

Santo

1 Department of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105
3 Telephone: (213) 576-6982 (office)

FILED

OCT 22 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

GATEWAY FUNDING CORPORATION;
and PAUL ANTHONY PELLIZZON,
individually and as designated
officer of Gateway Funding
Corporation,

Respondents.

No. H-35900 LA

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondents
GATEWAY FUNDING CORPORATION and PAUL ANTHONY PELLIZZON,
individually and as designated officer of All Nations Lending
Inc., (sometimes collectively referred to as "Respondents"),
represented by Anthony F. Geraci, Esq. and the Complainant,
acting by and through Elliott Mac Lennan, Counsel for the
Department of Real Estate, as follows for the purpose of settling
and disposing of the Accusation ("Accusation") filed on April 21,

2009, in this matter:

1
2 1. All issues which were to be contested and all
3 evidence which was to be presented by Complainant and Respondents
4 at a formal hearing on the Accusation, which hearing was to be
5 held in accordance with the provisions of the Administrative
6 Procedure Act ("APA"), shall instead and in place thereof be
7 submitted solely on the basis of the provisions of this
8 Stipulation and Agreement ("Stipulation").

9 2. Respondents have received, read and understand the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Department of Real Estate in this
12 proceeding.

13 3. Respondents timely filed a Notice of Defense
14 pursuant to Section 11506 of the Government Code for the purpose
15 of requesting a hearing on the allegations in the Accusation.
16 Respondents hereby freely and voluntarily withdraw said Notice of
17 Defense. Respondents acknowledge that they understand that by
18 withdrawing said Notice of Defense they thereby waive their right
19 to require the Commissioner to prove the allegations in the
20 Accusation at a contested hearing held in accordance with the
21 provisions of the APA and that they will waive other rights
22 afforded to them in connection with the hearing such as the right
23 to present evidence in their defense and the right to cross-
24 examine witnesses.
25

26 ///
27

1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation is made for the purpose of
11 reaching an agreed disposition of this proceeding and is
12 expressly limited to this proceeding and any other proceeding or
13 case in which the Department of Real Estate ("Department"), the
14 state or federal government, or any agency of this state, another
15 state or federal government is involved.

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt this Stipulation as his Decision in
18 this matter thereby imposing the penalty and sanctions on
19 Respondents' real estate licenses and license rights as set forth
20 in the "Order" herein below. In the event that the Commissioner
21 in his discretion does not adopt the Stipulation, it shall be
22 void and of no effect and Respondents shall retain the right to a
23 hearing and proceeding on the Accusation under the provisions of
24 the APA and shall not be bound by any stipulation or waiver made
25 herein.
26
27

1 7. The Order or any subsequent Order of the Real
2 Estate Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for Accusation in this proceeding but do
7 constitute a bar, estoppel and merger as to any allegations
8 actually contained in the Accusations against Respondent herein.

9 8. Respondents understand that by agreeing to this
10 Stipulation, Respondents agree to pay, pursuant to Business and
11 Professions Code Section 10148, the cost of the audit. The
12 amount of said cost for the audit is \$7,683.70.

13 9. Respondents have received, read, and understand the
14 "Notice Concerning Costs of Subsequent Audit". Respondents
15 further understand that by agreeing to this Stipulation, the
16 findings set forth below in the Determination of Issues become
17 final, and the Commissioner may charge Respondents for the cost
18 of any subsequent audit conducted pursuant to Business and
19 Professions Code Section 10148 to determine if the violations
20 have been corrected. The maximum cost of the subsequent audit
21 will not exceed \$7,683.70.

22 ///

23 ///

24 ///

25 ///

26 ///

27

DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
3

4 I.

5 The conduct, acts or omissions of GATEWAY FUNDING
6 CORPORATION and PAUL ANTHONY PELLIZZON, as described in Paragraph
7 4, above, are in violation of Sections 10145 and 10240 of the
8 Business and Professions Code ("Code") and Sections 2832.1, 2834
9 and 2840 and 2950(h) of Title 10, Chapter 6 of the California
10 Code of Regulations ("Regulations") and is a basis for discipline
11 of Respondents' license and license rights as violation of the
12 Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).
13

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 I.

