

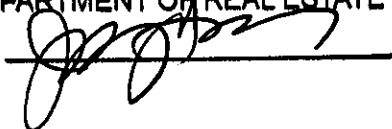
1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

AUG 20 2009

DEPARTMENT OF REAL ESTATE

BY: 

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12
13 In the Matter of the Accusation of) NO. H-35604 LA
14 EQUITY INCOME, a corporate real) L-2009030823
15 estate broker doing business as)
16 Mortgage Enterprises and Right) STIPULATION AND AGREEMENT
17 Home; PAUL B. YALNEZIAN,)
18 individually, and as designated)
19 officer of Equity Income,)
20 Respondents.)

21 It is hereby stipulated by and between EQUITY INCOME
22 and PAUL B. YALNEZIAN, individually, and as designated broker-
23 officer of Equity Income, (sometimes collectively referred to
24 as "Respondents") and the Complainant, acting by and through
25 Cheryl Keily, Counsel for the Department of Real Estate, as
26 follows for the purpose of settling and disposing of the
27 Accusation filed on January 13, 2009, in this matter.

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and
3 Respondents 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.
8

9 2. Respondents have received, read and understood the
10 Statement to Respondent, the Discovery Provisions of the APA and
11 the Accusation filed by the Department of Real Estate
12 ("Department") in this proceeding.
13

14 3. On January 27, 2009, Respondents filed Notices of
15 Defense, pursuant to Section 11506 of the Government Code for
16 the purpose of requesting a hearing on the allegations in the
17 Accusation. Respondents hereby freely and voluntarily withdraw
18 said Notices of Defense. Respondents acknowledge that they
19 understand that by withdrawing said Notices of Defense they will
20 thereby waive their right to require the Commissioner to prove
21 the allegations in the Accusation at a contested hearing held in
22 accordance with the provisions of the APA and that they will
23 waive other rights afforded to them in connection with the
24 hearing, such as the right to present evidence in defense of the
25 allegations in the Accusation and the right to cross-examine
26 witnesses.
27

1 4. Respondents, pursuant to the limitations set forth
2 below, hereby admit that the factual allegations set forth in
3 the Accusation filed in this proceeding are true and correct and
4 the Real Estate Commissioner shall not be required to provide
5 further evidence of such allegations.
6

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

19 6. The Order or any subsequent Order of the Real
20 Estate Commissioner made pursuant to this Stipulation and
21 Agreement shall not constitute an estoppel, merger or bar to any
22 further administrative or civil proceedings by the Department of
23 Real Estate with respect to any matters which were not
24 specifically alleged to be causes for accusation in this
25 proceeding.
26
27

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

10 8. Respondents have received, read and understand the
11 "Notice Concerning Costs of Audits." Respondents further
12 understand that by agreeing to this Stipulation and Agreement,
13 the findings set forth below in the Determinations of Issues
14 become final, and that the Commissioner may charge Respondents
15 for the costs of the audit which lead to the disciplinary
16 action, and a subsequent audit conducted pursuant to Section
17 10148 of the Business and Professions Code ("Code") to determine
18 if the violations have been corrected. The cost of the audit
19 which led to the disciplinary action is \$7,375.76. The maximum
20 cost of a subsequent audit will not exceed \$7,375.76. Total
21 audit costs will not exceed \$14,751.52.
22

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions
25 and waivers and solely for the purpose of settlement of the
26 pending Accusation without a hearing, it is stipulated and
27 agreed that the following determination of issues shall be made:

1 1. The conduct, acts or omissions of Respondent
2 EQUITY INCOME, as set forth in the Accusation, constitute cause
3 to suspend or revoke the real estate license and license rights
4 of Respondent EQUITY INCOME under the provisions of Code
5 Sections 10177(d) and 10177(g) for violation of Sections 10145,
6 10159.5, 10160 and 10161.8 in conjunction with Title 10,
7 Chapter 6 of the California Code of Regulations
8 ("Regulations"), Sections 2832, 2832.1, and 2950.

10 2. The conduct, acts or omissions of Respondent PAUL
11 B. YALNEZIAN, as set forth in the Accusation, constitute cause
12 to suspend or revoke the real estate license and license right
13 of Respondent PAUL B. YALNEZIAN under the provisions of Code
14 Sections 10177(d) and 10177(g) for violation of Code Sections
15 10145, 10159.5, 10160 and 10161.8 in conjunction with Sections
16 2832, 2832.1 and 2950 of the Regulations.

