

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105

FILED
NOV - 4 2010
DEPARTMENT OF REAL ESTATE

By

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10
11 In the Matter of the Accusation of)
12) No. H-36537 LA
13 PRIDE FINANCIAL GROUP) L-2010041389
14 and DEREK JOHN GIBBONS,)
15 as designated officer of)
16 Pride Financial Group,) STIPULATION AND AGREEMENT
17 Respondents.)
18)

17 It is hereby stipulated by and between PRIDE FINANCIAL
18 GROUP and DEREK JOHN GIBBONS, as designated officer of PRIDE
19 FINANCIAL GROUP (sometimes collectively referred to as
20 "Respondents") and their attorney of record, Mitchell B. Hannah,
21 Esq., and the Complainant, acting by and through Lissete Garcia,
22 Counsel for the Department of Real Estate, as follows for the
23 purpose of settling and disposing of the Accusation filed on
24 March 23, 2010, in this matter:

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

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

10 3. On April 6, 2010, Respondents filed Notices of
11 Defense pursuant to Section 11506 of the Government Code for the
12 purpose of requesting a hearing on the allegations in the
13 Accusation. Respondents hereby freely and voluntarily withdraw
14 said Notices of Defense. Respondents acknowledge that they
15 understand that by withdrawing said Notices of Defense they will
16 thereby waive their rights to require the Commissioner to prove
17 the allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that they will
19 waive other rights afforded to them in connection with the
20 hearing such as the right to present evidence in defense of the
21 allegations in the Accusation and the right to cross-examine
22 witnesses.

23 4. Respondents PRIDE FINANCIAL GROUP and DEREK JOHN
24 GIBBONS hereby admit that the factual allegations in Paragraphs
25 7, 8, 9, and 10 of the Accusation filed in this proceeding
26 concerning the failure to submit and obtain approval from the
27

1 Department of a written agreement for the collection of advance
2 fees at least ten days prior to using it, are true and correct
3 and the Real Estate Commissioner shall not be required to
4 provide further evidence of such allegations.

5 5. Respondent DEREK JOHN GIBBONS hereby admits that
6 the factual allegations in the Accusation concerning failure to
7 adequately supervise the activities of Respondent PRIDE
8 FINANCIAL GROUP are true and correct and the Real Estate
9 Commissioner shall not be required to provide further evidence
10 of such allegations.

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

21 7. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation and
23 Agreement shall not constitute an estoppel, merger or bar to any
24 further administrative or civil proceedings by the Department of
25 Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this
27

1 proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions
4 and waivers and solely for the purpose of settlement of the
5 pending Accusation without a hearing, it is stipulated and
6 agreed that the following determination of issues shall be made:

7 I.

8 The conduct of Respondents PRIDE FINANCIAL GROUP and
9 DEREK JOHN GIBBONS, as described in Paragraph 4, above,
10 constitutes a violation of Business and Professions Code Section
11 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations
12 ("Regulations), and is grounds for the suspension or revocation
13 of all of the real estate licenses and license rights of
14 Respondents PRIDE FINANCIAL GROUP and DEREK JOHN GIBBONS under
15 the provisions of Section 10177(d) of the California Business
16 and Professions Code.

17 II.

18 The conduct of Respondent DEREK JOHN GIBBONS, as
19 described in Paragraph 5, above, constitutes a violation of
20 Business and Professions Code Section 10159.2 and is grounds for
21 the suspension or revocation of all of the real estate licenses
22 and license rights of Respondent DEREK JOHN GIBBONS under the
23 provisions of Section 10177(g) of the California Business and
24 Professions Code.

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WHEREFORE THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent PRI

FINANCIAL GROUP under the Real Estate Law are hereby revoked.

All licenses and licensing rights of Respondent PRIDE
FINANCIAL GROUP under the Real Estate Law are hereby revoked.

All licenses and licensing rights of Respondent DEREK
JOHN GIBBONS under the Real Estate Law are hereby revoked;

provided, however, a restricted real estate salesperson license
shall be issued to Respondent DEREK JOHN GIBBONS pursuant to
Section 10156.5 of the Business and Professions Code if
Respondent DEREK JOHN GIBBONS makes application therefor and
pays to the Department of Real Estate the appropriate fee for
said license within ninety (90) days from the effective date of
this Decision. The restricted license issued to Respondent

1. The restricted license issued to Respondent may
be suspended prior to hearing by Order of the Real Estate
Commissioner in the event of Respondent's conviction or plea
of nolo contendere to a crime which is substantially related
to Respondent's fitness or capacity as a real estate licensee

2. The restricted license may be suspended prior to
hearing by Order of the Real Estate Commissioner on evidence

1 satisfactory to the Commissioner that Respondent has violated
2 provisions of the California Real Estate Law, the Subdivided
3 Lands Law, Regulations of the Real Estate Commissioner or
4 conditions attaching to said restricted license.

