

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982 (office)

**FILED**

NOV - 6 2008

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Accusation of )  
12 )  
13 HERITAGE FINANCIAL BANCORP, )  
14 doing business as LS Gateway )  
15 Mortgage Inc.; and HOA XUAN CAO, )  
16 individually and as designated )  
17 officer of Heritage Financial )  
18 Bancorp, )  
19 Respondents. )

No. H-34666 LA

STIPULATION  
AND  
AGREEMENT

18 It is hereby stipulated by and between Respondents  
19 HERITAGE FINANCIAL BANCORP and HOA XUAN CAO, individually and as  
20 designated officer of Heritage Financial Bancorp (sometimes  
21 collectively referred to as "Respondents"), and the Complainant,  
22 acting by and through Elliott Mac Lennan, Counsel for the  
23 Department of Real Estate, as follows for the purpose of settling  
24 and disposing of the Accusation ("Accusation") filed on January  
25 23, 2008, in this matter:

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

8 2. Respondents have received, read and understand the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department of Real Estate in this  
11 proceeding.

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

10                   5. This Stipulation is made for the purpose of  
11 reaching an agreed disposition of this proceeding and is  
12 expressly limited to this proceeding and any other proceeding or  
13 case in which the Department of Real Estate ("Department"), the  
14 state or federal government, or any agency of this state, another  
15 state or federal government is involved.

16                   6. It is understood by the parties that the Real  
17 Estate Commissioner may adopt this Stipulation as his Decision in  
18 this matter thereby imposing the penalty and sanctions on  
19 Respondents' real estate licenses and license rights as set forth  
20 in the "Order" herein below. In the event that the Commissioner  
21 in his discretion does not adopt the Stipulation, it shall be  
22 void and of no effect and Respondents shall retain the right to a  
23 hearing and proceeding on the Accusation under the provisions of  
24 the APA and shall not be bound by any stipulation or waiver made  
25 herein.  
26  
27

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 matters which were not specifically  
6 alleged to be causes for Accusation in this proceeding but do  
7 constitute a bar, estoppel and merger as to any allegations  
8 actually contained in the Accusations against Respondent herein.

9           8. Respondents understand that by agreeing to this  
10 Stipulation, Respondents agree to pay, pursuant to Business and  
11 Professions Code Section 10148, the cost of the audit. The  
12 amount of said cost for the audit is \$4,753.25.

13           9. Respondents have received, read, and understand the  
14 "Notice Concerning Costs of Subsequent Audit". Respondents  
15 further understand that by agreeing to this Stipulation, the  
16 findings set forth below in the Determination of Issues become  
17 final, and the Commissioner may charge Respondents for the cost  
18 of any subsequent audit conducted pursuant to Business and  
19 Professions Code Section 10148 to determine if the violations  
20 have been corrected. The maximum cost of the subsequent audit  
21 will not exceed \$4,753.25.

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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:  
3

I.

4  
5 The conduct, acts or omissions of HERITAGE FINANCIAL  
6 BANCORP and HOA XUAN CAO, as described in Paragraph 4, above, are  
7 in violation of Sections 10145, 10161.8, 10163, 10235.5 and 10240  
8 of the Business and Professions Code ("Code") and Sections 2715,  
9 2731, 2847.3, 2831, 2831.1 and 2832(a) of Title 10, Chapter 6 of  
10 the California Code of Regulations ("Regulations") and is a basis  
11 for discipline of Respondents' license and license rights as  
12 violation of the Real Estate Law pursuant to Code Sections  
13 10176(g), 10177(d) and 10177(g).  
14

II.

