

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

4 Telephone: (213) 576-6982

FILED
MAY - 7 2007
DEPARTMENT OF REAL ESTATE

By 

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of) No. H-33182 LA
11) L-2006110538
12 NFN GROUP, INC.,)
13 and JOSEPH ALBERTS,) STIPULATION AND AGREEMENT
14 individually and as)
15 designated officer of)
16 NFN Group, Inc.,)
17 Respondents.)

18 It is hereby stipulated by and between NFN GROUP,
19 INC., and JOSEPH ALBERTS (sometimes referred to as Respondents),
20 and their attorney, Douglas T. Richardson, and the Complainant,
21 acting by and through James R. Peel, Counsel for the Department
22 of Real Estate, as follows for the purpose of settling and
23 disposing of the Accusation filed on August 29, 2006, in this
24 matter.

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and
27 Respondents at a formal hearing on the Accusation, which hearing

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

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

9 3. On September 8, 2006, Respondents filed a Notice
10 of Defense pursuant to Section 11506 of the Government Code for
11 the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondents hereby freely and voluntarily withdraw
13 said Notices of Defense. Respondents acknowledge that they
14 understand that by withdrawing said Notices of Defense they will
15 thereby waive their right to require the Commissioner to prove
16 the allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA and that they will
18 waive other rights afforded to them in connection with the
19 hearing, such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation filed in this
24 proceeding. In the interest of expedience and economy,
25 Respondents choose not to contest these factual allegations, but
26 to remain silent and understand that, as a result thereof, these
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1 factual statements, will serve as a prima facie basis for the
2 disciplinary action stipulated to herein. The Real Estate
3 Commissioner shall not be required to provide further evidence
4 to prove such allegations.

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

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

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers
9 and solely for the purpose of settlement of the pending
10 Accusation without a hearing, it is stipulated and agreed that
11 the following determination of issues shall be made:

12 The conduct, acts and/or omissions of Respondents
13 NFN GROUP, INC., and JOSEPH ALBERTS, as set forth in the
14 Accusation, constitute cause for the suspension or revocation of
15 all of the real estate licenses and license rights of
16 Respondents under the provisions of Section 10177(d) of the
17 Business and Professions Code ("Code") for violations of
18 Regulations 2831, 2831.1, 2831.2, and 2832, Title 10, Chapter 6,
19 California Code of Regulations.
20

21 ORDER

22 All licenses and licensing rights of Respondents NFN
23 GROUP, INC., and JOSEPH ALBERTS, under the Real Estate Law are
24 suspended for a period of ninety (90) days from the effective
25 date of this Decision; provided, however, that thirty (30) days
26 of said suspension shall be stayed for two (2) years upon the
27 following terms and conditions:

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

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

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

15 a. Respondents pay a monetary penalty pursuant to
16 Section 10175.2 of the Business and Professions Code at the rate
17 of \$66.66 for each day of the suspension for a total monetary
18 penalty of \$4,000 (\$8,000 for both Respondents).

19 b. Said payment shall be in the form of a
20 cashier's check or certified check made payable to the Recovery
21 Account of the Real Estate Fund. Said check must be received by
22 the Department prior to the effective date of the Decision in
23 this matter.
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1 c. No further cause for disciplinary action
2 against the real estate licenses of Respondent occurs within two
3 (2) years from the effective date of the Decision in this
4 matter.

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

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

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18 Should no order vacating the stay be issued, either in
19 accordance with this condition or condition "2", the stay
20 imposed herein shall become permanent.

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22
23 DATED: March 9, 2007

James R. Peel
24 JAMES R. PEEL, Counsel for the
25 Department of Real Estate
26
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* * *

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

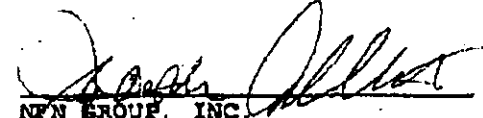
13 Respondents can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondents,
16 to the Department at the following telephone/fax number:
17 (213) 576-6917. Respondents agree, acknowledge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


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

5 DATED: 2/23/07 
 6 NFN GROUP, INC.
 7 Respondent

8 DATED: 2/23/07 
 9 JOSEPH ALBERTS
 10 Respondent

11 DATED: 2/20/07 
 12 DOUGLAS F. RICHARDSON
 13 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 _____
 18

19 IT IS SO ORDERED _____

20
 21 JEFF DAVI
 22 Real Estate Commissioner
 23
 24
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 27

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

5
6 DATED: _____
7 NFN GROUP, INC.
8 Respondent

9
10 DATED: _____
11 JOSEPH ALBERTS
12 Respondent

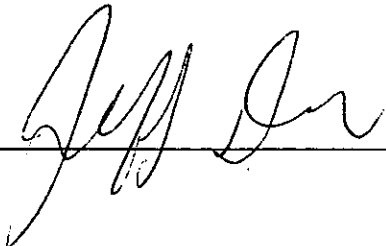
13
14 DATED: _____
15 DOUGLAS T. RICHARDSON
16 Counsel for Respondents