18 ORDER

19 WHEREFORE, THE FOLLOWING ORDER is hereby made:
20

21 I. The licenses and licensing rights of Respondent
22 EQUITY INCOME are hereby revoked.

23 II. All licenses and license rights of Respondent PAUL
24 B. YALNEZIAN under the Real Estate Law are suspended for a
25 period of sixty (60) days from the effective date of this
26 Decision.

1 A. Provided, however, that if Respondent requests, the
2 initial thirty (30) days of said suspension (or a portion
3 thereof) shall be stayed upon condition that:

4 1. Respondent pays a monetary penalty pursuant to
5 Section 10175.2 of the Code at the rate of \$66.67 per day for
6 each day of the suspension for a total monetary penalty of
7 \$2,000.

8 2. Said payment shall be in the form of a cashier's
9 check or certified check made payable to the Recovery Account of
10 the Real Estate Fund. Said check must be received by the
11 Department prior to the effective date of the Decision in this
12 matter.

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

16 4. If Respondent fails to pay the monetary penalty in
17 accordance with the terms of the Decision, the Commissioner may,
18 without a hearing, order the immediate execution of all or any
19 part of the stayed suspension, in which event the Respondent
20 shall not be entitled to any repayment or credit, prorated or
21 otherwise, for money paid to the Department under the terms of
22 this Decision.

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

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

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

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

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

1 IV. Pursuant to Section 10148 of the Code, Respondent

2 PAUL B. YALNEZIAN shall pay the Commissioner's reasonable cost
3 for (a) the audit which led to the disciplinary action, and (b)
4 a subsequent audit to determine if Respondent has corrected the
5 trust fund violations found in the Determination of Issues. In
6 calculating the amount of the Commissioner's reasonable cost, the
7 Commissioner may use the estimated average hourly salary for all
8 persons performing audits of real estate brokers, and shall
9 include an allocation for travel time to and from the auditor's
10 place of work. Respondent 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. The Commissioner may suspend
14 Respondent's license pending a hearing held in accordance with
15 Section 11500, et seq., of the Government Code, if payment is
16 not timely made as provided for herein, or as provided for in a
17 subsequent agreement between Respondent and the Commissioner.
18 The suspension shall remain in effect until payment is made in
19 full or until Respondent enters into an agreement satisfactory
20 to the Commissioner to provide for payment, or until a decision
21 providing otherwise is adopted following a hearing held pursuant
22 to this condition.

23 DATED: August 10, 2009

24 Cheryl D. Keily
25 CHERYL D. KEILY, Counsel
26 DEPARTMENT OF REAL ESTATE

27 * * *

I have read the Stipulation and Agreement, and its
terms are understood by me and are agreeable and acceptable to

1 me. I understand that I am waiving rights given to me by the
2 California Administrative Procedure Act (including but not
3 limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and
5 voluntarily waive those rights, including the right of
6 requiring the Commissioner to prove the allegations in the
7 Accusation at a hearing at which I would have the right to
8 cross-examine witnesses against me and to present evidence in
9 defense and mitigation of the charges.
10

11 Respondent can signify acceptance and approval of the
12 terms and conditions of this Stipulation and Agreement by
13 faxing a copy of its signature page, as actually signed by
14 Respondent, to the Department at the following telephone/fax
15 number (213) 576-6917. Respondent agrees, acknowledges, and
16 understands that by electronically sending to the Department a
17 fax copy of his actual signature as it appears on the
18

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

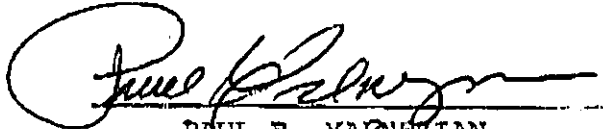
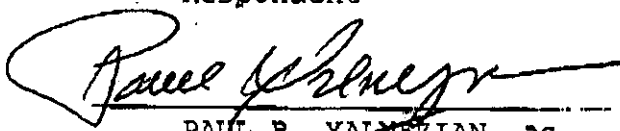
27 ///

AUG-10-09 MON 07:44 AM

FAX NO.

