

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

4 Telephone: (213) 576-6982

FILED
MAY 29 2008
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-35138 LA
12 THE REAL ESTATE BANK-) L-2008 090 376
13 A FULL SERVICE REAL ESTATE)
14 AND MORTGAGE CORPORATION,)
15 and JOSE A. BUDET,) STIPULATION AND AGREEMENT
16 individually and as)
17 designated officer of)
18 the corporation,)
19 Respondents.)

20 It is hereby stipulated by and between JOSE A. BUDET
21 (sometimes referred to as Respondent), and his attorney Frank M.
22 Buda, and the Complainant, acting by and through James R. Peel,
23 Counsel for the Department of Real Estate, as follows for the
24 purpose of settling and disposing of the Accusation filed on
25 July 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 Respondent
3 at a formal hearing on the Accusation, which hearing
4 was to be held in accordance with the provisions of the
5 Administrative Procedure Act ("APA"), shall instead and in place
6 thereof be submitted solely on the basis of the provisions of
7 this Stipulation and Agreement ("Stipulation").

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the
10 Administrative Procedure Act ("APA") and the Accusation filed by
11 the Department of Real Estate in this proceeding.

12 3. On August 15, 2008, Respondent filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that he
17 understands that by withdrawing said Notice of Defense he will
18 thereby waive his right to require the Commissioner to prove the
19 allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that he will waive
21 other rights afforded to him in connection with the hearing,
22 such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondent chooses not to contest these factual allegations, but
5 to remain silent and understands that, as a result thereof,
6 these factual statements, will serve as a prima facie basis for
7 the disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

10 5. This Stipulation and Respondent's decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited
13 to this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department"), the state or federal
15 government, or an agency of this state, another state or the
16 federal government is involved.

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

13 The conduct, acts and/or omissions of Respondent JOSE
14 A. BUDET, as set forth in the Accusation, constitute cause for
15 the suspension or revocation of all of the real estate licenses
16 and license rights of Respondent under the provisions of Section
17 10177(g) of the Business and Professions Code ("Code").
18

19 ORDER

20 All licenses and licensing rights of Respondent JOSE
21 A. BUDET under the Real Estate Law are suspended for a period of
22 forty five (45) days from the effective date of this Decision;
23 provided, however, that thirty (30) days of said suspension
24 shall be stayed for two (2) years upon the following terms and
25 conditions:
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1 1. 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 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 Respondent petitions,
13 the remaining fifteen (15) days of said forty five (45) day
14 suspension shall be stayed upon condition that:

15 a. Respondent pays a monetary penalty pursuant to
16 Section 10175.2 of the Business and Professions Code of \$500.

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

22 c. No further cause for disciplinary action
23 against the real estate licenses of Respondent occurs within two
24 (2) years from the effective date of the Decision in this
25 matter.
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1 d. If Respondent fails to pay the monetary
2 penalty in accordance with the terms and conditions of the
3 Decision, the Commissioner may, without a hearing, order the
4 immediate execution of all or any part of the stayed suspension
5 in which event the Respondent shall not be entitled to any
6 repayment nor credit, prorated or otherwise, for money paid to
7 the Department under the terms of this Decision.

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

13 4. Respondent JOSE A. BUDET shall, within six
14 months from the effective date of this Decision, take and pass
15 the Professional Responsibility Examination administered by the
16 Department including the payment of the appropriate examination
17 fee. If Respondent fails to satisfy this condition, the
18 Commissioner may order suspension of Respondent's licenses until
19 Respondent passes the examination.
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23 DATED: April 21, 2009

James R. Peel
JAMES R. PEEL, Counsel for the
Department of Real Estate

* * *

1 I have read the Stipulation and Agreement, have
2 discussed it with my counsel, and its terms are understood by me
3 and are agreeable and acceptable to me. I understand that I am
4 waiving rights given to me by the California Administrative
5 Procedure Act (including but not limited to Sections 11506,
6 11508, 11509 and 11513 of the Government Code), and I willingly,
7 intelligently and voluntarily waive those rights, including the
8 right of requiring the Commissioner to prove the allegations in
9 the Accusation at a hearing at which I would have the right to
10 cross-examine witnesses against me and to present evidence in
11 defense and mitigation of the charges.
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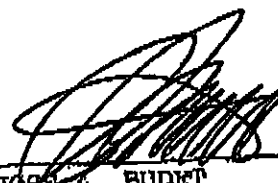
13 Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondent,
16 to the Department at the following telephone/fax number:
17 (213) 576-6917. Respondent agrees, acknowledges and understands
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 Respondent as if the Department had
22 received the original signed Stipulation and Agreement.

23 Further, if the Respondent is represented, the
24 Respondent's counsel can signify his or her agreement to the
25 terms and conditions of the Stipulation and Agreement by
26 submitting that signature via fax.
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4-9-09


DATE: _____



JOSE A. BUDE
Respondent

4-10-09

DATE: _____



FRANK M. BUDA
Council for Respondent

* * *

The foregoing stipulation and agreement is hereby adopted as my Decision and Order in this matter, and shall become effective at 12 o'clock noon on _____

IT IS SO ORDERED _____

JEFF DAVIS
Real Estate Commissioner

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DATED: _____

JOSE A. BUDET
Respondent

DATED: _____

FRANK M. BUDA
Counsel for Respondent

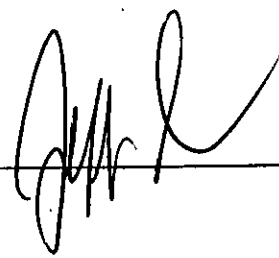
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order in this matter, and shall
become effective at 12 o'clock noon on June 18, 2009.