15  
16 The conduct, acts or omissions of HOA XUAN CAO, as  
17 described in Paragraph 4, above, constitutes a failure to keep  
18 HERITAGE FINANCIAL BANCORP in compliance with the Real Estate Law  
19 during the time that he was the officer designated by a corporate  
20 broker licensee in violation of Section 10159.2 of the Code.  
21 This conduct is a basis for the suspension or revocation of  
22 Respondent's license pursuant to Code Section 10177(h).  
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ORDER

1 WHEREFORE, THE FOLLOWING ORDER is hereby made:  
2

3 I. All license and licensing rights of Respondent  
4 HERITAGE FINANCIAL BANCORP are revoked.

5 II. All licenses and licensing rights of Respondent  
6 HOA XUAN CAO under the Real Estate Law are suspended for a period  
7 of sixty (60) days from the effective date of this Decision.

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

11 1. Respondent pays a monetary penalty pursuant to  
12 Section 10175.2 of the Business and Professions Code at the rate  
13 of \$50.00 per day for each day of the suspension for a total  
14 monetary penalty of \$1,500.

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

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

24 4. If Respondent fails to pay the monetary penalty in  
25 accordance with the terms of the Decision, the Commissioner may,  
26 without a hearing, order the immediate execution of all or any  
27

1 part of the stayed suspension, in which event the Respondent  
2 shall not be entitled to any repayment nor credit, prorated or  
3 otherwise, for money paid to the Department under the terms of  
4 this Decision.

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

10 B. The remaining thirty (30) days of the sixty (60)  
11 day suspension shall be stayed for two (2) years upon the  
12 following terms and conditions:

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

16 2. That no final subsequent determination be made  
17 after hearing or upon stipulation, that cause for disciplinary  
18 action occurred within two (2) years of the effective date of  
19 this Decision. Should such a determination be made, the  
20 Commissioner may, in his discretion, vacate and set aside the  
21 stay order and reimpose all or a portion of the stayed  
22 suspension. Should no such determination be made, the stay  
23 imposed herein shall become permanent.  
24

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1                    III. All licenses and licensing rights of Respondent

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

12                    IV. Pursuant to Section 10148 of the Business and

13 Professions Code, Respondent HOA XUAN CAO shall pay the  
14 Commissioner's reasonable cost for (a) the underlying audit (b) a  
15 subsequent audit to determine if Respondent, as successor in  
16 interest to auditee HERITAGE FINANCIAL BANCORP, is now in  
17 compliance with the Real Estate Law. The cost of the audit which  
18 led to this disciplinary action is \$4,753.25. In calculating the  
19 amount of the Commissioner's reasonable cost, the Commissioner  
20 may use the estimated average hourly salary for all persons  
21 performing audits of real estate brokers, and shall include an  
22 allocation for travel time to and from the auditor's place of  
23 work. Said amount for the prior and subsequent audits shall not  
24 exceed \$9,506.50.

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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: 8-21-68

15 E L L  
16 ELLIOTT MAC LENNAN, Counsel for  
17 the Department of Real Estate

18 \* \* \*

19 EXECUTION OF THE STIPULATION

20 We have read the Stipulation. Its terms are understood  
21 by us and are agreeable and acceptable to us. We understand that  
22 we are waiving rights given to us by the California  
23 Administrative Procedure Act (including but not limited to  
24 Sections 11506, 11508, 11509 and 11513 of the Government Code),  
25 and we willingly, intelligently and voluntarily waive those  
26 rights, including the right of requiring the Commissioner to  
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1 prove the allegations in the Accusation at a hearing at which we  
2 would have the right to cross-examine witnesses against us and to  
3 present evidence in defense and mitigation of the charges.

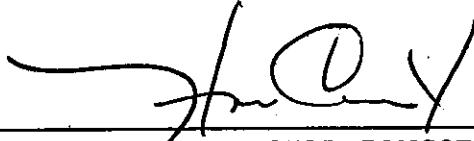
4 MAILING AND FACSIMILE

5 Respondents (1) shall mail the original signed  
6 signature page of the stipulation herein to Elliott Mac Lennan:  
7 Attention: Legal Section, Department of Real Estate, 320 W.  
8 Fourth St., Suite 350, Los Angeles, California 90013-1105.

