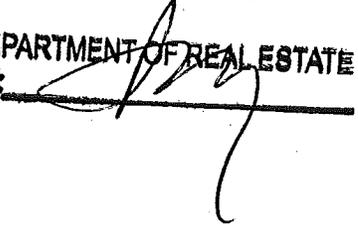


1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

MAY 25 2012

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

| | | |
|---|---|--------------------|
| 11 In the Matter of the Accusation of |) | No. H-37480 LA |
| |) | |
| 12 LEADERSHIP GROUP INC. doing business as |) | |
| 13 LR Financial Consulting; DONALD GRANT CHERRY, |) | |
| 14 individually and as designated officer of Leadership Group |) | <u>STIPULATION</u> |
| 15 Inc., and LUIS RAUL SANCHEZ, |) | <u>AND</u> |
| |) | <u>AGREEMENT</u> |
| 16 Respondents. |) | |

17 It is hereby stipulated by and between Respondents LEADERSHIP GROUP INC.,
18 DONALD GRANT CHERRY, individually and as designated officer of Leadership Group Inc.,
19 and LUIS RAUL SANCHEZ (sometimes collectively referred to as "Respondents"), represented
20 by Kelly A. Neavel, Esq. and the Complainant, acting by and through Elliott Mac Lennan,
21 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of
22 the Accusation ("Accusation") filed on August 26, 2011, in this matter:

23 1. All issues which were to be contested and all evidence which was to be
24 presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing
25 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
26 shall instead and in place thereof be submitted solely on the basis of the provisions of this
27 Stipulation and Agreement ("Stipulation").

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

4 3. Respondents timely filed a Notice of Defense pursuant to Section 11506 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
7 acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive
8 their right to require the Commissioner to prove the allegations in the Accusation at a contested
9 hearing held in accordance with the provisions of the APA and that they will waive other rights
10 afforded to them in connection with the hearing such as the right to present evidence in their
11 defense and the right to cross-examine witnesses.

12 4. This Stipulation is based on the factual allegations contained in the Accusation.
13 In the interest of expedience and economy, Respondents choose not to contest these allegations,
14 but to remain silent and understand that, as a result thereof, these factual allegations, without
15 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
16 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
17 said factual allegations.

18 5. This Stipulation is made for the purpose of reaching an agreed disposition of
19 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
20 which the Department of Real Estate ("Department"), the state or federal government, or any
21 agency of this state, another state or federal government is involved.

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

1 stipulation or waiver made herein.

2 7. The Order or any subsequent Order of the Real Estate Commissioner made
3 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real Estate with respect to any matters
5 which were not specifically alleged to be causes for Accusation in this proceeding but do
6 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
7 against Respondent herein.

8 DETERMINATION OF ISSUES

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

11 I.

12 The conduct, acts or omissions of LEADERSHIP GROUP INC., as described in
13 Paragraph 4, herein above, are in violation of Section 10130, 10137 and 10161.8 of the Business
14 and Professions Code ("Code") and Section 2726 of Title 10, Chapter 6 of the California Code of
15 Regulations ("Regulations") and is a basis for discipline of Respondent's license and license
16 rights as violation of the Real Estate Law pursuant to Code Section 10177(d).

17 II.

18 The conduct, acts or omissions of DONALD GRANT CHERRY, as described in
19 Paragraph 4, herein above, are in violation of Code Section 10159.2 and Regulation 2725, and is
20 a basis for discipline of Respondent's license and license rights as violation of the Real Estate
21 Law pursuant to Code Section 10177(h).

22 III.

23 The conduct, acts or omissions of LUIS RAUL SANCHEZ, as described in
24 Paragraph 4, herein above, are in violation of Code Section 10130 and is a basis for discipline of
25 Respondent's license and license rights as violation of the Real Estate Law pursuant to Code
26 Section 10177(d).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents LEADERSHIP GROUP INC. , DONALD GRANT CHERRY and LUIS RAUL SANCHEZ, under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision:

A. Provided, however, that if Respondents request, the initial thirty (30) days of said suspension (or a portion thereof) shall be stayed upon condition that:

1. Each Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 per day for each day of the suspension for a monetary penalty of \$1,500, for each Respondent.

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 license of a Respondent occurs within two (2) years from the effective date of the Decision in this matter.

4. If a Respondent fails 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 part of the stayed suspension, in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

5. If a Respondent pays the monetary penalty and if no further cause for disciplinary action against the real estate license of the Respondent occurs within two (2) years from the effective date of the Decision, the stay hereby granted shall become permanent.

B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed for two (2) years upon the following terms and conditions:

///

1 shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure
2 Act to present such evidence.

