Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)

FILED
JUN - 5 2003
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of UNION DISCOUNT MORTGAGE, INC., doing business as Loans4Less, Union Discount Mortgage, and Union Discount Realty and STEVEN MARK HERSHMAN, individually and as designated officer of Union Discount Mortgage, Inc., Respondents.	NO. H-29976 LA L-2003030585 STIPULATION AND AGREEMENT

It is hereby stipulated by and between UNION DISCOUNT MORTGAGE, INC., doing business as Loans4Less, Union Discount Mortgage, and Union Discount Realty (hereafter "UDM") and STEVEN MARK HERSHMAN, individually and as designated officer of Union Discount Mortgage, Inc. (hereafter "HERSHMAN") (hereafter sometimes both referred to as "Respondents"), representing themselves, and the Complainant, acting by and through Chris Leong, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation

filed on February 28, 2003.

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, shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement (hereafter "Stipulation").

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

3. Respondents filed Notices of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents acknowledge that they understand that by withdrawing said Notices of Defense that they will 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 Administrative Procedure Act and that Respondents will waive other rights afforded to them in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. In the interest of expedience and economy, Respondents choose not to contest the factual allegations in

Paragraphs 1 through 15 of the Accusation, but to remain silent and understand that, as a result thereof, these factual statements, 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 such allegations.

5. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation as her Decision in this matter, thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the "Order" below. In the event that the Commissioner in her 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 all the provisions of the Administrative Procedure Act and shall not be bound by any admission or waiver made herein.

6. 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 proceeding by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following Determination of Issues shall be

made:

I

The conduct acts and/or omissions of UDM, as alleged in the Accusation, are grounds for the suspension or revocation of all real estate licenses and license rights of UDM under the provisions of Business and Professions Code (hereafter "Code") Section 10177(d) for violation of Code Section 10145.

II

The conduct acts and/or omissions of HERSHMAN, as alleged in the Accusation, are grounds for the suspension or revocation of all real estate licenses and license rights of HERSHMAN under the provisions of Code Section 10177(d) for violation of Code Section 10145.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondents UDM and HERSHMAN under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this Decision; provided, however, that thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

A. Prior to the effective date of this Decision either Respondent must submit proof satisfactory to the Real Estate Commissioner that borrower Gary Auten has been repaid $465.00.

B. Respondent HERSHMAN's license shall be indefinitely suspended unless or until Respondent submits proof satisfactory

to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in 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. Upon satisfaction of this condition, the indefinite suspension shall be stayed for two (2) years upon the following terms and conditions in Paragraph C.

C. 1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such determination be made, the Commissioner may, in her discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

D. The initial sixty (60) day portion of said ninety (90) day suspension shall commence on the effective date of this Decision; provided, however, that if Respondents petition, said suspension shall be stayed upon condition that:

1. Pursuant to Code Section 10175.2, Respondents each pay a monetary penalty of eighty-three dollars ($83.00) per day

for a total monetary penalty of $2,500.00. Total for both Respondents $5,000.00.

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 Respondent occurs within two (2) 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 and conditions 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 Respondents shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

E. Pursuant to Section 10148 of the Business and Professions Code, Respondents shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action and, b) a subsequent audit to determine if Respondents have corrected the trust fund violations found in the Determination of Issues. The cost of the audit which led to this disciplinary action is $2,537.70. 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 subsequent audit shall not exceed $2,537.70. 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 Respondents' licenses 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 Respondents 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.

If Respondents pay the monetary penalty and chargeable audits and if no further cause for disciplinary action against the real estate licenses of Respondents occurs within two (2) years of the effective date of the Decision, the stay hereby granted shall become permanent.

DATED: 5/21/03

CHRIS LEONG, ESQ.
Counsel for Complainant

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We have read the Stipulation and Agreement and 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 and Agreement by faxing a copy of the signature page, as actually signed by Respondents, to the Department at the following fax number (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of their actual signatures as they appears on the Stipulation and Agreement, 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 and Agreement.

DATED: 5/14/03

UNION DISCOUNT MORTGAGE, INC.
Respondent by STEVEN MARK HERSHMAN, designated officer of Union Discount Mortgage, Inc.

