

FILED

NOV 29 2007

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6911 (direct)
5 -or- (213) 576-6982 (office)

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-33637 LA
12 JOSE REYNOSO JIMENEZ, dba)	<u>STIPULATION</u>
13 Calmex Realty, Westland)	<u>AND</u>
14 Services Company and)	<u>AGREEMENT</u>
15 California Realty,)	
16 Respondent.)	

16 It is hereby stipulated by and between Respondent
17 JOSE REYNOSO JIMENEZ, (sometimes referred to as "Respondent")
18 represented by Frank M. Buda, Esq., and the Complainant, acting
19 by and through Elliott Mac Lennan, Counsel for the Department of
20 Real Estate, as follows for the purpose of settling and disposing
21 of the Accusation ("Accusation") filed on January 18, 2007, in
22 this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
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1 Procedure Act ("APA"), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement ("Stipulation").

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

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

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

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

5 8. Respondent understands that by agreeing to this
6 Stipulation, Respondent agrees to pay, pursuant to Business and
7 Professions Code Section 10148, the cost of audit which led to
8 this disciplinary action. The total amount of said cost is
9 \$8,647.20.

10 9. Respondent has received, read, and understands the
11 "Notice Concerning Costs of Subsequent Audit". Respondent
12 further understands that by agreeing to this Stipulation, the
13 findings set forth below in the Determination of Issues become
14 final, and the Commissioner may charge Respondent for the cost of
15 any subsequent audit conducted pursuant to Business and
16 Professions Code Section 10148 to determine if the violations
17 have been corrected. The maximum cost of the subsequent audit
18 will not exceed \$8,647.20.
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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 JOSE REYNOSO JIMENEZ as described in
6 Paragraph 4, above, is in violation of Business and Professions
7 Code Sections 10137 and 10145 and Section 2831.1 of Title 10,
8 Chapter 6 of the California Code of Regulations and is a basis
9 for the suspension or revocation of Respondent's license and
10 license rights as violations of the Real Estate Law pursuant to
11 Code Section 10177(d).

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 I. All licenses and licensing rights of Respondent
15 JOSE REYNOSO JIMENEZ under the Real Estate Law are suspended for
16 a period of sixty (60) days from the effective date of this
17 Decision.

18 A. Provided, however, that if Respondent requests, the
19 initial thirty (30) days of said suspension (or a portion
20 thereof) shall be stayed for two (2) years upon condition that:

21 1. Respondent pays a monetary penalty pursuant to
22 Section 10175.2 of the Business and Professions Code at the rate
23 of \$50.00 per day for each day of the suspension for a total
24 monetary penalty of \$1,500.
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1 2. Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 3. No further cause for disciplinary action against
7 the real estate license of Respondent occurs within two (2) years
8 from the effective date of the Decision in this matter.

9 4. If Respondent fails to pay the monetary penalty in
10 accordance with the terms of the Decision, the Commissioner may,
11 without a hearing, order the immediate execution of all or any
12 part of the stayed suspension, in which event the Respondent
13 shall not be entitled to any repayment nor credit, prorated or
14 otherwise, for money paid to the Department under the terms of
15 this Decision.

16 5. If Respondent pays the monetary penalty and if no
17 further cause for disciplinary action against the real estate
18 license of Respondent occurs within two (2) years from the
19 effective date of the Decision, the stay hereby granted shall
20 become permanent.

21 6. The remaining thirty (30) days of the sixty (60)
22 day suspension shall be stayed for two (2) years upon the
23 following terms and conditions:
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1 (a) Respondent 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 (b) 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 II. All licenses and licensing rights of Respondent
13 JOSE REYNOSO JIMENEZ are indefinitely suspended unless or until
14 Respondent provides proof satisfactory to the Commissioner, of
15 having taken and successfully completed the continuing education
16 course on trust fund accounting and handling specified in
17 paragraph (3) of subdivision (a) of Section 10170.5 of the
18 Business and Professions Code. Proof of satisfaction of this
19 requirement includes evidence that respondent has successfully
20 completed the trust fund account and handling continuing
21 education course within 120 days prior to the effective date of
22 the Decision in this matter.

24 III. Pursuant to Section 10148 of the Business and
25 Professions Code, Respondent JOSE REYNOSO JIMENEZ shall pay the
26 Commissioner's reasonable cost for (a) the audit which led to
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1 this disciplinary action (b) a subsequent audit to determine if
2 Respondents are now in compliance with the Real Estate Law. The
3 cost of the audit which led to this disciplinary action is
4 \$8,647.20. In calculating the amount of the Commissioner's
5 reasonable cost, the Commissioner may use the estimated average
6 hourly salary for all persons performing audits of real estate
7 brokers, and shall include an allocation for travel time to and
8 from the auditor's place of work. Said amount for the prior and
9 subsequent audits shall not exceed \$17,294.40.

10 Respondents shall pay such cost within 60 days of
11 receiving an invoice from the Commissioner detailing the
12 activities performed during the audit and the amount of time
13 spent performing those activities.

