

FILED

NOV 15 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

1 Department of Real Estate  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789  
5  
6  
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \*

11 To: ) No. H-2548 FR  
12 )  
13 ) ORDER TO DESIST  
14 ) AND REFRAIN  
15 ) (B&P Code Section 10086)  
16 )

17 The Commissioner ("Commissioner") of the California Department of Real Estate  
18 ("Department") caused an investigation to be made of the activities of LYLA YANG ("L.  
19 YANG") and AUSTIN JAMES FUE YANG (A. YANG") (Collectively "Respondents").  
20 WFHM Financial Home Mortgage d.b.a. Aaa Mortgage and Loan and WFHM Financial Home  
21 Mortgage are fictitious business names of L. YANG and A. YANG. Based on that investigation  
22 the Commissioner has determined that Respondents have engaged in or are engaging in acts or  
23 are attempting to engage in the business of, acting in the capacity of, and/or advertising or  
24 assuming to act as real estate brokers in the State of California within the meaning of Business  
25 and Professions Code Sections 10131(d) (soliciting, negotiating and performing services for  
26 borrowers in connection with loans secured by real property) and 10131.2 (advance fee  
27 handling).

1 In addition, based on that investigation, the Commissioner has determined that  
2 Respondents have engaged in or are engaging in acts or are attempting to engage practices  
3 constituting violations of the California Business and Professions Code ("Code") and/or Title 10,  
4 California Code of Regulations ("Regulations"). Based on the findings of that investigation, set  
5 forth below, the Commissioner hereby issues the following Findings of Fact, Conclusions of  
6 Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

7 FINDINGS OF FACT

8 1. LYLA YANG is not now, and has never been, licensed by the  
9 Department in any capacity.

10 2 AUSTIN JAMES FUE YANG is not now, and has never been, licensed  
11 by the Department in any capacity.

12 3. WFHM Financial Home Mortgage and Aaa Mortgage and Loan, a  
13 fictitious business name of WFHM Financial Home Mortgage, are not now, and have never  
14 been, licensed by the Department in any capacity but are fictitious business names of LYLA  
15 YANG and AUSTIN JAMES FUE YANG.

16 4. At the time set forth below, Respondents LYLA YANG and AUSTIN  
17 JAMES FUE YANG as a co-owner of WFHM Financial Home Mortgage and Aaa Mortgage  
18 solicited borrowers and negotiated to do one or more of the following acts for another or others,  
19 for or in expectation of compensation; engaged in the business of, acted in the capacity of, or  
20 advertised a loan modification and negotiation service and advance fee brokerage using the  
21 name Aaa Mortgage and Loan soliciting, offering to negotiate or perform loan modification  
22 services with respect to loans which were secured by liens on real property for compensation or  
23 in expectation of compensation and for fees collected in advance of the transaction.

24 5. On or about July 7, 2008, LYLA YANG met with Cha V. and Xay V. to  
25 enroll them in Aaa Mortgage and Loan's home mortgage modification program. At that time  
26 LYLA YANG entered into an agreement with Cha V. and Xay V. for loan modification and  
27 negotiation services for Cha V. and Xay V.'s existing mortgage secured against their Clovis,

1 California rental properties.

2 6. Between July 9, 2008 and September 30, 2008, LYLA YANG, demanded  
3 and received a total advance fee of \$11,985.00 from Cha V. and Xay V. for the loan  
4 modification services described in Paragraph 5, above.

5 7. On or about July 21, 2008, LYLA YANG met with Keng V. to enroll him  
6 in Aaa Mortgage and Loan's home mortgage modification program. At that time LYLA YANG  
7 entered into an agreement with Keng V. for loan modification services for Keng V.'s existing  
8 mortgage secured against Keng V.'s Fresno, California home.

9 8. Between July 21, 2008 and July 31, 2008, LYLA YANG; demanded and  
10 received a total advance fee of \$3,995.00 from Keng V. for the services described in Paragraph  
11 7, above.

12 9. On or about June 9, 2010, a Deputy Real Estate Commissioner with the  
13 California Department of Real Estate using an assumed name ("Undercover Deputy") placed an  
14 undercover telephone call to LYLA YANG to verify that LYLA YANG was offering home  
15 mortgage loan modification services to the general public. LYLA YANG expressed a  
16 willingness to provide the undercover deputy with home mortgage loan modification assistance  
17 for the advance fee of \$1,500.00 with the total cost to the undercover deputy of between  
18 \$1,500.00 and \$3,500.00.