DATED: 5/14/03

STEVEN MARK HERSHMAN,
individually and as designated
officer of Union Discount
Mortgage, Inc., Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on July 7, 2003.

IT IS SO ORDERED May 30, 2003.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of	)	Case No. **H-29976 LA**
	)	
UNION DISCOUNT MORTGAGE, INC., doing business as Loans4Less, Union Discount Mortgage, and Union Discount Realty and STEVEN MARK HERSHMAN, individually and as designated officer of Union Discount Mortgage, Inc.,	)	OAH No. L-2003030585
Respondent(s)	)	

FILED
APR - 3 2003
DEPARTMENT OF REAL ESTATE
By

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on **MONDAY, AUGUST 18, 2003,** at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: April 3, 2003

By Chris Leong
CHRIS LEONG, Counsel

cc: Union Discount Mortgage, Inc.
Steven Mark Hershman
Sacto.
OAH
L.A. Audits/Goff

RE 501 (Rev. 8/97)

SAC.

CHRIS LEONG, Counsel (SBN 141079)
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320 West Fourth Street, Suite 350
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FILED
FEB 28 2003
DEPARTMENT OF REAL ESTATE
by CJ

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of UNION DISCOUNT MORTGAGE, INC., doing business as Loans4Less Union Discount Mortgage, and Union Discount Realty and STEVEN MARK HERSHMAN, individually and as designated officer of Union Discount Mortgage, Inc., Respondents.	No. H-29976 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 UNION DISCOUNT MORTGAGE, INC., doing business as Loans4Less, Union Discount Mortgage, and Union Discount Realty ("UDM") and STEVEN MARK HERSHMAN, individually and as designated officer of Union Discount Mortgage, Inc. ("HERSHMAN"), hereafter sometimes both referred to as Respondents, is informed and alleges in her official capacity as follows:

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1.

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

2.

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code").

3.

At all times material herein, Respondent UDM was and still is licensed by the Department of Real Estate of the State of California ("Department") as a corporation.

4.

At all times material herein, HERSHMAN was licensed by the Department as a real estate broker, individually and as responsible designated officer of UDM, pursuant to Code Section 10159.2.

5.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers for others in the State of California, within the meaning of Code Section 10131(a) and (d), including the operation and conduct of a real estate sales, loan and loan servicing business with the public wherein Respondents purchased and sold real property on behalf of owners of real property and/or solicited borrowers for loans

secured by interest in real property and/or serviced loans secured by interest in real property in expectation of compensation.

6.

All further references to "Respondents", unless otherwise specified, include the parties identified in Paragraphs 2 through 5, above, and also include the employees, agents and real estate licensees employed by or associated with said parties, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

FIRST CAUSE OF ACCUSATION

7.

In or about the end of September 2001, Gary Auten began searching for interest rates on the internet in order to facilitate the refinance of his existing mortgage loan on real property located at 920 Mockingbird Lane, Sunnyvale, CA 94087 ("Mockingbird property"). Auten visited the web site of Loans4Less and learned that they were offering a jumbo loan at an interest rate of 5.25%. Auten phoned Loans4Less and spoke to Debbie Zito, a real estate salesperson.

8.

On October 3, 2001, Gary and Jennifer Auten ("The Autens") completed a Residential Loan Application for loan amount of $350,000.00. The loan application indicates that HERSHMAN of Loans4Less was the interviewer. On the same date, the Autens

received additional loan documentation from Loans4Less. The Autens received "Loan Kit Instructions" that advised the Autens to send in $65.00 for a "credit factual, lock and application fee". The Autens also received a Good Faith Estimate that indicates that their loan terms were to be: loan amount $350,000.00; zero points; 3/1 ARM. The estimate also specified that the Autens would have to pay $400.00 for an appraisal and that the Autens rate was locked. The Autens also received a disclosure statement indicating that there was no prepayment penalty on the loan. In reliance and in response to the above, the Autens sent $465.00 to Loans4Less.

9.