P. 03/03

1 Stipulation and Agreement, that receipt of the faxed copy by
2 the Department shall be as binding on Respondent as if the
3 Department had received the original signed Stipulation and
4 Agreement.
5

DATED: 8/10/09
PAUL B. YALNEZIAN,
RespondentDATED: 8/10/09
PAUL B. YALNEZIAN, as
designated broker-officer,
on behalf of Respondent
EQUITY INCOME

* * *

13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision in this matter and shall become
15 effective at 12 o'clock noon on _____, 2009.
16

17 IT IS SO ORDERED _____, 2009.
18
19

20 JEFF DAVI
21 Real Estate Commissioner
22
23
24
25
26
27

1 Stipulation and Agreement, that receipt of the faxed copy by
2 the Department shall be as binding on Respondent as if the
3 Department had received the original signed Stipulation and
4 Agreement.
5

6 DATED: _____

PAUL B. YALNEZIAN,
Respondent

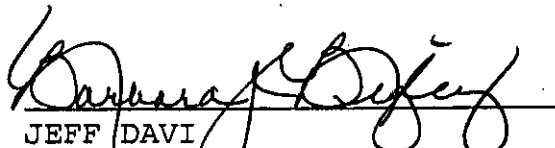
8
9 DATED: _____

PAUL B. YALNEZIAN, as
designated broker-officer,
on behalf of Respondent
EQUITY INCOME

12 * * *

13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision in this matter and shall become
15 effective at 12 o'clock noon on September 9, 2009.
16

17 IT IS SO ORDERED 8/17, 2009.

18
19 
20 JEFF DAVI
Real Estate Commissioner

21 BY: Barbara J. Bigby
22 Chief Deputy Commissioner
23
24
25
26
27

1 CHERYL D. KEILY SBN# 94008
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105 .

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-5770

FILED

JAN 13 2009

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

7
8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H- 35604 LA
13)
14 EQUITY INCOME, a corporate real)
15 estate broker doing business as) A C C U S A T I O N
16 Mortgage Enterprises and Right)
17 Home; PAUL B. YALNEZIAN,)
18 individually, and as designated)
19 officer of Equity Income,)
20)
21 Respondents.)
22)

23 The Complainant, Robin Trujillo, a Deputy Real Estate
24 Commissioner of the State of California, for cause of Accusation
25 against EQUITY INCOME, doing business as Mortgage Enterprises
26 and Right Home, and PAUL B. YALNEZIAN, individually, and as
27 designated broker-officer of EQUITY INCOME, is informed and
alleges as follows:

///
///
///

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

Respondent EQUITY INCOME (hereafter "EI") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereafter "Code"), as a corporate real estate broker. Respondent EI has been licensed by the Department of Real Estate (hereafter the "Department") as a corporate real estate broker since on or about June 9, 1990. At all times relevant herein, Respondent EI was and is authorized to act by and through Respondent PAUL B. YALNEZIAN as the designated officer and broker responsible, pursuant to the provisions of Code Section 10159.2, for the supervision and control of the activities conducted on behalf of Respondent EI by Respondent EI's officers and employees. Respondent EI also does business under the fictitious business names Mortgage Enterprises and Right Home.

3.

Respondent PAUL B. YALNEZIAN (hereafter "YALNEZIAN") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate broker. Respondent YALNEZIAN has been licensed by the Department as a real estate broker since on or about June 9, 1990. At all times relevant herein, Respondent YALNEZIAN was

1 and is the broker-officer of Respondent EI responsible, pursuant
2 to the provisions of Code Section 10159.2, for the supervision
3 and control of the activities conducted on behalf of Respondent
4 EI by Respondent EI's officers and employees.

5 4.

6 At all times material herein for compensation, or in
7 expectation of compensation, Respondents engaged in the business
8 of soliciting borrowers or lenders, or negotiating loans or
9 collecting payments, or performing services for borrowers or
10 lenders or note owners in connection with loans secured directly
11 or collaterally by liens on real property on behalf of another
12 or others within the meaning of Code Section 10131(d).

13 5.

14 All further references to respondents herein include
15 Respondents EI and YALNEZIAN, and also include officers,
16 directors, employees, agents and real estate licensees employed
17 by or associated with Respondents EI and YALNEZIAN, and who at
18 all times herein mentioned were engaged in the furtherance of
19 the business or operations of Respondents EI and YALNEZIAN, and
20 who were acting within the course and scope of their authority
21 and employment.

