

Sachs

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

FILED

SEP -2 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) 12) 13 FINANCIAL INVESTMENTS SOULTIONS CORP) 14 doing business as Prominent) 15 Financial Solutions; and) 16 YIMI GEMER GOMEZ, individually and) as former designated officer of) Financial Investments Solutions Corp,) Respondents.)	No. H-35995 LA <u>STIPULATION</u> <u>AND</u> <u>AGREEMENT</u>
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18 It is hereby stipulated by and between Respondents
 19 FINANCIAL INVESTMENTS SOULTIONS CORP, and YIMI GEMER GOMEZ,
 20 individually and as designated officer of FINANCIAL INVESTMENTS
 21 SOULTIONS CORP (sometimes collectively referred to as
 22 "Respondents"), and the Complainant, acting by and through
 23 Elliott Mac Lennan, Counsel for the Department of Real Estate, as
 24 follows for the purpose of settling and disposing of the
 25 Accusation ("Accusation") filed on May 27, 2009, in this matter:
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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act ("APA"), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement ("Stipulation").

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

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

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

12 The conduct, acts or omissions of FINANCIAL INVESTMENTS
13 SOULTIONS CORP and YIMI GEMER GOMEZ, as described in Paragraph 4,
14 above, are in violation of Sections 10085, 10137, 10145 and 10146
15 of the Business and Professions Code ("Code") and Sections 2831,
16 2831.1, 2831.2, 2970 and 2972 of Title 10, Chapter 6 of the
17 California Code of Regulations ("Regulations") and is a basis for
18 discipline of Respondents' license and license rights pursuant to
19 Code Section 10177(d) for violations of the Real Estate Law.

20 ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:

22 I. All licenses and licensing rights of Respondents
23 FINANCIAL INVESTMENTS SOULTIONS CORP, and YIMI GEMER GOMEZ are
24 hereby revoked.

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1
2 DATED: 8-11-89

E.L.
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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5 * * *

6 EXECUTION OF THE STIPULATION

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

18 MAILING AND FACSIMILE

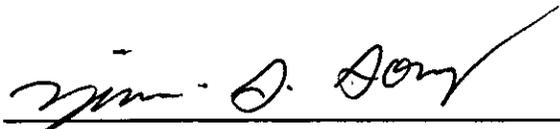
19 Respondents (1) shall mail the original signed
20 Stipulation herein to Elliott Mac Lennan: Attention: Legal
21 Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
22 Los Angeles, California 90013-1105. Additionally, Respondents
23 shall also (2) facsimile a copy of signed signature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

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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.

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DATED: 7/7/09.



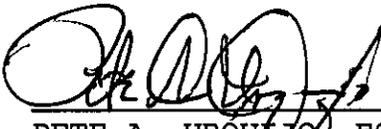
FINANCIAL INVESTMENTS SOLUTIONS
CORP, a corporate real estate
broker, Respondent
BY: YIMI GEMER GOMEZ

DATED: 7/7/09.



YIMI GEMER GOMEZ, individually and
as former designated officer of
Financial Investments Solutions
Corp, Respondent

DATED: 7/7/09



PETE A. URQUIJO ESQ.
Attorney for Respondents
Approved as to form

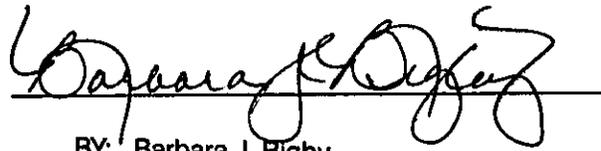
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1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision as to Respondents FINANCIAL INVESTMENTS
3 SOULTIONS CORP and YIMI GEMER GOMEZ, individually and as
4 designated officer of Financial Investments Solutions Corp, and
5 shall become effective at
6 12 o'clock noon on September 22, 2009.
7

8 IT IS SO ORDERED 8/17, 2009.

9
10 JEFF DAVI
11 Real Estate Commissioner

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14 BY: Barbara J. Bigby
15 Chief Deputy Commissioner
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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

MAY 27 2009

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- 35995 LA

12 FINANCIAL INVESTMENTS SOLUTIONS CORP)
13 doing business as Prominent)
14 Financial Solutions; and)
15 YIMI GEMER GOMEZ, individually and)
16 as former designated officer of)
17 Financial Investment Solutions Corp,)

A C C U S A T I O N

18 Respondents.)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against FINANCIAL INVESTMENT SOLUTIONS CORP dba Prominent
21 Financial Solutions and YIMI GEMER GOMEZ, individually and as
22 former designated officer of Financial Investment Solutions Corp,
23 alleges as follows:

24 1.

25 The Complainant, Robin Trujillo, acting in her official
26 capacity as a Deputy Real Estate Commissioner of the State of
27

1 California, makes this Accusation against FINANCIAL INVESTMENT
2 SOLUTIONS CORP (FISC) and YIMI GEMER GOMEZ (GOMEZ).

3 2.

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

7 3.

8 A. At all times mentioned, FISC was licensed or had
9 license rights issued by the Department of Real Estate
10 (Department) as a real estate broker. On January 9, 2008, FISC
11 was originally licensed as a corporate real estate broker by and
12 through YIMI GEMER GOMEZ. As of September 19, 2008, FISC became
13 non broker affiliated upon the termination YIMI GEMER GOMEZ'S
14 status as designated officer.

15 B. At all times mentioned, GOMEZ was licensed or had
16 license rights issued by the Department as a real estate broker.
17 On May 23, 2000, GOMEZ was originally licensed as a real estate
18 broker.
19

20 4.

