



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

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

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

22           4. This Stipulation is based on the factual  
23 allegations contained in the Accusation. In the interest of  
24 expedience and economy, Respondents choose not to contest these  
25 allegations, but to remain silent and understand that, as a  
26 result thereof, these factual allegations, without being admitted  
27

1 or denied, will serve as a prima facie basis for the disciplinary  
2 action stipulated to herein. The Real Estate Commissioner shall  
3 not be required to provide further evidence to prove said factual  
4 allegations.

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

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

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

1 alleged to be causes for Accusation in this proceeding but do  
2 constitute a bar, estoppel and merger as to any allegations  
3 actually contained in the Accusations against Respondent herein.

4 8. Respondents understand that by agreeing to this  
5 Stipulation, Respondents agree to pay, pursuant to Business and  
6 Professions Code Section 10148, the cost of the audit. The  
7 amount of said cost for the audit is \$9,592.05.

8 9. Respondents have received, read, and understand the  
9 "Notice Concerning Costs of Subsequent Audit". Respondents  
10 further understand that by agreeing to this Stipulation, the  
11 findings set forth below in the Determination of Issues become  
12 final, and the Commissioner may charge Respondents for the cost  
13 of any subsequent audit conducted pursuant to Business and  
14 Professions Code Section 10148 to determine if the violations  
15 have been corrected. The maximum cost of the subsequent audit  
16 will not exceed \$9,592.05.  
17

#### 18 DETERMINATION OF ISSUES

19 By reason of the foregoing, it is stipulated and agreed  
20 that the following determination of issues shall be made:

#### 21 I.

22 The conduct, acts or omissions of CUEVA & ASSOCIATES  
23 INC. and JUAN ANTONIO CUEVA, as described in Paragraph 4, above,  
24 are in violation of Sections 10145, 10236.4 and 10240 of the  
25 Business and Professions Code ("Code") and Sections 2831, 2831.1,  
26 2831.2, 2832(a), 2950(d), 2950(g) and 2951 of Title 10, Chapter 6  
27

1 of the California Code of Regulations ("Regulations") and is a  
2 basis for discipline of Respondents' license and license rights  
3 as violation of the Real Estate Law pursuant to Code Sections  
4 10177(d) and 10177(g).

5 II.

6 The conduct, acts or omissions of JUAN ANTONIO CUEVA,  
7 as described in Paragraph 4, above, constitutes a failure to keep  
8 Cueva & Associates Inc. in compliance with the Real Estate Law  
9 during the time that he was the officer designated by a corporate  
10 broker licensee in violation of Section 10159.2 of the Code.  
11 This conduct is a basis for the suspension or revocation of  
12 Respondent's license pursuant to Code Section 10177(h).

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16 A. The license and licensing rights of Respondents  
17 CUEVA & ASSOCIATES INC. and JUAN ANTONIO CUEVA, under the Real  
18 Estate Law, are suspended for a period of sixty (60) days from  
19 the effective date of this Decision; provided, however, that  
20 thirty (30) days of said suspension shall be stayed for two (2)  
21 years upon the following terms and conditions:

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

25 2. That no final subsequent determination be made,  
26  
27

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

8 B. The initial thirty (30) day portion of said sixty  
9 (60) day suspension shall commence on the effective date of this  
10 Decision; provided, however, that if Respondents petition, said  
11 suspension shall be stayed upon condition that:

12 1. Pursuant to Section 10175.2 of the Business and  
13 Professions Code, Respondents shall pay a monetary penalty of  
14 Fifty Dollars (\$50.00) per day or One Thousand Five Hundred  
15 Dollars (\$1,500) each, totaling Three Thousand Dollars (\$3,000)  
16 for both Respondents.

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

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

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

7 5. If Respondents pay the monetary penalty and provide  
8 evidence as required, above, and if no further cause for  
9 disciplinary action against the real estate licenses of  
10 Respondents occurs within two (2) years from the effective date  
11 of the Decision, the stay hereby granted shall become permanent.

