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1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4  
5 Telephone: (213) 576-6982 (office)

**FILED**

FEB 25 2010

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11	In the Matter of the Accusation of	)	No. H-36348 LA
12		)	
13	JOSE ANGEL NUNEZ, doing business as	)	
14	ABC Home Loans and ABC Real Estate,	)	<u>STIPULATION</u>
15		)	<u>AND</u>
	Respondent,	)	<u>AGREEMENT</u>

16 It is hereby stipulated by and between Respondent  
17 JOSE ANGEL NUNEZ, (sometimes referred to as "Respondent"), and  
18 the Complainant, acting by and through Elliott Mac Lennan,  
19 Counsel for the Department of Real Estate, as follows for the  
20 purpose of settling and disposing of the Accusation

21 ("Accusation") filed on November 10, 2009, in this matter:

- 22 1. All issues which were to be contested and all
- 23 evidence which was to be presented by Complainant and Respondent
- 24 at a formal hearing on the Accusation, which hearing was to be
- 25 held in accordance with the provisions of the Administrative
- 26 Procedure Act ("APA"), shall instead and in place thereof be
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1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement (Stipulation).

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 in this  
6 proceeding.

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

19 4. This Stipulation is based on the allegations  
20 contained in the Accusation above. In the interest of expedience  
21 and economy, Respondent chooses not to contest these allegations,  
22 but to remain silent and understands that, as a result thereof,  
23 these allegations, without being admitted or denied, will serve  
24 as a prima facie basis for the disciplinary action stipulated to  
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1 herein. The Real Estate Commissioner shall not be required to  
2 provide further evidence to prove said allegations.

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

11 6. It is understood by the parties that the Real  
12 Estate Commissioner may adopt this Stipulation as his Decision  
13 in 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  
18 a hearing and proceeding on the Accusation under the provisions  
19 of the APA and shall not be bound by any stipulation or waiver  
20 made herein.  
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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  
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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 Accusation against Respondents 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 \$3,590.70.

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 \$3,590.70.

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DETERMINATION OF ISSUES

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

3           The conduct of JOSE ANGEL NUNEZ, as described in  
4 Paragraph 4, above, constitutes violations of Business and  
5 Professions Code ("Code") Sections 10085, 10145 and 10146 and  
6 Sections 2831, 2831.1, 2831.2, 2832, 2970 and 2972 of Title 10,  
7 Chapter 6 of the California Code of Regulations ("Regulations").  
8 This conduct is a basis for discipline of Respondent's license  
9 pursuant to Code Section 10177(d), 10177(g) and 10177(h).

ORDER

11           WHEREFORE, THE FOLLOWING ORDER is hereby made:

12           I. The real estate broker license of Respondent JOSE  
13 ANGEL NUNEZ, under the Real Estate Law is revoked; provided,  
14 however, a restricted real estate broker license shall be issued  
15 to said Respondent, pursuant to Section 10156.5 of the Business  
16 and Professions Code if Respondent:

17           (A) Makes application thereof and pays to the  
18 Department of Real Estate the appropriate fee for the restricted  
19 license within ninety (90) days from the effective date of this  
20 Decision.

21           (B) Respondent JOSE ANGEL NUNEZ shall, prior to and as  
22 a condition of the issuance of the restricted license, submit  
23 proof satisfactory to the Commissioner of having taken and  
24 successfully completed the continuing education course on trust

1 fund accounting and handling specified in paragraph (3) of  
2 subdivision (a) of Section 10170.5 of the Business and  
3 Professions Code. Proof of satisfaction of this requirement  
4 includes evidence that Respondent JOSE ANGEL NUNEZ has  
5 successfully completed the trust fund account and handling  
6 continuing education course within 120 days prior to the date of  
7 issuance of the restricted license.

8 The restricted license issued to Respondent JOSE ANGEL  
9 NUNEZ shall be subject to all of the provisions of Section  
10 10156.7 of the Business and Professions Code and to the  
11 followings limitations, conditions and restrictions imposed under  
12 authority of Section 10156.6 of that Code:

13 1. The restricted license issued to Respondent may be  
14 suspended prior to hearing by Order of the Real Estate  
15 Commissioner in the event of a Respondent's conviction or plea of  
16 nolo contendere to a crime which is substantially related to a  
17 Respondent's fitness or capacity as a real estate licensee.

18 2. The restricted license issued to Respondent may  
19 be suspended prior to hearing by Order of the Real Estate  
20 Commissioner on evidence satisfactory to the Commissioner that  
21 Respondent has violated provisions of the California Real Estate  
22 Law, the Subdivided Lands Law, Regulations of the Real Estate  
23 Commissioner or conditions attaching to the restricted license.

