

THE GIARDINELLI
LAW GROUP, APC

MEMORANDUM

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TO: Association Members
FROM: John V. Giardinelli, Association Counsel
DATE: March 14, 2011
SUBJECT: Federal Trade Commission Disclosures

Recently, the Federal Trade Commission (FTC) adopted a number of regulations relating to Mortgage Assistance Relief Services (MARS). These regulations went into effect on January 31, 2011. The result of the regulations is to essentially ban all advance fees for those real estate professionals who offer loan modification services. However, they also affect those who negotiate short sales of dwellings on behalf of owners and consumers. As a result, it is imperative that each member review the required disclosures, in order to confirm that they are in compliance.

According to the attorneys at the California Association of REALTORS® (CAR), they will be issuing forms on several of these disclosures within a short period of time. I anticipate we will see something by the end of this month, if not sooner. You should keep track of your ZipForm programs to make sure that you understand the use of these forms and their applicability to each transaction. In the meantime, the disclosures that are required are as follows:

1. *IMPORTANT NOTICE (in two-point type larger than the font size of the disclosure): (Name of Company) is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. If you stop paying your mortgage, you could lose your home and damage your credit rating.*
2. *IMPORTANT NOTICE (in two-point type larger than the font size of the disclosure): You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender or servicer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (insert amount or method for calculating the amount) for our services. (Name of company) is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. If you stop paying your mortgage, you could lose your home and damage your credit rating.*
3. *IMPORTANT NOTICE: Before buying this service, consider the following information (in two-point type larger than the font size of the disclosure): This is an offer of mortgage assistance we obtained from your lender or servicer. You may accept or reject this offer. If you reject this offer, you do not have to pay us. If you accept the offer, you will have to pay us same amount as disclosed previously for our services. If you stop paying your mortgage, you could lose your home and damage your credit rating.*