5 3. Respondent shall not be eligible for the issuance
6 of an unrestricted real estate license nor for the removal of
7 any of the conditions, limitations or restrictions of the
8 restricted license until at least two (2) years have elapsed
9 from the effective date of this Decision.

10 4. Respondent shall submit with any application for
11 license under an employing broker, or any application for
12 transfer to a new employing broker, a statement signed by the
13 prospective employing real estate broker on a form approved by
14 the Department of Real Estate which shall certify:

15 (a) That the employing broker has read the Decision
16 of the Commissioner which granted the right to a restricted
17 license; and

18 (b) That the employing broker will exercise close
19 supervision over the performance by the restricted licensee
20 relating to activities for which a real estate license is
21 required.

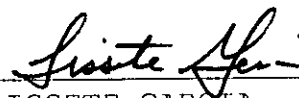
22 5. Respondent shall, within nine (9) months from the
23 effective date of this Decision, present evidence satisfactory
24 to the Real Estate Commissioner that Respondent has, since the
25 most recent issuance of an original or renewal real estate
26 license, taken and successfully completed the continuing
27

1 education requirements of Article 2.5 of Chapter 3 of the Real
2 Estate Law for renewal of a real estate license. If Respondent
3 fails to satisfy this condition, the Commissioner may order the
4 suspension of the restricted license until the Respondent
5 presents such evidence. The Commissioner shall afford
6 Respondent the opportunity for a hearing pursuant to the APA to
7 present such evidence.

8 6. Respondent shall within six (6) months from the
9 effective date of this Decision, take and pass the Professional
10 Responsibility Examination administered by the Department
11 including the payment of the appropriate examination fee. If
12 Respondent fails to satisfy this condition, the Commissioner may
13 order suspension of Respondent's license until Respondent passes
14 the examination.

15 DATED:

16 10/5/10



17 LISSETE GARCIA
18 Counsel for Complainant

19 * * *


20 We have read the Stipulation and Agreement, have
21 discussed it with our counsel, and its terms are understood by
22 us and are agreeable and acceptable to us. We understand that
23 we are waiving rights given to us by the California
24 Administrative Procedure Act (including but not limited to
25 Sections 11506, 11508, 11509 and 11513 of the Government Code),
26 and we willingly, intelligently and voluntarily waive those
27 rights, including the right of requiring the Commissioner to

1 prove the allegations in the Accusation at a hearing at which we
2 would have the right to cross-examine witnesses against us and
3 to present evidence in defense and mitigation of the charges.

4 Respondents can signify acceptance and approval of the
5 terms and conditions of this Stipulation and Agreement by faxing
6 a copy of the signature page, as actually signed by Respondents,
7 to the Department at the following telephone/fax number: (213)
8 576-6917. Respondents agree, acknowledge and understand that by
9 electronically sending to the Department a fax copy of their
10 actual signatures as they appear on the Stipulation and
11 Agreement, that receipt of the faxed copy by the Department
12 shall be as binding on Respondents as if the Department had
13 received the original signed Stipulation and Agreement.

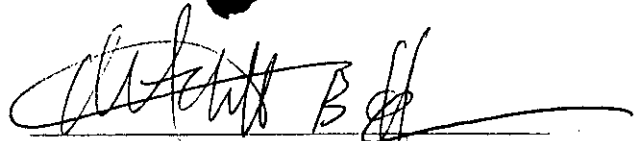
14 Further, if the Respondents are represented by
15 counsel, the Respondents' counsel can signify their agreement to
16 the terms and conditions of the Stipulation and Agreement by
17 submitting that signature via fax. The Commissioner has asked
18 that counsel's signature be under penalty of perjury that he
19 will concurrently or within 24 hours of obtaining Respondents'
20 signature to the agreement by depositing in the mail the
21 original settlement/stipulation containing the original
22 signatures of both the Respondents and Respondents' counsel.

23 DATED: 10/5/18


24 DEREK JOHN GIBBONS, individually
25 and as designated
26 officer of Pride Financial Group
27

1 DATED:

10/5/10



MITCHELL B. HANNAH, ESQ.

