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FILED

MAY 11 2012

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-36791 LA
)	
UNIKO HOLDINGS INC., doing business)	L-2010110206
as Uniko Mortgage Services and)	
Uniko Real Estate Service; and)	
LEONEL ACEVES, individually and as)	
designated officer of)	
Uniko Holdings Inc.,)	
)	
)	
Respondents.)	
)	

ORDER NUNC PRO TUNC MODIFYING DECISION


It having been called to the attention of the Real Estate Commissioner that there is an error in the Decision by Stipulation and Agreement dated March 29, 2012, effective May 11, 2012, and good cause appearing therefor, the Stipulation and Agreement is amended as follows:

1 Page 4, Paragraph II, Line 6, "0177(h)" is amended to
2 read "10177(h)".

3 This Order, Nunc Pro Tunc to March 29, 2012, effective
4 May 11, 2012, shall become effective immediately.
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7 IT IS SO ORDERED May 6, 2012.
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9 REAL ESTATE COMMISSIONER

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12 By WAYNE S. BELL
13 Chief Counsel
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DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-36791 LA
)	L-2010110206
UNIKO HOLDINGS INC.; doing business as)	
Uniko Mortgage Services and)	<u>STIPULATION</u>
Uniko Real Estate Service;)	<u>AND</u>
and, LEONEL ACEVES, individually)	<u>AGREEMENT</u>
and as designated officer of)	
Uniko Holdings Inc.,)	
)	
Respondents.)	

It is hereby stipulated by and between Respondents UNIKO HOLDINGS INC. and LEONEL ACEVES, individually and as designated officer of Uniko Holdings Inc., (sometimes collectively referred to as "Respondents"), 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 filed on September 3, 2010, in this matter:

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

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

4 3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
7 acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive
8 their right to require the Commissioner to prove the allegations in the Accusation at a contested
9 hearing held in accordance with the provisions of the APA and that they will waive other rights
10 afforded to them in connection with the hearing such as the right to present evidence in their
11 defense the right to cross-examine witnesses.

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

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of
19 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
20 which the Department of Real Estate ("Department"), or another licensing agency of this state,
21 another state or if the federal government is involved, and otherwise shall not be admissible in
22 any other criminal or civil proceeding.

23 6. It is understood by the parties that the Real Estate Commissioner may adopt
24 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
25 Respondents' real estate licenses and license rights as set forth in the below "Order". In the event
26 that the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be
27 void and of no effect and Respondents shall retain the right to a hearing and proceeding on the

1 Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver
2 made herein.

3 7. The Order or any subsequent Order of the Real Estate Commissioner made
4 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
5 administrative or civil proceedings by the Department of Real Estate with respect to any matters
6 which were not specifically alleged to be causes for accusation in this proceeding.

7 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
8 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit which led
9 to this disciplinary action. The amount of said cost is \$6,598.10.

10 9. Respondents have received, read, and understand the "Notice Concerning
11 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
12 the findings set forth below in the Determination of Issues become final, and the Commissioner
13 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations have been corrected. The
15 maximum cost of the subsequent audit will not exceed \$6,598.10.

16 DETERMINATION OF ISSUES

17 By reason of the foregoing, it is stipulated and agreed that the following
18 determination of issues shall be made:

19 I.

20 The conduct of UNIKO HOLDINGS INC. as described in Paragraph 4, above, is
21 in violation of Sections 10085, 10145, 10146 and 10176(e) of the Business and Professions Code
22 ("Code") and Sections 2831, 2831.1, 2831.2, 2970 and 2972 of Title 10, Chapter 6 of the
23 California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of
24 Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code
25 Sections 10177(d).

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27 ///

1 II.

2 The conduct of LEONEL ACEVES, as described in Paragraph 4, above,
3 constitutes a failure to keep Uniko Holdings Inc. in compliance with the Real Estate Law during
4 the time that he was the officer designated by a corporate broker licensee in violation of Section
5 10159.2 of the Code. This conduct is a basis for the suspension or revocation of Respondent's
6 license pursuant to Code Sections 10177(d), 10177(g) and 0177(h).

7 ORDER

8 WHEREFORE, THE FOLLOWING ORDER is hereby made:

9 I.

10 All licenses and licensing rights of Respondents UNIKO HOLDINGS INC. and
11 LEONEL ACEVES, under the Real Estate Law are revoked; provided, however, restricted real
12 estate broker licenses shall be issued to said Respondents, pursuant to Section 10156.5 of the
13 Business and Professions Code if Respondents:

14 (A) Make application thereof and pays to the Department of Real Estate the
15 appropriate fee for the restricted license within ninety (90) days from the effective date of this
16 Decision.