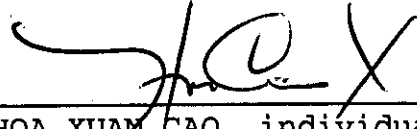
9 Additionally, Respondents shall also (2) facsimile a copy of  
10 signed signature page, to the Department at the following  
11 telephone/fax number: (213) 576-6917, Attention: Elliott Mac  
12 Lennan.

13 A facsimile constitutes acceptance and approval of the  
14 terms and conditions of this stipulation. Respondents agree,  
15 acknowledge and understand that by electronically sending to the  
16 Department a facsimile copy of Respondents' actual signature as  
17 it appears on the stipulation that receipt of the facsimile copy  
18 by the Department shall be as binding on Respondents as if the  
19 Department had received the original signed stipulation.  
20

21  
22 DATED: 9/15/08

  
HERITAGE FINANCIAL BANCORP, a  
corporate real estate broker,  
BY: HOA XUAN CAO D.O., Respondent

23  
24  
25 DATED: 9/15/08

  
HOA XUAN CAO, individually and as  
designated officer of Heritage  
Financial Bancorp, Respondent

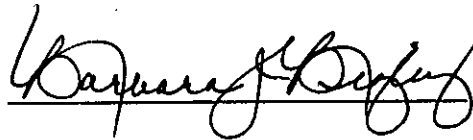
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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondents HERITAGE FINANCIAL  
BANCORP and HOA XUAN CAO, individually and as designated officer  
of Heritage Financial Bancorp, and shall become effective at 12  
o'clock noon on December 5, 2008.

IT IS SO ORDERED 10/31, 2008.

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

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)  
7

**FILED**

JAN 23 2008

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 )  
12 HERITAGE FINANCIAL BANCORP doing )  
13 business as LS Gateway Mortgage )  
14 Inc. and HOA XUAN CAO, )  
15 individually and as )  
16 designated officer of )  
17 Heritage Financial Bancorp, )  
18 Respondents. )

19 No. H-34666 LA  
20 A C C U S A T I O N

18 The Complainant, Robin Trujillo, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of Accusation  
20 against HERITAGE FINANCIAL BANCORP dba LS Gateway Mortgage Inc.  
21 and HOA XUAN CAO, individually and as designated officer of  
22 Heritage Financial Bancorp, alleges as follows:

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1.

1 The Complainant, Robin Trujillo, acting in her official  
2 capacity as a Deputy Real Estate Commissioner of the State of  
3 California, makes this Accusation against HERITAGE FINANCIAL  
4 BANCORP and HOA XUAN CAO.  
5

2.

6 All references to the "Code" are to the California  
7 Business and Professions Code and all references to "Regulations"  
8 are to Title 10, Chapter 6, California Code of Regulations.  
9

10 LICENSE HISTORY  
11

3.

12 A. At all times mentioned, HERITAGE FINANCIAL BANCORP  
13 ("HERITAGE") was licensed or had license rights issued by the  
14 Department of Real Estate ("Department") as a real estate broker.  
15 On June 18, 2002, HERITAGE was originally licensed as a real  
16 estate broker. On June 17, 2006, HERITAGE's broker license  
17 expired. Pursuant to Code Section 10201, HERITAGE retains  
18 license rights until June 16, 2008.  
19

20 B. At all times mentioned, HOA XUAN CAO ("CAO") was  
21 licensed or had license rights issued by the Department as a real  
22 estate broker. On September 2, 1998, CAO was originally licensed  
23 as a real estate salesperson. On March 7, 2000, CAO was  
24 originally licensed as a real estate broker. On June 18, 2002,  
25 CAO was licensed as the designated officer of HERITAGE.