17 The license and licensing rights of Respondents GATEWAY
18 FUNDING CORPORATION and PAUL ANTHONY PELLIZZON, under the Real
19 Estate Law, are suspended for a period of sixty (60) days from
20 the effective date of this Decision; provided, however, that
21 sixty (60) days of said suspension shall be stayed for two (2)
22 years upon the following terms and conditions:

23 A. Provided, however, that if Respondents request, the
24 initial thirty (30) days of said suspension (or a portion
25 thereof) shall be stayed for two (2) years upon condition that:

26 ///

1 1. Each Respondent pays a monetary penalty pursuant to
2 Section 10175.2 of the Business and Professions Code at the rate
3 of \$50.00 per day for each day of the suspension for a monetary
4 penalty of \$1,500, or \$3,000 total.

5 2. Said payment shall be in the form of a cashier's
6 check or certified check made payable to the Recovery Account of
7 the Real Estate Fund. Said check must be received by the
8 Department prior to the effective date of the Decision in this
9 matter.

10 3. No further cause for disciplinary action against
11 the real estate license of Respondents occur within two (2) years
12 from the effective date of the Decision in this matter.

13 4. If Respondents fail to pay the monetary penalty in
14 accordance with the terms of the Decision, the Commissioner may,
15 without a hearing, order the immediate execution of all or any
16 part of the stayed suspension, in which event the Respondent
17 shall not be entitled to any repayment nor credit, prorated or
18 otherwise, for money paid to the Department under the terms of
19 this Decision.
20

21 5. If Respondents pay the monetary penalty and if no
22 further cause for disciplinary action against the real estate
23 license of Respondent occurs within two (2) years from the
24 effective date of the Decision, the stay hereby granted shall
25 become permanent.

26 ///
27

1 B. The remaining thirty (30) days of the sixty (60)
2 day suspension shall be stayed for two (2) years upon the
3 following terms and conditions:

4 (a) Respondents shall obey all laws, rules and
5 regulations governing the rights, duties and responsibilities of
6 a real estate licensee in the State of California; and

7 (b) That no final subsequent determination be made
8 after hearing or upon stipulation, that cause for disciplinary
9 action occurred within two (2) years from the effective date of
10 this Decision. Should such a determination be made, the
11 Commissioner may, in his discretion, vacate and set aside the
12 stay order and reimpose all or a portion of the stayed
13 suspension. Should no such determination be made, the stay
14 imposed herein shall become permanent.

15 II.

16 Pursuant to Section 10148 of the Business and
17 Professions Code, Respondents GATEWAY FUNDING CORPORATION and
18 PAUL ANTHONY PELLIZZON shall pay the Commissioner's reasonable
19 cost for (a) the audit which led to this disciplinary action (b)
20 a subsequent audit to determine if Respondents are now in
21 compliance with the Real Estate Law. The cost of the audit which
22 led to this disciplinary action is \$7,683.70. In calculating the
23 amount of the Commissioner's reasonable cost, the Commissioner
24 may use the estimated average hourly salary for all persons
25 performing audits of real estate brokers, and shall include an
26

27

1 allocation for travel time to and from the auditor's place of
2 work. Said amount for the prior and subsequent audits shall not
3 exceed \$15,367.40.

4 Respondents shall pay such cost within 60 days of
5 receiving an invoice from the Commissioner detailing the
6 activities performed during the audit and the amount of time
7 spent performing those activities.

8 The Commissioner may suspend the license of Respondents
9 pending a hearing held in accordance with Section 11500, et seq.,
10 of the Government Code, if payment is not timely made as provided
11 for herein, or as provided for in a subsequent agreement between
12 the Respondent and the Commissioner. The suspension shall remain
13 in effect until payment is made in full or until Respondents
14 enter into an agreement satisfactory to the Commissioner to
15 provide for payment, or until a decision providing otherwise is
16 adopted following a hearing held pursuant to this condition.
17

18 III.

19 All licenses and licensing rights of Respondent PAUL
20 ANTHONY PELLIZZON are indefinitely suspended unless or until
21 Respondent provides proof satisfactory to the Commissioner, of
22 having taken and successfully completed the continuing education
23 course on trust fund accounting and handling specified in
24 paragraph (3) of subdivision (a) of Section 10170.5 of the
25 Business and Professions Code. Proof of satisfaction of this
26 requirement includes evidence that Respondent has successfully
27

1 completed the trust fund account and handling continuing
2 education course by the effective date of the Decision or within
3 120 days prior to the effective date of the Decision.

