Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982 (office)

FILED

FEB 25 2010

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of JOSE ANGEL NUNEZ, doing business as ABC Home Loans and ABC Real Estate, Respondent,	No. H-36348 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent JOSE ANGEL NUNEZ, (sometimes referred to as "Respondent"), 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 ("Accusation") filed on November 10, 2009, in this matter:

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 ("APA"), shall instead and in place thereof be

submitted solely on the basis of the provisions of this Stipulation and Agreement (Stipulation).

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. Respondent filed a Notice of Defense pursuant to Section 11506 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 he understands that by withdrawing said Notice of Defense he thereby waives his 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 he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in his defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. This Stipulation is based on the allegations contained in the Accusation above. In the interest of expedience and economy, Respondent chooses not to contest these allegations, but to remain silent and understands that, as a result thereof, these allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to

herein. The Real Estate Commissioner shall not be required to provide further evidence to prove said allegations.

5. This Stipulation and Respondent's decision not to contest the Accusation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), the state or federal government, or any agency of this state, another state or federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.

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

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation 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 but do constitute a bar, estoppel and merger as to any allegations actually contained in the Accusation against Respondents herein.

8. Respondents understand that by agreeing to this Stipulation, Respondents agree to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The amount of said cost for the audit is $3,590.70.

9. Respondents have received, read, and understand the "Notice Concerning Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and Professions Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit will not exceed $3,590.70.

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DETERMINATION OF ISSUES

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

The conduct of JOSE ANGEL NUNEZ, as described in Paragraph 4, above, constitutes violations of Business and Professions Code ("Code") Sections 10085, 10145 and 10146 and Sections 2831, 2831.1, 2831.2, 2832, 2970 and 2972 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations"). This conduct is a basis for discipline of Respondent's license pursuant to Code Section 10177(d), 10177(g) and 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I. The real estate broker license of Respondent JOSE ANGEL NUNEZ, under the Real Estate Law is revoked; provided, however, a restricted real estate broker license shall be issued to said Respondent, pursuant to Section 10156.5 of the Business and Professions Code if Respondent:

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

(B) Respondent JOSE ANGEL NUNEZ shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust

fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent JOSE ANGEL NUNEZ has successfully completed the trust fund account and handling continuing education course within 120 days prior to the date of issuance of the restricted license.

The restricted license issued to Respondent JOSE ANGEL NUNEZ shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the followings limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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

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

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the

removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

II. Pursuant to Section 10148 of the Business and Professions Code, Respondent JOSE ANGEL NUNMEZ shall pay the Commissioner's reasonable cost for (a) the audit which led to this disciplinary action (b) a subsequent audit to determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is $3,590.70. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Said amount for the prior and subsequent audits shall not exceed $7,181.40.

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

The Commissioner may suspend the license of Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent

enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

III. Respondent JOSE ANGEL NUNEZ shall within six (6) months from the effective date of the Decision herein, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent successfully passes the examination.

DATED: 12-17-09

ELLIOTT MAC LENNAN, Counsel

* * *

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.

MAILING AND FACSIMILE

Respondent (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Additionally, Respondent shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondent agrees, acknowledges and understands that by electronically sending to the Department a facsimile copy of Respondent's actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondent as if the Department had received the original signed stipulation.

DATED: 12/22/09

Jose A. Nunez

JOSE ANGEL NUNEZ, Respondent

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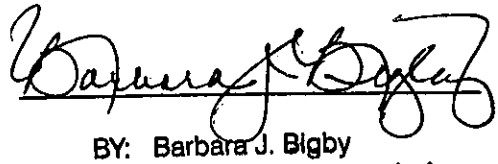
The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JOSE ANGEL NUNEZ and shall become effective at 12 o'clock noon on March 26, 2010.

IT IS SO ORDERED 2/11, 2010.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

ELLIOTT MAC LENNAN, SBN 66674
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Telephone: (213) 576-6911 (direct)
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FILED

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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 JOSE ANGEL NUNEZ, doing business as ABC Home Loans and ABC Real Estate, Respondents.	No. H-36348 LA A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JOSE ANGEL NUNEZ doing business as ABC Home Loans and ABC Real Estate, alleges as follows:

1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against JOSE ANGEL NUNEZ ("NUNEZ").

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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, NUNEZ (hereinafter referred to as "Respondent" or "NUNEZ"), is presently licensed and/or have 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. NUNEZ was originally licensed as a real estate broker January 19, 2006.

Brokerage

4.

