

**FILED**

NOV 28 2012

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, California 90013-1105

DEPARTMENT OF REAL ESTATE  
BY: Jama B. Olam

4 Telephone: (213) 576-6982

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

10 \* \* \* \*

11 To:	)	No. H-37792 LA
	)	
12 DAVID KENNEDY and	)	<u>AMENDED ORDER</u>
13 CHARLENE LOPEZ	)	<u>TO DESIST AND REFRAIN</u>
	)	
	)	(B&P Code Section 10086)
14	)	
15	)	

16 This Order to Desist and Refrain amends the Order to Desist and Refrain filed on  
17 January 17, 2012. The Commissioner ("Commissioner") of the California Department of Real  
18 Estate ("Department") caused an investigation to be made of the activities of DAVID  
19 KENNEDY ("KENNEDY") and CHARLENE LOPEZ ("LOPEZ"). Based on that investigation  
20 the Commissioner has determined that KENNEDY and LOPEZ have engaged in, or are engaging  
21 in, acts, or are attempting to engage in the business of, acting in the capacity of, and/or  
22 advertising or assuming to act as real estate brokers in the State of California within the meaning  
23 of Business and Professions Code Sections 10131(d) (soliciting borrowers, negotiating loans or  
24 performing services for borrowers in connection with loans secured by real property) and  
25 10131.2 (advance fee handling).

26 In addition, based on that investigation, the Commissioner has determined that  
27 KENNEDY and LOPEZ have engaged in, or are engaging in, acts, or are attempting to engage in

1 practices constituting violations of the California Business and Professions Code (“Code”).  
2 Based on the findings of that investigation, set forth below, the Commissioner hereby issues the  
3 following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the  
4 authority of Section 10086 of the Code.

5 FINDINGS OF FACT

6 1. KENNEDY is not now, nor has he ever been, licensed by the Department  
7 in any capacity.

8 2. LOPEZ has a restricted real estate salesperson license, which was placed  
9 on conditional suspension on July 28, 2008. LOPEZ has not been licensed with the Department  
10 as employed under any real estate broker since April 27, 2008. LOPEZ’s license expired on  
11 January 26, 2011.

12 3. At the times set forth below, KENNEDY and LOPEZ negotiated to do one  
13 or more of the following acts for another or others, for or in expectation of compensation:  
14 engaged in the business of, acted in the capacity of, or advertised a loan modification and  
15 negotiation service and advance fee brokerage with respect to loans which were secured by liens  
16 on real property for compensation or in expectation of compensation and for fees collected in  
17 advance of the transaction.

18 Patrick and Paula P. Transaction

19 4. In or about July 2008, KENNEDY and LOPEZ solicited Patrick and Paula  
20 P, offering to negotiate a modification of Patrick and Paula P.’s home loan, on behalf of Orange  
21 County Mutual Fundings. On or about September 12, 2008 LOPEZ collected \$3,200 in advance  
22 fees from Patrick and Paula P. for loan modification services.

23 CONCLUSIONS OF LAW

24 5. Based on the information contained in Paragraphs 1 through 4 above,  
25 KENNEDY and LOPEZ violated Code Section 10130 by engaging in activities requiring a  
26 broker license without first obtaining a broker license from the Department.

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1 DESIST AND REFRAIN ORDER

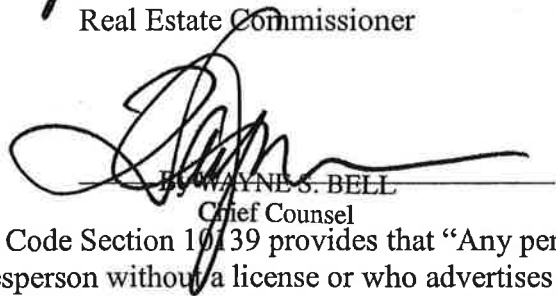
2 Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated  
3 herein, it is hereby ordered that DAVID KENNEDY and CHARLENE LOPEZ, whether doing  
4 business under their own names, or any other names, or any fictitious name, ARE HEREBY  
5 ORDERED to immediately desist and refrain from performing any acts within the State of  
6 California for which a real estate broker license is required, unless DAVID KENNEDY and  
7 CHARLENE LOPEZ are properly licensed. In particular, each of them is ORDERED TO  
8 DESIST AND REFRAIN from:

9 1. charging, demanding, claiming, collecting and/or receiving advance fees, as  
10 that term is defined in Section 10026 of the Code, in any form, and under any conditions, with  
11 respect to the performance of loan modifications or any other form of mortgage loan forbearance  
12 service in connection with loans on residential property containing four or fewer dwelling units  
13 (Code Section 10085.6); and

14 2. charging, demanding, claiming, collecting and/or receiving advance fees, as  
15 that term is defined in Section 10026 of the Code, for any other real estate related services  
16 offered by them to others.

17  
18 DATED: 10/18/2012

19  
20 Real Estate Commissioner

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22   
BY WAYNE S. BELL  
Chief Counsel

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

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cc: DAVID KENNEDY  
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