4 IV.

5 Prior to the effective date of the Decision,
6 Respondents shall submit proof satisfactory to the Real Estate
7 Commissioner that the eight appraisal invoices of Issue Two of
8 the Audit Report LA 080162 & LA 080191, page 6, have been paid,
9 and that the shortage in the trust account has been cured. If
10 Respondents fail to satisfy this condition, all licenses and
11 licensing rights or Respondents shall be indefinitely suspended,
12 unless or until such proof is provided.

13
14 DATED: 8-6-09

15 EL
16 ELLIOTT MAC LENNAN, Counsel for
17 the Department of Real Estate

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

* * *

EXECUTION OF THE STIPULATION

1
2
3 We have read the Stipulation and discussed it with our
4 counsel. Its terms are understood by us and are agreeable and
5 acceptable to us. We understand that we are waiving rights given
6 to us by the California Administrative Procedure Act (including
7 but not limited to Sections 11506, 11508, 11509 and 11513 of the
8 Government Code), and we willingly, intelligently and voluntarily
9 waive those rights, including the right of requiring the
10 Commissioner to prove the allegations in the Accusation at a
11 hearing at which we would have the right to cross-examine
12 witnesses against us and to present evidence in defense and
13 mitigation of the charges.

MAILING AND FACSIMILE

14
15 Respondents (1) shall mail the original signed
16 signature page of the stipulation herein to Elliott Mac Lennan:
17 Attention: Legal Section, Department of Real Estate, 320 W.
18 Fourth St., Suite 350, Los Angeles, California 90013-1105.
19 Respondents shall also (2) facsimile a copy of signed signature
20 page, to the Department at the following telephone/fax number:
21 (213) 576-6917, Attention: Elliott Mac Lennan.
22

23 ///

24 ///


25 ///

26 ///

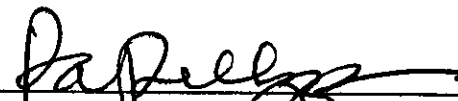
27

1 A facsimile constitutes acceptance and approval of the
2 terms and conditions of this stipulation. Respondents agree,
3 acknowledge and understand that by electronically sending to the
4 Department a facsimile copy of Respondents' actual signature as
5 it appears on the stipulation that receipt of the facsimile copy
6 by the Department shall be as binding on Respondents as if the
7 Department had received the original signed stipulation.


8
9
10
11 DATED: 08-19-09


GATEWAY FUNDING CORPORATION, a
12 corporate real estate broker,
13 BY: PAUL ANTHONY PELLIZZON D.O.,
Respondent

14
15
16 DATED: 08-19-09


17 PAUL ANTHONY PELLIZZON,
18 individually and as designated
19 officer of Gateway Funding
20 Corporation, Respondent

21
22 DATED: 8-24-09


23 ANTHONY F. GERACI, ESQ.
24 Attorney for Respondents
25 Approved as to form
26
27

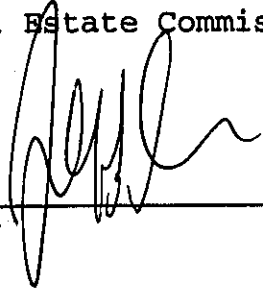
* * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents GATEWAY FUNDING
CORPORATION and PAUL ANTHONY PELLIZZON, individually and as
designated officer of Gateway Funding Corporation and shall
become effective at 12 o'clock noon on November 20,
2009.

IT IS SO ORDERED 9-29, 2009.

JEFF DAVI
Real Estate Commissioner



1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

APR 21 2009

DEPARTMENT OF REAL ESTATE

BY: *Debra Y*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)

No. H- 35900 LA

12 GATEWAY FUNDING CORPORATION;)
13 and PAUL ANTHONY PELLIZZON,)
14 individually and as designated)
15 officer of Gateway Funding)
16 Corporation,)

A C C U S A T I O N

17 Respondents.)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against GATEWAY FUNDING CORPORATION and PAUL ANTHONY PELLIZZON,
21 individually and as designated officer of Gateway Funding
22 Corporation, alleges as follows:

23 ///

24 ///

25 ///

26 ///

27 ///

1.

1 The Complainant, Robin Trujillo, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against GATEWAY FUNDING
4 CORPORATION (GFC) and PAUL ANTHONY PELLIZZON (PELLIZZON).
5

2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.
9

3.

