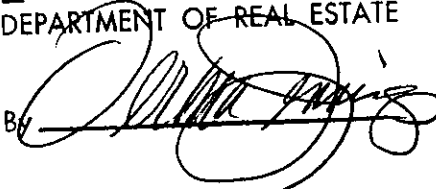


1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED
SEP 29 2006
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-32308 LA
12)	L-2006010951
13	EAGLE LOAN SERVICE, INC.,)	
14	and HELEN MARIE BERNAL,)	<u>STIPULATION AND AGREEMENT</u>
15	individually and as)	
16	designated officer of)	
17	Eagle Loan Service, Inc.,)	
18)	
19)	
20	Respondents.)	
21)	

18
19 It is hereby stipulated by and between EAGLE LOAN
20 SERVICE, INC., and HELEN MARIE BERNAL (sometimes referred to as
21 Respondents), and their attorney, Frank M. Buda, and the
22 Complainant, acting by and through James R. Peel, Counsel for
23 the Department of Real Estate, as follows for the purpose of
24 settling and disposing of the Accusation filed on November 30,
25 2005, in this matter.

26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and

1 Respondents at a formal hearing on the Accusation, which hearing
2 was to be held in accordance with the provisions of the
3 Administrative Procedure Act ("APA"), shall instead and in place
4 thereof be submitted solely on the basis of the provisions of
5 this Stipulation and Agreement ("Stipulation").

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the
8 Administrative Procedure Act ("APA") and the Accusation filed by
9 the Department of Real Estate in this proceeding.

10 3. On December 13, 2005, Respondents filed a Notice
11 of Defense pursuant to Section 11506 of the Government Code for
12 the purpose of requesting a hearing on the allegations in the
13 Accusation. Respondents hereby freely and voluntarily withdraw
14 said Notices of Defense. Respondents acknowledge that they
15 understand that by withdrawing said Notices of Defense they will
16 thereby waive their right to require the Commissioner to prove
17 the allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that they will
19 waive other rights afforded to them in connection with the
20 hearing, such as the right to present evidence in defense of the
21 allegations in the Accusation and the right to cross-examine
22 witnesses.

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation filed in this
25 proceeding. In the interest of expedience and economy,
26 Respondents choose not to contest these factual allegations, but
27

1 to remain silent and understand that, as a result thereof, these
2 factual statements, will serve as a prima facie basis for the
3 disciplinary action stipulated to herein. The Real Estate
4 Commissioner shall not be required to provide further evidence
5 to prove such allegations.

6 5. This Stipulation and Respondents' decision not to
7 contest the Accusation is made for the purpose of reaching an
8 agreed disposition of this proceeding and is expressly limited
9 to this proceeding and any other proceeding or case in which the
10 Department of Real Estate ("Department"), the state or federal
11 government, or an agency of this state, another state or the
12 federal government is involved.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
27

1 Estate with respect to any conduct which was not specifically
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and waivers
5 and solely for the purpose of settlement of the pending
6 Accusation without a hearing, it is stipulated and agreed that
7 the following determination of issues shall be made:

8 The conduct, acts and/or omissions of Respondents
9 EAGLE LOAN SERVICE, INC., and HELEN MARIE BERNAL, as set forth
10 in the Accusation, constitute cause for the suspension or
11 revocation of all of the real estate licenses and license rights
12 of Respondents under the provisions of Section 10177(d) of the
13 Business and Professions Code ("Code") for violations of Code
14 Sections 10231 and 10234, and Regulations 2831, 2831.2, Title
15 10, Chapter 6, California Code of Regulations.
16

17 ORDER

18 All licenses and licensing rights of Respondents EAGLE
19 LOAN SERVICE, INC., and HELEN MARIE BERNAL under the Real Estate
20 Law are suspended for a period of ninety (90) days from the
21 effective date of this Decision; provided, however, that thirty
22 (30) days of said suspension shall be stayed for two (2) years
23 upon the following terms and conditions:

24 1. Respondents shall obey all laws, rules and
25 regulations governing the rights, duties and responsibilities of
26 a real estate licensee in the State of California; and
27

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

9 3. Provided, however, that if Respondents petition,
10 the remaining sixty (60) days of said ninety (90) day suspension
11 shall be stayed upon condition that:

12 a. Respondents pay a monetary penalty pursuant to
13 Section 10175.2 of the Business and Professions Code at the rate
14 of \$33.33 for each day of the suspension for a total monetary
15 penalty of \$2,000 (\$4,000 for both Respondents).

16 b. Said payment shall be in the form of a
17 cashier's check or certified check made payable to the Recovery
18 Account of the Real Estate Fund. Said check must be received by
19 the Department prior to the effective date of the Decision in
20 this matter.

21 c. No further cause for disciplinary action
22 against the real estate licenses of Respondent occurs within two
23 (2) years from the effective date of the Decision in this
24 matter.

