



1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement.

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

6 3. Respondents filed a Notice of Defense pursuant to  
7 Section 11505 of the Government Code for the purpose of  
8 requesting a hearing on the allegations in the Accusation.  
9 Respondents hereby freely and voluntarily withdraw said Notice of  
10 Defense. Respondents acknowledge that they understand that by  
11 withdrawing said Notice of Defense they will thereby waive their  
12 rights to require the Commissioner to prove the allegations in  
13 the Accusation at a contested hearing held in accordance with the  
14 provisions of the APA, and that they will waive other rights  
15 afforded to them in connection with the hearing such as the right  
16 to present evidence in defense of the allegations in the  
17 Accusation and the right to cross-examine witnesses.

18 4. This stipulation is based on the factual  
19 allegations contained in the Accusation. In the interest of  
20 expediency and economy, Respondents choose not to contest these  
21 factual allegations, but to remain silent and understands that,  
22 as a result thereof, these factual statements will serve as a  
23 prima facie basis for the "Determination of Issues" and "Order"  
24 set forth below. The Real Estate Commissioner shall not be  
25 required to provide further evidence to prove such allegations.  
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1           5. This Stipulation and Respondents decision not to  
2 contest the Accusation are made for the purpose of reaching an  
3 agreed disposition of this proceeding and are expressly limited  
4 to this proceeding and any other proceeding or case in which the  
5 Department of Real Estate (herein "the Department"), the state or  
6 federal government, an agency of this state, or an agency of  
7 another state is involved.

8           6. Respondents understand that by agreeing to this  
9 Stipulation and Agreement, Respondents agree to pay, pursuant to  
10 Section 10148 of the California Business and Professions Code,  
11 the cost of the audit which resulted in the determination that  
12 Respondent committed the trust fund violation(s) found in  
13 Paragraph I, below, of the Determination of Issues. The amount  
14 of said costs is \$18,648.91.

15           7. Respondents further understand that by agreeing  
16 to this Stipulation and Agreement in Settlement, the findings  
17 set forth below in the Determination Of Issues become final, and  
18 that the Commissioner may charge said Respondents for the  
19 costs of any audit conducted pursuant to Section 10148 of  
20 the California Business and Professions Code to determine if  
21 the violations have been corrected. The maximum costs of  
22 said audit shall not exceed \$18,648.91.

23           8. It is understood by the parties that the Real  
24 Estate Commissioner may adopt the Stipulation and Agreement as  
25 his decision in this matter thereby imposing the penalty and  
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1 sanctions on the real estate licenses and license rights of  
2 Respondent as set forth in the below "Order". In the event that  
3 the Commissioner in his discretion does not adopt the Stipulation  
4 and Agreement, it shall be void and of no effect, and Respondents  
5 shall retain the right to a hearing and proceeding on the  
6 Accusation under all the provisions of the APA and shall not be  
7 bound by any admission or waiver made herein.

8 9. The Order or any subsequent Order of the Real  
9 Estate Commissioner made pursuant to this Stipulation and  
10 Agreement shall not constitute an estoppel, merger or bar to any  
11 further administrative or civil proceedings by the Department of  
12 Real Estate with respect to any matters which were not  
13 specifically alleged to be causes for accusation in this  
14 proceeding.

15 \* \* \*

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations and waivers and  
18 solely for the purpose of settlement of the pending Accusation  
19 without a hearing, it is stipulated and agreed that the following  
20 determination of issues shall be made:  
21

22 I

23 The acts and omissions of PENINSULA EQUITY FUNDING  
24 INC. (hereafter "PEFI") as described in the Accusation are  
25 grounds for the suspension or revocation of Respondents licenses  
26  
27

1 and/or license rights under the following sections of the Code  
2 and Regulations:

3 (1) As to Paragraphs VIII(a), under Section 10177(d)  
4 of the Code in conjunction with Section 10145 of the Code;

5 (2) As to Paragraphs VIII(b), under Section 10177(d)  
6 of the Code in conjunction with Section 2832.1 of the  
7 Regulations;

8 (3) As to Paragraphs VIII(c), under Section 10177(d)  
9 of the Code in conjunction with Section 2831 of the Regulations;

10 (4) As to Paragraph VIII(d), under Section 10177(d)  
11 of the Code in conjunction with Section 2831.1 of the  
12 Regulations;

13 (5) As to Paragraph VIII(e), under Section 10177(d)  
14 of the Code in conjunction with Section 2831.2 of the  
15 Regulations;

16 (6) As to Paragraph IX, under Section 10177(d) of the  
17 Code in conjunction with Section 10232 of the Code;