10 A. At all times mentioned, GFC and PELLIZZON were
11 licensed or had license rights issued by the Department of Real
12 Estate (Department) as real estate brokers.
13

14 B. At all times material herein, GFC was licensed by
15 the Department as a corporate real estate broker by and through
16 PELLIZZON, pursuant to Code Sections 10211 and 10159.2 for
17 supervising the activities requiring a real estate license
18 conducted on behalf GFC.
19

20 BROKERAGE

4.

21 At all times mentioned, in the City of Laguna Hills,
22 County of Orange, GFC and PELLIZZON acted as real estate brokers
23 and conducted licensed activities within the meaning of:
24

25 A. Code Section 10131(d). GFC operated a mortgage and
26 loan brokerage engaging in activities with the public wherein
27 lenders and borrowers were solicited for loans secured directly

1 or collaterally by liens on real property, wherein such loans
2 were arranged, negotiated, processed and consummated on behalf of
3 others for compensation or in expectation of compensation and for
4 fees often collected in advance as well as at the conclusion of
5 transactions; and

6 B. In addition, GFC conducted broker-controlled
7 escrows through its escrow division under the exemption set forth
8 in California Financial Code Section 17006(a)(4) for real estate
9 brokers performing escrows incidental to a real estate
10 transaction where the broker is a party and where the broker is
11 performing acts for which a real estate license is required.

12 AUDIT EXAMINATION

13 5.

14 On March 18, 2009, the Department completed an audit
15 examination of the books and records of GFC pertaining to the
16 mortgage loan and broker-escrow activities described in Paragraph
17 4 that require a real estate license. The audit examination
18 covered a period of time beginning on March 1, 2006 to December
19 31, 2008. The audit examination revealed violations of the Code
20 and the Regulations as set forth in the following paragraphs, and
21 more fully discussed in Audit Report LA 080162 and LA 080191 and
22 the exhibits and work papers attached to said audit report.
23

24 ///

25 ///

26 ///

27

TRUST ACCOUNTS

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, GFC accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including lenders, borrowers and homeowners, to real estate transactions handled by GFC and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by GFC in the bank account as follows:

"Gateway Funding Corp.
Account No. 2890009142"
Union Bank of California
Los Angeles, California (T/A)

"Gateway Funding Corp. - Escrow Division Trust Account
Account No. 1891615377"
Comercia Bank
Los Angeles, California (T/A #1)

"Gateway Funding Corp. Escrow Division Trust Account
Account No. 001762249"
Mellon First Business Bank
Los Angeles, California (T/A #2)

///

///

///

///

1 VIOLATIONS OF THE REAL ESTATE LAW

2 7.

3 In the course of activities described in Paragraphs 4
4 and 6, above, and during the examination period described in
5 Paragraph 5, Respondents GFC and PELLIZZON, acted in violation of
6 the Code and the Regulations in that Respondents:

7 (a) Permitted, allowed or caused the disbursement of
8 trust funds from T/A #1, where the disbursement of funds reduced
9 the total of aggregate funds in T/A #1, to an amount which, on
10 December 31, 2008, was \$6,452.57, less than the existing
11 aggregate trust fund liability of GFC to every principal who was
12 an owner of said funds, without first obtaining the prior written
13 consent of the owners of said funds, in violation of Code Section
14 10145 and Regulations 2832.1, 2950(g) and 2951. \$4,063.84 of the
15 shortage was restored on December 31, 2008, with \$2,388.73
16 remaining due and owing.

17 (b) Mixed and commingled trust funds and personal funds
18 by depositing the appraisal fee for Verushka Espinoza, as
19 received from escrow into GFC's general operating account and
20 issuing checks from said account to the appraiser after the
21 aforesaid appraisal check was deposited, in violation of Code
22 Sections 10145 and 10176(e) and Regulations 2832(a), 2950(d) and
23 2951.

24 (c) Failed to maintain an accurate and complete control
25 record for each beneficiary or transaction, thereby failing to
26
27

1 account for all trust funds received, deposited and disbursed for
2 T/A #1, in violation of Code Section 10145 and Regulations 2831,
3 2950(d) and 2951.

