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FILED
NOV 30 2008
DEPARTMENT OF REAL ESTATE

ELLIOTT MAC LENNAN, 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)

By *K. Kederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-32966 LA
)	
ENRIQUE ROMAN, doing business as)	
Roman Realty, a Flat Fee \$2500)	<u>STIPULATION</u>
Listing Agent Fee, a Flat Fee)	AND
Realty, a Flat Fee Full Service)	<u>AGREEMENT</u>
Realty, and a Buyers Broker,)	
)	
)	
)	
Respondent.)	

It is hereby stipulated by and between Respondent ENRIQUE ROMAN dba a Flat Fee \$2500 Listing Agent Fee, a Flat Fee Realty, a Flat Fee Full Service Realty, and a Buyers Broker (sometimes referred to as "Respondent") and represented by Rob Schelling, Esq. and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on June 8, 2006, in this matter:

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

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

6 2. Respondent has received, read and understands the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

10 3. Respondent timely filed a Notice of Defense
11 pursuant to Section 11506 of the Government Code for the purpose
12 of requesting a hearing on the allegations in the Accusation.
13 Respondent hereby freely and voluntarily withdraws said Notice of
14 Defense. Respondent acknowledges that he understands that by
15 withdrawing said Notice of Defense he thereby waives his right to
16 require the Commissioner to prove the allegations in the
17 Accusation at a contested hearing held in accordance with the
18 provisions of the APA and that he will waive other rights
19 afforded to him in connection with the hearing such as the right
20 to present evidence in his defense the right to cross-examine
21 witnesses.
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23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation. In the interest of
25 expedience and economy, Respondent chooses not to contest these
26 allegations, but to remain silent and understands that, as a
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1 result thereof, these factual allegations, without being admitted
2 or denied, will serve as a prima facie basis for the disciplinary
3 action stipulated to herein. The Real Estate Commissioner shall
4 not be required to provide further evidence to prove said factual
5 allegations.

6 5. This Stipulation and Respondent's 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 to
9 this proceeding and any other proceeding or case in which the
10 Department of Real Estate ("Department"), the state or federal
11 government, or any agency of this state, another state or federal
12 government is involved, and otherwise shall not be admissible in
13 any other criminal or civil proceedings.

14 6. It is understood by the parties that the Real
15 Estate Commissioner may adopt this Stipulation as his Decision in
16 this matter thereby imposing the penalty and sanctions on
17 Respondent's real estate licenses and license rights as set forth
18 in the "Order" herein below. In the event that the Commissioner
19 in his discretion does not adopt the Stipulation, it shall be
20 void and of no effect and Respondent shall retain the right to a
21 hearing and proceeding on the Accusation under the provisions of
22 the APA and shall not be bound by any stipulation or waiver made
23 herein.
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25 7. The Order or any subsequent Order of the Real
26 Estate Commissioner made pursuant to this Stipulation shall not
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1 constitute an estoppel, merger or bar to any further
2 administrative or civil proceedings by the Department of Real
3 Estate with respect to any matters which were not specifically
4 alleged to be causes for Accusation in this proceeding but do
5 constitute a bar, estoppel and merger as to any allegations
6 actually contained in the Accusations against Respondent herein.

7 8. Respondent understands that by agreeing to this
8 Stipulation, Respondent agrees to pay, pursuant to Business and
9 Professions Code Section 10148, the cost of audit which led to
10 this disciplinary action. The total amount of said cost is
11 \$3,916.90.

12 9. Respondent has received, read, and understands the
13 "Notice Concerning Costs of Subsequent Audit". Respondent
14 further understands that by agreeing to this Stipulation, the
15 findings set forth below in the Determination of Issues become
16 final, and the Commissioner may charge Respondent for the cost of
17 any subsequent audit conducted pursuant to Business and
18 Professions Code Section 10148 to determine if the violations
19 have been corrected. The maximum cost of the subsequent audit
20 will not exceed \$3,916.90.
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DETERMINATION OF ISSUES

1 By reason of the foregoing, it is stipulated and agreed
2 that the following determination of issues shall be made:
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4 I.

