's financial statements, whether secured or unsecured, or (2) cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on the financial statements of an affiliate of the real estate broker, whether

secured or unsecured. "Own funds" does not include funds provided by a third party to fund a loan on condition that the third party will subsequently purchase or accept an assignment of the loan.

If you are a lender that meets all of the above criteria you should have submitted the notice to the DRE no later than March 31, 2009 stating whether it is your initial notification or your annual notification. If you have not already submitted the notification, please do so immediately. If you are a lender that previously met the above criteria but no longer do, the notification you submit will indicate you no longer meet the criteria. The Residential Mortgage Lender Notification (RE 859) form is available on the DRE Web site www.dre.ca.gov under **Forms**.

Please note that this notice is separate from, and should not be confused with, the report entitled "Residential Mortgage Loan Report" for which there is also a reminder in this Bulletin. Questions regarding this or any other mortgage loan compliance issues should be directed to the Mortgage Loan Activities Unit at (916) 227-0770. 

California Forclosure Prevention Act

Continued from page 1

- ❖ The borrower has surrendered the property.
- ❖ The borrower has contracted with an organization, person or entity whose primary business is advising people who have decided to leave their homes how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries.
- ❖ The borrower has filed bankruptcy.
- ❖ The loan servicer has obtained an exemption from the Real Estate Commissioner.

In order to obtain an exemption, a loan servicer must apply for the exemption from the Commissioner. The Commissioner may grant the exemption if the servicer has implemented a comprehensive loan modification program that meets the following criteria:

- ❖ The program is intended to keep the borrower, whose home is in California, in the home when the anticipated recovery under the program or workout plan exceeds the anticipated recovery through foreclosure.
- ❖ The program targets a borrower's housing-related debt to 38% of the borrower's gross income. Housing-related debt includes property taxes, hazard and mortgage insurance,

HOA dues, and principal and interest payments.

The program includes some combination of the following features:

- ❖ An interest rate reduction, as needed, for a fixed term of at least five years.
- ❖ An extension of the amortization period for the loan term, to no more than 40 years from the original date of the loan.
- ❖ The deferral of some portion of the principal amount of the unpaid principal until maturity of the loan.
- ❖ Compliance with any federally mandated program.
- ❖ Other factors that the commissioner determines are appropriate. In determining those factors, the commissioner may consider efforts implemented in other jurisdictions that have resulted in a reduction of foreclosures.

When considering a solution for a borrower, the loan servicer must seek to achieve long-term sustainability for the borrower.

Upon the receipt of an initial exemption application, the

Continued on next page

Foreclosure Prevention Act

Continued from page 8

Commissioner will immediately notify the applicant of the date of receipt and will issue a temporary order, effective from the date of receipt, exempting the loan servicer from the 90 day foreclosure sale moratorium.

Within 30 days of receipt of an initial or revised application the commissioner will make a final determination whether the program meets the established criteria. If the program meets the criteria, the Commissioner will issue a final exemption order. If the program fails to meet the criteria, the exemption order shall be denied and no final exemption order issued.

When a servicer files a notice of sale, the notice must state whether or not an exemption has been issued or if the loan servicer has a temporary exemption. If a loan servicer's application is denied, the loan servicer may reapply.

The Commissioner may revoke a final exemption order if the loan servicer submitted false or misleading information on its application or if the program undergoes substantial changes without prior approval from the commissioner. In addition, any licensee regulated by the state who violates the provisions of this bill is also deemed to have violated its licensing law.

The DRE is currently drafting emergency regulations to implement the provisions of the California Foreclosure Prevention Act. Since the bill was passed out of a special session of the legislature, it is anticipated the effective date will be on or about May 21, 2009. The Commissioner will adopt, no later than June 1, 2009, emergency regulations pertaining to the exemption application and approval process. Servicers will have 14 days after the promulgation of the regulations to begin complying with the provisions of this bill.

The provisions of this bill will sunset on 1/1/2011. Loan servicers should read the full text of the bill which can be found at www.leginfo.ca.gov. Questions should be directed to the Mortgage Loan Activities Unit at (916) 227-0770. 

Cautionary Notes on Loan Modifications

Continued from page 1

even after the recordation of a Notice of Default. But there are some special issues that a real estate broker should consider when contemplating a relationship with a lawyer or lawyers in connection with loan modification work. Those issues are discussed below in cautionary note 5.

- 2. At present, advance fees may lawfully be collected by a real estate broker from a homeowner only prior to the recordation of a notice of default, and only where (i) a written advance fee agreement — with necessary supporting materials — has been submitted to and reviewed by the Real Estate Commissioner/DRE, (ii) a no-objection letter is issued by the Department to the broker, and (iii) the advance fees are properly handled as trust funds. See B&P §10026, 10085, 10145, and 10146.**



A violation of the rules on advance fees constitutes grounds for disciplinary action against a licensee, as well as grounds for criminal proceedings.

