

1 Department of Real Estate
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FILED

OCT 19 2010

DEPARTMENT OF REAL ESTATE

By H. Max

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 To:)
12) NO. H-5497 SAC
13 DEBORAH LYNN BAROCIO-MIRANDE)
14 and SIERRA CAPITAL FINANCIAL GROUP.) ORDER TO DESIST AND REFRAIN
15) (B & P Code Section 10086)

16 The Commissioner (hereafter "the Commissioner") of the California Department
17 of Real Estate (hereafter "the Department") caused an investigation to be made of the activities
18 of DEBORAH LYNN BAROCIO-MIRANDE (hereafter "BAROCIO-MIRANDE"), individually
19 and doing business as SIERRA CAPITAL FINANCIAL GROUP (hereafter "SIERRA
20 CAPITAL"), (collectively hereafter "Respondents"). Based on that investigation, the
21 Commissioner has determined that Respondents, have engaged in, is engaging in, or is
22 attempting to engage in, acts or practices constituting violations of the California Business and
23 Professions Code (hereafter "the Code") and/or Title 10, Chapter 6, California Code of
24 Regulations (hereafter "the Regulations"), including acting in the capacity of, advertising or
25 assuming to act as a real estate broker in the State of California within the meaning of Section
26 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by
27 real property), 10131.2 (collection of advance fees), 10085 (advance fee agreements and

1 materials) and 10085.5 (collecting unauthorized advance fees) of the Code. Furthermore, based
2 on the investigation, the Commissioner hereby issues the following Findings of Fact and Desist
3 and Refrain Order under the authority of Section 10086 of the Code.

4 FINDINGS OF FACT

5 1. At all times relevant herein, BAROCIO-MIRANDE was and is licensed by the
6 Department as a real estate salesperson. BAROCIO-MIRANDE is the owner/operator of
7 SIERRA CAPITAL.

8 2. At no time has SIERRA CAPITAL been licensed by the Department in any
9 capacity.

10 3. 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. Although BAROCIO-MIRANDE was employed by a real estate broker at the time of
18 the acts mentioned herein, BAROCIO-MIRANDE was not acting under the supervision and
19 control, or with the knowledge of her real estate broker in the performance of the acts mentioned
20 herein.

21 4. In furtherance of her plan and scheme to solicit advance fees and provide loan
22 modification services, BAROCIO-MIRANDE entered into an agreement with Henry H. to
23 provide loan modification services related to Henry H.'s property located at 917 Wagon Wheel
24 Lane, Lincoln, California. On or about June 20, 2009, Henry H. paid \$400 to BAROCIO-
25 MIRANDE as an advance fee for loan modification services which were not yet performed. On
26 or about June 23, 2009, BAROCIO-MIRANDE deposited the check from Henry H. into her bank

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1 account. No loan modification was ever performed by BAROCIO-MIRANDE for Henry H., nor
2 was his money ever refunded.

3 CONCLUSIONS OF LAW

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

12 2. BAROCIO-MIRANDE used a form of advance fee agreement which had not been
13 provided to the Department for its prior review and consideration, in violation of Section 10085
14 of the Code, and Sections 2970 (submission of advance fee materials) and 2972 (content of
15 verified accounting) of the Regulations.

16 DESIST AND REFRAIN ORDER

17 Based upon the Findings of Fact and Conclusions of Law stated herein, you
18 DEBORAH LYNN BAROCIO-MIRANDE, individually and doing business as SIERRA
19 CAPITAL FINANCIAL GROUP, and whether doing business under your own name, or any
20 other name or fictitious name, ARE HEREBY ORDERED to immediately desist and refrain
21 from:

- 22 1. Performing any acts within the State of California that require a real estate broker
23 license unless and until you are properly licensed by the Department as a real
24 estate broker.

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1 2. Charging, demanding, claiming, collecting and/or receiving advance fees, as that
2 term is defined in Section 10026 of the Code, for any of the services you offer to
3 others, unless and until you demonstrate and provide evidence satisfactory to the
4 Commissioner that you are properly licensed by the Department as a real estate
5 broker and that DEBORAH LYNN BAROCIO-MIRANDE:

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

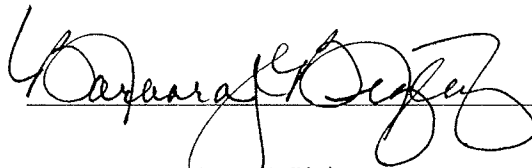
8 (b) Has placed all previously collected advance fees into a trust account for that
9 purpose and are in compliance with Section 10146 (deposit of advance fees
10 into trust account) of the Code; and

11 (c) Has provided an accounting to trust fund owner-beneficiaries pursuant to
12 Section 2972 of the Regulations.

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

18 DATED: 10/13/2010

19 JEFF DAVI
20 Real Estate Commissioner

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23 BY: Barbara J. Bigby
24 Chief Deputy Commissioner

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

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