21 At all times mentioned, in the City of Bellflower,
22 County of Los Angeles, FISC and GOMEZ engaged in the business of
23 real estate brokers conducting licensed activities within the
24 meaning of Code Sections 10131(d) and 10131.2. FISC and GOMEZ
25 engage in operating an advanced fee and loan modification service
26 brokerage dba Prominent Financial Solutions. For compensation or
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1 in expectation of compensation and for fees often collected in
2 advance, Respondents contacted lenders on behalf of distressed
3 homeowners seeking modification or forbearance of the terms of
4 their home loans.

5 5.

6 On January 21, 2009, the Department completed an audit
7 examination of the books and records of FISC pertaining to the
8 loan modification service activities described in Paragraph 4,
9 which require a real estate license. The audit examination
10 covered a period of time beginning on November 1, 2007 to
11 September 30, 2008. The audit examination revealed violations of
12 the Code and the Regulations as set forth in the following
13 paragraphs, and more fully discussed in Audit Report LA 080046
14 and the exhibits and work papers attached to said audit report.
15

16 6.

17 No trust account was kept during the audit period.

18 VIOLATIONS OF THE REAL ESTATE LAW

19 7.

20 In the course of activities described in Paragraph 4,
21 above, and during the examination period described in Paragraph
22 5, Respondents FISC and GOMEZ, acted in violation of the Code and
23 the Regulations in that Respondents:
24

25 (a) Employed and compensated Jose Tellez-Sanchez,
26 Gerardo Gonzalez, Lina Norena, Reina Vazquez, Lixlia Edmons,
27 Maria Gonzlez, Azucena Fernandez, Fidel Soto, Jose Hudson and

1 Sandra Ortiz, as loan modification agents whom Respondents knew
2 were not licensed by the Department as a real estate brokers or
3 as a real estate salespersons employed by a real estate broker,
4 for performing acts for which a real estate license is required,
5 including soliciting advance fees and negotiating loan mortgage
6 services, with reference to Code Sections 10131(d) and 10131.2,
7 in violation of Code Section 10137.

8 (b) Failed to maintain a control record in the form of
9 a columnar record in chronological order of all trust funds
10 including advance fees received, deposited and disbursed, in
11 violation of Code Section 10145 and Regulation 2831.

12 (c) Failed to maintain a separate record for each
13 beneficiary or transaction, thereby failing to account for all
14 advance fees collected, in violation of Code Section 10145 and
15 Regulation 2831.1.

16 (d) Failed to perform a monthly reconciliation of the
17 balance of all separate beneficiary or transaction records
18 maintained pursuant to Regulation 2831.1 with the record of all
19 trust funds received and disbursed from the general account for
20 loan modification services, in violation of Code Section 10145
21 and Regulation 2831.2.

22 (e) Collected advance fees within the meaning of Code
23 Section 10026 from homeowners seeking loan modification services
24 wherein FISC failed to provide homeowner Ruben Ramirez a pre-
25 approved advance fee agreement from the Department in the form of
26
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1 a no objection letter, in violation of Code Section 10085 and
2 Regulation 2970.

3 (f) Failed to establish and maintain a trust account at
4 a bank or other recognized financial institution in the name of
5 the broker for deposit of advance fees collected by FISC, in
6 violation of Code Section 10146.

7 (g) With reference to the lack of an advance fee
8 agreement, FISC failed to provide a complete description of
9 services to be rendered provided to each prospective tenant in 10
10 point type font and failed to provide an allocation and
11 disbursement of the amount collected as the advance fee, in
12 violation of Code Section 10146 and Regulation 2972.

13 DISCIPLINE STATUTES AND REGULATIONS

14 8.

15 The conduct of Respondents FISC and GOMEZ described in
16 Paragraph 7, above, violated the Code and the Regulations as set
17 forth below:
18

19 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
20 7(a)	Code Section 10137
21	
22 7(b)	Code Sections 10145 and Regulation 23 2831
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25 7(c)	Code Section 10145 and Regulation 26 2831.1
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7(d) Code Section 10145 and Regulation
2831.2

7(e) Code Sections 10085 and Regulation
2970

7(f) Code Section 10146

7(g) Code Sections 10085 and Regulation
2972

The foregoing violations constitutes cause for the suspension or revocation of the real estate license and license rights of FISC and GOMEZ, as aforesaid, under the provisions of Code Sections 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence or incompetence.

9.

ADDITIONAL VIOLATION OF THE REAL ESTATE LAW

FISC and GOMEZ systematically employed unlicensed persons as loan agents and loan modification agents to solicit advance fees without an advance fee agreement, in connection with loan modification services provided to distressed homeowners including but not limited to Ruben Ramirez, in violation of Code Section 10176(i) for fraud and dishonest dealing.

10.

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

7 11.

8 The overall conduct of Respondent GOMEZ constitutes a
9 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 FISC, as required by
12 Code Section 10159.2 and Regulation 2725, and to keep FISC in
13 compliance with the Real Estate Law, with specific regard to loan
14 modifications services and advance fee handling, requiring a real
15 estate license and is cause for the suspension or revocation of
16 the real estate license and license rights of FISC and GOMEZ
17 pursuant to the provisions of Code Sections 10177(d), 10177(g)
18 and 10177(h).
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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 the license and license rights of Respondents
5 FINANCIAL INVESTMENT SOLUTIONS CORP. dba Prominent Financial
6 Solutions and YIMI GEMER GOMEZ, under the Real Estate Law (Part 1
7 of vision 4 of the Business and Professions Code) and for such
8 other and further relief as may be proper under other applicable
9 provisions of law.

10 Dated at Los Angeles, California

11 this 26 day of May 2009.

12 Robin Trujillo
13 Deputy Real Estate Commissioner
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24 cc: Financial Investment Solutions Corp.
25 c/o Yimi Gemer Gomez former D.O.
26 Yimi Gemer Gomez
27 Robin Trujillo
Sacto
Audits - Godswill Keraoru