IT IS SO ORDERED

5-14-09

JEFF DAVI
Real Estate Commissioner



On April 20, 2009, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent THE REAL ESTATE BANK-A FULL SERVICE REAL ESTATE AND MORTGAGE CORPORATION's default was entered herein.

II

THE REAL ESTATE BANK-A FULL SERVICE REAL ESTATE AND MORTGAGE CORPORATION (hereinafter referred to as Respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

III

Respondent was originally licensed as a real estate broker on November 14, 2001. The corporate license will expire on November 13, 2009.

IV

At all times material herein, Respondent 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.

V

In connection with Respondent's activities as a real estate broker, as described above, Respondent violated Section 10137 of the Code in that in or about August, 2005, Respondent employed Carlos Habet and Michele Dorado, who were not licensed to Respondent as a real estate salesperson, to solicit and negotiate a loan on real property located at 12178 E. Firestone Blvd., Norwalk, California, for borrower Victor M. Expindola.

VI

Respondent violated Code Section 10148 by failing to retain a copy of the file for subject transaction with copies of the relevant documents.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent exists under Code Sections 10137 and 10177(d).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

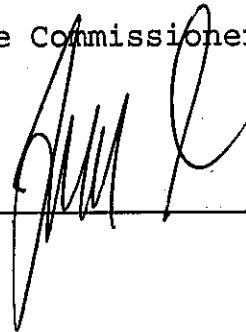
The license and license rights of Respondent THE REAL ESTATE BANK-A FULL SERVICE REAL ESTATE AND MORTGAGE CORPORATION under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on June 18, 2009.

DATED: _____

5-15-09

JEFF DAVI
Real Estate Commissioner



4470
Flay

FILED
JUL 23 2008
DEPARTMENT OF REAL ESTATE
[Signature]

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-35138 LA
12)
13) A C C U S A T I O N
14)
15) THE REAL ESTATE BANK-)
16) A FULL SERVICE REAL ESTATE)
17) AND MORTGAGE CORPORATION,)
18) and JOSE A. BUDET,)
19) individually and as)
20) designated officer of)
21) the corporation,)
22)
23) Respondents.)
24)
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27)

19 The Complainant, Robin L. Trujillo, a Deputy Real
20 Estate Commissioner of the State of California, for cause of
21 accusation against THE REAL ESTATE BANK-A FULL SERVICE REAL
22 ESTATE AND MORTGAGE CORPORATION ("TREB"), and JOSE A. BUDET,
23 individually and as designated officer of the corporation,
24 alleges as follows:
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I

The Complainant, Robin L. Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against THE REAL ESTATE BANK-A FULL SERVICE REAL ESTATE AND MORTGAGE CORPORATION, and JOSE A. BUDET.

II

THE REAL ESTATE BANK-A FULL SERVICE REAL ESTATE AND MORTGAGE CORPORATION, and JOSE A. BUDET, 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 TREB, was originally licensed as a real estate broker on November 14, 2001. The corporate license will expire on November 13, 2009. Pursuant to Code Section 10159.2, Respondent JOSE A. BUDET 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.

1 IV

2 At all times material herein, Respondents engaged in
3 the business of, acted in the capacity of, advertised or assumed
4 to act as a real estate broker in the State of California, within
5 the meaning of Section 10131(d) of the Code, including soliciting
6 borrowers and lenders and negotiating loans on real property.

7 V

8 In connection with Respondents' activities as a real
9 estate broker, as described above, Respondents violated Section
10 10137 of the Code in that in or about August, 2005, Respondents
11 employed Carlos Habet and Michele Dorado, who were not licensed
12 to Respondent TREB as a real estate salesperson, to solicit and
13 negotiate a loan on real property located at 12178 E. Firestone
14 Blvd., Norwalk, California, for borrower Victor M. Espindola.

15 VI

16 Respondent TREB violated Code Section 10148 by failing
17 to retain a copy of the file for subject transaction with copies
18 of the relevant documents.

19 VII

20 The conduct, acts and/or omissions of Respondents,
21 TREB, and JOSE A. BUDET, as alleged above, subjects their real
22 estate licenses and license rights to suspension or revocation
23 pursuant to Sections 10137, 10177(d) and/or 10177(g) of the Code.

24 VIII

25 The conduct, acts and/or omissions of Respondent JOSE
26 A. BUDET, in failing to ensure full compliance with the Real
27 Estate Law is in violation of Section 10159.2 of the Code and

1 subjects his real estate licenses and license rights to
2 suspension or revocation pursuant to Sections 10177(d), 10177(g)
3 and/or 10177(h) of the Code.

4 WHEREFORE, Complainant prays that a hearing be
5 conducted on the allegations of this Accusation and that upon
6 proof thereof, a decision be rendered imposing disciplinary
7 action against all licenses and license rights of Respondents THE
8 REAL ESTATE BANK-A FULL SERVICE REAL ESTATE AND MORTGAGE
9 CORPORATION, and JOSE A. BUDET, under the Real Estate Law (Part 1
10 of Division 4 of the Business and Professions Code) and for such
11 other and further relief as may be proper under other applicable
12 provisions of law.

13 Dated at Los Angeles, California
14 this 9 day of July, 2008.

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17 
18 ROBIN L. TRUJILLO
19 Deputy Real Estate Commissioner
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25 cc: TREB
26 Jose A. Budet
27 Robin L. Trujillo
Sacto.