4 (d) Failed to maintain an accurate and complete
5 separate record for each beneficiary or transaction, thereby
6 failing to account for all trust funds received, deposited and
7 disbursed for T/A #1, including appraisal fee for the Verushka
8 Espinoza, in violation of Code Section 10145 and Regulations
9 2831.1, 2950(d) and 2951.

10 (e) Permitted Gina Pellizon and Christine Moore,
11 unlicensed and unbonded persons, to be authorized signatories on
12 T/A and T/A #2, in violation of Code Section 10145 and
13 Regulations 2834, 2950(d) and 2951.

14 (f) (1) Failed to provide and/or maintain an approved
15 Mortgage Loan Disclosure Statement containing all the information
16 required by Code Section 10241(c), including anticipated liens on
17 the subject properties before borrowers James Fox, Verushka
18 Espinoza, Salvador/Patricia de La Pena, Russell/Kristin Widman
19 and Stephan/Denise Snyder became obligated to perform under the
20 terms of their respective loans, in violation of Code Section
21 10240(a) and Regulations 2840 and 2840.1; and

22 (f) (2) Failed to provide or retain a true and correct
23 copy of a Good Faith Estimate that satisfies the requirements of
24 the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A
25 2601 et seq.), that (1) sets forth the broker's real estate
26
27

1 license number; and (2) a clear and conspicuous statement on the
2 face of the document stating that the Good Faith Estimate does
3 not constitute a loan commitment; and, further sets forth all
4 applicable disclosures including but not limited to (3) yield
5 spread premiums rebates by the lenders outside of closing for
6 borrower James Fox, in violation of Code Section 10240(c) and
7 Regulation 2840; and

8 (g) Failed to disclose in writing to all parties GFC
9 and PELLIZZON's financial interest and ownership of their escrow
10 division, in violation of Code Section 10145 and Regulation
11 2950(h).

12 DISCIPLINARY STATUES AND REGULATIONS

13 8.

14 The conduct of Respondents GFC and PELLIZZON described
15 in Paragraph 7, above, violated the Code and the Regulations as
16 set forth below:

17 PARAGRAPH

18 PROVISIONS VIOLATED

19
20 7(a)

Code Section 10145 and Regulations
21 2832.1, 2950(g) and 2951

22
23
24 7(b)

Code Sections 10145 and 10176(e)
25 and Regulations 2832(a), 2950(d)
26 and 2951

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

7(c) Code Section 10145 and Regulations
2831, 2950(d) and 2951

7(d) Code Section 10145 and Regulations
2831.1, 2950(d) and 2951

7(e) Code Section 10145 and Regulations
2834, 2950(d) and 2951

7(e) Code Section 10145 and Regulations
2834, 2950(d) and 2951

7(f) Code Sections 10240 and Regulations
2840 and 2840.1

7(g) Code Section 10145 and Regulation
2950(h)

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of GFC and PELLIZZON, under the provisions of Code Sections 10176(e), 10177(d) and/or 10177(g).

9.

1 The overall conduct of Respondents GFC and PELLIZZON
2 constitutes negligence. This conduct and violation is cause for
3 the suspension or revocation of the real estate license and
4 license rights of Respondents GFC and PELLIZZON pursuant to Code
5 Section 10177(g).
6

7 10.

8 The overall conduct of Respondent PELLIZZON constitutes
9 a failure on Respondent's part, as officer designated by a
10 corporate broker licensee, to exercise the reasonable supervision
11 and control over the licensed activities of GFC as required by
12 Code Section 10159.2, and to keep GFC in compliance with the Real
13 Estate Law, and is cause for the suspension or revocation of the
14 real estate license and license rights of PELLIZZON pursuant to
15 the provisions of Code Sections 10177(d), 10177(h) and/or
16 10177(g).
17

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///


26 ///

27

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents
5 GATEWAY FUNDING CORPORATION and PAUL ANTHONY PELLIZZON,
6 individually and as designated officer of Gateway Funding
7 Corporation, under the Real Estate Law (Part 1 of Division 4 of
8 the Business and Professions Code) and for such other and further
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 20 day of April 2009.

12 
13 Deputy Real Estate Commissioner

14
15
16
17
18
19
20
21
22
23
24 cc: Gateway Funding Corporation
25 c/o Paul Anthony Pellizzon D.O.
26 Robin Trujillo
27 Sacto
Audits - Isabel Beltran