3
4 DATED: 4-3-12


5 ELLIOTT MAC LENNAN, Counsel for
6 Department of Real Estate

7 * * *

8 EXECUTION OF THE STIPULATION

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

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1 MAILING AND FACSIMILE

2 Respondents (1) shall mail the original signed signature page of the stipulation
3 herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W.
4 Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile
5 a copy of signed signature page, to the Department at the following telephone/fax number: (213)
6 576-6917, Attention: Elliott Mac Lennan.

7 A facsimile constitutes acceptance and approval of the terms and conditions of
8 this stipulation. Respondents agree, acknowledge and understand that by electronically sending
9 to the Department a facsimile copy of Respondents' actual signature as it appears on the
10 stipulation that receipt of the facsimile copy by the Department shall be as binding on
11 Respondents as if the Department had received the original signed stipulation.

12
13 DATED: 4-9-12
14


LEADERSHIP GROUP INC., Respondent
By: DONALD GRANT CHERRY, as designated
officer

15
16
17 DATED: 4-9-12
18


DONALD GRANT CHERRY, Respondent,
Individually and as designated officer

19
20
21 DATED: 4-9-12
22


LUIS RAUL SANCHEZ, Respondent,

23
24 DATED: 4-12-12
25


KELLY A. NEAVEL, ESQ.
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents LEADERSHIP GROUP INC., DONALD GRANT CHERRY and LUIS RAUL SANCHEZ, and shall become effective at 12 o'clock noon on June 14, 2012.

IT IS SO ORDERED. May 18, 2012.

REAL ESTATE COMMISSIONER



By WAYNE S. BELL
Chief Counsel

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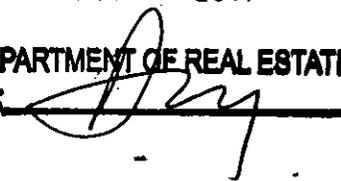
ELLIOTT MACLENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

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

FILED

AUG 28 2011

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

| | | |
|--|---|-------------------|
| In the Matter of the Accusation of |) | |
| |) | |
| LEADERSHIP GROUP INC., doing business as |) | No. H- 37480 LA |
| LR Financial Consulting; DONALD GRANT CHERRY, |) | |
| individually and as designated officer of Leadership Group |) | |
| Inc.; and LUIS RAUL SANCHEZ, |) | <u>ACCUSATION</u> |
| |) | |
| Respondents. |) | |

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LEADERSHIP GROUP INC., doing business as LR Financial Consulting, DONALD GRANT CHERRY, individually and as designated officer of Leadership Group Inc., and LUIS RAUL SANCHEZ alleges as follows:

1.

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

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.

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License Status

A. LEADERSHIP GROUP INC. (LGI). At all times mentioned, Respondent LGI was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. On December 10, 2007, LGI was originally licensed as a corporate real estate broker. On February 13, 2008, at LGI's request, LGI's corporate license was withdrawn and cancelled. On July 30, 2009, LGI was re-licensed as a corporate real estate broker. Respondent LGI was authorized to act by and through Respondent DONALD GRANT CHERRY as LGI's designated broker pursuant to Business and Professions Code (hereinafter Code) Sections 10159.2 and 10211 to be responsible for ensuring compliance with the Real Estate Law.

B. DONALD GRANT CHERRY (CHERRY). At all times mentioned, Respondent CHERRY was licensed or had license rights issued by the Department as a real estate broker. On June 23, 2001, CHERRY was originally licensed as a real estate broker. On November 20, 2007, CHERRY became the designated officer of LGI.

C. LUIS RAUL SANCHEZ (SANCHEZ). At all times mentioned, Respondent SANCHEZ was licensed or had license rights issued by the Department as a real estate salesperson. On June 25, 2010, SANCHEZ was originally licensed as a real estate salesperson.

D. LGI is owned by SANCHEZ, and is LGI's president.

Brokerage

At all times mentioned, in the City of Rancho Cucamonga, County of San Bernardino, LGI and CHERRY acted as real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(d). Respondents LGI and CHERRY 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

1 and consummated on behalf of others for compensation or in expectation of compensation and
2 for fees often collected in advance.

3 B. Code Section 10131(d) and 10131.2. Respondents LGI and CHERRY
4 advertised, solicited and offered to provide loss mitigation and loan modification services to
5 economically distressed homeowners seeking adjustments to the terms and conditions of their
6 home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and
7 reduction in principal or interest, extenuations, foreclosure prevention and short sales.

8 C. Code Section 10132. Respondent SANCHEZ is a real estate salesperson
9 employed by LGI.

10 FIRST CAUSE OF ACCUSATION
11 (Audit Examination)

12 5.