25 //

1 d. If Respondents fail to pay the monetary
2 penalty in accordance with the terms and conditions of the
3 Decision, the Commissioner may, without a hearing, order the
4 immediate execution of all or any part of the stayed suspension
5 in which event the Respondents shall not be entitled to any
6 repayment nor credit, prorated or otherwise, for money paid to
7 the Department under the terms of this Decision.

8 e. If Respondents pay the monetary penalty and if
9 no further cause for disciplinary action against the real estate
10 license of Respondent occurs within two (2) years from the
11 effective date of the Decision, the stay hereby granted shall
12 become permanent.

13 4. Respondent HELEN MARIE BERNAL shall, within
14 six months from the effective date of this Decision, present
15 evidence satisfactory to the Real Estate Commissioner that
16 Respondent has taken and completed the trust fund accounting and
17 handling course specified in paragraph (3), subdivision (a) of
18 Section 10170.5 of the Business and Professions Code. Proof of
19 satisfaction of this requirement includes evidence that
20 Respondent has successfully completed the trust fund account and
21 handling continuing education course within 120 days prior to
22 the effective date of the Decision in this matter.

23 5. Pursuant to Section 10148 of the Business and
24 Professions Code, Respondents EAGLE LOAN SERVICE, INC. and HELEN
25 MARIE BERNAL shall pay the Commissioner's reasonable cost for
26 the audit which led to this disciplinary action and a subsequent
27

1 audit to determine if Respondent EAGLE LOAN SERVICE, INC. has
2 corrected the violations found in the Determination of Issues.
3 In calculating the amount of the Commissioner's reasonable cost,
4 the Commissioner may use the estimated average hourly salary for
5 all persons performing audits of real estate brokers, and shall
6 include an allocation for travel costs, including mileage, time
7 to and from the auditor's place of work and per diem.
8 Respondents shall pay such cost within 45 days of receiving an
9 invoice from the Commissioner detailing the activities performed
10 during the audit and the amount of time spent performing those
11 activities. The Commissioner may, in his discretion, vacate and
12 set aside the stay order, if payment is not timely made as
13 provided for herein, or as provided for in a subsequent
14 agreement between the Respondents and the Commissioner. The
15 vacation and the set aside of the stay shall remain in effect
16 until payment is made in full, or until Respondents enter into
17 an agreement satisfactory to the Commissioner to provide for
18 payment. Should no order vacating the stay be issued, either in
19 accordance with this condition or the conditions set forth
20 above, the stay imposed herein shall become permanent.
21

22
23 DATED: July 5, 2006

James R. Peel
JAMES R. PEEL, Counsel for the
Department of Real Estate
* * *

26 We have read the Stipulation and Agreement, discussed
27 it with our Counsel, and its terms are understood by us and are

1 agreeable and acceptable to us. We understand that we are
2 waiving rights given to us by the California Administrative
3 Procedure Act (including but not limited to Sections 11506,
4 11508, 11509 and 11513 of the Government Code), and we
5 willingly, intelligently and voluntarily waive those rights,
6 including the right of requiring the Commissioner to prove the
7 allegations in the Accusation at a hearing at which we would
8 have the right to cross-examine witnesses against us and to
9 present evidence in defense and mitigation of the charges.

10 Respondents can signify acceptance and approval of the
11 terms and conditions of this Stipulation and Agreement by faxing
12 a copy of the signature page, as actually signed by Respondents,
13 to the Department at the following telephone/fax number:
14 (213) 576-6917. Respondents agree, acknowledge and understand
15 that by electronically sending to the Department a fax copy of
16 his or her actual signature as it appears on the Stipulation and
17 Agreement, that receipt of the faxed copy by the Department
18 shall be as binding on Respondents as if the Department had
19 received the original signed Stipulation and Agreement.

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1 Further, if the Respondents are represented, the
2 Respondents' representative can signify his or her agreement to
3 the terms and conditions of the Stipulation and Agreement by
4 submitting that signature via fax.


5 DATED: 6/28/06


EAGLE LOAN SERVICE, INC.,
Respondents

8 DATED: 6/22/06


HELEN MARIE BERNAL,
Respondent

11 DATED: 6-26-06

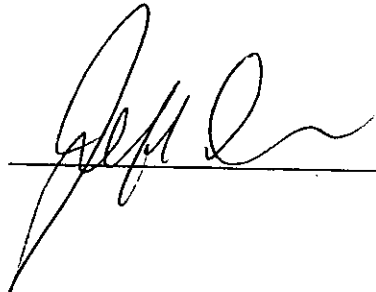

FRANK M. BUDA,
Counsel for Respondents

14 * * *

15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision and Order in this matter, and shall
17 become effective at 12 o'clock noon on October 19, 2006

18 IT IS SO ORDERED 8-8-06

19 JEFF DAVI
20 Real Estate Commissioner

21 
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27

*Subpoena
Filing*

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5
6
7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)

FILED
NOV 30 2005
DEPARTMENT OF REAL ESTATE
[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-32308 LA
12	EAGLE LOAN SERVICE, INC.,)	<u>A C C U S A T I O N</u>
13	and HELEN MARIE BERNAL,)	
14	individually and as)	
15	designated officer of)	
16	Eagle Loan Service, Inc.,)	
17)	
18	Respondents.)	

