

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

**FILED**  
JUL 18 2012

DEPARTMENT OF REAL ESTATE  
By *R. Mar*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

12 To: )  
13 CALWIDE REALTY, INC. and )  
14 MICHAEL FRANKLIN PALUBA. )  
15 )

No. H-4381 SD  
ORDER TO DESIST AND REFRAIN  
(B&P Code Section 10086)

16 The Commissioner of the California Department of Real Estate (hereinafter  
17 "Department") caused an investigation to be made of the activities of CALWIDE REALTY,  
18 INC. and MICHAEL FRANKLIN PALUBA. Based on that investigation, the Commissioner  
19 has determined that CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA have  
20 engaged in, are engaging in, or are attempting to engage in, acts or practices constituting  
21 violations of the California Business and Professions Code (hereinafter "Code"), the California  
22 Civil Code (hereinafter "Civil Code") and/or Title 10, Chapter 6, California Code of  
23 Regulations (hereinafter "Regulations"), including, but not limited to the collection of advance  
24 fees after October 10, 2009 in violation of Section 10085.6 of the Code and Section 2945.4 of  
25 the Civil Code, and the conduct of business requiring a real estate license while CALWIDE  
26 REALTY, INC.'s corporate license is suspended by the California Secretary of State in  
27 violation of Section 2742(c) of the Regulations.

1                   Furthermore, based on the investigation, the Commissioner hereby issues the  
2 following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the  
3 authority of Section 10086 of the Code.

4                   Whenever acts referred to below are attributed to CALWIDE REALTY, INC.  
5 those acts are alleged to have been done by MICHAEL FRANKLIN PALUBA, acting by  
6 himself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators,  
7 and using the name "HOA Realty", "Calwide Realty Inc", or other names or fictitious names  
8 unknown at this time.

9                   FINDINGS OF FACT

10                1.       CALWIDE REALTY, INC. ("CALWIDE") has been licensed by the  
11 Department since May 26, 2005 as a corporate real estate broker, and its license expires on May  
12 25, 2013. At all times relevant herein, CALWIDE REALTY, INC. was and is acting by and  
13 through MICHAEL FRANKLIN PALUBA, as its designated officer broker.

14                2.       MICHAEL FRANKLIN PALUBA ("PALUBA") has been licensed by  
15 the Department as a real estate salesperson since May 24, 1982, and as a real estate broker since  
16 July 12, 2002, whose license expires on July 7, 2015. At all times relevant herein, PALUBA  
17 was licensed by the Department as the designated officer broker of CALWIDE, and was  
18 responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the  
19 officers, agents, real estate licensees and employees of CALWIDE for which a real estate  
20 license is required.

21                3.       During the period of November 1, 2009 through December 31, 2010,  
22 CALWIDE and PALUBA solicited borrowers and negotiated to do one or more of the  
23 following acts for another or others, for or in expectation of compensation: negotiate one or  
24 more loans for, or perform services for, borrowers and/or lenders in connection with loans  
25 secured directly or collaterally by one or more liens on real property, within the meaning of  
26 Section 10131(d) of the Code; and charge, demand or collect an advance fee for any of the  
27 services offered within the meaning of Section 10131.2 of the Code.

1 4. In connection with the operation and conduct of the activities described  
 2 in Paragraph 3, above, and after October 10, 2009, CALWIDE engaged in the business of  
 3 claiming, demanding, charging, receiving, collecting or contracting for the collection of  
 4 advance fees, which constitute trust funds, within the meaning of Sections 10026 and 10131.2  
 5 of the Code, including but not limited to the following:

<b>Borrower</b>	<b>Advance Fee</b>	<b>Date Received</b>
Andrew M.	\$1,200	10/29/10
Raul M.	\$1,600	10/18/10
Ramon D.	\$1,000	08/10/10
Nancy B.	\$1,500	06/05/10
Salvador C.	\$3,000	04/26/10 & 05/07/10
Armando G. and Marcella V.	\$1,500	04/26/10
Claudia C.	\$1,500	04/19/10
Milton B.	\$1,200	10/06/10

6  
 7  
 8  
 9  
 10  
 11  
 12  
 13 5. In connection with the operation and conduct of the activities described  
 14 in Paragraph 3, above, CALWIDE engaged in acts requiring a real estate license, including but  
 15 not limited to providing loan modification services to consumers within the meaning of  
 16 Sections 10131(d) and 10131.2 of the Code, while CALWIDE's corporate powers, rights, and  
 17 privileges were suspended by the California Secretary of State, in violation of Section 2742(c)  
 18 of the Regulations.