26 C. At all times material herein, HERITAGE was licensed  
27 by the Department as a corporate real estate broker by and

1 through CAO, as the designated officer and broker responsible,  
2 pursuant to Code Section 10159.2 of the Business and Professions  
3 Code for supervising the activities requiring a real estate  
4 license conducted on behalf HERITAGE of by HERITAGE's officers,  
5 agents and employees, including CAO.

6 BROKERAGE

7 4.

8 At all times mentioned, in the City of Westminister,  
9 County of Los Angeles, HERITAGE acted as a real estate broker and  
10 conducted licensed activities within the meaning of:

11 A. Code Section 10131(d). HERITAGE operated a  
12 residential resale brokerage; and

13 B. Code Section 10131(d). HERITAGE operated a  
14 mortgage and loan brokerage dba LS Gateway Mortgage Inc.

15 AUDIT

16 5.

17 On March 30, 2007, the Department completed an audit  
18 examination of the books and records of HERITAGE pertaining to  
19 the residential resale and mortgage loan activities described in  
20 Paragraph 4, that require a real estate license. The audit  
21 examination covered a period of time beginning on June 1, 2005 to  
22 June 17, 2006. The audit examination revealed violations of the  
23 Code and the Regulations as set forth in the following  
24 paragraphs, and more fully set forth in Audit Reports LA 060068  
25 and LA 060170 and the exhibits and workpapers attached thereto.  
26  
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TRUST ACCOUNTS

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, HERITAGE did not maintain a trust account during the audit period; however, HERITAGE accepted or received funds including funds in trust (hereinafter "trust funds"), in the form of credit report fees, from or on behalf of actual or prospective parties to transactions including buyers, sellers, borrowers and escrow holders handled by HERITAGE and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by HERITAGE in the bank account as follows:

"HERITAGE FINANCIAL BANCORP dba L.S. Gateway Mortgage Inc.  
21771-06962"  
Bank of America  
Westminister, California ("general account")

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents HERITAGE and CAO, acted in violation of the Code and the Regulations in that they:

(a) Failed to notify the Department of the employment of twenty salespersons, John Bonner, Laura Nguyen, Linh Thuy Nguyen, Julie Hoang, Jamie Nguyen, Hoan Luong, Ly Van Tran, Tin,

1 Vo, Lan M. Dinh, Long N. Truong, Shelia Ngoc Le, Kenny Phan, Danh  
2 Nguyen, Peter Van, John Nguyen, Michael Van On, Don Bui, Tranh  
3 Tran, Nga Ngoc Mao, Theresa Nguyen and Tram Pham, as required by  
4 Code Section 10161.8 and Regulation 2752.

5 (b) Used the fictitious name "LS Gateway & Mortgage  
6 Inc." to conduct licensed activities, without holding a license  
7 bearing the fictitious business name, in violation of Code  
8 Section 10159.5 and Regulation 2731.

9 (c) Conducted licensed activities, to wit, residential  
10 resale and mortgage loan activities at three branch offices prior  
11 to obtaining branch office licenses from the Department, in  
12 violation of Code Section 10163 and Regulation 2715: 8238 Garvey  
13 Ave., Rosemead, 1911 San Fernando Road, Los Angeles, and 766 N.  
14 Waterman Ave., San Bernardino.

15 (d) In the advertisement in the February 24, 2006  
16 Weekly Magazine "Moi", HERITAGE and CAO failed to disclose that  
17 HERITAGE was a real estate broker licensed by the Department, in  
18 violation of Code Section 10235.5 and Regulation 2847.3.

19 (e) Mixed and commingled trust funds and personal funds  
20 by depositing credit report fees received from escrow into  
21 HERITAGES's general account, in violation of Code Section 10145  
22 and 10176(e) and Regulation 2832(a). Credit report fees for  
23 borrowers Marco Arroyo, Socorro Rosas, Matilde Rodriguez,  
24 Christopher Vo and Ezequiel Quezada.  
25  
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1 (f) Failed to maintain a control record in the form of  
2 a columnar record in chronological order of all trust funds  
3 received, deposited and disbursed including a record of credit  
4 report fees received and deposited into HERITAGE's general  
5 account, in violation of Code Section 10145 and Regulation 2831.