On October 11, 2001, an appraisal was performed on the Mockingbird property by A1 Appraisal. On October 15, 2001, the Autens sent income documentation via fax to Debbie Zito of Loans4Less. On or about November 14, 2001, pursuant to a telephone call with HERSHMAN, the Autens were advised that Loans4Less was not able to obtain a loan without a prepayment penalty. On November 27, 2001, the Autens called HERSHMAN and advised that they did not want the loan with the prepayment penalty, as the original commitment did not include one. The Auten asked that they be reimbursed the $465.00 advance fee that they paid for the credit report and appraisal. HERSHMAN agreed to reimburse under the condition that Loans4Less be given six months from the date of the appraisal to meet the terms of the original agreement. HERSHMAN stated he would memorialize this to writing. On the same date, the Autens received an e-mail from

Loans4Less that stated they would be reimbursed if Hershman was unable to refinance within six months of October 11, 2001. The Autens replied with an e-mail asking HERSHMAN to be more specific in his e-mail and confirm the exact terms of the agreement. HERSHMAN replied "No". The Autens then again asked for a refund of $465.00. HERSHMAN responded by stating he would not return the funds.

10.

At all times herein mentioned, UDM and/or HERSHMAN do not have an advance fee agreement that was authorized by the Department, in violation of Code Section 10085.

SECOND CAUSE OF ACCUSATION

11.

On July 22, 2002, the Department concluded its examination of Respondents' books and records pertaining to Respondents' activities as real estate brokers, audit number LA 010434, covering a period from approximately July 1, 2000 to June 14, 2002. The examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations ("Regulations"), as set forth below.

12.

At all times herein, in connection with the real estate sales, loan and loan servicing activity described above, Respondents accepted or received funds, including funds in trust ("trust funds") from or on behalf of actual and prospective parties to transactions handled by Respondents. Trust funds were maintained or deposited in Account

No. 04568-07609, Bank of America, Redondo Beach, California.

13.

Respondents UDM and HERSHMAN acted in violation of the Code and the Regulations as set forth below, and as more specifically set forth in Audit Report No. LA 010434, dated July 22, 2002, and the exhibits attached to said Audit Report, in that Respondents:

(a) maintained an overage of $7,706.44 as of June 14, 2002 in the bank account (the cause of the overage was broker's funds), in violation of Code Section 10176(e);

(b) failed to deposit trust funds into a trust account in the name of the broker as trustee, in violation of Code Section 10145 and Section 2832 of the Regulations;

(c) charged the borrowers for credit report fees in excess of the amount billed the borrower by the credit reporting company resulting in undisclosed compensation, in violation of Code Section 10177(g);

(d) received trust funds from borrowers and failed to forward the balance of the trust funds due the borrowers, in violation of Code Section 10145;

(e) failed to maintain trust fund control records which included the date the trust funds were received, in violation of Code Section 10145 and Section 2831 of the Regulations;

(f) failed to maintain a separate record for each beneficiary including the date of each related disbursement, amount of each disbursement, check number of each related

disbursement and balance on any date, in violation of Code Section 10145 and Regulation 2831.1; and

(g) failed to maintain a record of the reconciliation of the balance of all separate records with the record of all trust funds received and disbursed, in violation of Code Section 10145 and Regulation 2831.2.

CAUSE FOR DISCIPLINE

14.

The conduct, acts and omissions of Respondents UDM and HERSHMAN, as described in Paragraphs 1 through 13, violated the Code and the Regulations as set forth above and constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10176(e), 10176(g), 10177(d) and/or 10177(g).

15.

Respondent HERSHMAN, as the officer designated by UDM as the person responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with Real Estate Law as set forth in Sections 10159.2 of the Code failed in said duties as set forth herein above. This is further cause to discipline the license and license rights of Respondent HERSHMAN pursuant to Code Sections 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 licenses and/or license rights of Respondents, UNION DISCOUNT MORTGAGE, INC., doing business as Loans4Less, Union Discount Mortgage, and Union Discount Realty and STEVEN MARK HERSHMAN, individually and as designated officer of Union Discount Mortgage, Inc., 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 26th day of February, 2003.

Deputy Real Estate Commissioner

cc: Union Discount Mortgage, Inc.
Steven Mark Hershman
Maria Suarez
Sacto.
LA Audit/Goff
AW