Licensees must understand that the issuance of a “no-objection” letter does not constitute the Department’s approval and/or endorsement of the advance fee agreement, supporting materials, or the services to be rendered. If a licensee were to suggest such approval and/or endorsement, that would be a misrepresentation.

- 3. While the collection of advance fees by real estate brokers may be lawful in the circumstances mentioned above in cautionary note 2, a real estate broker must also consider his or her applicable fiduciary duties to the homeowner/principal.**

The point here is that real estate brokers should look beyond the narrow technical question of whether advance fees can legally be collected, and focus on the questions of whether the licensees have the applicable experience, can exercise good judgment, add real value through a modification for the principal, and are able to negotiate a sustainable loan modification that is in the homeowner’s best interest.

Each real estate licensee has the fiduciary duty of acting in the highest good faith toward the principal, and that precludes the licensee from obtaining any advantage over, or taking an adverse position to, the principal. Moreover, the licensee must exercise the utmost honesty, integrity, absolute candor, and unselfishness toward the principal. This mandates that a real estate licensee act at all times in the best interests of his or her principal to the exclusion of all other interests, including interests that could benefit the licensee.

- 4. A real estate broker cannot acquire any interest in a residence in foreclosure directly from an owner for whom the broker agreed to perform the loan modification services (other than as a trustee or beneficiary under a deed of trust). See §2945.1(B)(3) of the California Civil Code.**
- 5. Some lawyers are collecting advance fees (or retainer fees) and offering to employ real estate brokers and/or salespersons and to supervise the real estate licensees as legal assistants, paralegals, or some other sort of legal office personnel. Some lawyers are placing themselves as “in-house” counsel in real estate companies and having advance/retainer fees paid to**

Continued on next page

Cautionary Notes on Loan Modifications

Continued from page 9

them as counsel. Such relationships and scenarios raise serious ethical and legal questions, for both the lawyers and the real estate licensees.

As noted above, lawyers are, under current law, able to collect fees in advance, even if a Notice of Default has been recorded and the subject property is “in foreclosure”. But the lawyer must render services in the course of his or her legal practice.

The questions that arise — and must be carefully considered — from the various lawyer/real estate licensee business models are numerous, and include the following:

- a. Is the business model simply an unlawful scheme to avoid the prohibition against the collection of advance fees by a real estate licensee after the recordation of a Notice of Default?
- b. Is the lawyer actually performing legal services? Lawyers may be able to bring valuable and professional skills and abilities to loan modification transactions. Lawyers are trained in the law of contracts, and many have long experience in negotiations. Also, lawyers have fiduciary duties and are viewed as champions of their clients.
- c. Is the lawyer really just a “front” and/or a non-participating magnet for business from desperate homeowners? This raises other questions, such as whether the lawyer who is involved in the loan modification business is even readily identifiable. Will the principal/client ever have a face-to-face meeting with a lawyer? Can the principal/client call the lawyer as the need arises? Does the lawyer work on-site? Does the lawyer add any value to the loan modification transaction, or does the real estate licensee carry the burden of the work? Many lawyers purport to have “lawyer-backed” or “attorney affiliated” loan modification companies, whatever those terms mean.
- d. Is the real estate licensee who is working with the lawyer a real estate “salesperson” engaged in real estate licensed activity? If so, the salesperson must work under the license and supervision of a licensed broker and only accept payment for such work from the broker. See §10137 of the B&P, which provides that “No real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed”.
- e. If a non-lawyer real estate licensee is working on loan modifications in a law firm or “law” business, is the real estate licensee a law firm employee working under the supervision of a licensed lawyer, or is the licensee “practicing law” without a license? If the facts reveal the latter, that is a crime. See §6126 of the B&P. The questions above are not exhaustive. Each relationship, and every case, is dependent on the facts. And those facts vary greatly from model to model.

The State Bar’s Committee on Professional Responsibility and Conduct recently issued an Ethics Alert to California lawyers on “Legal Services to Distressed Homeowners and Foreclosure Consultants on Loan Modifications”. It is very instructive and can be accessed at <http://calbar.ca.gov/calbar/pdfs/ethics/Ethics-Alert-Foreclosure.pdf>. In addition, the California Bar Journal, an official publication of the State Bar of California, published an article in the March 2009 edition entitled “Bar Issues Foreclosure Ethics Alert”. The article contains its own cautionary notes. It can be accessed through the State Bar of California Web site shown below.

If you are contemplating a business relationship with a lawyer, you should carefully review the Ethics Alert, and/or the article discussing the alert, as well as the lawyer’s disciplinary history (check the State Bar’s Web site at http://www.calbar.ca.gov/state/calbar/calbar_home.jsp), and check the lawyer’s bar membership records), and relevant experience (if any) in the area of loan modifications.

In conclusion, legitimate residential loan modification agents help, in a positive way, struggling homeowners who are unable to afford their mortgage payments. California licensed real estate agents should consider the cautionary notes above, their professional and fiduciary duties, and the ethical issues involved, when they undertake to provide loan modification services. 