14 The Commissioner may suspend the license of Respondents
15 pending a hearing held in accordance with Section 11500, et seq.,
16 of the Government Code, if payment is not timely made as provided
17 for herein, or as provided for in a subsequent agreement between
18 the Respondent and the Commissioner. The suspension shall remain
19 in effect until payment is made in full or until Respondents
20 enter into an agreement satisfactory to the Commissioner to
21 provide for payment, or until a decision providing otherwise is
22 adopted following a hearing held pursuant to this condition.
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26 DATED: 9-21-07

EML
27 ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

* * *

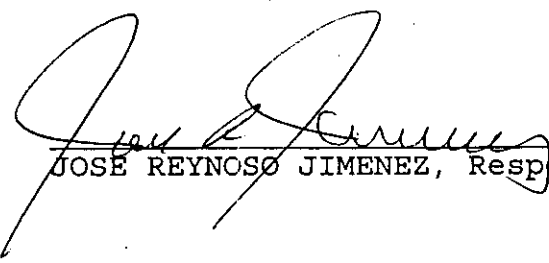
EXECUTION OF THE STIPULATION

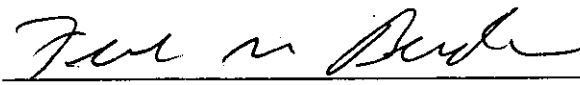
I have read the Stipulation and discussed with my counsel. Its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondent (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Additionally, Respondent shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondent agrees, acknowledges and understands that by electronically sending to the Department a facsimile copy of Respondent's actual signature as it appears on

1 the stipulation, that receipt of the facsimile copy by the
2 Department shall be as binding on Respondent as if the Department
3 had received the original signed stipulation.

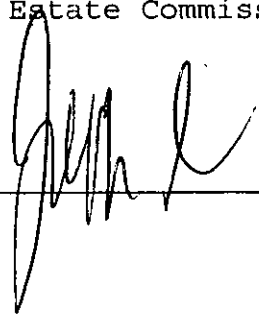
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5 DATED: 9-28-07 
6 JOSE REYNOSO JIMENEZ, Respondent

7
8 DATED: 9-27-07 
9 FRANK M. BUDA, ESQ.
10 Attorney for Respondent
11 Approved as to form

12 * * *

13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision as to Respondent JOSE REYNOSO JIMENEZ and
15 shall become effective at 12 o'clock noon on
16 December 28, 2007.

17 IT IS SO ORDERED 11-13, 2007.

18
19 JEFF DAVI
20 Real Estate Commissioner
21 
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Handwritten signature/initials

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

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JAN 18 2007
DEPARTMENT OF REAL ESTATE

By *K. Kederholt*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-33637 LA
12	JOSE REYNOSO JIMENEZ, dba)	<u>A C C U S A T I O N</u>
13	Calmex Realty, Westland)	
14	Services Company, and)	
15	California Realty,)	
	Respondent.)	

16 The Complainant, Janice Waddell, a Deputy Real Estate
17 Commissioner of the State of California, acting in her official
18 capacity, for cause of Accusation against JOSE REYNOSO JIMENEZ
19 dba Calmex Realty, Westland Services Company, and California
20 Realty, is informed and alleges as follows:

1.

23 All references to the "Code" are to the California
24 Business and Professions Code and all references to "Regulations"
25 are to Title 10, Chapter 6, California Code of Regulations.

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LICENSE HISTORY

2.

At all times mentioned, JOSE REYNOSO JIMENEZ ("JIMENEZ"), was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On March 27, 1986, JIMENEZ was originally licensed as a real estate broker. JIMENEZ is also the designated broker officer of Reyno Inc. and Cascade Northern Mortgage Inc.

BROKERAGE

3.

At all times mentioned, in the City of Montebello, County of Los Angeles, JIMENEZ acted as real estate broker and conducted licensed activities within the meaning of:

A. Code Section 10131(a). JIMENEZ operated a residential resale brokerage dba Calmex Realty and California Realty.

B. Code Section 10131(d). JIMENEZ operated a mortgage and loan brokerage dba Westland Services Company, Reyno Inc. and Cascade Northern Mortgage Inc. Said activity included soliciting borrowers and lenders and negotiating the terms of loans secured by real property between borrowers and third party lenders for or in expectation of compensation; and

C. Conducted broker-controlled escrows through his escrow division, under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where

1 the broker is a party and where the broker is performing acts for
2 which a real estate license is required.

3 AUDIT

4 4.

5 On April 7, 2006, the Department completed an audit
6 examination of the books and records of JIMENEZ, pertaining to
7 the residential resales, mortgage loan and broker-controlled
8 escrow activities described in Paragraph 3, that require a real
9 estate license. The audit examination covered a period of time
10 beginning on April 1, 2004 through January 31, 2006. The audit
11 examination revealed violations of the Code and the Regulations
12 as set forth below, and more fully discussed in Audit Report LA
13 050185, LA 050265 and LA 050266 and the exhibits and workpapers
14 attached to said audit report.