At all times mentioned, in City of Paramount, County of Los Angeles, NUNEZ acted as a real estate broker and conducted licensed activities within the meaning of:

a. Code Section 10131(d). NUNEZ dba ABC Home Loans and ABC Real Estate engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance as well as at the conclusion of transactions; and

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b. Code Section 10131.2. NUNEZ engaged in the business of a loan modification and an advance fee brokerage. Respondent performed loan modification services with respect to loans to economically distressed homeowners which were secured by liens on real property for compensation or in expectation of compensation and for fees often collected in advance and as well at the close of the transactions. Respondent contacted lenders on behalf of distressed homeowners seeking modification of the terms of their home loans, interest and/or principal reduction, foreclosure abatement, loan refinance, and/or short sale services.

Audit

5.

On June 1, 2009, the Department completed an audit examination of the books and records of NUNEZ pertaining to the mortgage loan, advanced fee and loan modification service activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on March 1, 2006 to February 28, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080230 and the exhibits and work papers attached to said audit report.

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6.

No trust account was kept during the audit period.

Violations

7.

In the course of activities described in Paragraph 4, above, and during the examination period described in Paragraph 5, Respondent NUNEZ, acted in violation of the Code and the Regulations in that Respondent:

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

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

(c) Commingled trust funds and personal funds by depositing advance fees received from loan modification services into NUNEZ' general operating account and issuing checks from said account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832, as set forth below in the table below for the following homeowner loan modifications:

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Date of Modification	Name WP	Amount	Date Received	Date Deposited
9/15/08	Miguel Almanza	$900.00	9/15/08	9/17/08
10/11/08	Mario Nunez	$900.00	10/11/08	10/14/08
10/18/08	Juan Hinostroza	$900.00	10/18/08	10/20/08
11/08/08	James Garcia	$900.00	11/08/08	11/12/08
12/6/08	Raymundo Aleman	$900.00	12/06/08	12/08/08
12/20/08	Jose A. Arevalo	$650.00	12/20/08	12/22/08
12/31/08	Raymundo Busto	$900.00	12/31/08	unavailable
01/06/09	Rayner Arita	$800.00	01/06/09	01/07/09
01/10/09	Lilia Arrendondo	$900.00	01/09/09	01/12/09
01/17/09	Jesus Ruiz	$900.00	01/17/09	01/26/09
01/24/09	Celia Martinarena	$900.00	01/24/09	01/26/09
01/24/09	Saul Jimenez	$900.00	01/29/09	01/29/09
01/31/09	David Maya	$900.00	01/31/09	02/02/09
02/07/09	Juan Martinez	$900.00	02/07/09	02/09/09
02/17/09	Sandra Vasquez	$900.00	02/20/09	02/23/09

(d) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed, in violation of Code Section 10145 and Regulation 2831.2.

(e) Violated Code Section 10146 by collecting advance fees from the public yet failing to deposit the fees into a real estate broker trust account.

(f) Violated Code Section 10085 and Regulation 2970 by failing to submit to the Commissioner not less than ten calendar

days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use; and,

(g) Violated Code Section 10146 and Regulation 2972 by failing to provide a complete description of loan modification services to be rendered provided to each would-be homeowner in 10 point type font and an allocation and disbursement of the amount collected as the advance fee.

Disciplinary Statutes

8.

The conduct of Respondent NUNEZ described in Paragraph 7, above, violated the Code and the Regulations as set forth:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10145 and Regulation 2831
7(b)	Code Sections 10145 and Regulation 2831.1
7(c)	Code Sections 10145 and 10176(e) and Regulation 2832
7(d)	Code Section 10145 and Regulation 2831.2
7(e)	Code Section 10146
7(f)	Code Sections 10085 and Regulation 2970

7(g)	Code Sections 10146 and Regulation 2972

The foregoing violations constitute cause for discipline of the real estate license and license rights of NUNEZ, under the provisions of Code Sections 10177(d) and/or 10177(g).

9.

The overall conduct, acts and/or omissions of Respondent NUNEZ is negligent in failing to ensure full compliance with the Real Estate Law is in violation of Code Sections 10177(d), 10177(g) and 10177(h).

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 the license and license rights of Respondent JOSE ANGEL NUNEZ, 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 applicable provisions of law.

Dated at Los Angeles, California

this 2 day of November 2009.

Deputy Real Estate Commissioner

cc: Jose Angel Nunez D.O.
Robin Trujillo
Sacto.
Audits - Darryl Thomas