

1 Department of Real Estate
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FILED
MAY - 4 2011

DEPARTMENT OF REAL ESTATE
By K. Mar

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

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11 To:)
12) NO. H-5592 SAC
13 FIRST ONE LENDING,)
14 BILL MARINER) ORDER TO DESIST AND REFRAIN
15 and LINDA KATKUS) (B&P Code Section 10086)
16)
17)

18 The Commissioner (hereafter "the Commissioner") of the California Department
19 of Real Estate (hereafter "the Department") caused an investigation to be made of the activities
20 of FIRST ONE LENDING (hereafter "FIRST ONE"), BILL MARINER (hereafter "MARINER")
21 and LINDA KATKUS (hereafter "KATKUS"). Based on that investigation, the Commissioner
22 has determined that Respondents have engaged in, are engaging in, or are attempting to engage
23 in, acts or practices constituting violations of the California Business and Professions Code
24 ("Code") and/or Title 10, Chapter 6, California Code of Regulations ("Regulations"), including
25 acting in the capacity of, advertising or assuming to act as a real estate broker in the State of
26 California within the meaning of Section 10131(d) (performing services for borrowers and/or
27 lenders in connection with loans secured by real property), 10131.2 (collection of advance fees),
10085 (advance fee agreements and materials) and 10085.5 (collecting unauthorized advance
fees) of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the

1 following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the
2 authority of Section 10086 of the Code.

3 FINDINGS OF FACT

4 1. At no time has FIRST ONE been licensed by the Department in any capacity.

5 2. At no time has MARINER been licensed by the Department in any capacity. At
6 all times relevant herein, MARINER was employed by FIRST ONE as a "Customer Solutions
7 Manager".

8 3. At no time has KATKUS been licensed by the Department in any capacity. At all
9 times relevant herein, KATKUS was employed by FIRST ONE.

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

18 5. In furtherance of their plan and scheme to solicit advance fees and provide loan
19 modification services, on or about February 18, 2011, MARINER, on behalf of FIRST ONE,
20 offered loan modification services to "Joe T.", a Deputy Commissioner of the Department. In
21 exchange for an initial advance fee of \$925, MARINER offered to negotiate a loan modification
22 with Bank of America for "Joe T.", with an additional \$925 "completion fee" due once the loan
23 modification was obtained.

24 6. In furtherance of their plan and scheme to solicit advance fees and provide loan
25 modification services, on or about February 23, 2011, KATKUS, on behalf of FIRST ONE,
26 offered loan modification services to "Janet T.", a Deputy Commissioner of the Department. In
27 exchange for an initial advance fee of \$925, KATKUS offered to negotiate a loan modification

1 with Wells Fargo Bank for "Janet T.", with an additional \$925 due once the loan modification
2 was obtained.

3 CONCLUSIONS OF LAW

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

12 Respondents used a form of advance fee agreement which had not been provided to the
13 Department for its prior review and consideration, in violation of Sections 10085 and 10085.5 of
14 the Code, and Section 2970 (submission of advance fee materials) of the Regulations.

15 DESIST AND REFRAIN ORDER

16 Based on the Findings of Fact and Conclusions of Law stated herein, FIRST ONE
17 LENDING, BILL MARINER and LINDA KATKUS, whether doing business under your own
18 names, or any other names or fictitious names, ARE HEREBY ORDERED to immediately desist
19 and refrain from:

- 20 1. Performing any acts within the State of California that require a real estate license
21 unless and until you are properly licensed by the Department.
22 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
23 term is defined in Section 10026 of the Code, for any of the services you offer to
24 others, unless and until you demonstrate and provide evidence satisfactory to the

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1 Commissioner that you are properly licensed by the Department and that FIRST
2 ONE LENDING, BILL MARINER and LINDA KATKUS:

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

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

8 (c) Have provided an accounting to trust fund owner-beneficiaries pursuant to
9 Section 2972 of the Regulations.

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

15 DATED: 4.29.2011

16 JEFF DAVI
17 Real Estate Commissioner

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21 **Notice:** Business and Professions Code Section 10139 provides that, "Any person acting as a
22 real estate broker or real estate salesperson without a license or who advertises using words
23 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
24 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
25 imprisonment in the county jail for a term not to exceed six months, or by both fine and
26 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
27 (\$60,000)...."

1 cc: FIRST ONE LENDING
2 c/o Joseph A. Gelber
3 Agent for Service of Process
4 18200 Von Karman, Suite 900
5 Irvine, CA 92612

6 BILL MARINER
7 31831 Camino Capistrano, Suite 300 B
8 San Juan Capistrano, CA 92675

9 LINDA KATKUS
10 31831 Camino Capistrano, Suite 300 B
11 San Juan Capistrano, CA 92675

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15 ATTY: JWB/km
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