

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

OCT 19 2010

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 E-VIEW LENDING, INC.,)
14 a Corporation, and)
15 DOMINICK COOK,)

16 Respondents.)
17)

NO. H-5305 SAC

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

18 It is hereby stipulated by and between Respondents E-VIEW LENDING, INC.
19 (herein "E-VIEW") and DOMINICK COOK (herein "COOK") (collectively herein
20 "Respondents") and the Complainant, acting by and through Mary F. Clarke, Counsel for the
21 Department of Real Estate (herein "the Department"), as follows for the purpose of settling and
22 disposing of the Accusation filed on February 8, 2010, in this matter (herein "the Accusation"):

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 in Settlement and Order.

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 in this
3 proceeding.

4 3. A Notice of Defense was filed on February 16, 2010 by Respondents, pursuant
5 to Section 11505 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice
7 of Defense. Respondents acknowledges that they understand that by withdrawing said Notice of
8 Defense, they will thereby waive their right to require the Commissioner to prove the allegations
9 in the Accusation at a contested hearing held in accordance with the provisions of the APA and
10 that they will waive other rights afforded to them in connection with the hearing such as the right
11 to present evidence in defense of the allegations in the Accusation and the right to cross-examine
12 witnesses.

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

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

26 6. The Order or any subsequent Order of the Real Estate Commissioner made
27 pursuant to this Stipulation and Agreement in Settlement and Order shall not constitute an

1 estoppel, merger, or bar to any further administrative or civil proceedings by the Department with
2 respect to any matters which were not specifically alleged to be causes for accusation in this
3 proceeding.

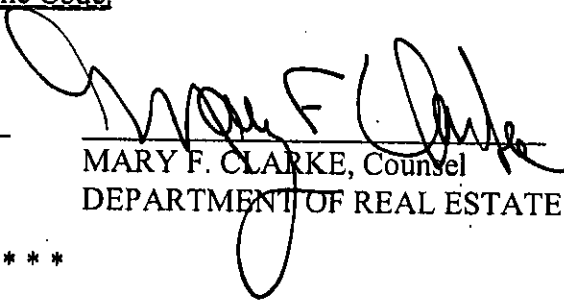
4 DETERMINATION OF ISSUES

5 The acts and omissions of Respondents as described in the Accusation are
6 grounds for the suspension or revocation of the licenses and license rights of Respondents under
7 Section 10240 of the California Business and Professions Code (herein the "Code") in
8 conjunction with Section 10177(d) of the Code.

9 ORDER

10 All licenses and licensing rights of Respondents under the Real Estate Law are
11 publicly reprovod pursuant to Section 495 of the Code.

12
13 9-15-10
14 DATED

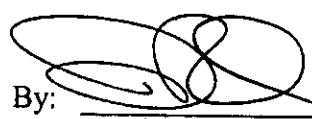
15 
16 MARY F. CLARKE, Counsel
17 DEPARTMENT OF REAL ESTATE

18 ***

19 I have read the Stipulation and Agreement and its terms are understood by me and
20 are agreeable and acceptable to me. I understand that I am waiving rights given to me by the
21 California APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the
22 Government Code), and I willingly, intelligently, and voluntarily waive those rights, including
23 the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at
24 which I would have the right to cross-examine witnesses against me and to present evidence in
25 defense and mitigation of the charges.

26 E-VIEW LENDING, INC., Respondent

27 9-12-10
DATED

By: 

DOMINICK COOK
Designated Officer Broker

1
2 9-12-10

3 DATED



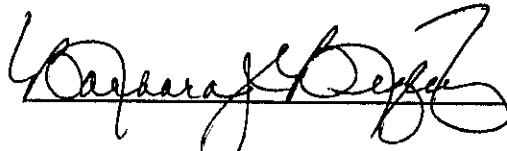
DOMINICK COOK
Respondent

5 ***

6 The foregoing Stipulation and Agreement in Settlement and Order is hereby
7 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
8 November 8, 2010.

9
10 IT IS SO ORDERED 10/13, 2010.

11 JEFF DAVI
12 Real Estate Commissioner



15 BY: Barbara J. Bigby
16 Chief Deputy Commissioner

MARY F. CLARKE, Counsel (SBN 186744)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0780 (Direct)

FILED

FEB - 8 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)

E-VIEW LENDING, INC.,)
a Corporation,)
DOMINICK COOK,)

Respondents.)

NO. H-5305 SAC

FIRST AMENDED
ACCUSATION

The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner of the State of California, for cause of First Amended Accusation against E-VIEW LENDING, INC. (herein "E-VIEW"), and DOMINICK COOK (herein "COOK") (herein "Respondents"), is informed and alleges as follows:

1

The Complainant makes this First Amended Accusation in her official capacity.

