

FILED

MAR 24 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

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

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-2405 FR
13 JOSEPH DENNIS SPEAKMAN,) STIPULATION AND AGREEMENT
14 Respondent.)
15

16 It is hereby stipulated by and between Respondent JOSEPH DENNIS
17 SPEAKMAN (hereinafter referred to as "Respondent"), and the Complainant, acting by and
18 through Angela L. Cash, Counsel for the Department of Real Estate, as follows for the purpose
19 of settling and disposing of the Accusation filed on July 23, 2009, in this matter (hereinafter
20 "the Accusation"):

21 1. All issues which were to be contested and all evidence which was to be
22 presented by Complainant and Respondent at a formal hearing on the Accusation, which
23 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
24 (hereinafter "APA"), shall instead and in place thereof be submitted solely on the basis of the
25 provisions of this Stipulation and Agreement.

26 2. Respondent has received, read and understands the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department

1 of Real Estate in this proceeding.

2 3. On July 29, 2009, Respondent filed a Notice of Defense pursuant to
3 Section 11505 of the Government Code for the purpose of requesting a hearing on the
4 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
5 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
6 Notice of Defense, Respondent will thereby waive Respondent's right to require the
7 Commissioner to prove the allegations in the Accusation at a contested hearing held in
8 accordance with the provisions of the APA and that Respondent will waive other rights
9 afforded to Respondent in connection with the hearing such as the right to present evidence in
10 defense of the allegations in the Accusation and the right to cross-examine witnesses.

11 4. Respondent, pursuant to the limitations set forth below, hereby admits that
12 the factual allegations in the Accusation pertaining to Respondent are true and correct and
13 stipulates and agrees that the Real Estate Commissioner shall not be required to provide further
14 evidence of such allegations.

15 5. It is understood by the parties that the Real Estate Commissioner may
16 adopt the Stipulation and Agreement as his decision in this matter, thereby imposing the penalty
17 and sanctions on Respondent's real estate license and license rights as set forth in the "Order"
18 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and
19 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
20 and proceeding on the Accusation under all the provisions of the APA and shall not be bound
21 by any admission or waiver made herein.

22 6. This Stipulation and Agreement shall not constitute an estoppel, merger or
23 bar to any further administrative or civil proceedings by the Department of Real Estate with
24 respect to any matters which were not specifically alleged to be causes for accusation in this
25 proceeding.

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DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that the acts and omissions of Respondent described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Sections 10085, 10145 and 10146 of the Business and Professions Code (hereinafter "the Code") in conjunction with Section 10177(d) of the Code and Sections 2970 and 2972 of Title 10 of the California Code of Regulations.

ORDER

All licenses and licensing rights of Respondent under the Real Estate Law are suspended for a period of thirty (30) days from the effective date of the Decision herein; provided, however, thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

- 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at a rate of \$100.00 for each day of the suspension for a total monetary penalty of \$3,000.00:
 - a. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered to the Department prior to the effective date of the Decision in this matter.
 - b. No further cause for disciplinary action against the Real Estate license of Respondent occurs within two (2) years from the effective date of the decision in this matter.
 - c. If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, vacate and set aside the stay order, and order the immediate execution of all or any part of the stayed suspension.
 - d. No final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action against Respondent occurred within two (2) years

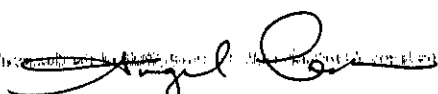
1 of the effective date of the Decision herein. Should such a determination be made, the
2 Commissioner may, in his discretion, vacate and set aside the stay order, and order the execution
3 of all or any part of the stayed suspension, in which event the Respondent shall not be entitled to
4 any repayment nor credit, prorated or otherwise, for money paid to the Department under the
5 terms of this Decision.

6 e. If Respondent pays the monetary penalty and if no further cause for
7 disciplinary action against the real estate license of Respondent occurs within two (2) years from
8 the effective date of the Decision herein, then the stay hereby granted shall become permanent.