Respondents' Counsel

Approved as to Form and Content

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3
4 The foregoing Stipulation and Agreement is hereby

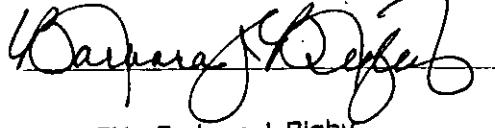
5 adopted as my Decision in this matter and shall become effective

6 at 12 o'clock noon on November 24, 2010.

7 IT IS SO ORDERED 11/2, 2010.

8 JEFF DAVI

9 Real Estate Commissioner

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11 BY: Barbara J. Bigby
12 Chief Deputy Commissioner
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1 LISSETE GARCIA, Counsel (SBN 211552)
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FILED
MAR 23 2010
DEPARTMENT OF REAL ESTATE

By car

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9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation) No. H-36537 LA
13)
14 PRIDE FINANCIAL GROUP) A C C U S A T I O N
15 and DEREK JOHN GIBBONS,)
16 as designated officer of)
17 Pride Financial Group,)
18 Respondents.)

19 The Complainant, Maria Suarez, a Deputy Real Estate
20 Commissioner of the State of California, for cause of Accusation
21 against PRIDE FINANCIAL GROUP and DEREK JOHN GIBBONS ("GIBBONS")
22 is informed and alleges as follows:

23 1.

24 The Complainant, Maria Suarez, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation
26 in her official capacity.
27

2.

Respondent PRIDE FINANCIAL GROUP is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate corporation acting by and through Respondent GIBBONS as its designated broker-officer.

3.

Respondent GIBBONS is presently licensed and/or has license rights under the Real Estate Law as the designated broker-officer of Respondent PRIDE FINANCIAL GROUP.

4.

All further references to Respondents herein include Respondents PRIDE FINANCIAL GROUP and GIBBONS, and also include officers, directors, employees, agents and real estate licensees employed by or associated with PRIDE FINANCIAL GROUP and GIBBONS, and who at all times herein mentioned were engaged in the furtherance of the business or operations of Respondents PRIDE FINANCIAL GROUP and GIBBONS, and who were acting within the course and scope of their authority and employment.

5.

At all times relevant herein pursuant to Section 10211 of the Code, Respondent GIBBONS as the officer designated of Respondent PRIDE FINANCIAL GROUP, was responsible for the supervision and control of the activities conducted on behalf of

1 Respondent PRIDE FINANCIAL GROUP by its officers and employees
2 as necessary to secure full compliance with the Real Estate Law
3 as set forth in Section 10159.2 of the Code.

4 6.

5 Respondent GIBBONS ordered, caused, authorized or
6 participated in the conduct of Respondent PRIDE FINANCIAL GROUP,
7 as is alleged in this Accusation.

8 FIRST CAUSE OF ACCUSATION
9 (Advance Fee Violation)

10 7.

11 At all times mentioned herein, in the State of
12 California, Respondents engaged in the business of claiming,
13 demanding, charging, receiving, collecting or contracting for
14 the collection of advance fees, within the meaning of Code
15 Section 10026, including, but not limited to, the following loan
16 activities with respect to loans which were secured by liens on
17 real property:

18 a. In or around December, 2008, Criselda Escano
19 ("Escano") received a mailed advertisement from GREENLIGHT
20 FINANCIAL SERVICES that solicited loan modification and
21 foreclosure prevention services for real property. Escano
22 called the telephone number on the mailer and spoke to JENNIFER
23 KENNEDY who informed Escano that the company was actually PRIDE
24 FINANCIAL GROUP. Escano also dealt with DEREK JOHN GIBBONS on
25 several occasions. Escano agreed to pay an advance fee of
26 \$3,500 in four installments of \$875 to PRIDE FINANCIAL GROUP.
27

1 The advance fee was collected pursuant to the provisions of an
2 agreement pertaining to loan solicitation, negotiation, and
3 modification services to be provided by PRIDE FINANICAL GROUP
4 with respect to a loan secured by the real property located at
5 53 Bridgeport, Irvine, California 92620.

6 8.

7 Respondents collected the advance fees described in
8 Paragraph 7, above, pursuant to the provisions of a written
9 agreement which constitutes an advance fee agreement within the
10 meaning of Code Section 10085.

11 9.