17 (B) Provide, prior to the issuance of any restricted license, evidence satisfactory to
18 the Commissioner that the trust fund deficit set forth in the Accusation in audit report
19 SD080041/SD080050, in amount of \$11,176.03, as of April 30, 2009, has been cured, including
20 the identity of the source of funds used to cure them.

21 (C) Respondent LEONEL ACEVES shall, prior to and as a condition of the
22 issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken
23 and successfully completed the continuing education course on trust fund accounting and
24 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
25 Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent
26 has successfully completed the trust fund account and handling continuing education course
27 within 120 days prior to the effective date of the Decision in this matter.

1 The restricted licenses issued to Respondents shall be subject to all of the
2 provisions of Section 10156.7 of the Business and Professions Code and to the followings
3 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

8 2. The restricted licenses issued to Respondents may be suspended prior to
9 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
10 that a Respondent has violated provisions of the California Real Estate Law, the Subdivided
11 Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
12 license.

13 3. Respondents shall not be eligible to apply for the issuance of an unrestricted
14 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
15 restricted license until two (2) years have elapsed from the effective date of this Decision.

16 4. Respondent LEONEL ACEVES shall within six (6) months from the effective
17 date of the restricted license, take and pass the Professional Responsibility Examination
18 administered by the Department including the payment of the appropriate examination fee. If
19 Respondent fails to satisfy this condition, the Commissioner may order suspension of the
20 restricted license until respondent passes the examination.

21 5. Respondent LEONEL ACEVES shall, within nine (9) months from the
22 effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner
23 that Respondent has, since the most recent issuance of an original or renewal real estate license,
24 taken and successfully completed the continuing education requirements of Article 2.5 of
25 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
26 satisfy this condition, the Commissioner may order the suspension of his license until the
27 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity

1 for a hearing pursuant to the Administrative Procedure Act to present such evidence.

2 6. During the time Respondent LEONEL ACEVES is licensed as a restricted real
3 estate broker, Respondent shall not serve as the designated broker at any corporate real estate
4 broker unless and until Respondent is the sole owner of record of the shares of the licensed real
5 estate corporation.

6 III.

7 Pursuant to Section 10148 of the Business and Professions Code, Respondents
8 shall pay the Commissioner's reasonable cost for (a) the audits which led to this disciplinary
9 action and (b) a subsequent audits to determine if Respondents UNIKO HOLDINGS INC. and
10 LEONEL ACEVES are now in compliance with the Real Estate Law. The cost of the audit
11 which led to this disciplinary action is \$6,598.10. In calculating the amount of the
12 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
13 for all persons performing audits of real estate brokers, and shall include an allocation for travel
14 time to and from the auditor's place of work. Said amount for the prior and subsequent audits
15 shall not exceed \$13,196.20. Respondents are jointly and severally liable for the cost of the
16 audits.

17 Respondents shall pay such cost within 60 days of receiving an invoice from the
18 Commissioner detailing the activities performed during the audit and the amount of time spent
19 performing those activities.

20 The Commissioner may suspend the license of Respondents pending a hearing
21 held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
22 made as provided for herein, or as provided for in a subsequent agreement between the
23 Respondents and the Commissioner. The suspension shall remain in effect until payment is
24 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
25 provide for payment, or until a decision providing otherwise is adopted following a hearing held
26 pursuant to this condition.

1
2 DATED: 3-7-12

3 ELLIOTT MAC LENNAN, Counsel for
4 the Department of Real Estate

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6 EXECUTION OF THE STIPULATION

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

14 FACSIMILE

15 Respondents can signify acceptance and approval of the terms and conditions of
16 this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the
17 Department at the following facsimile number: Elliott Mac Lennan at (213) 576-6917.
18 Respondents agree, acknowledge and understand that by electronically sending to the Department
19 a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the
20 faxed copy by the Department shall be as binding on Respondents as if the Department had
21 received the original signed Stipulation.

22 DATED: 3/7/12

23 UNIKO HOLDINGS INC.,
24 BY: LEONEL ACEVES,
25 Respondent

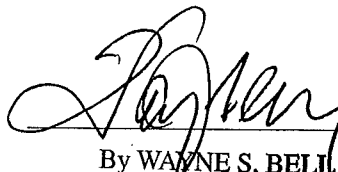
26 DATED: 3/7/12

27 LEONEL ACEVES, individually and as designated
officer of Uniko Holdings Inc., Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
Respondents UNIKO HOLDINGS INC. and LEONEL ACEVES, individually and as designated
officer of Uniko Holdings Inc. and shall become effective at 12 o'clock noon on
May 11, 2012.

IT IS SO ORDERED March 29, 2012.

Real Estate Commissioner


By WAYNE S. BELL
Chief Counsel