19 CONCLUSIONS OF LAW

20 10. Based on the information contained in Paragraphs 1 through 9, above,  
21 LYLA YANG and AUSTIN JAMES FUE YANG violated Section 10085 of the Code and  
22 Regulation 2970, by not having an approved advance fee agreement on file with the  
23 Department.

24 11. Based on the information contained in Paragraphs 1 through 9, above,  
25 LYLA YANG and AUSTIN JAMES FUE YANG violated Code Section 10130 and 10131(d)  
26 (performing services for borrowers in connection with loans secured by real property) of the  
27 Code acting by and/or through one or more agents, associates, affiliates, and/or co-conspirators

1 and using the name WFHM Financial Home Mortgage and/or Aaa Mortgage, or other names or  
2 fictitious names unknown at this time, sought or attempted to contract for advanced fees, in  
3 violation of Sections 10085 and 10085.5 of the Code.

4 DESIST AND REFRAIN ORDER

5 Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated  
6 herein, it is hereby ordered that:

7 (A) LYLA YANG and AUSTIN JAMES FUE YANG immediately desist and  
8 refrain from: employing and/or compensating individuals who are not  
9 licensed as a real estate salesperson or as a broker to perform activities  
10 requiring a real estate license.

11 (B) LYLA YANG and Y AUSTIN JAMES FUE YANG immediately desist  
12 and refrain from: performing any acts within the State of California for  
13 which a real estate broker license is required, unless you are so licensed.

14 IT IS FURTHER ORDERED THAT LYLA YANG and AUSTIN JAMES FUE  
15 YANG immediately desist and refrain from:

- 16 1. Charging, demanding, claiming, collecting and/or receiving advance fees, as  
17 that term is defined in Section 10026 of the Code, in any form, and under any  
18 conditions, with respect to the performance of loan modification or any other  
19 form of mortgage loan forbearance services in connection with loans on  
20 residential property containing four or fewer dwelling units (Code Section  
21 10085.6).
- 22 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as  
23 that term is defined in Section 10026 of the Code, for any of the other real  
24 estate related services offered to others, unless and until LYLA YANG and  
25 AUSTIN JAMES FUE YANG demonstrates and provides evidence  
26 satisfactory to the Commissioner they:

- 27 (a) have an advance fee agreement which has been submitted to

1 the Department and which is in compliance with Section 10085 of the Code  
2 and Section 2970 of the Regulations;

3 (b) have placed all previously collected advance fees into a trust  
4 account for that purpose and is in compliance with Section 10146 of the Code;  
5 and;

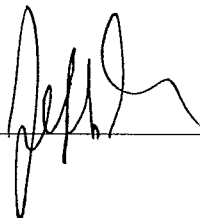
6 (c) have provided an accounting to trust fund owner-beneficiaries  
7 from whom advance fees have previously been collected in compliance with  
8 Section 10146 of the Code and Section 2972 of the Regulations.

9 IT IS FURTHER ORDERED THAT LYLA YANG and AUSTIN JAMES FUE  
10 YANG immediately desist and refrain from:

- 11 1. Charging, demanding, claiming, collecting and/or receiving advance fees, as  
12 that term is defined in Section 10026 of the Code, in any form, and under any  
13 conditions, with respect to the performance of loan modifications or any other  
14 form of mortgage loan forbearance service in connection with loans on  
15 residential property containing four or fewer dwelling units (Code Section  
16 10085.6); and
- 17 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as  
18 that term is defined in Section 10026 of the Code, for any other real estate  
19 related services offered by them to others.

20  
21 DATED: 11-8, 2010.

22  
23 JEFF DAVI  
Real Estate Commissioner

24  
25   
26 \_\_\_\_\_  
27

1  
2 **Notice:** Business and Professions Code Section 10139 provides that “Any person acting as a  
3 real estate broker or real estate salesperson without a license or who advertises using words  
4 indicating that he or she is a real estate broker without being so licensed shall be guilty of a  
5 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by  
6 imprisonment in the county jail for a term not to exceed six months, or by both fine and  
7 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars  
8 (\$60,000).”

9 cc:

10 Lyla Yang  
11 4915 East Kings Canyon Road  
12 Fresno, CA 93727  
13 (559) 801-6136

14 Lyla Yang  
15 5035 E. Belmont Avenue  
16 Suite C  
17 Fresno, CA 93727

18 Austin James Fue Yang  
19 4915 East Kings Canyon Road  
20 Fresno, CA 93727  
21 (559) 801-6136

22 Austin James Fue Yang  
23 5035 E. Belmont Avenue  
24 Suite C  
25 Fresno, CA 93727

26 KCE  
27