22
23 AUDIT EXAMINATION

24 6.

25 On or about August 2, 2007, the Department completed
26 its audit examination of the books and records of Respondent EI
27 pertaining to the real estate activities described in Paragraph

1 4, above, covering a period from January 1, 2005, to April 30,
2 2007. The primary purpose of the examination was to determine
3 Respondents' compliance with the Real Estate Law and the
4 Commissioner's Regulations. The audit examination revealed
5 violations of the Code and of Title 10, Chapter 6, California
6 Code of Regulations (hereafter the "Regulations"), as set forth
7 in the following paragraphs, and as more specifically set forth
8 in Audit Report LA 060252 and the Exhibits and Work Papers
9 attached thereto.

10 7.

11 At all times mentioned herein, and in connection with
12 the activities described in Paragraph 4, above, Respondent EI
13 accepted or received funds, including funds in trust (hereafter
14 "trust funds") from or on behalf of actual or prospective
15 parties to transactions handled by EI, and thereafter made
16 deposits and/or disbursements of such funds. From time-to-time
17 herein mentioned during the audit period, said trust funds were
18 deposited into accounts maintained by Respondents in bank
19 accounts as follows:

21 "Equity Income
22 Escrow Division Trust Account"
23 Account NO. 9120264181
24 Union Bank
25 Los Angeles, California 90051-3840

("T/A #1")

24 "Equity Income"
25 Account No. 1891276287
26 Comerica Bank
27 El Segundo, California 90245-4537

("B/A #2")

///

In the course of activities described in Paragraphs 4 and 7, above, and during the examination period described in Paragraph 6, above, Respondents EI and YALNEZIAN acted in violation OF the Code and the Regulations in that Respondents:

(a) Permitted, allowed or caused the withdrawal or disbursement of trust funds from T/A #1 so that as of April 30, 2007, the escrow trust account had a shortage of \$2,543.66. Respondents caused, permitted and/or allowed said withdrawal or disbursement of trust funds from this account so that the total of aggregate funds remaining in the escrow trust account was less than the existing aggregate trust fund liability of EI to every principal who was an owner of said funds without first obtaining the prior written consent of the owners of said funds as is required by Code Section 10145 and Sections 2832.1, 2950(d), 2950(g) and 2951 of the Regulations.

(b) Failed to maintain B/A #2 in the name of the broker as trustee at a bank or other financial institution and to designate the account as a trust account in violation of Code Section 10145 and Sections 2832(a), 2950(d) and 2951 of the Regulations.

(c) While acting in the capacity of an escrow holder in two refinance loan escrows (Escrow Nos. 5501-W [Mark Stallings] and 5556-JW [Sevak Oganyan]) failed to place trust funds, including earnest money deposits, accepted on behalf of

1 another into the hands of the owner of the funds, a neutral
2 escrow depository or into a trust account in the name of the
3 broker at a bank or other financial institution not later than
4 the next business day following receipt of the funds by the
5 broker's salesperson as is required by Code Section 10145 and
6 Sections 2832(e), 2950(d), 2950(f) and 2951 of the Regulations.

7 (d) Permitted unlicensed and unbonded person, Julia
8 Wolf, as an authorized signatory on accounts T/A #1 and B/A #2
9 in violation of Code Section 10145 and Section 2834 of the
10 Regulations.

11 (e) Failed to maintain a complete, accurate and
12 continuous control record in the form of a columnar record in
13 chronological order of all trust funds received, deposited and
14 disbursed as is required by Code Section 10145 and Sections
15 2831, 2950(d) and 2951 of the Regulations.

16 (f) Failed to perform a monthly reconciliation of the
17 balance of all separate beneficiary or transaction records
18 maintained pursuant to Section 2831.1 of the Regulations with
19 the record of all trust funds received and disbursed in
20 connection with B/A #2 as is required by Code Section 10145 and
21 Sections 2831.2, 2950(d) and 2951 of the Regulations.

22 (g) Failed to maintain an accurate and complete
23 separate record for each beneficiary or transaction, thereby
24 failing to account for all trust funds received, deposited and
25 disbursed in connection with B/A #2 thereby resulting in
26 unidentified/unaccounted for funds of \$3,280.31 as of April 30,
27

1 2007. This constitutes a violation of Code Section 10145 and
2 Sections 2831.1, 2950(d) and 2951 of the Regulations.

