Department of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982

FILED

JAN 12 2012

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PAUL MAXFIELD HERMAN, Respondent.	No. H-37119 LA L-2011031455 STIPULATION AND AGREEMENT

It is hereby stipulated by and between Respondent PAUL MAXFIELD HERMAN, (sometimes referred to as "Respondent"), represented by Frank M. Buda, Esq. 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 filed on March 9, 2011, 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 the right to cross-examine witnesses.

4. This Stipulation is based on the allegations contained in the Accusation. 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 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"), or another licensing agency of this state, another state or if the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceeding.

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 Respondent's 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, the Stipulation shall be void and of no effect and Respondent 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.

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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 PAUL MAXFIELD HERMAN, as described in Paragraph 4, above, is in violation of Section 10130 and 10085 of the Business and Professions Code ("Code") and Section 2970 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The real estate salesperson license of Respondent PAUL MAXFIELD HERMAN under the Real Estate Law is revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent, 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 ninety (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 Code and the following 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 Respondent's conviction or plea of nolo contendere to a crime which is substantially related to 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 has elapsed from the effective date of the issuance of the restricted license.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise

close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. All licenses and licensing rights of Respondent 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.

6. Respondent 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. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

7. Respondent shall, within nine (9) 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 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

8. Respondent shall, within ninety (90) days from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that (1) restitution of fees paid for loan modification services have been repaid to Respondent's three borrower applicants, as follows: Jeff and Susan K. ($6,500.00), Chesley R. ($2,720.00), and Edward M. ($2,720.00)or (2) that repayment has been effected or is not applicable.

Said proof shall be submitted to the Manager of the Crisis Response Team at the Los Angeles Office of the Department of Real Estate and shall be verified as true and accurate by Respondent under penalty of perjury. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of Respondent's restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

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To the extent that restitution repayment is applicable,

(1) Respondent shall deliver or mail the restitution payments, if any, by certified mail, return receipt requested, to the applicants' last address on file with or known to Respondent.

(2) Unless the evidence of repayment to the three aforementioned borrower applicants is provided, Respondent shall provide in a table or spread sheet format a detailed description of the aforesaid three applicants. The table or spread sheet shall include the applicants' name, address, date of agreement, description or services and date rendered, amount and date paid, and status of account, which shall include whether all services have been rendered or refund made and a summary of the evidence therefor.

(3) If any of the payments are returned by the Post Office marked "unable to deliver," Respondent shall employ a locator service (that may include or be limited to the Internet or other database retrieval search) to try and locate the aforesaid borrowers. Repayments shall then be made to the addresses recommended by the locator service.

(4) If unable to effect repayment after using a locator service, Respondent shall provide reasonable proof satisfactory to the Commissioner of his efforts to comply with the provisions of this Paragraph.

(5) If the Commissioner determines that proof to be

unsatisfactory, he shall so advise Respondent, and indicate what additional reasonable efforts should be made to make repayment to the applicants.

(6) If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's restricted license until Respondent effects compliance herein and/or order the escheat of undeliverable or undelivered restitution payments.

DATED: 12-16-11

JULIE L. TO, Counsel for
the Department of Real Estate

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EXECUTION OF THE STIPULATION

I have read the Stipulation and Agreement and discussed it with my attorney. 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.

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FACSIMILE

Respondent 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 Respondent, to the Department at the following facsimile number: Elliott Mac Lennan at (213) 576-6917. Respondent agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondent' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation.

DATED: 12-16-11

PAUL MAXFIELD HERMAN,
Respondent

DATED: 12-16-11

FRANK M. BUDA,
Attorney for Respondent
Approved as to form

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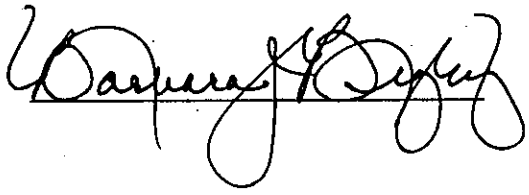
The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent PAUL MAXFIELD HERMAN and shall become effective at 12 o'clock noon on FEB 01 2012, 2012.

IT IS SO ORDERED 1/9/12

BARBARA J. BIGBY
Acting Real Estate Commissioner



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FILED

MAR 09 2011

DEPARTMENT OF REAL ESTATE
BY: _____

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)) PAUL MAXFIELD HERMAN))) Respondent.)	No. H-37119 LA A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against PAUL MAXFIELD HERMAN ("HERMAN") is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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Licensee

2.