18 (7) As to Paragraph X, under Section 10177(d) of the  
19 Code in conjunction with Section 10238(a) of the Code;

20 (8) As to Paragraph XI, under Section 10177(d) of the  
21 Code in conjunction with Section 10238(f) of the Code;

22 (9) As to Paragraph XIII, under Section 10177(d) of  
23 the Code in conjunction with Section 10233(b) of the Code.  
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II

1  
2 The acts and/or omissions of Respondent KRISTOPHER LEE  
3 LINGO (hereafter "LINGO") described in the Accusation,  
4 constitute failure on the part of LINGO, as designated broker-  
5 officer for PEFI, to exercise reasonable supervision and control  
6 over the licensed activities of PEFI required by Section 10159.2  
7 of the Code, and is cause for the suspension or revocation of  
8 LINGO's license and/or license rights under Section 10177(h) of  
9 the Code.

10 ORDER

11 All licenses and licensing rights of PEFI under the Real  
12 Estate Law are suspended for a period of forty-five (45) days  
13 from the effective date of this Order; provided, however, that:

14 1) Forty-five (45) days of said suspension shall be stayed for  
15 two (2) years upon the following terms and conditions:

16 a) PEFI shall obey all laws, rules and regulations governing  
17 the rights, duties and responsibilities of a real estate  
18 licensee in the State of California; and,

19 b) That no final subsequent determination be made, after  
20 hearing or upon stipulation, that cause for disciplinary  
21 action occurred within two (2) years from the effective date  
22 of this Order. Should such a determination be made, the  
23 Commissioner may, in his discretion, vacate and set aside  
24 the stay order and reimpose all or a portion of the stayed  
25 suspension. Should no such determination be made, the stay  
26

imposed herein shall become permanent.

1  
2) Pursuant to Section 10148 of the Business and Professions

3 Code, PEFI shall jointly and severally with LINGO pay the sum  
4 of \$18,648.91 for the Commissioner's cost of the audit, which  
5 to this disciplinary proceeding. Respondents shall pay such  
6 cost within forty-five (45) days of receiving an invoice  
7 therefore from the Commissioner. The Commissioner may suspend  
8 the PEFI's license pending a hearing held in accordance with  
9 Section 11500, et seq., of the Government Code, if payment is  
10 not timely made as provided for herein, or as provided for in  
11 a subsequent agreement between the Respondent and the  
12 Commissioner. The suspension shall remain in effect until  
13 payment is made in full or until Respondent enters into an  
14 agreement satisfactory to the Commissioner to provide for  
15 payment, or until a decision providing otherwise is adopted  
16 following a hearing held pursuant to this condition.

17  
18) Pursuant to Section 10148 of the Business and Professions

19 Code, PEFI shall jointly and severally with LINGO pay the  
20 Commissioner's reasonable cost, not to exceed \$18,648.91, for  
21 an audit to determine if Respondents have corrected the trust  
22 fund violation(s) found in Paragraph I of the Determination of  
23 Issues. In calculating the amount of the Commissioner's  
24 reasonable cost, the Commissioner may use the estimated  
25 average hourly salary for all persons performing audits of  
26 real estate brokers, and shall include an allocation for  
27

1 travel time to and from the auditor's place of work.  
2 Respondent shall pay such cost within forty-five (45) days of  
3 receiving an invoice therefore from the Commissioner detailing  
4 the activities performed during the audit and the amount of  
5 time spent performing those activities. The Commissioner may  
6 suspend PEFI's license pending a hearing held in accordance  
7 with Section 11500, et seq., of the Government Code, if  
8 payment is not timely made as provided for herein, or as  
9 provided for in a subsequent agreement between Respondent and  
10 the Commissioner. The suspension shall remain in effect until  
11 payment is made in full or until Respondent enters into an  
12 agreement satisfactory to the Commissioner to provide for  
13 payment, or until a decision providing otherwise is adopted  
14 following a hearing held pursuant to this condition.  
15

16 II

17 All licenses and licensing rights of LINGO under the Real  
18 Estate Law are suspended for a period of forty-five (45) days  
19 from the effective date of this Order; provided, however, that:

20 1) Forty-five (45) days of said suspension shall be stayed for  
21 two (2) years upon the following terms and conditions:

- 22 a) Respondent shall obey all laws, rules and regulations  
23 governing the rights, duties and responsibilities of a real  
24 estate licensee in the State of California; and,  
25 b) That no final subsequent determination be made, after  
26 hearing or upon stipulation, that cause for disciplinary  
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1 action occurred within two (2) years from the effective date  
2 of this Order. Should such a determination be made, the  
3 Commissioner may, in his discretion, vacate and set aside  
4 the stay order and reimpose all or a portion of the stayed  
5 suspension. Should no such determination be made, the stay  
6 imposed herein shall become permanent.

