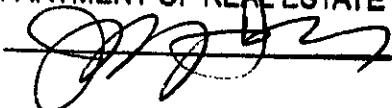


1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

FEB - 9 2010

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-36073 LA
12	)	
13	MARCOS RUBIO, )	L-2009070780
14	)	<u>STIPULATION AND AGREEMENT</u>
15	)	
16	Respondent. )	

17  
18 It is hereby stipulated by and between Respondent  
19 MARCOS RUBIO (sometimes referred to as "Respondent"), and the  
20 Complainant, acting by and through Cheryl Keily, Counsel for the  
21 Department of Real Estate, as follows for the purpose of  
22 settling and disposing of the Accusation filed on June 24, 2009,  
23 in this matter.

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

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement.

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

7           3. On July 6, 2009, Respondent filed a Notice of  
8 Defense, pursuant to Section 11506 of the Government Code for  
9 the purpose of requesting a hearing on the allegations in the  
10 Accusation. Respondent hereby freely and voluntarily withdraws  
11 said Notice of Defense. Respondent acknowledges that he  
12 understands that by withdrawing said Notice of Defense he will  
13 thereby waive his right to require the Commissioner to prove the  
14 allegations in the Accusation at a contested hearing held in  
15 accordance with the provisions of the APA and that he will waive  
16 other rights afforded to him in connection with the hearing,  
17 such as the right to present evidence in defense of the  
18 allegations in the Accusation and the right to cross-examine  
19 witnesses.

20           4. This Stipulation and Agreement is based on the  
21 factual allegations contained in the Accusation filed in this  
22 proceeding. In the interest of expedience and economy,  
23 Respondent chooses not to litigate these allegations at a  
24 formal administrative hearing, but to remain silent and  
25 understands that, as a result thereof, these factual  
26 allegations, without being admitted or denied, will serve as a  
27

1 prima facie basis for the disciplinary action stipulated to  
2 herein. This Stipulation and Agreement and Respondent's  
3 decision not to contest the Accusation are hereby expressly  
4 limited to this proceeding and made for the sole purpose of  
5 reaching an agreed disposition of this proceeding. Respondent's  
6 decision not to contest the factual allegations at a formal  
7 administrative hearing is made solely for the purpose of  
8 effectuating this Stipulation and Agreement and is intended to  
9 be non-binding upon Respondent in any actions against him by  
10 third parties. The Real Estate Commissioner shall not be  
11 required to provide further evidence to prove said factual  
12 allegations.  
13  
14

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

26 6. The Order or any subsequent Order of the Real  
27 Estate Commissioner made pursuant to this Stipulation and  
Agreement shall not constitute an estoppel, merger or bar to any

1 further administrative or civil proceedings by the Department of  
2 Real Estate with respect to any matters which were not  
3 specifically alleged to be causes for accusation in this  
4 proceeding. .

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations, admissions,  
7 and waivers, and solely for the purpose of settlement of the  
8 pending Accusation without a hearing, it is stipulated and  
9 agreed that the following determination of issues shall be  
10 made:  
11

12 The conduct of Respondent, as described in Paragraph  
13 4, above, is in violation of Business and Professions Code  
14 Sections 10085 and Section 2970 of Chapter 6, Title 10,  
15 California Code of Regulations ("Regulations"), and is a basis  
16 for discipline of Respondent's license and license rights as  
17 violations of the Real Estate Law pursuant to Business and  
18 Professions Code Section 10177(d).  
19

20 ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:

22 ALL licenses and licensing rights of Respondent MARCOS  
23 RUBIO under the Real Estate Law are suspended for a period of  
24 sixty (60) days from the effective date of this Decision;

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

1                   1. Respondent pay a monetary penalty pursuant to  
2 Section 10175.2 of the Code at the rate of \$50.00 per day for  
3 each day of the suspension for a total monetary penalty of  
4 \$1,500.

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

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

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

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

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

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  
13 DATED: Dec 15, 2009

Cheryl D. Kelly  
14 CHERYL D. KELLY, Counsel  
15 DEPARTMENT OF REAL ESTATE

16 \* \* \*

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

1 Respondent can signify acceptance and approval of the  
2 terms and conditions of this Stipulation and Agreement by faxing  
3 a copy of its signature page, as actually signed by Respondent,  
4 to the Department at the following telephone/fax number (213)  
5 576-6917. Respondent agrees, acknowledges, and understands that  
6 by electronically sending to the Department a fax copy of his  
7 actual signature as it appears on the Stipulation and Agreement,  
8 that receipt of the faxed copy by the Department shall be as  
9 binding on Respondent as if the Department had received the  
10 original signed Stipulation and Agreement.