15 5.

16 At all times mentioned, in connection with the
17 activities described in Paragraph 4, JIMENEZ accepted or received
18 funds in trust (trust funds) from or on behalf of buyers, sellers
19 and borrowers. Thereafter JIMENEZ made disposition of such
20 funds. JIMENEZ maintained the following trust account into which
21 he deposited certain of these funds:
22

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24 "Jose Reynoso Jimenez dba Westland Services Company Escrow
25 division Trust Account (VE7T)
26 Account No. 0001-747096
Mellon 1st Business Bank
Los Angeles, California ("escrow trust account")
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2 With respect to the licensed activities referred to in
3 Paragraphs 3 and 5, and the audit examination including the
4 exhibits and workpapers referred to in Paragraph 4, it is alleged
5 that JIMENEZ:

6 (a) Employed or compensated Robert Tom dba World
7 Mortgage Lenders, who was not licensed by the Department as a
8 real estate broker or as a real estate salesperson employed by a
9 real estate broker, for performing acts for which a real estate
10 license is required, including soliciting and negotiating
11 mortgage loans, in violation of Code Section 10137.

12 (b) Failed to place funds accepted on behalf of buyers
13 and sellers, into the hands of the owner of the funds, into a
14 neutral escrow depository or into a trust fund account in the
15 name of the broker as trustee at a bank or other financial
16 institution not later than three business days following receipt
17 of the funds by the broker or by the broker's salesperson, in
18 violation of Code Section 10145 of the Code and Regulations
19 2832(d), 2950(d) and 2951.

20 (c) Failed to maintain an adequate control record in
21 the form of a columnar record in chronological order of trust
22 funds received and disbursed from the escrow trust account, as
23 required by Code Section 10145 and Regulation 2831, 2950(d) and
24 2951.

25 (d) Failed to maintain a separate record for each
26 beneficiary or transaction, thereby failing to account for all
27

1 trust funds received, deposited and disbursed for the collection
2 trust account, as required by Code Section 10145 and Regulation
3 2831.1, 2950(d) and 2951.

4 (e) (1) Failed to provide, maintain or retain a true and
5 correct copy of a Department of Real Estate approved Mortgage
6 Loan Disclosure Statement signed by the broker for borrowers
7 Annette Alter, Matthew Colapinto and Oliver Arias, in violation
8 of Code Section 10240 and Regulation 2840.

9 (e) (2) Failed to disclose the yield spread premium from
10 lenders on the approved Mortgage Loan Disclosure Statement for
11 borrower Matthew Colapinto, in violation of Code Section 10240
12 and Regulation 2840.

13 (f) Used the fictitious names of "Westland Mortgage
14 Services", without holding a license bearing said fictitious
15 business name, in violation of Code Section 10159.5 and
16 Regulation 2731.

17 (g) Failed to maintain a signed broker salesperson
18 agreement with real estate licensees Shirley Ann Jones, Blanca
19 Rosa Rodriguez and Cynthia L. Sharp in violation of Section 2726
20 of the Regulations;

21 (h) Failed to exercise reasonable supervision over the
22 trust fund handling procedures, payment of unlawful compensation
23 in the form of commissions to Robert Tom, an unlicensed person,
24 Mortgage Loan Disclosure Statement procedure and content, and
25
26
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1 broker-salesperson contract administration, in violation of Code
2 Section 10177(h) and Regulation 2725.

3 7.

4 The conduct of Respondent JIMENEZ, described in
5 Paragraph 6, violated the Code and the Regulations as set forth:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
6(a)	Code Section 10137
6(b)	Code Section 10145 and Regulations 2832(d) 2950(d) and 2951
6(c)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
6(d)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
6(e)	Code Section 10240 and Regulation 2840 and 2840
6(f)	Code Section 10159.5 and Regulation 2831 2731
6(g)	Regulation 2726

6(h)

Code Section 10177(h) and Regulation

2725

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of JOSE REYNOSO JIMENEZ under the provisions of Code Sections 10137, 10177(d) and/or 10177(g).

NEGLIGENCE

8.

The overall conduct of JOSE REYNOSO JIMENEZ 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 JOSE REYNOSO JIMENEZ pursuant to Code Section 10177(g).

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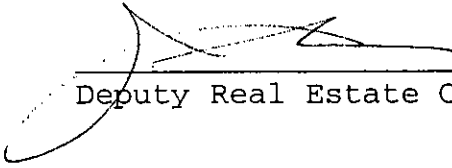
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondent JOSE
5 REYNOSO JIMENEZ, under the Real Estate Law (Part 1 of Division 4
6 of the Business and Professions Code) and for such other and
7 further relief including restitution as may be proper under other
8 applicable provisions of law.

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10 Dated at Los Angeles, California

11 this

12 January 2007

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14 _____
15 Deputy Real Estate Commissioner
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25 cc: Jose Reynoso Jimenez
26 Janice Waddell
27 Sacto
Audits - Elenita R. Morales