7 2) LINGO shall, prior to the effective date of this Decision,  
8 submit proof satisfactory to the Commissioner of having taken  
9 and successfully completed the continuing education course on  
10 trust fund accounting and handling specified in subdivision  
11 (a) of Section 10170.5 of the Business and Professions Code.  
12 Proof of satisfaction of this requirement includes evidence  
13 that Respondent has successfully completed the trust fund  
14 account and handling continuing education course within 120  
15 days prior to the effective date of the Decision in this  
16 matter. If Respondent fails to satisfy this condition, the  
17 Commissioner may order the suspension of Respondent's license  
18 until Respondent presents proof that he has successfully  
19 completed the trust fund course.

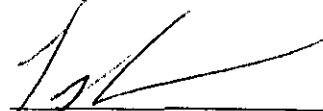
20  
21 3) Pursuant to Section 10148 of the Business and Professions  
22 Code, LINGO shall jointly and severally with PEFI pay the sum  
23 of \$18,648.91 for the Commissioner's cost of the audit, which  
24 to this disciplinary proceeding. Respondents shall pay such  
25 cost within forty-five (45) days of receiving an invoice  
26 therefore from the Commissioner. The Commissioner may suspend  
27

1 the LINGO's license pending a hearing held in accordance with  
2 Section 11500, et seq., of the Government Code, if payment is  
3 not timely made as provided for herein, or as provided for in  
4 a subsequent agreement between the Respondent and the  
5 Commissioner. The suspension shall remain in effect until  
6 payment is made in full or until Respondent enters into an  
7 agreement satisfactory to the Commissioner to provide for  
8 payment, or until a decision providing otherwise is adopted  
9 following a hearing held pursuant to this condition.

10 4) Pursuant to Section 10148 of the Business and Professions  
11 Code, LINGO shall jointly and severally with PEFI pay the  
12 Commissioner's reasonable cost, not to exceed \$18,648.91, for  
13 an audit to determine if Respondents have corrected the trust  
14 fund violation(s) found in Paragraph I of the Determination of  
15 Issues. In calculating the amount of the Commissioner's  
16 reasonable cost, the Commissioner may use the estimated  
17 average hourly salary for all persons performing audits of  
18 real estate brokers, and shall include an allocation for  
19 travel time to and from the auditor's place of work.  
20 Respondent shall pay such cost within forty-five (45) days of  
21 receiving an invoice therefore from the Commissioner detailing  
22 the activities performed during the audit and the amount of  
23 time spent performing those activities. The Commissioner may  
24 suspend LINGO's license pending a hearing held in accordance  
25 with Section 11500, et seq., of the Government Code, if  
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1 payment is not timely made as provided for herein, or as  
 2 provided for in a subsequent agreement between Respondent and  
 3 the Commissioner. The suspension shall remain in effect until  
 4 payment is made in full or until Respondent enters into an  
 5 agreement satisfactory to the Commissioner to provide for  
 6 payment, or until a decision providing otherwise is adopted  
 7 following a hearing held pursuant to this condition.

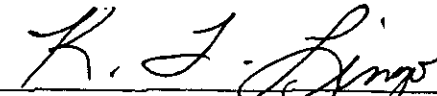
8  
 9 13-June-07  
 10 DATED

11   
 12 TRULY SUGHRUE  
 13 Counsel for Complainant

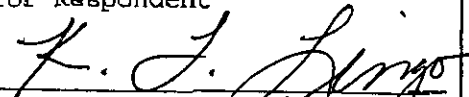
14 \* \* \*

15 I have read the Stipulation and Agreement, discussed it  
 16 with my counsel, and its terms are understood by me and are  
 17 agreeable and acceptable to me. I understand that I am waiving  
 18 rights given to me by the California Administrative Procedure  
 19 Act, and I willingly, intelligently and voluntarily waive those  
 20 rights, including the right of requiring the Commissioner to  
 21 prove the allegations in the Accusation at a hearing at which I  
 22 would have the right to cross-examine witnesses against me and to  
 23 present evidence in defense and mitigation of the charges.

24 June 7, 2007  
 25 DATED

26   
 27 PENINSULA EQUITY FUNDING, INC.  
 Kristopher Lee Lingo  
 for Respondent

28 June 7, 2007  
 29 DATED

30   
 KRISTOPHER LEE LINGO  
 Respondent

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I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

6-7-07  
DATED

Frank Buda  
FRANK M. BUDA  
Attorney for Respondents

\* \* \*

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on AUG 30 2007

IT IS SO ORDERED 8-9, 2007.