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision and Order in this matter, and shall
20 become effective at 12 o'clock noon on May 28, 2007

21 IT IS SO ORDERED 4-15-07

22 JEFF DAVI
23 Real Estate Commissioner

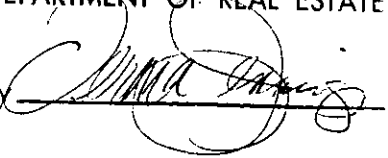
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SACD.
Flag

1 JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

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4 -or- (213) 576-6913 (Direct)

FILED
AUG 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-33182 LA
12)	
13	NFN GROUP, INC.,)	<u>A C C U S A T I O N</u>
14	and JOSEPH ALBERTS,)	
15	individually and as)	
16	designated officer of)	
17	NFN Group, Inc.,)	
18)	
19	Respondents.)	

18 The Complainant, Janice A. Waddell, a Deputy Real
19 Estate Commissioner of the State of California, for cause of
20 accusation against NFN GROUP, INC., and JOSEPH ALBERTS,
21 individually and as designated officer of NFN Group, Inc.,
22 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 NFN GROUP,
27 INC., and JOSEPH ALBERTS.

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II

NFN GROUP, INC., and JOSEPH ALBERTS, 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

Respondent NFN GROUP, INC., was originally licensed as a real estate broker on August 28, 1992. The corporate license of Respondent NFN GROUP, INC., will expire on August 27, 2008. Pursuant to Code Section 10159.2, Respondent JOSEPH ALBERTS is 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 the provisions of the real estate law, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

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 soliciting borrowers and lenders and negotiating loans on real property.

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1 V

2 On or about November 29, 2004, the Department completed
3 an examination of Respondent's books and records, pertaining to
4 the activities described in Paragraph IV above, covering a period
5 from August 1, 2003, through September 24, 2004, which
6 examination revealed violations of the Code and of Title 10,
7 Chapter 6, California Code of Regulations (hereinafter
8 Regulations) as set forth below.

9 VI

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

16 VII

17 In the course of activities described in Paragraphs IV
18 through VI and during the examination period described in
19 Paragraph V, Respondents acted in violation of the Code and the
20 Regulations as follows, and as more specifically set forth in
21 Audit Report No. LA 040067 and related exhibits:

22 (1) Violated Regulation 2831.2, by failing to
23 reconcile the columnar record with the separate records on a
24 monthly basis.

1 (2) Violated Section 10137 of the Code by employing or
2 compensating Kenneth Batiste, who did not hold a real estate
3 license, to solicit and negotiate a loan on real property for
4 borrowers Alex Mazza and Gail J. Mazza. These are activities for
5 which a real estate license is required under Code Section
6 10131(d).

7 (3) Violated Section 10137 of the Code by employing or
8 compensating Andrew Dominguez, who did not hold a real estate
9 license, to solicit and negotiate a loan on real property for
10 borrower Susana Esperanza Pellecer.

11 (4) Violated Regulation 2831 by failing to maintain a
12 complete record of credit report fees received on behalf of
13 borrowers Stewart and Real.

14 (5) Violated Regulation 2831.1 by failing to maintain
15 separate records for borrowers Stewart and Real.

16 (6) Violated Regulation 2832 by depositing credit
17 report fees received on behalf of borrowers Stewart and Real into
18 an account which was not a trust account.

19 VIII

20 The conduct, acts and/or omissions of Respondents NFN
21 GROUP, INC., and JOSEPH ALBERTS, as alleged above, subjects their
22 real estate licenses and license rights to suspension or
23 revocation pursuant to Section 10177(d) and/or 10177(g) of the
24 Code.

25 IX


26 The conduct, acts and/or omissions of Respondent JOSEPH
27 ALBERTS, in failing to ensure full compliance with the Real

1 Estate Law is in violation of Section 10159.2 of the Code and
2 subjects his real estate licenses and license rights to
3 suspension or revocation pursuant to Sections 10177(d), 10177(g)
4 and/or 10177(h) of the Code.

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against all licenses and license rights of Respondents NFN
9 GROUP, INC., and JOSEPH ALBERTS, under the Real Estate Law (Part
10 1 of Division 4 of the Business and Professions Code) and for
11 such other and further relief as may be proper under other
12 applicable provisions of law.

13 Dated at Los Angeles, California

14 this 24 day of July, 2006.

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17 
18 JANICE A. WADDELL
19 Deputy Real Estate Commissioner
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22
23

24 cc: NFN Group, Inc.
25 Joseph Alberts
26 Janice A. Waddell
27 Audit Section
Sacto.