6 (g) Failed to maintain a separate record for each  
7 beneficiary or transaction, thereby failing to account for all  
8 trust funds received, as required by Code Section 10145 and  
9 Regulation 2831.1

10 (h) Permitted and/or caused the disbursement of trust  
11 funds on the representation that the amount was needed to pay for  
12 a credit report fees, which payment exceeded the actual cost of  
13 the service. Respondents did not disclose this "mark-up" to  
14 borrower-beneficiaries Marco Arroyo, Socorro Rosas, Matilde  
15 Rodriguez, Christopher Vo and Ezequiel Quezada, who was charged  
16 \$27.50 to \$40 more than the invoiced cost, in violation of Code  
17 Sections 10176(a) and 10176(g).

18 (i) Failed to retain a true and correct copy of a  
19 Department of Real Estate approved California Mortgage Loan  
20 Disclosure Statement signed by the broker for borrowers Marco  
21 Arroyo, Socorro Rosas, Matilde Rodriguez, Christopher Vo and  
22 Ezequiel Quezada, as required by Code Section 10240 and  
23 Regulation 2840. HERITAGE and CAO failed to provide Mortgage  
24 Loan Disclosure Statements to the aforesaid borrowers, whom were  
25 provided only with incomplete Good Faith Estimates.  
26  
27

8.

The conduct of Respondents HERITAGE and CAO, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10161.8 and Regulation 2752
7(b)	Code Section 10159.5 and Regulation 2731
7(c)	Code Section 10163 and Regulation 2715
7(d)	Code Section 10235.5 and Regulation 2847.3
7(e)	Code Sections 10145 and 10176(e) and Regulation 2832(a)
7(f)	Code Section 10145 and Regulation 2831
7(g)	Code Section 10145 and Regulation 2831.1

1                                 7(h)                                 Code Sections 10176(a) and 10176(g)

2  
3  
4                                 7(i)                                 Code Section 10240 and Regulation

5 The foregoing violations constitutes cause for the suspension or  
6 revocation of the real estate license and license rights of  
7 HERITAGE and CAO under the provisions of Code Sections 10176(a),  
8 10176(g), 10177(d) and/or 10177(g).

9   NEGLIGENCE

10   9.

11                                 The overall conduct of Respondents HERITAGE and CAO  
12 constitutes negligence. This conduct and violation are cause for  
13 the suspension or revocation of the real estate license and  
14 license rights of said pursuant to Code Section 10177(g).

15   LACK OF SUPERVISION AND COMPLIANCE

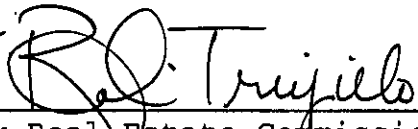
16   10.

17                                 The overall conduct of Respondent CAO constitutes a  
18 failure on his part, as officer designated by a corporate broker  
19 licensee, to exercise the reasonable supervision and control over  
20 the licensed activities of HERITAGE as required by Code Section  
21 10159.2, and to keep HERITAGE in compliance with the Real Estate  
22 Law, and is cause for the suspension or revocation of the real  
23 estate license and license rights of CAO pursuant to the  
24 provisions of Code Sections 10177(d), 10177(g), 10177(h).  
25

26         ///  
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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 Respondents  
5 HERITAGE FINANCIAL BANCORP and HOA XUAN CAO, under the Real  
6 Estate Law (Part 1 of Division 4 of the Business and Professions  
7 Code) and for such other and further relief as may be proper  
8 under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 15 day of January 2008   
11 Deputy Real Estate Commissioner

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23 cc: Heritage Financial Bancorp  
24 c/o Hoa Xuan Cao D.O.  
25 Robin Trujillo  
26 Sacto  
27 Audits - Dorcas Cheng