18 The Complainant, Janice A. Waddell, a Deputy Real
19 Estate Commissioner of the State of California, for cause of
20 accusation against EAGLE LOAN SERVICE, INC.; and HELEN MARIE
21 BERNAL, individually and as designated officer of Eagle Loan
22 Service, Inc., alleges as follows:

23 I

24 The Complainant, Janice A. Waddell, acting in her
25 official capacity as a Deputy Real Estate Commissioner of the
26 State of California, makes this Accusation against EAGLE LOAN
27 SERVICE, INC., and HELEN MARIE BERNAL.

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II

EAGLE LOAN SERVICE, INC., and HELEN MARIE BERNAL, individually and as designated officer of said corporation (hereinafter referred to as "Respondents"), are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

III

At all times herein mentioned, Respondent EAGLE LOAN SERVICE, INC., was licensed as a real estate broker through Respondent HELEN MARIE BERNAL as its designated broker-officer.

IV

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(d) of the Code, including negotiating loans on real property, and broker escrows within the exemption set forth in Financial Code Section 17006(a)(4).

V

On or about November 19, 2004, the Department completed an examination of Respondent's books and records, pertaining to the activities described in Paragraph IV above, covering a period from January 4, 2004, through September 30, 2004, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

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VI

The examination described in Paragraph V, above, determined that, in connection with the activities described in Paragraph IV above, Respondents accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals, and thereafter made deposit or disbursement of such funds.

VII

In the course of activities described in Paragraphs IV through VI and during the examination period described in Paragraph V, Respondents acted in violation of the Code and the Regulations as follows, and as more specifically set forth in Audit Report Nos. LA 040079 and LA 040114 and related exhibits:

(1) Violated Regulation 2831 in that the columnar record was not complete and accurate in that it failed to reflect the date funds were received, daily balance, and the monthly checks issued to investors.

(2) Violated Regulation 2831.1 in that the separate records were not complete and accurate in that the records were missing the date of the deposit, from whom the funds were received, date of the checks, and the check numbers. Separate records were not always maintained for each beneficiary or transaction.

(3) Violated Regulation 2831.2 by failing to maintain monthly reconciliations of the control records with the separate records.

1 (4) Violated Section 10231 of the Code in that
2 investor loan funds were held in trust and not applied to a
3 specific loan.

4 (5) Violated Section 10231.1 of the Code in that loan
5 payoffs were held in trust for more than 25 days and not returned
6 to the Lenders.

7 (6) Violated Section 10232.4 of the Code by failing to
8 maintain copies of Lender/Purchaser Disclosure Statements for
9 each transaction.

10 (7) Violated Section 10233(c) of the Code by failing
11 to notify investors in writing within 15 days after their loans
12 were paid off.

13 (8) Violated Section 10234 of the Code by failing to
14 record deeds of trust in the name of the beneficiaries, and
15 failing to record assignments of deeds of trust, in favor of the
16 lender, within ten days of the disbursement of the lender's
17 funds.

18 (9) Violated Section 4973(a)(2)(A) of the Financial
19 Code by failing to offer borrowers Centeno, Gibson, and Mitchell,
20 an alternative loan, without a prepayment penalty, when their
21 covered loan contained a prepayment penalty.

22 (10) Violated Section 4979.6 of the Financial Code by
23 financing points and fees in excess of six percent of the
24 original loan balance on covered loans negotiated for borrowers
25 Centeno and Gibson.

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VIII

The conduct of Respondents, EAGLE LOAN SERVICE, INC., and HELEN MARIE BERNAL, as alleged above, subjects their real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d) and (g) of the Code, and Financial Code Section 4975.

IX

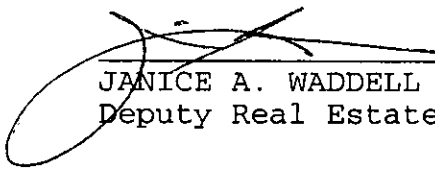
The conduct of Respondent HELEN MARIE BERNAL, as alleged above, is in violation of Code Section 10159.2 and subjects her real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d), 10177(g) and/or 10177(h) of the Code.

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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 EAGLE LOAN SERVICE, INC.; and HELEN MARIE BERNAL, individually
6 and as designated officer of Eagle Loan Service, Inc., under the
7 Real Estate Law (Part 1 of Division 4 of the Business and
8 Professions Code) and for such other and further relief as may be
9 proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 13 day of September, 2005.

12
13
14 
15 JANICE A. WADDELL
16 Deputy Real Estate Commissioner

17 cc: Eagle Loan Service, Inc.
18 Helen Marie Bernal
19 Janice A. Waddell
20 Audit Section
21 Sacto.
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