3 (h) Used the fictitious name "Equity Income Escrow"
4 to conduct licensed activities including mortgage loans and
5 broker-controlled escrows without holding a license bearing said
6 fictitious business name in violation of Code Section 10159.5
7 and Section 2731 of the Regulations.

8 (i) Failed to disclose in writing to all parties the
9 financial interest and ownership of EI's escrow division, Equity
10 Income Escrow, by Respondent YALNEZIAN, as is required by Code
11 Section 10176(g) and Section 2950(h) of the Regulations.

12 (j) Failed to notify the Department within five days
13 of the termination of salesperson Elena D. Godjamanian as is
14 required by Code Section 10161.8 and Section 2752 of the
15 Regulations.

16 (k) Failed to retain the salesperson license
17 certificate for Hryar Chahe Sabounjian in violation of Code
18 section 10160 and Section 2753 of the Regulations; and

19 (l) YALNEZIAN failed to have a system in place for
20 regularly monitoring compliance with the Real Estate Law,
21 particularly with respect to establishing systems, policies and
22 procedures to review trust fund handling in violation of Code
23 Sections 10159.2 and 10177(h) and Section 2725 of the
24 Regulations.

25
26 ///

27 ///

DISCIPLINARY STATUTES AND REGULATIONS

9.

The conduct of Respondent EI and YALNEZIAN described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8(a)	Code Section 10145; Sections 2832.1, 2950(d), 2950(g) and 2951 of the Regulations
8(b)	Code Section 10145; Sections 2832(a), 2950(d) and 2951 of the Regulations
8(c)	Code Section 10145; Sections 2832(e), 2950(d), 2950(f) and 2951 of the Regulations
8(d)	Code Section 10145; Section 2834 of the Regulations
8(e)	Code Section 10145; Sections 2831, 2950(d), and 2951 of the Regulations
8(f)	Code Section 10145; Sections 2831.2, 2950(d), and 2951 of the Regulations

1 8(g) Code Section 10145; Sections 2831.1,
2 2950(d), and 2951 of the Regulations

3
4 8(h) Code Section 10159.5; Section 2731 of
5 the Regulations

6
7 8(i) Code Section 10176(g); Section 2950(h)
8 of the Regulations

9
10 8(j) Code Section 10161.8; Section 2752 of
11 the Regulations

12
13 8(k) Code Section 10160; Section 2753 of the
14 Regulations

15
16 8(l) Code Sections 10159.2 and 10177(h);
17 Section 2725 of the Regulations

18
19 10.

20 The foregoing violations are cause for the suspension
21 or revocation of the licenses and license rights of Respondent
22 EI and of Respondent YALNEZIAN pursuant to Code Sections
23 10176(g), 10177(d) and/or 10177(g).

24 11.

25 The foregoing violations constitute negligence or
26 incompetence by Respondents in their performance of activities
27 requiring a real estate license, and are cause for the

suspension or revocation of all real estate licenses and license rights of Respondent EI and Respondent YALNEZIAN under the provisions of Code Section 10177(g).

12.

The foregoing violations constitute a failure by Respondent YALNEZIAN, as the broker-officer of Respondent EI, to exercise reasonable supervision and control over the licensed activities of Respondent EI as is required by Code Section 10159.2, and is cause for the suspension or revocation of the real estate license and license rights of Respondent YALNEZIAN pursuant to the provisions of Code Section 10177(h).

///

///

///

///

///

///

///

///

///

///

///

///

///

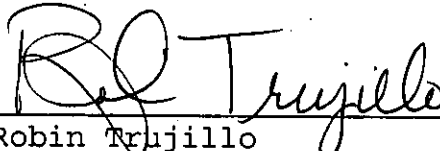
///

///

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 all the licenses and license rights of Respondent
5 EQUITY INCOME and Respondent PAUL B. YALNEZIAN, individually,
6 and as designated broker-officer of Respondent Equity Income,
7 under the Real Estate Law, and for such other and further relief
8 as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 12 day of January, 2009.
11
12
13

14 
15 Robin Trujillo
16 Deputy Real Estate Commissioner
17
18
19
20
21
22
23
24

25 cc: EQUITY INCOME
26 PAUL B. YALNEZIAN
27 Robin Trujillo
Sacto.
Audits - Robert S. Brody