13 On April 29, 2011, the Department completed an audit examination of the books
14 and records of LGI limited to the financial consulting and loan modification activities only, as
15 described in Paragraph 4, which require a real estate license. The audit examination covered a
16 period of time beginning on December 10, 2007 and ending on July 31, 2010. The audit
17 examination revealed violations of the Code and the Regulations as set forth in the following
18 paragraphs, and more fully discussed in Audit Report LA 090190 and the exhibits and work
19 papers attached to said audit report.

20 Trust Accounts

21 6.

22 At all times mentioned, in connection with the activities described in Paragraph 4,
23 and the audit period of December 10, 2007 to July 31, 2010, LGI and CHERRY did not maintain
24 a trust account.

25 ///
26 ///
27 ///

1 claimed and collected advance fees for services not rendered, for fees not refunded, and for loan
2 modifications not obtained.

3 Specific Allegations

4 11.

5 Respondents LGI, CHERRY and SANCHEZ offered loss mitigation and loan
6 modification services to homeowner-applicants seeking downward adjustments to, or payment
7 extenuations of their home mortgages. Respondents collected advanced fees from said
8 homeowner-applicants without possessing a pre-approved advance fee agreement from the
9 Department until April 3, 2009. Thereafter, Respondents failed to obtain the loan modification
10 services to the borrowers.

11 Table: Advance Fees Collected for Loan Modification Services - Audit Related

12

13

| Complainant: | Contract Date | Advance Fee Paid | Loan Mod Status | Advance Fee Refund? |
|---------------------|--------------------------|-------------------------|----------------------------|------------------------------------|
| Leomides Martinez | 11/10/08 | \$ 2,000.00 | Not obtained | None |
| Carlos Romero | 06/22/09 | \$ 1,500.00 | Not obtained | None |
| Total | | \$ 3,500.00 | | |

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1 Table: Advance Fees Collected for Loan Modification Services - Not Audit Related

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| Complainant: | Contract Date | Advance Fee Paid | Loan Mod Status | Advance Fee Refund? |
|---------------------|----------------------|-------------------------|------------------------|----------------------------|
| Leopoldo Santoyo | 03/19/10 | \$ 1,000.00 | Not obtained | None |
| Elva Cano | 08-29-08 | \$ 2,225.00 | Not obtained | None |
| Alejandro Romero | 07/21/09 | \$ 2,396.00 | Not obtained | None |
| Jose Equihua | 03/12/09 | \$ 2,250.00 | Not obtained | None |
| Total | | \$ 7,871.00 | | |

16 Loan Modification Violations and Disciplinary Statutes

17 12.

18 The conduct of Respondents LGI, CHERRY and SANCHEZ violated the Code
19 and the Regulations as set forth below.

20 13.

21 13(a) Code Section 10176(a) for substantial misrepresentation of loan
22 modification services contracted for but not provided.

23 13(b) Code Section 10176(b) for making false promises of a character likely to
24 influence, persuade or induce the tabled homeowner-applicants to pay advance fees for loan
25 modification services contracted and paid for but not provided.

26 13(c) Code Section 10177(d) for violation of the Real Estate Law, Code Section
27 10085 and Regulation 2970.

1 13(d) Code Section 10177(i) and/or 10177(j)) for fraud and/or dishonest dealing.

2 13(e) Code Section 10177(g) for negligence.

3 THIRD CAUSE OF ACCUSATION
4 (Negligence)

5 14.

6 The overall conduct of Respondents LGI and CHERRY constitutes negligence
7 and is cause for discipline of the real estate license and license rights of said Respondents
8 pursuant to the provisions of Code Section 10177(g).

9 FOURTH CAUSE OF ACCUSATION
10 (Fiduciary Duty)

11 15.

12 The conduct of Respondents LGI and CHERRY constitute a breach of fiduciary
13 duty, owed the homeowners of good faith, trust, confidence and candor, in violation of Code
14 Sections 10176(i) and/or 10177(g) and constitutes cause for discipline of the real estate license
15 and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

16 FIFTH CAUSE OF ACCUSATION
17 (Supervision and Compliance)

18 16.

19 The overall conduct of Respondent CHERRY constitutes a failure on said
20 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable
21 supervision and control over the licensed activities of LGI, including it officers and employees,
22 as required by Code Section 10159.2 and Regulation 2725, and to keep LGI in compliance with
23 the Real Estate Law, and is cause for discipline of the real estate license and license rights of
24 Respondent 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 LEADERSHIP GROUP INC., DONALD GRANT CHERRY and LUIS RAUL SANCHEZ, 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 including restitution of advanced fees paid for unearned loan modifications.

Dated at Los Angeles, California

this 25 August 2011. 
Deputy Real Estate Commissioner

cc: Leadership Group Inc.
c/o Donald Grant D.O.
Maria Suarez
Sacto
Enforcement - Elezar Galano
Audits - Chona Picayo