DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED

MAR 24 2010

DEPARTMENT OF REAL ESTATE

By R. Heavy

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of JOSEPH DENNIS SPEAKMAN, Respondent.	NO. H-2405 FR STIPULATION AND AGREEMENT

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

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

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

of Real Estate in this proceeding.

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

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

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

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

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

e. If Respondent pays the monetary penalty and if 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 herein, then the stay hereby granted shall become permanent.

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

12/10/09
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

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

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FILED

JUL 23 2009

DEPARTMENT OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of JOSEPH DENNIS SPEAKMAN, Respondent.	No. H-2405 FRESNO ACCUSATION

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

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Complainant makes this Accusation in his official capacity.

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Respondent 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 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.

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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

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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

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

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

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

JOHN SWEENEY
Deputy Real Estate Commissioner

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