24 3. Respondent shall not be eligible to apply for the  
25 issuance of an unrestricted real estate license nor for the  
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1 removal of any of the conditions, limitations or restrictions of  
2 a restricted license until two (2) years have elapsed from the  
3 effective date of this Decision.

4           II. Pursuant to Section 10148 of the Business and  
5 Professions Code, Respondent JOSE ANGEL NUNMEZ shall pay the  
6 Commissioner's reasonable cost for (a) the audit which led to  
7 this disciplinary action (b) a subsequent audit to determine if  
8 Respondents are now in compliance with the Real Estate Law. The  
9 cost of the audit which led to this disciplinary action is  
10 \$3,590.70. In calculating the amount of the Commissioner's  
11 reasonable cost, the Commissioner may use the estimated average  
12 hourly salary for all persons performing audits of real estate  
13 brokers, and shall include an allocation for travel time to and  
14 from the auditor's place of work. Said amount for the prior and  
15 subsequent audits shall not exceed \$7,181.40.

16           Respondent shall pay such cost within 60 days of  
17 receiving an invoice from the Commissioner detailing the  
18 activities performed during the audit and the amount of time  
19 spent performing those activities.

20           The Commissioner may suspend the license of Respondent  
21 pending a hearing held in accordance with Section 11500, et seq.,  
22 of the Government Code, if payment is not timely made as provided  
23 for herein, or as provided for in a subsequent agreement between  
24 the Respondent and the Commissioner. The suspension shall remain  
25 in effect until payment is made in full or until Respondent  
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1 enters into an agreement satisfactory to the Commissioner to  
2 provide for payment, or until a decision providing otherwise is  
3 adopted following a hearing held pursuant to this condition.

4 III. Respondent JOSE ANGEL NUNEZ shall within six (6)  
5 months from the effective date of the Decision herein, take and  
6 pass the Professional Responsibility Examination administered by  
7 the Department including the payment of the appropriate  
8 examination fee. If Respondent fails to satisfy this condition,  
9 the Commissioner may order suspension of Respondent's license  
10 until Respondent successfully passes the examination.

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13  
14 DATED: 12-17-09 EJL  
ELLIOTT MAC LENNAN, Counsel

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16 \* \* \*

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

1                    Respondent (1) shall mail the original signed signature  
2 page of the stipulation herein to Elliott Mac Lennan: Attention:  
3 Legal Section, Department of Real Estate, 320 W. Fourth St.,  
4 Suite 350, Los Angeles, California 90013-1105. Additionally,  
5 Respondent shall also (2) facsimile a copy of signed signature  
6 page, to the Department at the following telephone/fax number:  
7 (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile  
8 constitutes acceptance and approval of the terms and conditions  
9 of this stipulation. Respondent agrees, acknowledges and  
10 understands that by electronically sending to the Department a  
11 facsimile copy of Respondent's actual signature as it appears on  
12 the stipulation that receipt of the facsimile copy by the  
13 Department shall be as binding on Respondent as if the Department  
14 had received the original signed stipulation.  
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19 DATED: 12/22/09

Jose A. Nunez  
JOSE ANGEL NUNEZ, Respondent

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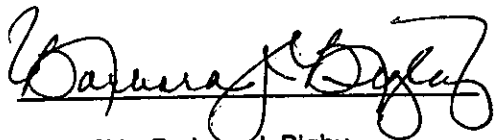
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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondent JOSE ANGEL NUNEZ and  
shall become effective at 12 o'clock noon on  
March 26, 2010.

IT IS SO ORDERED 2/11, 2010.

JEFF DAVI  
Real Estate Commissioner



BY: Barbara J. Bigby  
Chief Deputy Commisstoner



2.

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

5 License

6 3.

7 At all times mentioned, NUNEZ (hereinafter referred to  
8 as "Respondent" or "NUNEZ"), is presently licensed and/or have  
9 license rights under the Real Estate Law (Part 1 of Division 4 of  
10 the Business and Professions Code, hereinafter Code), as a real  
11 estate broker. NUNEZ was originally licensed as a real estate  
12 broker January 19, 2006.

13 Brokerage

14 4.

15 At all times mentioned, in City of Paramount, County of  
16 Los Angeles, NUNEZ acted as a real estate broker and conducted  
17 licensed activities within the meaning of:

18 a. Code Section 10131(d). NUNEZ dba ABC Home Loans  
19 and ABC Real Estate engaged in activities with the public wherein  
20 lenders and borrowers were solicited for loans secured directly  
21 or collaterally by liens on real property, wherein such loans  
22 were arranged, negotiated, processed and consummated on behalf of  
23 others for compensation or in expectation of compensation and for  
24 fees often collected in advance as well as at the conclusion of  
25 transactions; and

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6.

No trust account was kept during the audit period.