Respondent HERMAN 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 salesperson. Respondent was first licensed as a real estate salesperson on March 6, 2002. E-RealtyHomes.com Inc. in Tarzana, California is listed as Respondent's employing broker.

Unlicensed Entity

3.

FEDERAL MORTGAGE SOLUTIONS, LLC ("FMS") is not now, and has never been, licensed by the Department in any capacity. FMS is a registered corporation incorporated under the laws of the State of California. FMS filed Articles of Organization with the Secretary of State on January 16, 2009 with Paul Herman listed as the Agent for Service of Process. FMS filed a Certificate of Amendment with the Secretary of State on June 26, 2009 to change its name to "National Mortgage Solutions, LLC" ("NMS"). Neither FMS nor NMS have Fictitious Business Name Statements filed with the County of Los Angeles. At the times set forth below, Respondent FMS/NMS solicited borrowers to negotiate loans secured by real property for compensation or in expectation of compensation to FMS/NMS.

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4.

Unlicensed Activity

At all times mentioned herein, in the State of California, Respondent HERMAN, by and through FMS and/or NMS engaged in the performance of activities requiring a real estate license pursuant to Code Section 10131 and 10131.2. Said activities require that HERMAN be employed by a real estate broker and that he acts under the supervision and control of a real estate broker to whom he is licensed. Respondent HERMAN's acts set forth below were carried out without the knowledge and supervision of any listed employing brokers. Respondent HERMAN engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026, including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property:

a. Jeff K. and Susan K.'s Transaction: On or about February 27, 2009, March 27, 2009, and April 27, 2009, Jeff K. and Susan K. made three payments by credit card totaling $6,500.00 to FMS/NMS as advance fees, pursuant to an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by FMS with respect to a loan secured by real property located at 2155 Ward Way, Woodside, California 94062. After six months, Jeff K. and Susan K. received no results on their loan and learned that FMS/NMS had not worked on negotiating or modifying the terms of his loan on their Woodside property and requested a refund. When FMS/NMS did not respond to

Jeff and Susan K.'s refund demand, Jeff and Susan engaged the services of an attorney to file a Complaint with the San Mateo County District Attorney's Office.

b. Chesley R. Transaction: On or about June 17, 2009 Chesley R. paid to FMS/NMS an advance fee of $2,720.00 by credit card, pursuant to an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by FMS with respect to a loan secured by real property located at 3055 Quail Road in Escondido, California 92026. After four months, Chesley R. learned that FMS had not worked on negotiating or modifying the terms of the loan on the Escondido property and requested a refund. FMS did not respond to Chesley R.'s refund demand. On or about November 5, 2009, Chesley R. engaged the services of an attorney for assistance.

c. Edward M. Transaction: On or about May 22, 2009, Edward M. paid to FMS/NMS an advance fee of $2,720.00 by check, pursuant to an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by FMS with respect to a loan secured by real property located at 519 Sycamore Street, Fairfield, California 94533. After six months, Edward M. learned that FMS had not worked on negotiating or modifying the terms of the loan on the Fairfield property and requested a refund. FMS did not respond to Edward M. and it did not return his money.

d. Advertising and Solicitation: On or about March 1, 2009, NMS and FMS distributed advertising materials regarding

loan modification and negotiation services and solicited consumer Steve L.

5.

Respondent HERMAN collected the advance fees described in Paragraphs 4a through 4c, above, pursuant to the provisions of a written agreement which constitutes an advance fee agreement within the meaning of Code Section 10085 and 10085.5.

6.

Respondent HERMAN failed to submit the written agreement referenced in Paragraphs 4a through 4c, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

7.

Based on the conduct, acts and/or omissions as set forth in Paragraph 4, Respondent HERMAN acting by himself, or by and/or through one ore more agents, representatives, associates, and/or co-conspirators, while using the name "FEDERAL MORTGAGE SOLUTIONS, LLC" or "National Mortgage Solutions, LLC" or other names or fictitious names unknown at this time, solicited borrowers and performed services for those borrowers and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property, and charged, demanded or collected advance fees for the services to be provided, which acts require a real estate broker license under Sections 10131(d) and 10131.2 of the Code, during a period of

time when Respondent HERMAN was not licensed by the Department as real estate brokers, in violation of Section 10130 of the Code.

8.

The conduct, acts and/or omissions of Respondent, as set forth above, are cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10085, 10130, 10177(d) and/or 10177(g).

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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 all the licenses and license rights of Respondent PAUL MAXFIELD HERMAN 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 31st day of March 2011.

Maria Suarez
Deputy Real Estate Commissioner

cc: PAUL MAXFIELD HERMAN
e-RealtyHomes.com Inc.
Maria Suarez
Sacto.