JEFF DAVIS  
Real estate Commissioner  
[Signature]

1 TRULY SUGHRUE, Counsel  
2 State Bar No. 223266  
3 Department of Real Estate  
4 P.O. Box 187007  
5 Sacramento, CA 95818-7007  
6  
7 Telephone: (916) 227-0781

FILED  
DEC 15 2006

DEPARTMENT OF REAL ESTATE

By Gene Shaver

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-3647 SD  
12 )  
13 PENINSULA EQUITY FUNDING INC. ) ACCUSATION  
14 and KRISTOPHER LEE LINGO, )  
15 Respondent. )

16 The Complainant, JOSEPH AIU, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against PENINSULA EQUITY FUNDING INC. and KRISTOPHER LEE LINGO  
19 (hereinafter "Respondents"), is informed and alleges as follows:

20 I

21 The Complainant, JOSEPH AIU, a Deputy Real Estate  
22 Commissioner of the State of California, makes this Accusation in  
23 his official capacity.

24 II

25 Respondents are presently licensed and/or has license  
26 rights under the Real Estate Law (Part 1 of Division 4 of the  
27 Business and Professions Code) (hereinafter "the Code").

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III

At all times herein mentioned, PENINSULA EQUITY FUNDING INC., (hereinafter "PEFI") was and is licensed by the State of California Department of Real Estate (hereafter "Department") as a real estate broker corporation.

IV

At all times herein mentioned, Respondent KRISTOPHER LEE LINGO, (hereinafter "LINGO") was and is licensed by the Department individually and as the designated broker officer of PEFI. As said designated officer-broker, LINGO was and now is responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of PEFI for which a license is required.

V

At all times herein mentioned, Respondents were performing acts requiring a real estate license for or in expectation of compensation.

VI

In acting as a real estate broker, as described in Paragraph V, PEFI accepted or received funds in trust (hereinafter "trust funds") from or on behalf of lenders or investors, borrowers, and others in connection with the servicing, solicitation, negotiation, processing, and consummation of mortgage loan investments by PEFI.

\\

VII

1 The aforesaid trust funds accepted or received by PEFI  
2 were deposited or caused to be deposited by PEFI into on or more  
3 bank accounts (hereinafter "trust funds accounts") maintained by  
4 WGD for the handling of trust funds, including but not limited  
5 to the following:  
6

<u>TITLE AND ACCOUNT NUMBERS</u>	<u>BANK</u>
7 Peninsula Equity Funding, Inc, DBA 8 Security Trust Deed Service 9 Account No. 0100024586 (hereinafter "Account #1")	10 Union Back of 11 California 12 3261 Sports Arena 13 Blvd. 14 San Diego, CA 92110

VIII

11 Between on or about July 1, 2003 through January 31,  
12 2006, in connection with the collection and disbursement of said  
13 trust funds PEFI:

14 (a) Failed to deposit and maintain trust funds in Account  
15 #1 in such manner that as of January 31, 2006, there was a  
16 shortage of \$26,181.28 of trust funds.

17 (b) Failed to obtain prior written consent from each of  
18 the principals for the reduction of the aggregate balance of  
19 trust funds described in Paragraph VIII(a) to an amount less  
20 than the existing aggregate trust fund liability to the owners  
21 of said funds in violation of Section 2832.1 of the  
22 Commissioner's Regulations (Title 10 of the Code of Regulations)  
23 (hereinafter "the Regulations").

24 (c) Failed to maintain a written control record of all  
25 trust funds received and disbursed containing all information  
26 required by Section 2831 of the Regulations.  
27

1 (d) Failed to maintain accurate separate records and  
2 accurate owners' statements containing all information required  
3 by Section 2831.1 of the Regulations.

4 (e) Failed to reconcile the balance of separate  
5 beneficiary or transaction records with the control records of  
6 trust funds received and disbursed, at least once a month,  
7 and/or failed to maintain a record of such reconciliations as  
8 required by Section 2831.2 of the Regulations.

9 (f) Failed to deposit the trust funds into a trust account  
10 in the name of the broker as trustee in conformance with Section  
11 10145 of the Code and Section 2832 of the Regulations.

12 IX

13 As of or about December 31, 2004, PEFI negotiated a  
14 combination of ten or more qualifying mortgage loan transactions  
15 in an aggregate amount of more than one million dollars and/or  
16 collected payments of more than \$250,00 for loans using private  
17 investors' funds in a twelve month period under Section 10232 of  
18 the Code and failed to notify the Department within thirty days  
19 thereafter.