12 II.

13 Pursuant to Section 10148 of the Business and  
14 Professions Code, Respondents CUEVA & ASSOCIATES INC. and JUAN  
15 ANTONIO CUEVA shall pay the Commissioner's reasonable cost for  
16 (a) the audit which led to this disciplinary action (b) a  
17 subsequent audit to determine if Respondents are now in  
18 compliance with the Real Estate Law. The cost of the audit which  
19 led to this disciplinary action is \$9,592.05. In calculating the  
20 amount of the Commissioner's reasonable cost, the Commissioner  
21 may use the estimated average hourly salary for all persons  
22 performing audits of real estate brokers, and shall include an  
23 allocation for travel time to and from the auditor's place of  
24 work. Said amount for the prior and subsequent audits shall not  
25 exceed \$19,184.10.  
26  
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1 Respondents 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 Respondents  
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 Respondents  
11 enter 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 III.

16 All licenses and licensing rights of Respondent JUAN  
17 ANTONIO CUEVA are indefinitely suspended unless or until  
18 Respondent provides proof satisfactory to the Commissioner, of  
19 having taken and successfully completed the continuing education  
20 course on trust fund accounting and handling specified in  
21 paragraph (3) of subdivision (a) of Section 10170.5 of the  
22 Business and Professions Code. Proof of satisfaction of this  
23 requirement includes evidence that respondent has successfully  
24 completed the trust fund account and handling continuing  
25 education course within 120 days prior to the effective date of  
26 the Decision in this matter.  
27



IV.

1  
2 Prior to the effective of the Decision herein,  
3 Respondent JUAN ANTONIO CUEVA shall first provide evidence  
4 satisfactory to the Commissioner that the trust fund deficit set  
5 forth in the Accusation and in Audit Report LA 060278/LA 060333,  
6 in the amount of \$5,804.41, as of February 28, 2007, has been  
7 cured, including the identification of the source of funds used  
8 to cure the deficit.

9  
10  
11 DATED: 7-28-08 EJL  
12 ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

13 \* \* \*

14 EXECUTION OF THE STIPULATION

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

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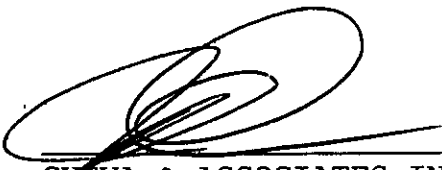
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MAILING AND FACSIMILE

1 Respondents (1) shall mail the original signed  
2 signature page of the stipulation herein to Elliott Mac Lennan:  
3 Attention: Legal Section, Department of Real Estate, 320 W.  
4 Fourth St., Suite 350, Los Angeles, California 90013-1105.  
5 Additionally, Respondents shall also (2) facsimile a copy of  
6 signed signature page, to the Department at the following  
7 telephone/fax number: (213) 576-6917, Attention: Elliott Mac  
8 Lennan.  
9

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

18  
19  
20 DATED: 8-11-08



CUEVA & ASSOCIATES INC., a  
corporate real estate broker,  
BY: JUAN ANTONIO CUEVA D.O.,  
Respondent

21  
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23  
24 DATED: 8-11-08



JUAN ANTONIO CUEVA, individually  
and as designated officer of Cueva  
& Associates Inc., Respondent


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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondents CUEVA & ASSOCIATES INC.  
and JUAN ANTONIO CUEVA, individually and as designated officer of  
Cueva & Associates Inc., and shall become effective at 12 o'clock  
noon on October 13, 2008.

IT IS SO ORDERED 8/17, 2008.

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commissioner

*Leita*

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**

JUN 18 2008

DEPARTMENT OF REAL ESTATE  
BY: *Apnealy*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA  
10

11 \* \* \* \* \*

12 In the Matter of the Accusation of )  
13 CUEVA & ASSOCIATES INC., a )  
14 corporate real estate broker )  
15 doing business as The Real Estate )  
16 Solutions Group; and, )  
17 JUAN ANTONIO CUEVA, individually )  
18 and as designated officer of )  
19 Cueva & Associates Inc. )  
20 Respondents. )

No. H- 35053 LA  
A C C U S A T I O N

21 The Complainant, Robin Trujillo, a Deputy Real Estate  
22 Commissioner of the State of California, for cause of Accusation  
23 against CUEVA & ASSOCIATES INC. dba The Real Estate Solutions  
24 Group; and JUAN ANTONIO CUEVA, individually and as designated  
25 officer of Cueva & Associates Inc., alleges as follows:

26 1.

27 The Complainant, Robin Trujillo, acting in her official  
capacity as a Deputy Real Estate Commissioner of the State of

1 California, makes this Accusation against CUEVA & ASSOCIATES INC.  
2 and JUAN ANTONIO CUEVA.

3 2.