5 The conduct of ENRIQUE ROMAN as described in Paragraph
6 4, hereinabove, is in violation of Section 10145 of the Business
7 and Professions Code ("Code") and Sections 2832 of Title 10,
8 Chapter 6 of the California Code of Regulations ("Regulations")
9 and is a basis for the suspension or revocation of Respondent's
10 license and license rights as violations of the Real Estate Law
11 pursuant to Code Sections 10177(d).

12 style="text-align: center;">ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 I.

15 All licenses and licensing rights of Respondent
16 ENRIQUE ROMAN, under the Real Estate Law are suspended for a
17 period of forty five days from the effective date of this
18 Decision; provided, however, that said forty five day suspension
19 shall be stayed upon the following terms and conditions:

20 1. Respondent shall obey all laws, rules and
21 regulations governing the rights, duties and responsibilities of
22 real estate licensees in the State of California; and

23 2. That no further cause for disciplinary action
24 against the real estate license of Respondent occurs within two
25 (2) years from the effective date of the Decision in this matter.
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II.

All licenses and licensing rights of Respondent ENRIQUE

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2
3 ROMAN are indefinitely suspended unless or until Respondent
4 provides proof satisfactory to the Commissioner, of having taken
5 and successfully completed the continuing education course on
6 trust fund accounting and handling specified in paragraph (3) of
7 subdivision (a) of Section 10170.5 of the Business and
8 Professions Code. Proof of satisfaction of this requirement
9 includes evidence that respondent has successfully completed the
10 trust fund account and handling continuing education course
11 within 120 days prior to the effective date of the Decision in
12 this matter.

13
14 III.

15 Pursuant to Section 10148 of the Business and

16 Professions Code, Respondent ENRIQUE ROMAN shall pay the
17 Commissioner's reasonable cost for (a) the audit which led to
18 this disciplinary action (b) a subsequent audit to determine if
19 Respondent is now in compliance with the Real Estate Law. The
20 cost of the audit which led to this disciplinary action is
21 \$3,916.95. In calculating the amount of the Commissioner's
22 reasonable cost, the Commissioner may use the estimated average
23 hourly salary for all persons performing audits of real estate
24 brokers, and shall include an allocation for travel time to and
25 from the auditor's place of work. Said amount for the prior and
26 subsequent audits shall not exceed \$7,833.90.

1 Respondent shall pay such cost within 60 days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities.

5 The Commissioner may suspend the license of Respondent
6 pending a hearing held in accordance with Section 11500, et seq.,
7 of the Government Code, if payment is not timely made as provided
8 for herein, or as provided for in a subsequent agreement between
9 the Respondent and the Commissioner. The suspension shall remain
10 in effect until payment is made in full or until Respondent
11 enters into an agreement satisfactory to the Commissioner to
12 provide for payment, or until a decision providing otherwise is
13 adopted following a hearing held pursuant to this condition.
14

15 DATED: 10-13-06

16 *em*
17 ELLIOTT MAC LENNAN, Counsel for
18 the Department of Real Estate

19 * * *

20 EXECUTION OF THE STIPULATION

21 I have read the Stipulation and discussed it with my
22 counsel. Its terms are understood by me and are agreeable and
23 acceptable to me. I understand that I am waiving rights given to
24 me by the California Administrative Procedure Act (including but
25 not limited to Sections 11506, 11508, 11509 and 11513 of the
26 Government Code), and I willingly, intelligently and voluntarily
27 waive those rights, including the right of requiring the

1 Commissioner to prove the allegations in the Accusation at a
2 hearing at which I would have the right to cross-examine
3 witnesses against me and to present evidence in defense and
4 mitigation of the charges.

5 Respondent can signify acceptance and approval of the
6 terms and conditions of this Stipulation by faxing a copy of its
7 signature page, as actually signed by Respondent, to the
8 Department at the following telephone/fax number: Elliott Mac
9 Lennan at (213) 576-6917. Respondent agrees, acknowledges and
10 understands that by electronically sending to the Department a
11 fax copy of Respondent's actual signature as it appears on the
12 Stipulation, that receipt of the faxed copy by the Department
13 shall be as binding on Respondent as if the Department had
14 received the original signed Stipulation.
15
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18 DATED: _____

