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

FILED
SEP - 7 2010
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of DIVINA REALTY INC., doing business as Divina Realty and Arena Mortgage; and FABY LLERANDI, individually and as designated officer of Divina Realty Inc. Respondents.	No. H-36460 LA L-2010030252 STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondents DIVINA REALTY INC., doing business as Divina Realty and Arena Mortgage; and FABY LLERANDI, individually and as designated officer of Divina Realty Inc. ("Respondents"), represented by Edward O. Lear, Esq. and the Complainant, acting by and through Lissete Garcia, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on February 11, 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").

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

3. Respondents timely 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. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their 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 they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense the right to cross-examine witnesses.

4. Respondents, pursuant to the limitations set forth below, hereby admit that the factual allegations in Paragraphs 3 through 6, and 9 of the Accusation filed in this proceeding are true and correct and 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 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 below "Order". 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 all the provisions of the APA and shall not be bound by any admission or waiver made herein.

6. 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.

7. Respondents understand that by agreeing to this Stipulation, they agree to pay, pursuant to Business and Professions Code Section 10148, the cost of audit which led to this disciplinary action. The amount of said cost for the audit is $3,511.10.

8. 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 $3,511.10.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

I

The conduct, acts or omissions of Respondent DIVINA REALTY INC., as described in Paragraphs 6 of the Accusation, are in violation of Sections 10145, 10146, 10176(e), 10085, 10146, and 10240 of the Business and Professions Code ("Code") and Sections 2831, 2831.1, 2832, 2835, 2970, and 2972, of Title 10, Chapter 6 of the California Code of Regulations and is a basis for the suspension or revocation of Respondent DIVINA REALTY INC.'s license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10176(e) and 10177(g).

II

The conduct, acts or omissions of FABY LLERANDI, as described in Paragraphs 6 and 9 of the Accusation, during the period of March 24, 2009, through May 31, 2009, constitute a failure to keep DIVINA REALTY INC. in compliance with the Real Estate Law during the time that she was the officer designated by a corporate broker licensee, in violation of Code Section 10159.2. This conduct is a basis for the suspension or revocation of Respondent FABY LLERANDI's license pursuant to Code

Sections 10177(g) and 10177(h).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensing rights of Respondent DIVINA REALTY INC. under the Real Estate Law are revoked; provided, however, a restricted real estate corporation license shall be issued to Respondent DIVINA REALTY INC. pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

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

2. Respondent DIVINA REALTY INC. 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 one (1) year has elapsed from the effective date of this Decision.

3. Pursuant to Section 10148 of the Business and Professions Code, Respondent DIVINA REALTY INC. and Respondent FABY LLERANDI shall jointly or severally pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and b) a subsequent audit to determine if Respondent DIVINA REALTY INC. has corrected the trust fund violations found in Paragraph I of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing the audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. The cost of the audit which led to this disciplinary action is $3,511.10. Said amount for the prior and subsequent audits shall not exceed $7,022.20. Respondents DIVINA REALTY INC. and FABY LLERANDI shall jointly or severally 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 restricted license issued to Respondent DIVINA REALTY INC. 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 DIVINA REALTY INC.

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.

II

All licenses and licensing rights of Respondent FABY LLERANDI under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent FABY LLERANDI pursuant to Section 10156.5 of the Business and Professions Code if:

a) Respondent FABY LLERANDI, 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 subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

b) Respondent makes application for a restricted broker license and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

c) The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and professions Code and to the following limitations, conditions and restrictions imposed under authority of Section

10156.6 of the Code:

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

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

3. Respondent FABY LLERANDI 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 one (1) year has elapsed from the effective date of this Decision.

4. Respondent FABY LLERANDI shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the

suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Pursuant to Section 10148 of the Business and Professions Code, Respondent FABY LLERANDI and Respondent DIVINA REALTY INC. shall jointly or severally pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and b) a subsequent audit to determine if Respondent DIVINA REALTY INC. has corrected the trust fund violations found in Paragraph I of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing the audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. The cost of the audit which led to this disciplinary action is $3,511.10. Said amount for the prior and subsequent audits shall not exceed $7,022.20. Respondents FABY LLERANDI and DIVINA REALTY INC. shall jointly or severally 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 restricted license issued to Respondent FABY LLERANDI 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 FABY LLERANDI 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.

6. Respondent FABY LLERANDI 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 passes the examination.

DATED: 8/11/10

LISSETE GARCIA, Counsel for
the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation and discussed it with our counsel. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we 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 we would have the right to cross-examine witnesses against us and to present evidence in defense and

mitigation of the charges.

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

DATED: 8/3/10

DIVINA REALTY INC.
BY: FABY LLERANDI

DATED: 8/3/10

FABY LLERANDI, individually and as designated officer of Divina Realty Inc., Respondent

DATED: 8/4/10

EDWARD O. LEAR, ESQ.
Attorney for Respondents
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents DIVINA REALTY INC. and FABY LLERANDI, individually and as designated officer of Divina Realty Inc., and shall become effective at 12 o'clock noon on October 7, 2010.

IT IS SO ORDERED 8/31, 2010.

JEFF DAVI
Real Estate Commissioner

SAC

LISSETE GARCIA, SBN 211522
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6914 (direct)
-or- (213) 576-6982 (office)

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FEB 11 2010
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of DIVINA REALTY INC., doing business as Divina Realty and Arena Mortgage; and FABY LLERANDI, individually and as designated officer of Divina Realty Inc. Respondents.	No. H-36460 LA A C C U S A T I O N

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against DIVINA REALTY INC., dba Divina Realty and Arena Mortgage; and FABY LLERANDI, individually and as designated officer of Divina Realty Inc., alleges as follows:

1.