Violations

7.

In the course of activities described in Paragraph 4, above, and during the examination period described in Paragraph 5, Respondent NUNEZ, acted in violation of the Code and the Regulations in that Respondent:

(a) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees received, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.

(b) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all advance fees collected, in violation of Code Section 10145 and Regulation 2831.1.

(c) Commingled trust funds and personal funds by depositing advance fees received from loan modification services into NUNEZ' general operating account and issuing checks from said account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832, as set forth below in the table below for the following homeowner loan modifications:

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	<u>Date of Modification</u>	<u>Name</u> <u>WP</u>	<u>Amount</u>	<u>Date Received</u>	<u>Date Deposited</u>
1					
2	9/15/08	Miguel Almanza	\$900.00	9/15/08	9/17/08
3	10/11/08	Marlo Nunez	\$900.00	10/11/08	10/14/08
4	10/18/08	Juan Hinostraza	\$900.00	10/18/08	10/20/08
5	11/08/08	James Garcia	\$900.00	11/08/08	11/12/08
6	12/6/08	Raymundo Aleman	\$900.00	12/06/08	12/08/08
7	12/20/08	Jose A. Arevalo	\$650.00	12/20/08	12/22/08
8	12/31/08	Raymundo Busto	\$900.00	12/31/08	unavailable
9	01/06/09	Rayner Arita	\$800.00	01/06/09	01/07/09
10	01/10/09	Lilia Arrendondo	\$900.00	01/09/09	01/12/09
11	01/17/09	Jesus Ruiz	\$900.00	01/17/09	01/26/09
12	01/24/09	Celia Martinarena	\$900.00	01/24/09	01/26/09
13	01/24/09	Saul Jimenez	\$900.00	01/29/09	01/29/09
14	01/31/09	David Maya	\$900.00	01/31/09	02/02/09
15	02/07/09	Juan Martinez	\$900.00	02/07/09	02/09/09
16	02/17/09	Sandra Vasquez	\$900.00	02/20/09	02/23/09

17 (d) Failed to perform a monthly reconciliation of the  
18 balance of all separate beneficiary or transaction records  
19 maintained pursuant to Regulation 2831.1 with the record of all  
20 trust funds received and disbursed, in violation of Code Section  
21 10145 and Regulation 2831.2.

22 (e) Violated Code Section 10146 by collecting advance  
23 fees from the public yet failing to deposit the fees into a real  
24 estate broker trust account.

25 (f) Violated Code Section 10085 and Regulation 2970 by  
26 failing to submit to the Commissioner not less than ten calendar  
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1 days before publication or other use, all materials to be used in  
2 advertising, promoting, soliciting and negotiating an agreement  
3 calling for the payment of an advance fee including the form of  
4 advance fee agreement proposed for use; and,

5 (g) Violated Code Section 10146 and Regulation 2972 by  
6 failing to provide a complete description of loan modification  
7 services to be rendered provided to each would-be homeowner in 10  
8 point type font and an allocation and disbursement of the amount  
9 collected as the advance fee.

10 Disciplinary Statutes

11 8.

12 The conduct of Respondent NUNEZ described in Paragraph  
13 7, above, violated the Code and the Regulations as set forth:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Sections 10145 and Regulation 2831
7(b)	Code Sections 10145 and Regulation 2831.1
7(c)	Code Sections 10145 and 10176(e) and Regulation 2832
7(d)	Code Section 10145 and Regulation 2831.2
7(e)	Code Section 10146
7(f)	Code Sections 10085 and Regulation 2970



1	7(g)	Code Sections 10146 and Regulation 2972
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3  
4 The foregoing violations constitute cause for discipline of the  
5 real estate license and license rights of NUNEZ, under the  
6 provisions of Code Sections 10177(d) and/or 10177(g).

7 9.

8 The overall conduct, acts and/or omissions of  
9 Respondent NUNEZ is negligent in failing to ensure full  
10 compliance with the Real Estate Law is in violation of Code  
11 Sections 10177(d), 10177(g) and 10177(h).

12 WHEREFORE, Complainant prays that a hearing be  
13 conducted on the allegations of this Accusation and that upon  
14 proof thereof, a decision be rendered imposing disciplinary  
15 action against the license and license rights of Respondent JOSE  
16 ANGEL NUNEZ, under the Real Estate Law (Part 1 of Division 4 of  
17 the Business and Professions Code) and for such other and further  
18 relief as may be proper under other applicable provisions of law.

19 Dated at Los Angeles, California

20  
21 this 2 day of November 2009. Robin Trujillo  
22 Deputy Real Estate Commissioner

23  
24  
25 cc: Jose Angel Nunez D.O.  
26 Robin Trujillo  
27 Sacto.  
Audits - Darryl Thomas