19 CONCLUSIONS OF LAW

20 1. Based on the findings of fact contained in Paragraphs 1 through 5,  
 21 above, CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA, acting alone, or by  
 22 and/or through one or more agents, associates, affiliates, and/or co-conspirators, including, but  
 23 not limited to PALUBA, violated Section 10085.6 of the Code, Section 2945.4 of the Civil  
 24 Code, and Section 2742(c) of the Regulations.

25 ///

26 ///

27 ///

1 DESIST AND REFRAIN ORDER

2 Based on the Findings of Fact and Conclusions of Law stated herein, you,  
3 CALWIDE REALTY, INC. and MICHAEL FRANKLIN PALUBA, whether doing business  
4 under your own name, or any other name or fictitious name, ARE HEREBY ORDERED to:

5 1. Immediately desist and refrain from engaging in acts requiring a real  
6 estate license within the meaning of Section 10131 of the Code, unless and until you  
7 demonstrate and provide evidence satisfactory to the Commissioner that you are properly  
8 licensed by the Department as a real estate broker, and that your corporate powers, rights, and  
9 privileges have been reinstated by the California Secretary of State.

10 2. Immediately desist and refrain from charging, demanding, claiming,  
11 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code,  
12 for any of the services you offer to others, unless and until you demonstrate and provide  
13 evidence satisfactory to the Commissioner that you are properly licensed by the Department as a  
14 real estate broker, that your corporate powers, rights, and privileges have been reinstated by the  
15 California Secretary of State, and that:

16 (a) you have an advance fee agreement which has been submitted  
17 to the Department and which is in compliance with Sections 2970 and 2972 of the  
18 Regulations;

19 (b) you have placed all previously collected advance fees into a  
20 trust account for that purpose and are in compliance with Section 10146 of the Code;

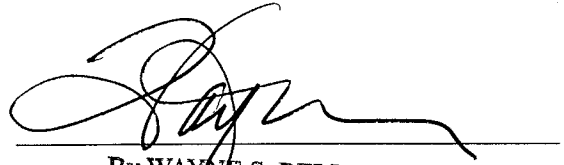
21 (c) you have provided an accounting to trust fund owner-  
22 beneficiaries pursuant to Section 2972 of the Regulations; and,

23 (d) you are in compliance with California law, as amended  
24 effective as of October 11, 2009, with respect to loan modification and/or forbearance  
25 services. Under the amended law, you can only collect advance fees for loan modification  
26 or other mortgage loan forbearance services related to commercial loans and loans for  
27 residential properties containing five or more dwelling units.

1           3. Immediately desist and refrain from demanding, claiming, collecting  
2 and/or receiving advance fees, as that term is defined in Section 10026 of the Code, in any  
3 form, and under any conditions, with respect to the performance of loan modification or any  
4 other form of mortgage loan forbearance services in connection with loans on residential  
5 property containing four or fewer dwelling units.

6           DATED: July 13, 2012

7           REAL ESTATE COMMISSIONER

8  
9  
10           

11           By WAYNE S. BELL  
12           Chief Counsel

13 cc: CALWIDE REALTY, INC.  
14       Attn: Alayna M. Paluba  
15       Agent for Service of Process  
16       1419 Franciscan Way  
17       San Diego, CA 92116

18       CALWIDE REALTY, INC.  
19       Attn: Michael Franklin Paluba  
20       Designated Officer  
21       28223 Red Stone Lane  
22       Escondido, CA 92026

23       MICHAEL FRANKLIN PALUBA  
24       28730 Faircrest Way  
25       Escondido, CA 92026

26       ATTY AEF/km  
27