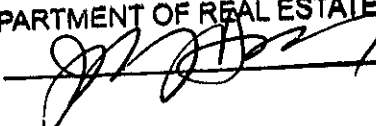


1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982

FILED

FEB 16 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-36145 LA
12 SOLUBANC FUNDING INC., doing)	L-2009090737
13 business as Home Loan Funding)	
14 Solutions; <u>ORLANDO DANILO</u>)	<u>STIPULATION AND AGREEMENT</u>
15 <u>MONTERO, individually, and as</u>)	
16 <u>designated officer for</u>)	
17 <u>SoluBanc Funding Inc.,</u>)	
18 Respondents.)	

18 It is hereby stipulated by and between ORLANDO DANILO
19 MONTERO, individually, and as designated broker-officer of
20 Solubanc Funding Inc., (sometimes referred to as "Respondent"),
21 and the Complainant, acting by and through Cheryl Keily, Counsel
22 for the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation filed on July 30, 2009,
24 in this matter.

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and Respondent
27 at a formal hearing on the Accusation, which hearing was to be
held in accordance with the provisions of the Administrative

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

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

8 3. On August 24, 2009, Respondent filed a Notice of
9 Defense, pursuant to Section 11506 of the Government Code for
10 the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that he
13 understands that by withdrawing said Notice of Defense he will
14 thereby waive his right to require the Commissioner to prove the
15 allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA and that he will waive
17 other rights afforded to him in connection with the hearing,
18 such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

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

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 10137 and 10159.5 and Section 2731(a) of the
15 Regulations, and is a basis for discipline of Respondent's
16 license and license rights as violations of the Real Estate Law
17 pursuant to Business and Professions Code Section 10177(d).
18

19 ORDER

20 WHEREFORE, THE FOLLOWING ORDER is hereby made:

21 ALL licenses and licensing rights of Respondent
22 ORLANDO DANILO MONTERO under the Real Estate Law are suspended
23 for a period of sixty (60) days from the effective date of this
24 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. Respondents 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.

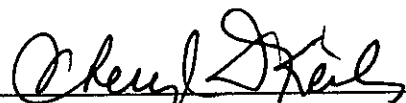
25 B. The remaining thirty (30) days of the sixty (60)
26 day suspension shall be stayed for two (2) years upon the
27 following terms and conditions:

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:

December 9, 2009


CHERYL D. KELLY, Counsel
DEPARTMENT OF REAL ESTATE

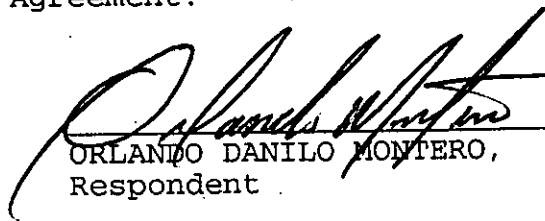
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15 * * *

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

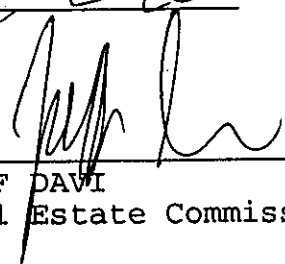
December 2, 2009


ORLANDO DANILO MONTERO,
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 MAR - 8 2010

20 IT IS SO ORDERED

21 2-2-2010

22
23 JEFF DAVI
24 Real Estate Commissioner
25
26
27

FL 8/11

FILED

FEB 16 2010

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-36145 LA
<u>SOLUBANC FUNDING INC., doing</u>)	L-2009090737
<u>Business as Home Loan Funding</u>)	
<u>Solutions</u> ; ORLANDO DANILO MONTERO,)	
individually, and as designated)	
officer for SoluBanc Funding Inc.,)	
<u>Respondents</u>)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On July 30, 2009, an Accusation was filed in this matter against Respondent SOLUBANC FUNDING INC..