ENRIQUE ROMAN Respondent

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21 DATED: _____

ROB SCHELLING, ESQ.
Attorney for Respondent
Approved as to Form

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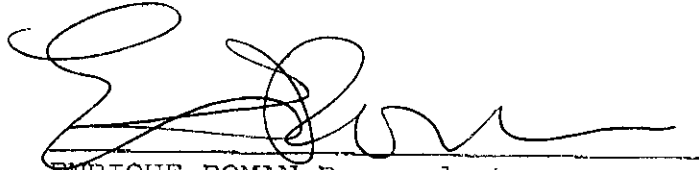
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1 Commissioner to prove the allegations in the Accusation at a
 2 hearing at which I would have the right to cross-examine
 3 witnesses against me and to present evidence in defense and
 4 mitigation of the charges.

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 6 terms and conditions of this Stipulation by faxing a copy of its
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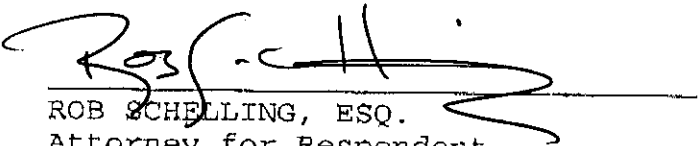
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18 DATED:

10/16/2006


 ENRIQUE ROMAN Respondent

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21 DATED:

10/16/06


 ROB SCHELLING, ESQ.
 Attorney for Respondent
 Approved as to Form

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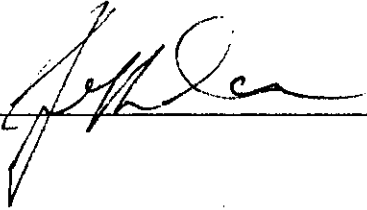
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2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision as to Respondent ENRIQUE ROMAN and shall
4 become effective at 12 o'clock noon on JAN - 2 2007

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6 IT IS SO ORDERED 11-20, 2006.

7
8 JEFF DAVI
9 Real Estate Commissioner

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Janice Waddell

FILED
JUN - 8 2008
DEPARTMENT OF REAL ESTATE

By *K. Medholt*

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2 Department of Real Estate
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BEFORE THE DEPARTMENT OF REAL ESTATE
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11 In the Matter of the Accusation of)
12 ENRIQUE ROMAN, doing business as) No. H- 32966 LA
13 Roman Realty, a Flat Fee \$2500) A C C U S A T I O N
14 Listing Agent Fee, a Flat Fee)
15 Realty, a Flat Fee Full Service)
16 Realty, a Buyers Broker,)
Respondent.)

17 The Complainant, Janice Waddell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against ENRIQUE ROMAN dba doing business as Roman Realty, a Flat
20 Fee \$2500 Listing Agent Fee, a Flat Fee Realty, a Flat Fee Full
21 Service Realty, a Buyers Broker ("ROMAN"), alleges as follows:
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24 The Complainant, Janice Waddell, acting in her official
25 capacity as a Deputy Real Estate Commissioner of the State of
26 California makes this Accusation against ROMAN.

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1 2.

2 All references to the "Code" are to the California
3 Business and Professions Code and all references to "Regulations"
4 are to Title 10, Chapter 6, California Code of Regulations.

5 LICENSE HISTORY

6 3.

7 At all times mentioned, ROMAN was licensed or had
8 license rights issued by the Department of Real Estate
9 (Department) as a real estate broker. On October 22, 1993, ROMAN
10 was originally licensed as a real estate broker. ROMAN was
11 initially licensed as a real estate salesperson on June 21, 1988.

12 4.

13 At all times mentioned, in the City of Riverside,
14 County of Los Angeles, ROMAN acted as a real estate broker and
15 conducted licensed activities within the meaning of Code Section
16 10131(a).

17 A. ROMAN operated a residential resale brokerage dba
18 Roman Realty, a Flat Fee \$2500 Listing Agent Fee, a Flat Fee
19 Realty, a Flat Fee Full Service Realty, a Buyers Broker; and

20
21 B. Conducted broker-controlled escrows through his
22 escrow division of Roman Realty under the exemption set forth in
23 California Financial Code Section 17006(a)(4) for real estate
24 brokers performing escrows incidental to a real estate
25 transaction where the broker is a party and where the broker is
26 performing acts for which a real estate license is required.