The Complainant, Joseph Aiu, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against DIVINA REALTY INC. (DIVINA) and FABY LLERANDI (LLERANDI).

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.

Licenses

3.

A. At all times mentioned, DIVINA was licensed or had license rights issued by the Department of Real Estate (Department) as a corporate real estate broker. DIVINA was originally licensed as a corporate real estate broker on March 24, 2005.

B. From March 24, 2005 to March 23, 2009, Robert Escalera Perez (Perez) was the designated officer of DIVINA. DIVINA was licensed by the Department as a corporate real estate broker, acting by and through Perez, as the designated officer and broker responsible for supervising the activities requiring a real estate license conducted on behalf of DIVINA by DIVINA's officers, agents and employees, as necessary to secure full compliance with the Real Estate Law as set forth in Code Section 10159.2.

C. Perez was first licensed individually as a real estate broker by the Department on April 17, 1990. On October 7, 2009, the Department revoked Perez' real estate broker license in Case No. H-35531 LA.

D. From March 24, 2009 to the present, LLERANDI has been the designated officer of DIVINA. DIVINA was and is

licensed by the Department as a corporate real estate broker, acting by and through LLERANDI, as the designated officer and broker responsible for supervising the activities requiring a real estate license conducted on behalf of DIVINA by DIVINA's officers, agents and employees, as necessary to secure full compliance with the Real Estate Law as set forth in Code Section 10159.2.

E. LLERANDI was first licensed individually as a real estate broker by the Department on June 29, 2005.

Brokerage

4.

At all times mentioned, in the City of Corona, County of Riverside, DIVINA and LLERANDI engaged in the business of real estate brokers conducting licensed activities within the meaning of Code Sections 10131(a), 10131(d), and 10131.2. DIVINA and LLERANDI engaged in operating a residential resale, mortgage loan, advance fee and loan modification service brokerage. For compensation or in expectation of compensation and for fees often collected in advance, Respondents contacted lenders on behalf of distressed homeowners seeking modification or forbearance of the terms of their home loans.

Audit

5.

On June 11, 2009, the Department completed an audit examination of the books and records of DIVINA pertaining to the mortgage loan, advance 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 January 1, 2007 to May 31, 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 SD 080046 and the exhibits and work papers attached to said Audit Report.

6.

Violations

In the course of activities described in Paragraph 4, above, and during the examination period described in Paragraph 5, Respondents DIVINA and LLERANDI, acted in violation of the Code and the Regulations as follows:

(A) Failed to establish and/or maintain a trust account at a bank or other recognized financial institution in the name of the broker for deposit of advance fees collected by DIVINA, thereby depositing trust funds in DIVINA's general account and thus commingling trust funds with DIVINA's funds, in violation of Code Sections 10145, 10146, 10176(e) and Regulations 2832 and 2835.

(B) 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.

(C) 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.

(D) From January 1, 2007 to June 18, 2009, Respondents collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein DIVINA failed to provide homeowner-borrowers, a pre-approved advance fee agreement from the Department in the form of a no objection letter, in violation of Code Section 10085 and Regulation 2970.

(E) Failed to establish and maintain a trust account at a bank or other recognized financial institution in the name of the broker for deposit of advance fees collected by DIVINA. Advance fees that were collected from borrowers in connection with loan modification transactions were deposited into DIVINA's general business account in violation of Code Sections 10145, 10146, 10176(e) and Regulations 2832 and 2835.

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

(G) Failed to provide and/or maintain an approved Mortgage Loan Disclosure Statement containing all the information required by Code Section 10241(c) before borrowers Ivy L. Alcarez and Eduardo Abad became obligated to perform under the terms of their respective loans, in violation of Code Section 10240 and Regulation 2840.

Disciplinary Statutes

7.

The conduct of Respondents DIVINA and LLERANDI described in Paragraph 6, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
6(A)	Code Sections 10145, 10146 and 10176(e) and Regulations 2832 and 2835
6(B)	Code Section 10145 and Regulation 2831
6(C)	Code Section 10145 and Regulation 2831.1
6(D)	Code Sections 10085 and Regulation 2970
6(E)	Code Sections 10145, 10146 and 10176(e) and Regulations 2832 and 2835
6(F)	Code Section 10146 and Regulation 2972
6(G)	Code Section 10240 and Regulation 2840

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of DIVINA and LLERANDI, as aforesaid, under the provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence.

8.

The overall conduct of Respondents DIVINA and LLERANDI constitutes negligence. This conduct and violations are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

9.

The overall conduct of Respondent LLERANDI constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of DIVINA, as required by Code Section 10159.2, and to keep DIVINA in compliance with the Real Estate Law, with specific regard to loan modifications services and advance fee handling, requiring a real estate license and is cause for the suspension or revocation of the real estate license and license rights of DIVINA and LLERANDI pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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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 Respondents DIVINA REALTY INC., dba Divina Realty and Arena Mortgage; and FABY LLERANDI, individually and as designated officer of Divina Realty Inc., 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 San Diego, California

this 17 day of February, 2010.

JOSEPH AIU
Deputy Real Estate Commissioner

cc: Divina Realty Inc.
Faby Llerandi
Joseph Aiu
Sacto
Audits - Lisa Kwong