On December 2, 2009, Respondent petitioned the Commissioner to voluntarily surrender its real estate license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent SOLUBANC FUNDING INC.'s petition for voluntary surrender of its real estate salesperson license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated December 2, 2009 (attached as Exhibit "A" hereto). Respondent's license

1 certificate(s), pocket card(s) and any branch office license
2 certificate(s) shall be sent to the below listed address so that
3 they reach the Department on or before the effective date of this
4 Order:

5 DEPARTMENT OF REAL ESTATE
6 Attn: Licensing Flag Section
7 P. O. Box 187000
8 Sacramento, CA 95818-7000

8 This Order shall become effective at 12 o'clock noon
9 on MAR - 8 2010.

10 DATED: 2-2-2010

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12 JEFF DAVI
13 Real Estate Commissioner
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Exhibit "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-36145 LA
)	
<u>SOLUBANC FUNDING INC., doing</u>)	
<u>business as Home Loan Funding</u>)	
<u>Solutions; ORLANDO DANILO</u>)	
<u>MONTERO, individually, and as</u>)	
<u>designated officer for</u>)	
<u>SoluBanc Funding Inc.,</u>)	
)	
Respondents.)	
)	

DECLARATION

My name is Orlando Danilo Montero. SOLUBANC FUNDING INC. is licensed as a real estate corporation and/or has license rights with respect to said license. I am currently an officer of SOLUBANC FUNDING INC., and am authorized and empowered to sign this declaration on behalf of SOLUBANC FUNDING INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code) SOLUBANC FUNDING INC.

1 wishes to voluntarily surrender its real estate license issued by
2 the Department of Real Estate ("Department"), pursuant to the
3 provisions of Business and Professions Code Section 10100.2.

4 I understand that SOLUBANC FUNDING INC., by so
5 voluntarily surrendering its license, can only have it reinstated
6 in accordance with the provisions of Section 11522 of the
7 Government Code. I also understand that by so voluntarily
8 surrendering its license, SOLUBANC FUNDING INC. agrees to the
9 following:

10 1. The filing of this Declaration shall be deemed as
11 the petition of SOLUBANC FUNDING INC. for voluntary surrender.

12 2. It shall also be deemed to be an understanding and
13 agreement by SOLUBANC FUNDING INC. that it waives all rights it
14 has to require the Commissioner to prove the allegations
15 contained in the Accusation filed in this matter at a hearing
16 held in accordance with the provisions of the Administrative
17 Procedure Act (Government Code Sections 11400 et seq.), and that
18 SOLUBANC FUNDING INC. also waives other rights afforded to it in
19 connection with the hearing such as the right to discovery, the
20 right to present evidence in defense of the allegations in the
21 Accusation and the right to cross-examine witnesses.

22 3. SOLUBANC FUNDING INC. further agrees that upon
23 acceptance by the Commissioner, as evidenced by an appropriate
24 order, all affidavits and all relevant evidence obtained by the
25 Department in this matter prior to the Commissioner's acceptance,
26 and all allegations contained in the Accusation filed by the
27 Department in Case No. H-36145 LA, may be considered by the

1 Department to be true and correct for the purpose of deciding
2 whether to grant relicensure or reinstatement of SOLUBANC FUNDING
3 INC.'s license pursuant to Government Code Section 11522.

4 4. I am acting freely and voluntarily on behalf of
5 SOLUBANC FUNDING INC. to surrender its license and all license
6 rights attached thereto.

7 I declare under penalty of perjury under the laws of
8 the State of California that the above is true and correct.

9

10

11

December 2, 2009
Date and Place

12

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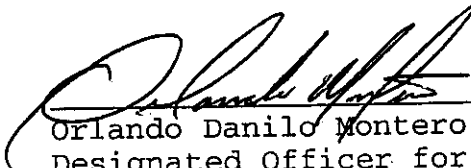
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27


Orlando Danilo Montero,
Designated Officer for
Solubanc Funding Inc.