11  
12 DATED:

12/14/09

  
\_\_\_\_\_  
MARCOS RUBIO,  
Respondent

13  
14  
15  
16 \* \* \*

17 The foregoing Stipulation and Agreement is hereby  
18 adopted as my Decision in this matter and shall become effective  
19 at 12 o'clock noon on \_\_\_\_\_,  
20

21 IT IS SO ORDERED \_\_\_\_\_

22  
23 \_\_\_\_\_  
JEFF DAVI  
24 Real Estate Commissioner  
25  
26  
27

1 Respondent can signify acceptance and approval of the  
2 terms and conditions of this Stipulation and Agreement by faxing  
3 a copy of its signature page, as actually signed by Respondent,  
4 to the Department at the following telephone/fax number (213)  
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6 by electronically sending to the Department a fax copy of his  
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8 that receipt of the faxed copy by the Department shall be as  
9 binding on Respondent as if the Department had received the  
10 original signed Stipulation and Agreement.

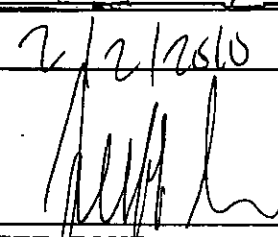
11  
12 DATED: \_\_\_\_\_

\_\_\_\_\_  
13 MARCOS RUBIO,  
14 Respondent

15  
16 \* \* \*

17 The foregoing Stipulation and Agreement is hereby  
18 adopted as my Decision in this matter and shall become effective  
19 at 12 o'clock noon on MAR - 1 2010

20 IT IS SO ORDERED \_\_\_\_\_

21 2/2/2010  
22   
23 \_\_\_\_\_  
24 JEFF DAVI  
25 Real Estate Commissioner  
26  
27



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CHERYL D. KEILY, SNB# 94008  
Department of Real Estate  
320 West Fourth Street, Ste. 350  
Los Angeles, California 90013

Telephone: (213) 576-6982  
(Direct) (213) 576-6905

**FILED**

JUN 24 2009

DEPARTMENT OF REAL ESTATE

BY: [Signature]

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation

No. H-36073 LA

MARCOS RUBIO, )  
)  
)  
Respondent. )  
\_\_\_\_\_ )

A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MARCOS RUBIO ("Respondent"), 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.

1 Respondent is presently licensed and/or has license  
2 rights under the Real Estate Law (Part 1 of Division 4 of the  
3 Business and Professions Code, hereafter "Code") as a real estate  
4 broker.  
5

6 FIRST CAUSE OF ACCUSATION  
7 (Advance Fee Violation)

8 3.

9 At all times mentioned herein, in the State of  
10 California, Respondent engaged in the business of claiming,  
11 demanding, charging, receiving, collecting or contracting for the  
12 collection of advance fees, within the meaning of Code Section  
13 10026, including, but not limited to, the following loan  
14 modification activity with respect to a loan(s) which was secured  
15 by liens on real property:

16 a. On or about April 30, 2008, Respondent collected  
17 an advance fee of \$3,000 from Palmer and Ana Laughlin for loan  
18 modification services to be provided by Respondent with respect  
19 to a loan secured by the real property located at 4923 Walnut  
20 Avenue, Chino, California 91710.

21 4.

22 Respondent collected the advance fees described in  
23 Paragraph 3, above, pursuant to materials used to obtain an  
24 advance fee agreement within the meaning of Code Section 10085.  
25

26 ///

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5.

Respondents failed to submit the materials referred to in Paragraph 4, above, to the Commissioner ten days before using them in violation of Code Section 10085 and Regulation 2970.

6.

The conduct, acts and/or omissions of Respondent, as set forth above, are cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION  
(Unlicensed Activity)

7.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 6, above.

8.

The activities described in Paragraph 3, above, require a real estate license under Sections 10131(d) and 10131.2 of the Code.

9.

Respondent violated Section 10137 of the Code by employing and/or compensating individuals who were not licensed as a real estate salesperson or as a broker to perform activities requiring a license as follows:

a. Respondents employed and/or compensated HomeSavors Abatement, Inc., HomeSavors, Inc., Louis Hollingsworth, Sean La, aka Sean Le, and James Wiggins, to perform some or all of the

1 services alleged in Paragraph 3, though none was licensed as a  
2 real estate salesperson or broker.

3 10.

4 The conduct, acts and/or omissions of Respondent, as  
5 set forth in Paragraph 9, above, violate Code Section 10137, and  
6 are cause for the suspension or revocation of the licenses and  
7 license rights of Respondent pursuant to Code Sections 10177(d)  
8 and/or 10177(g).

9 WHEREFORE, Complainant prays that a hearing be  
10 conducted on the allegations of this Accusation and that upon  
11 proof thereof, a decision be rendered imposing disciplinary  
12 action against all the licenses and license rights of Respondent  
13 MARCOS RUBIO under the Real Estate Law, and for such other and  
14 further relief as may be proper under other applicable provisions  
15 of law.

16 Dated at Los Angeles, California

17 this 17 day of June, 2009.

18  
19  
20   
21 \_\_\_\_\_  
22 Robin Trujillo  
23 Deputy Real Estate Commissioner

24  
25  
26 cc: MARCOS RUBIO  
27 Robin Trujillo  
Sacto.