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

7 LICENSE HISTORY

8 3.

9 A. CUEVA & ASSOCIATES INC. ("C&A") and JUAN ANTONIO  
10 CUEVA ("CUEVA"), individually and as designated officer of said  
11 corporation (hereinafter sometimes referred to as "Respondents")  
12 are presently licensed and/or have license rights under the Real  
13 Estate Law (Part 1 of Division 4 of the Business and Professions  
14 Code) (hereinafter Code).

15 B. C&A was licensed as a real estate broker effective  
16 June 12, 2002 with CUEVA as its designated broker-officer.

17 C. CUEVA was licensed as a real estate broker  
18 effective September 12, 2001; and

19 D. At all times material herein, C&A was licensed by  
20 the Department as a corporate real estate broker by and through  
21 CUEVA, as the designated officer and broker responsible, pursuant  
22 to Code Section 10159.2 of the Business and Professions Code for  
23 supervising the activities requiring a real estate license  
24 conducted on behalf C&A of by C&A's officers, agents and  
25 employees, including CUEVA.

26 ///

BROKERAGE

CUEVA & ASSOCIATES INC.

4.

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

A. Code Section 10131(d).. C&A operated a mortgage and loan brokerage dba The Real Estate Solutions Group. C&A engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation; and

B. In addition, C&A conducted broker-controlled escrows through its 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 the broker is a party and where the broker is performing acts for which a real estate license is required.

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AUDIT EXAMINATION

CUEVA & ASSOCIATES INC.

5.

On November 28, 2007, the Department completed an audit examination of the books and records of C&A pertaining to the mortgage loan and broker-escrow activities described in Paragraph 4 that require a real estate license. The audit examination covered a period of time beginning on January 1, 2005 to February 28, 2007. 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 060278 and LA 060333 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNTS

6.

The audit examination described in Paragraph 5 above, determined that, in connection with the activities described in Paragraph 4 above, C&A accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties and principals, including lenders, borrowers, homeowners and escrow holders, for mortgage loan transactions handled by C&A 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 C&A in the bank accounts as follows:

///

1 "Cueva & Associates Inc. dba The Real Estate Solutions Group  
Escrow Trust Account  
Account No. 1892385079"  
2 Comerica Bank  
3 El Segundo, CA 90245-4537

4 (T/A #1 escrow trust account)

5  
6 "Cueva & Associates Trust Account  
Account No. 1892394279"  
7 Comerica Bank  
8 El Segundo, CA 90245-4537

9 (T/A #2 escrow trust account) (inactive between January 1, 2006 to  
February 28, 2007)

10 CUEVA & ASSOCIATES INC.

11 VIOLATIONS OF THE REAL ESTATE LAW

12 7.

13 In the course of activities described in Paragraphs 4  
14 and 6, above, and during the examination period described in  
15 Paragraph 5, Respondents C&A and CUEVA, acted in violation of the  
16 Code and the Regulations in that they:

17 (a) Permitted, allowed or caused the disbursement of  
18 trust funds from escrow trust account T/A #2 where the  
19 disbursement of funds reduced the total of aggregate funds in  
20 escrow trust account T/A #2, to an amount which, on February 28,  
21 2007, was \$5,804.41, less than the existing aggregate trust fund  
22 liability of C&A to every principal who was an owner of said  
23 funds, without first obtaining the prior written consent of the  
24 owners of said funds, as required by Code Section 10145 and  
25 Regulations 2832.1, 2950(d), 2950(g) and 2951. On April 18, 2007  
26  
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1 and May 1, 2007, respectively, the shortage to T/A #2 was  
2 partially restored in the amount of \$2,025.58. A shortage of  
3 \$3,778.83 remains due and unrestored.

4 (b) Failed to maintain an adequate control record in  
5 the form of a columnar record in chronological order of all trust  
6 funds received, deposited and disbursed by the escrow trust  
7 accounts, in the form of appraisal fees collected along with  
8 commissions by C&A at the close of escrow, as required by Code  
9 Section 10145 and Regulations 2831, 2950(d) and 2951.