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

FILED

JUL 30 2009

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

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- 36145 LA
13 SOLUBANC FUNDING INC., doing)
14 business as Home Loan Funding) A C C U S A T I O N
15 Solutions; ORLANDO DANILO)
16 MONTERO, individually, and as)
17 designated officer for)
18 SoluBanc Funding Inc.,)
19 Respondents.)

20 The Complainant, Robin Trujillo, a Deputy Real Estate
21 Commissioner of the State of California, for cause of Accusation
22 against SOLUBANC FUNDING INC. ("SOLUBANC"), doing business as
23 Home Loan Funding Solutions, and ORLANDO DANILO MONTERO
24 ("MONTERO"), individually, and as designated officer for
25 SoluBanc Funding Inc., is informed and alleges as follows:

26 ///
27 ///

1.

1
2 The Complainant, Robin Trujillo, a Deputy Real Estate
3 Commissioner of the State of California, makes this Accusation
4 in her official capacity.

5
6 2.

7 Respondent SOLUBANC is presently licensed and/or has
8 license rights under the Real Estate Law (Part 1 of Division 4
9 of the Business and Professions Code, hereafter "Code"), as a
10 real estate corporation acting by and through Respondent MONTERO
11 as its designated broker-officer. On or about September 6,
12 2001, the Franchise Tax Board of the State of California
13 suspended the powers, rights and privileges of Respondent
14 SOLUBANC pursuant to the provisions of the California Revenue
15 and Taxation Code. The corporate powers, rights and privileges
16 of Respondent remain suspended to date. The license of
17 Respondent SOLUBANC expired on or about June 14, 2008. Pursuant
18 to Code Section 10201 Respondent retains renewal rights.
19 Pursuant to Section 10103 the Department retains jurisdiction.
20

21 3.

22 Respondent MONTERO is presently licensed and/or has
23 license rights under the Real Estate Law as a real estate
24 broker.

25 ///

26 ///

27 ///

4.

1 At no time mentioned herein has Rudy Rubio been
2 licensed by the Department as a real estate broker or
3 salesperson.
4

5.

6 At all times herein mentioned, Respondent SOLUBANC and
7 MONTERO, on behalf of others and in expectation of compensation,
8 engaged in the business, acted in the capacity of, advertised or
9 assumed to act as a real estate broker in the State of
10 California within the meaning of Section 10131 subparts (a) and
11 (d) of the Code, including negotiating for the purchase and sale
12 of real property, soliciting borrowers and lenders and
13 negotiating loans on real property.
14

6.

15 From June 15, 2004, to June 14, 2008, Respondent
16 MONTERO, as the officer designated by Respondent SOLUBANC
17 pursuant to Section 10211 of the Code, was responsible for the
18 supervision and control of the activities conducted on behalf of
19 Respondent SOLUBANC by its officers and employees as necessary
20 to secure full compliance with the Real Estate Law as set forth
21 in Section 10159.2 of the Code.
22

23 FIRST CAUSE OF ACCUSATION
24 (Unlicensed Activity)

7.

25 In or around March, 2006, Rubio negotiated a purchase
26 agreement on behalf of Martin Peralta ("Peralta") for the
27

1 purchase of the real property located at 1101 W. Olive Street,
2 Fullerton, California 92833 (the "Property") for a total
3 purchase price of \$665,000.

4 8.

5 Thereafter, an escrow was opened with Real Estate
6 Professionals Escrow Division, Escrow No. 6951187-REP3, to
7 handle the transaction for the purchase and sale of the
8 Property. Peralta's checks in the following amounts were
9 delivered to the escrow: (1) a check in the amount of \$66,500
10 made payable to Home Loan Funding Solutions, the authorized
11 fictitious business name of Respondent SOLUBANC; and (2) a check
12 in the amount of \$500 made payable to Real Estate Professionals
13 Escrow Division.

14 9.

