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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 MICHAEL TON, Respondent.	No. H-36606 LA

ORDER SUSPENDING REAL ESTATE LICENSE

TO: MICHAEL TON
4025 E. La Palma Ave., Suite 205
Anaheim, CA 92807

On October 15, 2010, your real estate broker license was suspended on the terms, conditions, and restrictions set forth in the Real Estate Commissioner's Decision ("Decision") effective October 15, 2010, in Case No. H-36606 LA. Among those terms, conditions and restrictions was that you were required to submit evidence satisfactory to the Commissioner within six (6) months from the aforementioned effective date, of having completed the Professional Responsibility Examination

administered by the Department. The Commissioner has determined that as of April 15, 2011, you have failed to provide evidence of the completion of the Professional Responsibility Examination condition.

NOW, THEREFORE, IT IS ORDERED under authority of the Order issued in this matter that the real estate broker license heretofore issued to you, Respondent, and the exercise of any privileges thereunder is hereby suspended until such time as you provide proof satisfactory to the Department of compliance with the "conditions" referred to above, or pending final determination made after hearing (see "Hearing Rights" set forth below).

IT IS FURTHER ORDERED that all license certificates and identification cards issued by Department which are in the possession of Respondent be immediately surrendered by personal delivery or by mailing in the enclosed, self-addressed envelope to:

Department of Real Estate
Attn: Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

HEARING RIGHTS: You have the right to a hearing to contest the Commissioner's determination that you are in violation of the Decision issued in this matter. If you desire a hearing, you must submit a written request. The request may be in any form, as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the

Department at 320 W. 4th Street, Room 350, Los Angeles, California 90013, within 20 days after the date that this Order was mailed to or served on you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: 8/25, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

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

Telephone: (213) 576-6982 (office)

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DEPARTMENT OF REAL ESTA
BY:

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of JAMBERTON INC. doing business as Right Start Lending; and MICHAEL TON, individually and as designated officer of Jamberton Inc., Respondents,	No. H-36606 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondents JAMBERTON INC., a corporate real estate broker, and MICHAEL TON, individually and as designated officer of JAMBERTON INC. (sometimes collectively referred to as "Respondents"), 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 April 26, 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. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a

result thereof, these factual 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 factual allegations.

5. This Stipulation and Respondents' 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 Accusations 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 audit which led to this disciplinary action. The amount of said cost for the audit is $3,451.50.

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 $3,451.50.

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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:

I.

The conduct of JAMBERTON INC., and MICHAEL TON, as described in Paragraph 4, above, is in violation of Sections 10085, 10145, 10146, 10148 and 10240 of the Business and Professions Code ("Code") and Sections 2725, 2831, 2831.1, 2970 and 2972 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondents' licenses and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(d).

II.

The conduct of MICHAEL TON, as described in Paragraph 4, constitutes a failure to keep JAMBERTON INC. in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee. This conduct is a violation of Code Section 10159.2 and is a basis for the suspension or revocation of Respondent's license therein, pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents JAMBERTON INC., and MICHAEL TON under the Real Estate Law are suspended for a period of sixty days from the effective date of this Decision; provided, however, that if Respondents request, all sixty days of said suspension (or a portion thereof) shall be stayed upon condition that:

1. Respondents each pay a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of $83.33 per day for each day of the suspension for a monetary penalty of $5,000 each or a total monetary penalty of $10,000.

2. 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 received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate licenses of Respondents occurs within two years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any

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part of the stayed suspension, in which event the Respondents shall not be entitled to any repayment or credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

5. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate licenses of Respondents occurs within two years from the effective date of the Decision, the stay hereby granted shall become permanent.

II.

Pursuant to Section 10148 of the Business and Professions Code, Respondents JAMBERTON INC. and MICHAEL TON 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 $3,451.50. 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 $6,903.00.

Respondents 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 licenses of Respondents 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 Respondents enter 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.

All licenses and licensing rights of Respondent MICHAEL TON are indefinitely suspended unless or until Respondent provides 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 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.

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IV.

Respondent MICHAEL TON 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: 5-12-10

ELLIOTT MAC LENNAN, Counsel for the Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation. 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 can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation. Respondents shall forward the original signed signature page to Elliott Mac Lennan.

DATED: 6/29/10

JAMBERTON INC., a corporate real estate broker,
BY: MICHAEL TON, D.O., Respondent

DATED: 6/29/10

MICHAEL TON individually and as designated officer of JAMBERTON INC., Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents JAMBERTON INC. and MICHAEL TON, individually and as designated officer of JAMBERTON INC. and shall become effective at 12 o'clock noon on October 15, 2010.

IT IS SO ORDERED 8-12, 2010.

JEFF DAVI
Real Estate Commissioner

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

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DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of JAMBERTON INC. doing business as Right Start Lending; and MICHAEL TON, individually and as designated officer of Jamberton Inc., Respondents.	No. H-36606 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 JAMBERTON INC. dba Right Start Lending, and MICHAEL TON, individually and as designated officer of Jamberton Inc., alleges as follows:

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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 JAMBERTON INC. (JI) and MICHAEL TON (TON).

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.

Licensing

3.