10 (c) Failed to maintain an adequate separate record in  
11 the form of a columnar record in chronological order of all trust  
12 funds received, deposited and disbursed by the escrow trust  
13 accounts, in the form of appraisal fees collected along with  
14 commissions by C&A at the close of escrow, as required by Code  
15 Section 10145 and Regulations 2831.1, 2950(d) and 2951.

16 (d) Failed to place credit report fees collected from  
17 borrowers into a trust account T/A #2 in the name of the broker  
18 as trustee at a bank or other financial institution, in violation  
19 of Code Section 10145 of the Code and Regulations 2832(a),  
20 2950(d) and 2951.

21 (e) Failed to perform a monthly reconciliation of the  
22 balance of all separate beneficiary or transaction records  
23 maintained pursuant to Regulation 2831.1 with the record of all  
24 trust funds received and disbursed by the escrow trust account,  
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1 as required by Code Section 10145 and Regulations 2831.2, 2950(d)  
2 and 2951.

3 (f)(1) Failed to retain a true and correct copy of a  
4 Department of Real Estate approved Mortgage Loan Disclosure  
5 Statement signed by the broker for borrowers David Howard, Laura  
6 Guerrero, Marie Marquez and Walter Jenkins, in violation of Code  
7 Section 10240; and

8 (f)(2) Failed to disclose yield spread premiums from  
9 lenders on the approved Mortgage Loan Disclosure Statement for  
10 the aforesaid borrowers in the total amount of \$23,173.76, in  
11 violation of Code Sections 10176(a), 10176(g), 10240, 10241 and  
12 Regulation 2840; and

13 (g) Failed to display C&A's corporate license number on  
14 borrower David Howard's MLDS, as required by Code Section  
15 10236.4.

16 CUEVA & ASSOCIATES INC.

17 DISCIPLINARY STATUES AND REGULATIONS

18 8.

19 The conduct of Respondents C&A and CUEVA described in  
20 Paragraph 7, above, violated the Code and the Regulations as set  
21 forth below:  
22

23 PARAGRAPH

PROVISIONS VIOLATED

24 7(a)

Code Section 10145 and Regulations  
25 2832.1, 2950(d), 2950(g) and 2951.  
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7(b) Code Section 10145 and Regulations  
2831, 2950(d) and 2951

7(c) Code Section 10145 and Regulations  
2831.1, 2950(d) and 2951

7(d) Code Section 10145 and Regulations  
2832(a), 2950(d) and 2951.

7(e) Code Section 10145 and Regulations  
2831.2, 2950(d) and 2951

7(f) Code Sections 10176(a), 10176(g),  
10240 and 10241 and Regulation 2840

7(g) Code Section 10236.4

The foregoing violations constitute cause for the  
suspension or revocation of the real estate license and license  
rights of C&A and CUEVA under the provisions of Code Sections:

- (a) 10176(a) for substantial misrepresentation
- (b) 10176(g) for undisclosed compensation
- (c) 10177(d) for violation of the real estate law; and
- (d) 10177(g) negligence.

9.

1 The overall conduct of Respondents C&A and CUEVA  
2 constitutes negligence. This conduct and violation are cause for  
3 the suspension or revocation of the real estate license and  
4 license rights of Respondents C&A and CUEVA pursuant to Code  
5 Section 10177(g).  
6

7 10.

8 The overall conduct of Respondent CUEVA constitutes a  
9 failure on his part, as officer designated by a corporate broker  
10 licensee, to exercise the reasonable supervision and control over  
11 the licensed activities of C&A as required by Code Section  
12 10159.2, and to keep C&A in compliance with the Real Estate Law,  
13 and is cause for the suspension or revocation of the real estate  
14 license and license rights of CUEVA pursuant to the provisions of  
15 Code Section 10177(h).  
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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 CUEVA & ASSOCIATES INC. dba The Real Estate Solutions Group, and  
6 JUAN ANTONIO CUEVA, individually and as designated officer of  
7 Cueva & Associates, under the Real Estate Law (Part 1 of Division  
8 4 of the Business and Professions Code) and for such other and  
9 further relief as may be proper under other applicable provisions  
10 of law.

11 Dated at Los Angeles, California

12 this 17 day of June 2008.

13   
14 Robin Trujillo  
15 Deputy Real Estate Commissioner

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24 cc: Cueva & Associates Inc.  
25 c/o Juan Antonio Cueva D.O.  
26 Robin Trujillo  
27 Sacto  
Audits - Darryl M. Thomas