15 On or about August 9, 2006, Rubio presented a demand
16 for payment in the amount of \$4,000 to the escrow demanding
17 compensation for services rendered by him in negotiating the
18 purchase and sale of the Property on Peralta's behalf. On or
19 about August 10, 2006, payment was made to Rubio from the escrow
20 pursuant to his demand.

21 10.

22 Based on the information contained in Paragraph 9,
23 above, Rubio performed and/or participated in the negotiation
24 for the purchase or sale of the Property, which activity
25 requires a real estate broker license under the provisions of
26 Code Sections 10131(a), during a period of time when Rubio was
27

1 not licensed by the Department of Real Estate as a real estate
2 broker nor employed as a real estate salesperson by a broker on
3 whose behalf the activities were performed.

4 11.

5 Respondents MONTERO and SOLUBANC violated Section
6 10137 of the Code by employing and/or compensating Rubio, an
7 individual who was not licensed as a real estate salesperson or
8 as a broker, to perform activities requiring a license.

9 12.

10 The conduct, acts and/or omissions of Respondents
11 MONTERO and SOLUBANC, as set forth in Paragraph 9, above,
12 violate Code Section 10137, and are cause for the suspension or
13 revocation of the licenses and license rights of Respondents
14 pursuant to Code Sections 10177(d) and/or 10177(g).

15 SECOND CAUSE OF ACCUSATION
16 (Use of Unauthorized Fictitious Business Name)

17 13.

18 Complainant hereby incorporates by reference the
19 allegations set forth in Paragraphs 1 through 12, above.

20 14.

21 At a time within the last three years Respondent
22 MONTERO used the fictitious business names, "Real Estate
23 Professionals" and "Real Estate Professionals Escrow Division"
24 for activities requiring the issuance of a real estate license
25 without filing an application for the use of such name with the
26 Department of Real Estate ("Department") as required by the
27

1 provisions of Code Section 10159.5 and Section 2731(a) of Title
2 10, Chapter 6, California Code of Regulations ("Regulations").

3 15.

4 The conduct, acts and/or omissions of Respondent
5 MONTERO, as set forth in Paragraph 14, above, violate Code
6 Section 10159.5 and Section 2731(a) of the Regulations, and are
7 cause for the suspension or revocation of the licenses and
8 license rights of said Respondent pursuant to Code Sections
9 10177(d) and/or 10177(g).

10 THIRD CAUSE OF ACCUSATION
11 (Failure to Supervise)

12 16.

13 Complainant hereby incorporates the allegations set
14 forth in Paragraphs 1 through 15, above.

15 17.

16 Respondent MONTERO ordered, caused, authorized or
17 participated in the conduct of Respondent SOLUBANC, as is
18 alleged in this Accusation.

19 18.

20 The conduct, acts and/or omissions, of Respondent
21 MONTERO, in allowing Respondent SOLUBANC to violate the Real
22 Estate Law, as set forth above, constitutes a failure by
23 MONTERO, as the officer designated by a corporate broker
24 licensee, to exercise the supervision and control over the
25 activities of SOLUBANC, as required by Code Section 10159.2, and
26 is cause to suspend or revoke the real estate licenses and
27

1 license rights of MONTERO under Code Sections 10177(d), 10177(g)
2 and/or 10177(h).

3 WHEREFORE, Complainant prays that a hearing be
4 conducted on the allegations of this Accusation and that upon
5 proof thereof, a decision be rendered imposing disciplinary
6 action against all the licenses and license rights of Respondent
7 ORLANDO DANILO MONTERO and SOLUBANC FUNDING INC. under the Real
8 Estate Law (Part 1 of Division 4 of the Business and Professions
9 Code), and for such other and further relief as may be proper
10 under other applicable provisions of law.

11 Dated at Los Angeles, California

12 this 29 day of July 2009.

13 
14 _____
15 Robin Trujillo
16 Deputy Real Estate Commissioner
17
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26 cc: ORLANDO DANILO MONTERO
27 SOLUBANC FUNDING INC.
Robin Trujillo
Sacto.