12 Respondents failed to submit the written agreement and
13 mailed advertising referred to in Paragraph 7, above, to the
14 Commissioner ten days before using it, in violation of Code
15 Section 10085 and Section 2970, Title 10, Chapter 6, Code of
16 Regulations ("Regulations").

17 10.

18 The conduct, acts and/or omissions of Respondents, as
19 set forth above, are cause for the suspension or revocation of
20 the licenses and license rights of Respondent pursuant to Code
21 Sections 10085, 10177(d) and/or 10177(g).

22 SECOND CAUSE OF ACCUSATION
23 (Unlicensed Activity)

24 11.

25 Complainant hereby incorporates by reference the
26 allegations set forth in Paragraphs 1 through 10, above.
27

12.

1 The activities described in Paragraph 7, above,
2
3 require a real estate license under Sections 10131(d) and
4 10131.2 of the Code. Respondents violated Section 10137 of the
5 Code by employing and/or compensating individuals who were not
6 licensed as a real estate salesperson or as a broker to perform
7 activities requiring a license as follows:

8 a. Respondents employed and/or compensated Jennifer
9 Kennedy to perform some or all of the services alleged in
10 Paragraph 7, above, though she was not licensed as a real estate
11 salesperson or broker.
12

13 13.

14 The conduct, acts and/or omissions of Respondents
15 PRIDE FINANCIAL GROUP and GIBBONS, as set forth in Paragraph 12,
16 above, violate Code Section 10137, and are cause for the
17 suspension or revocation of the licenses and license rights of
18 Respondents pursuant to Code Sections 10137, 10177(d) and/or
19 10177(g).
20

21 THIRD CAUSE OF ACCUSATION
22 (Use of Unauthorized Fictitious Business Name)

23 14.

24 Complainant hereby incorporates by reference the
25 allegations set forth in Paragraphs 1 through 13, above.

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15.

1 Use of a fictitious business name for activities
2
3 requiring the issuance of a real estate license requires the
4 filing of an application for the use of such name with the
5 Department of Real Estate ("Department") in accordance with the
6 provisions of Code Section 10159.5.

16.

7
8 Respondents acted without Department authorization in
9
10 using the fictitious business name "Greenlight Financial
11 Services" to engage in activities requiring the issuance of a
12 real estate license.

17.

13
14 The conduct, acts and/or omissions of Respondents, as
15 set forth in Paragraphs 15 and 16, above, violate Code Section
16 10159.5 and Section 2731 of the Regulations, and are cause for
17 the suspension or revocation of the licenses and license rights
18 of Respondent PRIDE FINANCIAL GROUP and Respondent GIBBONS
19 pursuant to Code Sections 10177(d) and/or 10177(g).

20
21 FOURTH CAUSE OF ACCUSATION
22 (Failure to Supervise)

18.

23
24 Complainant hereby incorporates by reference the
25 allegations set forth in Paragraphs 1 through 17, above.

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19.

Respondent GIBBONS ordered, caused, authorized or participated in the conduct of Respondent PRIDE FINANCIAL GROUP, as is alleged in this Accusation.

20.

The conduct, acts and/or omissions, of Respondent GIBBONS, in allowing Respondent PRIDE FINANCIAL GROUP to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent GIBBONS, as the officer designated by a corporate broker licensee, to exercise the supervision and control over the activities of Respondent PRIDE FINANCIAL GROUP, as required by Code Section 10159.2, and is cause to suspend or revoke the real estate licenses and license rights of Respondent GIBBONS under Code Sections 10177(d), 10177(g) and/or 10177(h).

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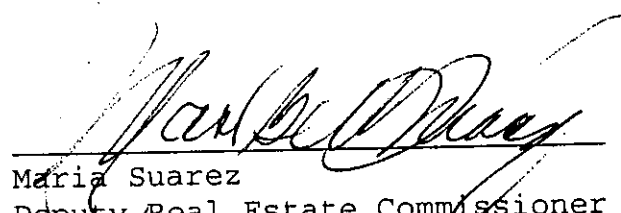
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of Respondent
5 PRIDE FINANCIAL GROUP and Respondent DEREK JOHN GIBBONS under
6 the Real Estate Law (Part 1 of Division 4 of the Business and
7 Professions Code), and for such other and further relief as may
8 be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 15th day of March, 2010.
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15 Maria Suarez
16 Deputy Real Estate Commissioner
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24 cc: Pride Financial Group
25 Derek John Gibbons
26 Maria Suarez
27 Sacto.