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FILED

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DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 36791 LA

12 UNIKO HOLDING INC. doing business as)
13 Uniko Mortgage Services and)
14 Uniko Real Estate Service;)
15 and LEONEL ACEVES, individually)
and as designated officer of)
Uniko Holding Inc.,)

A C C U S A T I O N

16 Respondents.)
17)

18 The Complainant, Joey Aiu, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against UNIKO HOLDING INC. dba Uniko Mortgage Services and Uniko
21 Real Estate Service, and LEONEL ACEVES, individually and as
22 designated officer of Uniko Holding Inc., alleges as follows:

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1.

The Complainant, Joey Aiu, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against UNIKO HOLDING INC. (UHI) and LEONEL ACEVES (ACEVES).

2.

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

License

3.

At all times mentioned, UHI was licensed or had license rights issued by the Department of Real Estate (Department) as a corporate real estate broker by and through real estate broker LEONEL ACEVES (ACEVES).

Brokerage

4.

At all times mentioned, in the Corona, County of Riverside, UHI and ACEVES engaged in the business of real estate brokers conducting licensed activities within the meaning of:

A. 10131(a). Respondents, dba Uniko Real Estate Service, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

1 B. Code Sections 10131(d) and 10131.2. Respondent's
2 engaged in operating a mortgage loan, advanced fee and loan
3 modification service brokerage dba Uniko Mortgage Services. For
4 compensation or in expectation of compensation and for fees often
5 collected in advance.

6 Respondents advertised, solicited and offered to
7 provide loan modification services to economically distressed
8 homeowners seeking adjustments to the terms and conditions of
9 their home loans including, but not limited to, repayment plans,
10 forbearance plans, partial claims, and reduction in principal or
11 interest, foreclosure prevention and short sales.

12 Audit

13 5.

14 On September 3, 2009, the Department completed an audit
15 examination of the books and records of UHI pertaining to the
16 residential resales and mortgage loan brokerage activities
17 described in Paragraph 4, which require a real estate license.
18 The audit examination covered a period of time beginning on May
19 1, 2006 to April 30, 2009. The audit examination revealed
20 violations of the Code and the Regulations as set forth in the
21 following paragraphs, and more fully discussed in Audit Report SD
22 080041 and LA 080050 and the exhibits and work papers attached to
23 said audit report.
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Bank and Trust Accounts

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, UHI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers for advance fees and loan modifications handled by UHI. Thereafter UHI made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by UHI in these bank accounts as UHI did not maintain a trust accounts during the audit period:

"Uniko Holding Inc.
Account No. 0249-75260
Bank of America
San Francisco, California

(B/A #1 - general business account used for deposit of advance fees collected from homeowners for loan modifications)

"Uniko Holding Inc.
Account No. 00709-40546
Bank of America
San Francisco, California

(B/A #2 - general business account used for deposit of advance fees collected from homeowners for loan modifications)

"Uniko Holding Inc.
Account No. 024425-71127
Bank of America
San Francisco, California

(B/A #3 - general business account used for deposit of advance fees collected from homeowners for loan modifications)

Violations

7.

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

(a) Permitted, allowed or caused the disbursement of trust funds from UHI bank account B/A #2, where the disbursement of funds reduced the total of aggregate funds in B/A #2, to an amount which, on April 30, 2009, was \$11,176.03, less than the existing aggregate trust fund liability to every homeowner-borrower who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Section 10145 and Regulation 2832.1.

(b)(1) Mixed and commingled trust funds and personal funds by depositing trust funds in the form of advance fees solicited from homeowner-borrowers for loan modification services into UHI's general operating account, in violation of Code Sections 10145, 10176(e) and/or 10177(g) and Regulation 2832; and

(b)(2) Converted trust funds and personal funds by depositing trust funds in the form of advance fees solicited from homeowner-borrowers for loan modification services into UHI's general operating account, in violation of Code Sections 10145, 10176(i) and/or 10177(j) and 10177(g). UHI reduced the amount in

1 UHI's general account to an amount less than the amount of the
2 trust funds deposited constituting conversion.

3 (c) Failed to maintain an and accurate and complete
4 control record in chronological order for each beneficiary or
5 transaction, thereby failing to account for all advance fees
6 collected in connection with loan modification services, in
7 violation of Code Section 10145 and Regulation 2831.

8 (d)(1) Misrepresented to sellers that UHI held earnest
9 money deposit for homeowner-borrowers Leopoldo Lopez, Jesus Luna,
10 Rosario Ballondano and Osbaldo Castellanos, in violation of Code
11 Section 10176(a); and

12 (d)(2) Failed to place trust funds, including credit
13 report and appraisal fees, accepted on behalf of another into the
14 hands of the owner of the funds, a neutral escrow depository or
15 into a trust fund account in the name of the trustee at a bank or
16 other financial institution not later than three business days
17 following receipt of the funds by the broker or by the broker's
18 salesperson, in violation of Code Section 10145 and Regulation
19 2832(d). UHI did not pay credit report fees to the credit report
20 company prior to the close of escrow for borrowers Gregoria
21 Navarro and Roberto Lujan.