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FIRST CAUSE OF ACTION

(Audit violations)

5.

On January 27, 2005, the Department completed an audit examination of the books and records of ROMAN pertaining to the residential resale and broker-escrow activities described in Paragraph 4 that require a real estate license for the residential resale and mortgage and loan activities. The audit examination covered a period of time beginning on January 1, 2003 to September 30, 2004. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 040098 and the exhibits and workpapers attached to said audit report.

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, ROMAN accepted or received funds in trust from or on behalf of purchasers and sellers and borrowers and lenders and thereafter made disposition of such funds. ROMAN maintained the following escrow trust account during the audit period into which were deposited certain of these funds at:

"Enrique Roman dba Roman Real Trust Account
Account No. 1891970939"
Commercia Bank
Inglewood, California
(escrow trust account)

7.

1
2 In the course of activities described in Paragraphs 4
3 and 6 above, and during the examination period described in
4 Paragraph 5, it is alleged that ROMAN:

5 (a) Permitted, allowed or caused the disbursement of
6 trust funds from escrow trust account, where the disbursement of
7 funds reduced the total of aggregate funds in escrow trust
8 account, to an amount which, on September 30, 2004, was
9 \$10,270.11, less than the existing aggregate trust fund liability
10 of ROMAN to every principal who was an owner of said funds,
11 without first obtaining the prior written consent of the owners
12 of said funds, as required by Code Section 10145 and Regulations
13 2832.1, 2950(d), 2950(g) and 2951.

14 (b) While acting in the capacity of an escrow agent and
15 holder for ROMAN's in-house escrow in two purchase and sale
16 transactions, escrow numbers ROM023 and ROM047, failed to pay
17 over and deliver the balance of trust funds to owners of the
18 funds in a timely manner, as required by Code Section 10145, 2832
19 2950(d) and 2951.

20 (c) While acting in the capacity of an escrow holder in
21 two purchase and sale transactions, for buyers Fuentes (ROM093)
22 and Sanchez (ROM107), failed to place trust funds, accepted on
23 behalf of another into the hands of the owner of the funds, a
24 neutral escrow depository or into a trust fund account in the
25 name of the broker at a bank or other financial institution not
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1 later than the next business day following receipt of the funds
2 by the broker or by the broker's salesperson, as required by Code
3 Section 10145 and Regulations 2832(e) and 2950(f).

4 (d) Permitted, allowed or caused the disbursement of
5 trust funds from the escrow trust account in the Dolores Autrey
6 transaction, without first obtaining the prior written consent of
7 the owners of said funds, as required by Code Section 10145 and
8 Regulation and 2950(g).

9 (e) At the close of escrow, failed to render to each
10 principal of an escrow transaction a written statement (escrow
11 closing statement) setting forth all receipts and disbursements
12 together with the name of the buyers and sellers to whom any such
13 disbursement was made including Rodriguez/Clemmer, Sanchez/Armas
14 and Monzon/Martinez, as required by Code Section 10145 and
15 Regulation 2950(i).

16 (f) Failed to disclose in writing to all parties to
17 Roman's financial interest and ownership of Roman's escrow
18 company, as required by Code Section 10145 and Regulation
19 2950(h), 2950(d) and 2951.
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8.

The conduct of Respondent ROMAN, described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10145 and Regulations 2832.1, 2950(d), 2950(g) and 2951
7(b)	Code Section 10145 and Regulation 2832, 2950(d) and 2951
7(c)	Code Section 10145 and Regulation 2832(e) and 2950(f)
7(d)	Code Section 10145 and Regulation 2950(g)
7(e)	Code Section 10145 and Regulation 2950(i)
7(f)	Code Section 10145 and Regulation 2950(h), 2950(g) and 2951

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of ROMAN under the provisions of Code Sections 10176(g), 10177(d) and/or 10177(g).

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SECOND CAUSE OF ACTION

(Negligence)


9.

The overall conduct of Respondent ROMAN constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent ROMAN pursuant to Code Section 10177(g).

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 Respondent ENRIQUE ROMAN dba Century 21 A-Team and A P International Mortgage, 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 *23 May 2006*


Deputy Real Estate Commissioner

cc: Enrique Roman
Janice Waddell
Sacto
LA Audits - Rolly Acuna