A. At all times mentioned, JI and TON were licensed or had license rights issued by the Department of Real Estate (Department) as real estate brokers. JI was originally licensed as a corporate real estate broker on July 29, 2007. TON was originally licensed as a real estate broker on May 29, 2007 and as a real estate salesperson on November 28, 2005.

B. At all times material herein, JI was licensed by the Department as a corporate real estate broker by and through TON, pursuant to Code Sections 10211 and 10159.2 for supervising the activities requiring a real estate license conducted on behalf of JI.

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Brokerage

4.

At all times mentioned, in the City of Anaheim and County of Orange, Respondents JI and TON, acted as real estate brokers conducting licensed activities within the meaning of Code Sections 10131(d) and 10131.2, dba Right Start Lending. Respondents, pursuant to Code Section 10131(d), engaged in the business of:

a. Mortgage Loan Brokerage: Respondents 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; and

b. Loan Modification Brokerage. Respondents solicited and offered to provide loan modification services to economically distressed homeowners seeking adjustments of the terms of their home loans including, but not limited to, repayment plans, forbearance, partial claims, and principal/interest, foreclosure prevention and short sales.

c. Advance Fee Brokerage. In addition, Respondents demanded, charged and collected advance fees including "up front fees" for processing loan modifications and for negotiating with lenders.

Audit

5.

On June 30, 2009, the Department completed an audit examination of the books and records of JI pertaining to the mortgage loan and loan modification activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on June 1, 2007 to March 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 LA 080217 and the exhibits and work papers attached to said audit report.

Trust Account

6.

During the audit period no trust account was maintained

Violations

7.

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

(a) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein JI failed to provide homeowners, including but not limited to Kevin Lobb, with a pre-approved advance fee agreement from the Department, in violation of Code Sections 10085 and Regulation 2970.

(b) With reference to the lack of an advance fee agreement, JI failed to provide a complete description of services to be rendered to each homeowner, including but not limited to Kevin Lobb, 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.

(c) Commingled trust funds with JI's personal funds by depositing trust funds in the form of advance fees collected for loan modifications from homeowners into JI's general operating account, instead of depositing trust funds into a properly designated trust account for that purpose, in violation of Code Sections 10145 and 10176(e) and Regulation 2832.

(d) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected, in connection with loan modifications, in violation of Code Section 10145 and Regulation 2831.

(e) Failed to maintain a separate record for each homeowner-beneficiary or transaction, thereby failing to account for all trust funds in the form of advance fees collected, in violation of Code Section 10145 and Regulation 2831.1.

(f)(1) Failed to provide or retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers P. & R.

Michels, Dorothy Healy, V. Rumbaoa, M. & H. Castro and A & V Zepeda, in violation of Code Section 10240 and Regulation 2840. The aforesaid borrowers were provided with incomplete Good Faith Estimates only and not provided with Mortgage Loan Disclosure Statements; and

(f)(2) Failed to provide or retain a true and correct copy of a Good Faith Estimate that satisfies the requirements of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A 2601 et seq.), that (1) Truth-In-Lending Disclosures; and (2) a clear and conspicuous statement on the face of the document stating that the Good Faith Estimate does not constitute a loan commitment; and, further sets forth all applicable disclosures including but not limited to (3) rebates by the lenders outside of closing for the aforesaid borrowers, in violation of Code Section 10240(c).

(g) After notice and subpoena on April 29, 2009, failed to retain all records of JI's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148. JI and TON performed approximately eighty (80) loan modifications for economically distressed homeowner-borrowers.

(h) TON had no system in place for regularly monitoring his compliance with the Real Estate Law especially in regard to establishing policies to review and handle:

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(1) trust funding handling procedures for loan modification services;

(2) mortgage loan disclosures; and

(3) compliance procedures for loan modification services, in violation of Code Sections 10159.2, 10177(h) and Regulation 2725.

Disciplinary Statute and Regulations

8.

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

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10085 and Regulation 2970
7(b)	Code Section 10146 and Regulation 2972
7(c)	Code Sections 10145 and 10176(e) and Regulation 2832
7(d)	Code Section 10145 and Regulation 2831
7(e)	Code Section 10145 and Regulation 2831.1

7(f)	Code Sections 10240 and 10240(c) and Regulation 2840
7(g)	Code Section 10148
7(j)	Code Sections 10159.2 and 10177(h) and Regulation 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of JI and TON, under the provisions of Code Sections 10176(e), 10177(d) and/or 10177(g) and 10177(h).

9.

The conduct of Respondents JI and TON constitutes negligence or incompetence and is cause for discipline of the real estate license and license rights of Respondents JI and TON pursuant to Code Section 10177(g).

10.

The conduct of Respondents JI and TON constitutes a failure to act in a fiduciary capacity with respect to the forenamed homeowners and is cause for discipline of the real estate license and license rights of Respondents JI and TON pursuant to Code Sections 10176(i) and 10177(g).

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11.

The overall conduct of Respondent TON 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 JI as required by Code Section 10159.2, and to keep JI in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of TON pursuant to the provisions of Code Sections 10177(h), 10177(d) and 10177(g).

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 JAMBERTON INC. and MICHAEL TON, 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 7 day of April 2010.

Deputy Real Estate Commissioner

cc: Jamberton Inc.
c/o Michael Ton D.O.
Robin Trujillo
Sacto
Ginsheng
Audits - Dorcas Cheng