23 (e) Failed to maintain a separate record for each
24 beneficiary or transaction, thereby failing to account for all
25 advance fees collected for loan modification services, in
26 violation of Code Section 10145 and Regulation 2831.1.
27

1 (f) Failed to perform a monthly reconciliation of the
2 balance of all separate beneficiary or transaction records
3 maintained pursuant to Regulation 2831.1 with the record of all
4 trust funds received and disbursed by the bank accounts that
5 contain trust funds in the form of advance fees for loan
6 modification services, in violation of Code Section 10145 and
7 Regulations 2831.2, 2950(d) and 2951.

8 (g) Failed to establish and maintain a trust account at
9 a bank or other recognized financial institution in the name of
10 the broker for deposit of advance fees collected by UHI, in
11 violation of Code Section 10146.

12 (h) Collected advance fees within the meaning of Code
13 Section 10026 from homeowners seeking loan modification services
14 wherein UHI failed to provide homeowner-borrowers James Vacca,
15 Jaime Hernandez, Carolina Coterio and William Miller, a pre-
16 approved advance fee agreement from the Department in the form of
17 a no objection letter, in violation of Code Section 10085 and
18 Regulation 2970.
19

20 (i) With reference to the lack of an advance fee
21 agreement, UHI and ACEVES, failed to provide a complete
22 description of services to be rendered provided to each
23 homeowner-borrower in 10 point type font and, an allocation and
24 disbursement of the amount collected as the advance fee for each
25 loan modification, in violation of Code Section 10146 and
26 Regulation 2972.
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Disciplinary Statutes

8.

The conduct of Respondents UHI and ACEVES described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10145 and 2832.1
7(b)	Code Sections 10145, 10176(e), 10176(i) and/or 10177(j) and 10177(g) and Regulation 2831
7(c)	Code Sections 10145 and Regulation 2831
7(d)	Code Sections 10145 and 10176(a) and Regulation 2832
7(e)	Code Section 10145 and Regulation 2831.1
7(f)	Code Section 10145 and Regulation 2831.2
7(g)	Code Section 10146
7(h)	Code Section 10085.8 and Regulation 2970
7(i)	Code Section 10146 and Regulation 2972

1 The foregoing violations constitutes cause for the suspension or
2 revocation of the real estate license and license rights of UHI
3 and ACEVES, as aforesaid, under the provisions of Code Sections
4 [10176(e) for commingling], 10176(i) and/or 10177(j) for
5 conversion, 10177(d) for violation of the Real Estate Law and/or
6 10177(g) for negligence.

7 9.

8 The overall conduct of Respondents UHI and ACEVES
9 constitutes negligence. This conduct and violation are cause for
10 the suspension or revocation of the real estate license and
11 license rights of said Respondents pursuant to the provisions of
12 Code Section 10177(g).

13 10.

14 The overall conduct of Respondents UHI and ACEVES
15 constitutes a breach of fiduciary duty. This conduct and
16 violation are cause for the suspension or revocation of the real
17 estate license and license rights of said Respondents pursuant to
18 the provisions of Code Sections 10176(i) and/or 10177(g).

19 11.

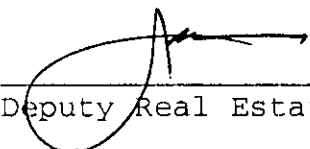
20 The overall conduct of Respondent ACEVES constitutes a
21 failure on Respondent's part, as officer designated by a
22 corporate broker licensee, to exercise the reasonable supervision
23 and control over the licensed activities of UHI, as required by
24 Code Sections 10159.2 and 10211, and to keep UHI in compliance
25 with the Real Estate Law, with specific regard to loan
26
27

1 modifications services and advance fee handling, requiring a real
2 estate license and is cause for the suspension or revocation of
3 the real estate license and license rights of UHI and ACEVES
4 pursuant to the provisions of Code Sections 10177(d), 10177(g)
5 and 10177(h).

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against the license and license rights of Respondents
10 UNIKO HOLDING INC. and LEONEL ACEVES, under the Real Estate Law
11 (Part 1 of vision 4 of the Business and Professions Code) and for
12 such other and further relief as may be proper under other
13 applicable provisions of law.

14 Dated at Los Angeles, California

15 this *24th August 2010.*

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17 Deputy Real Estate Commissioner

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23 cc: Uniko Holding Inc.
24 c/o Leonel Aceves D.O.
25 Joey Aiu
26 Sacto
27 Jesse Hafen
Audits - Darryl Thomas