9 2. Respondent shall submit proof satisfactory to the Commissioner of having
10 returned the advance fees collected from the homeowners as described on page 2, paragraph 4
11 of the Accusation filed against Respondent on July 23, 2009, within three (3) months to the
12 effective date of the Decision herein. If Respondent fails to satisfy this condition, the
13 Commissioner may order suspension of Respondent's license until Respondent performs in
14 accordance with the terms and conditions of the Decision herein.

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16
17 12/16/09

DATED




ANGELA L. CASH, Counsel
Department of Real Estate

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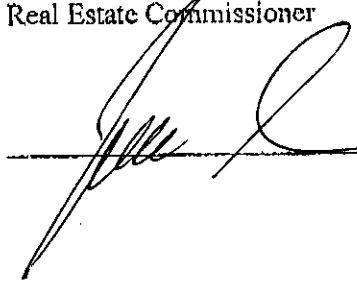
I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

12/11/09
DATED


JOSEPH DENNIS SPEAKMAN
Respondent

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent JOSEPH DENNIS SPEAKMAN and shall become
effective at 12 o'clock noon on APR 13 2010

IT IS SO ORDERED 3/23/2010
JEFF DAVI
Real Estate Commissioner



1 ANGELA L. CASH, Counsel
State Bar No. 230882
2 Department of Real Estate
P. O. Box 187007
3 Sacramento, CA 95818-7007

FILED

JUL 23 2009

4 Telephone: (916) 227-0789
5 -or- (916) 227-0805 (Direct)

DEPARTMENT OF REAL ESTATE

By L. Ziri

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9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13)
14 JOSEPH DENNIS SPEAKMAN,)
15 Respondent.)

No. H-2405 FRESNO
ACCUSATION

16 The Complainant, John Sweeney, a Deputy Real Estate Commissioner of the
17 State of California (hereinafter "Complainant"), for cause of Accusation against
18 JOSEPH DENNIS SPEAKMAN (hereinafter "Respondent"), is informed and alleges as
19 follows:

20 1

21 Complainant makes this Accusation in his official capacity.

22 2

23 Respondent is presently licensed and/or has license rights under the Real Estate
24 Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code") as a real
25 estate broker.

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At all times mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage and/or loan modification business with the public wherein each of them solicited lenders and borrowers for or negotiated loans or collected payments and/or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property for or in expectation of compensation.

In connection with the operation and conduct of the real estate activities described in Paragraph 3, Respondent engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (hereinafter "advance fee") of the Code including but not limited to the following:

HOMEOWNER	DATE	AMOUNT
Sandra Reyes	September 20, 2008	\$400
Jose Sosa	September 25, 2008	\$400
Jorge Castillo	November 4, 2008	\$500
Martin Alvarez	November 11, 2008	\$500
Jannet Torres	November 14, 2008	\$400
Daniel Socorro	November 26, 2008	\$495

In connection with the collection and handling of said advance fee, Respondent:

- (a) Failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations (hereinafter "the Regulations");
- (b) Failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Section 10146 of the Code; and

1 (c) Failed to furnish the principal borrower the verified accounting required by
2 Section 10146 of the Code and Section 2972 of the Regulations.

3 6

4 The acts and/or omissions of Respondent described above constitute violation of
5 Section 10177(d) of the Code in conjunction with Sections 10085, 10145 and 10146 of the Code,
6 and Sections 2970 and 2972 of the Regulations, and are cause for the suspension or revocation of
7 Respondent's license and license rights.

8 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
9 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of
11 Division 4 of the Business and Professions Code), and for such other and further relief as may be
12 proper under other provisions of law.

13
14 
15 JOHN SWEENEY
16 Deputy Real Estate Commissioner

16 Dated at Fresno, California,
17 this 21st day of July, 2009.