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FILED

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DEPARTMENT OF REAL ESTATE
By K. Zin

8 STATE OF CALIFORNIA

9 DEPARTMENT OF REAL ESTATE

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11 To:)
12 ROSEVILLE FEDERAL MORTGAGE,) NO. H-5390 SAC
13 PAUL DIETRICH,) ORDER TO DESIST AND REFRAIN
14 DAVID SMITLEY, and) (B&P Code Section 10086)
15 BARBARA SIMON)

16 The Commissioner (hereinafter "Commissioner") of the California Department of
17 Real Estate (hereinafter "Department") caused an investigation to be made of the activities of
18 ROSEVILLE FEDERAL MORTGAGE (hereinafter "RFM"), PAUL DIETRICH (hereinafter
19 "DIETRICH"), DAVID SMITLEY (hereinafter "SMITLEY"), and BARBARA SIMON
20 (hereinafter "SIMON"). Based on that investigation, the Commissioner has determined that
21 RFM, DIETRICH, SMITLEY, and SIMON have engaged in, is engaging in, or is attempting to
22 engage in, acts or practices constituting violations of the California Business and Professions
23 Code (hereinafter "the Code") and/or Title 10, Chapter 6, California Code of Regulations
24 (hereinafter "the Regulations"), including the business of, acting in the capacity of, and/or
25 advertising or assuming to act as, a real estate broker in the State of California within the
26 meaning of Sections 10131(d) (performing services for borrowers and/or lenders in connection
27 with loans secured by real property) and 10131.2 (real estate broker license required to charge

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

4 Whenever acts referred to below are attributed to RFM, those acts are alleged to
5 have been done by DIETRICH, SMITLEY, and/or SIMON, acting by themselves, or by and/or
6 through one or more agents, associates, affiliates, and/or co-conspirators, and using the name
7 "Roseville Federal Mortgage", or other names or fictitious names unknown at this time.

8 FINDINGS OF FACT

9 1. At no time herein mentioned has RFM, DIETRICH, SMITLEY, and/or
10 SIMON been licensed by the Department in any capacity.

11 2. During the period of time set forth below, RFM, DIETRICH, SMITLEY,
12 and/or SIMON, while employed by or acting on behalf of one or more of the related entities,
13 solicited borrowers and negotiated to do one or more of the following acts for another or others,
14 for or in expectation of compensation: negotiate one or more loans for, or perform services for,
15 borrowers and/or lenders in connection with loans secured directly or collaterally by one or more
16 liens on real property; and charge, demand or collect an advance fee for any of the services
17 offered.

18 3. On approximately December 28, 2009, RFM acting through SIMON
19 solicited Peggy Ellen LeClert (hereinafter "LeClert") in order to provide loan
20 modification/refinance through a program called "Equity Relief Refinance Program" to LeClert
21 in connection with loans secured by real property located at 160 E. Alder Street and 8427
22 Melrose Drive, Stockton, California. In furtherance of RFM's plan and scheme to provide loan
23 modification services to LeClert, SIMON requested an advance fee of \$1,595 per loan from
24 LeClert.

25 4. On approximately February 23, 2010, RFM, acting through DIETRICH,
26 via facsimile correspondence and telephone, solicited an undercover Deputy Real Estate
27 Commissioner to negotiate a loan modification/refinance through a program called "Equity

1 DESIST AND REFRAIN ORDER

2 Based on the Findings of Fact and Conclusions of Law stated herein, RFM,
3 DIETRICH, SMITLEY, and SIMON, whether doing business under your own name, or any other
4 name or fictitious name, ARE HEREBY ORDERED to:

5 1. Immediately desist and refrain from charging, demanding, claiming,
6 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, for
7 any of the services you offer to others, unless and until you demonstrate and provide evidence
8 satisfactory to the Commissioner that you are properly licensed by the Department as a real estate
9 broker, and that RFM, DIETRICH, SMITLEY, and SIMON:

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

12 (B) Have placed all previously collected advance fees into a trust account
13 for that purpose and are in compliance with Section 10146 of the Code;

14 (C) Have provided an accounting to trust fund owner-beneficiaries
15 pursuant to Section 2972 of the Regulations; and

16 (D) Are in compliance with California law, as amended effective as of
17 October 11, 2009, with respect to loan modification and/or forbearance services. Under the
18 amended law, you can only collect advance fees for loan modification or other mortgage loan
19 forbearance services related to commercial loans and loans for residential properties
20 containing five or more dwelling units.

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