2

At all times herein mentioned, Respondents were and now are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein the "Code").

At all times herein mentioned, E-VIEW was and now is licensed by the State of California Department of Real Estate (herein the "Department") as a corporate real estate broker by and through COOK as designated officer-broker of E-VIEW to qualify said corporation and to act for said corporation as a real estate broker.

At all times herein mentioned, COOK was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of E-VIEW. As said designated officer-broker, COOK was at all times mentioned herein 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 E-VIEW for which a license is required.

Whenever reference is made in an allegation in this First Amended Accusation to an act or omission of E-VIEW, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with E-VIEW committed such act or omission while engaged in the furtherance of the business or operations of such corporate respondent and while acting within the course and scope of their authority and employment.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited borrowers or lenders for or negotiated loans or collected payments or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

Between about November 23, 2006 and about November 12, 2008, in connection with the activities described in Paragraph 6, above, E-VIEW:

(a) failed to provide Mortgage Loan Disclosure Statements (herein "MLDS") to the following borrowers, which satisfied all of the requirements of Sections 10240 (Written Disclosure Statement) and 10241 (Statement Content) of the Code:

<u>Borrower</u>	<u>Loan #</u>	<u>Property</u>	<u>Closing Date</u>
J. Minaudo	217030126	22757 Tinnin Rd. Manteca	4/18/07
B. Nunes	217040079	1441 Cathy Way Hayward	5/3/07
J. Minaudo	650-650-64 0071-1998	22757 Tinnin Rd. Manteca	7/24/07
C. Detwiler	0175251412	2016 Solothurn Way Manteca	3/10/08
P&N Tsirelas	129377862	1001 Bristow St. Manteca	5/9/08
J. Tsirelas	218090072	1009 Norman Dr. Manteca	11/12/08

(b) failed to disclose all compensation received, specifically Yield Spread Premiums (herein "YSP") received from the lender, to the following borrowers, in violation of Sections 10176(a) (making any substantial misrepresentation) and (i) (fraud or dishonest dealing), 10177(g) (negligence) and/or (j) (fraud or dishonest dealing), and 10241 of the Code:

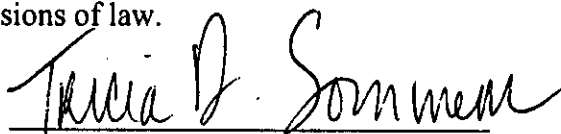
<u>Borrower</u>	<u>Loan #</u>	<u>Property</u>	<u>Closing Date</u>	<u>YSP Amount</u>
T. Dean	216110015	2133 Ashwood Dr. Escalon	12/15/06	\$6,175.00
J. Minaudo	217030126	22757 Tinnin Rd. Manteca	4/18/07	\$1,893.75
B. Nunes	217040079	1441 Cathy Way Hayward	5/3/07	\$2,452.50
C. Detwiler	0175251412	2016 Solothurn Way Manteca	3/10/08	\$5,672.02
P&N Tsirelas	129377862	1001 Bristow St. Manteca	5/9/08	\$ 509.64

At all times mentioned herein, COOK failed to exercise reasonable supervision over the acts of E-VIEW and its agents and employees in such a manner as to allow the acts and omissions on the part of E-VIEW described above, to occur in violation of Sections 10159.2, 10177(g) and (h) of the Code, and Section 2725 of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations").

The facts alleged above are grounds for the suspension or revocation of the license and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- (a) as to Paragraph 7(a) and E-VIEW under Sections 10240 and 10241 of the Code in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 7(b) and E-VIEW under Sections 10176(a) and (i) and/or 10177(g) and/or (j) and 10241 of the Code in conjunction with Section 10177(d) of the Code; and,
- (c) as to Paragraph 8 and Respondent COOK under Section 10159.2 of the Code and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code, and Section 10177(g) and (h) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this First Amended Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents 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.



TRICIA D. SOMMERS

Deputy Real Estate Commissioner

Dated at Sacramento, California
this 24th day of January, 2010.

MARY F. CLARKE, Counsel (SBN 186744)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0780 (Direct)

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K. Lawson	129052877	3670 Silver Oak Pl., Danville	2/27/08
C. Detwiler	0175251412	2016 Solothurn Way, Manteca	3/10/08
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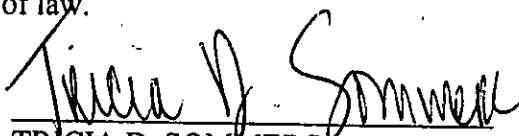
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TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 11th day of November, 2009.