20 X

21 PEFI, failed to timely file with the Department of Real  
22 Estate within thirty (30) days after the first multi-lender  
23 transaction a multi-lender report as required by Section 10238(a)  
24 of the Code.

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XI

1 PEFI, failed to obtain a signed statement regarding the  
2 qualification of income or net worth from each lender as required  
3 by Section 10238(f) of the Code.  
4

XII

5 Respondent PEFI failed to timely prepare and deliver to  
6 lenders/investors, or cause to be delivered, an accurate written  
7 lender/purchaser disclosure statement required by Section  
8 10232.4 of the Code, prior to each investor becoming obligated  
9 to make the loan or purchase the note, prior to PEFI's receipt  
10 of funds from each investor, and/or prior to disbursement of the  
11 investor's funds for the loan or purchase.  
12

XIII

13 PEFI failed to provide to the lenders on an annual  
14 basis a statement that includes the accounting of the unpaid  
15 principle balance at year end, and the accounting of the  
16 collections received and disbursement made during the year as  
17 required by Section 10233(b) of the Code.  
18

XIV

19 PEFI failed to provide to the lenders or the owner of  
20 the note written notification within 15 days of the occurrence of  
21 the any of the events described in Section 10233(c) of the Code.  
22

XV

23 LINGO failed to exercise reasonable supervision over  
24 the acts of PEFI in such a manner as to allow the acts and events  
25 described above to occur.  
26  
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XVI

1 The acts and/or omissions of LINGO described in  
2 Paragraph XV, constitute failure on the part of LINGO, as  
3 designated broker-officer for PEFI, to exercise reasonable  
4 supervision and control over the licensed activities of LINGO  
5 required by Section 10159.2 of the Code.  
6

XVII

7 The facts alleged above are grounds for the suspension  
8 or revocation of Respondents licenses and license rights under  
9 the following sections of the Code and Regulations:  
10

11 (1) As to Paragraphs VIII(a), under Section 10177(d)  
12 of the Code in conjunction with Section 10145 of the Code;

13 (2) As to Paragraphs VIII(b), under Section 10177(d)  
14 of the Code in conjunction with Section 2832.1 of the  
15 Regulations;

16 (3) As to Paragraphs VIII(c), under Section 10177(d)  
17 of the Code in conjunction with Section 2831 of the Regulations;

18 (4) As to Paragraph VIII(d), under Section 10177(d)  
19 of the Code in conjunction with Section 2831.1 of the  
20 Regulations;

21 (5) As to Paragraph VIII(e), under Section 10177(d)  
22 of the Code in conjunction with Section 2831.2 of the  
23 Regulations;

24 (6) As to Paragraph VIII(f), under Section 10177(d)  
25 of the Code in conjunction with Section 2832 of the Regulations;

26 (7) As to Paragraph IX, under Section 10177(d) of the  
27 Code in conjunction with Section 10232 of the Code;

1 (8) As to Paragraph X, under Section 10177(d) of the  
Code in conjunction with Section 10238(a) of the Code;

2  
3 (9) As to Paragraph XI, under Section 10177(d) of the  
Code in conjunction with Section 10238(f) of the Code;

4  
5 (10) As to Paragraph XII, under Section 10177(d) of  
the Code in conjunction with Section 10232.4 of the Code.

6  
7 (11) As to Paragraph XIII, under Section 10177(d) of  
the Code in conjunction with Section 10233(b) of the Code.

8  
9 (9) As to Paragraph XIV, under Section 10177(d) of  
the Code in conjunction with Section 10233(c) of the Code.

10  
11 XVIII

12 The facts alleged in Paragraphs XV and XVI, are  
13 grounds from the suspension or revocation of the licenses and  
14 license rights of Respondent LINGO under Sections 10177(g)  
15 and/or 10177(h) of the Code, and Section 10177(d) of the Code in  
16 conjunction with Section 10159.2 of the Code.

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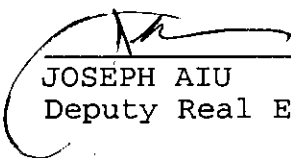
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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and license rights of Respondents,  
5 under the Real Estate Law (Part 1 of Division 4 of the Business  
6 and Professions Code), and for such other and further relief as  
7 may be proper under other provisions of law.

8   
9 \_\_\_\_\_  
10 JOSEPH AIU  
11 Deputy Real Estate Commissioner

12 Dated at San Diego, California,  
13 this 18 day of November, 2006  
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