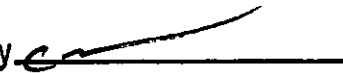


1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

4 (213) 576-6982

FILED
AUG 24 2011
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)	
12 I F KEY HOLDINGS, INC.)	NO. H-36798 LA
13 and <u>DARIN PHILIP WHITNEY,</u>)	L-2010101027
14 individually and as former)	<u>STIPULATION AND AGREEMENT</u>
15 designated officer of)	
16 I F Key Holdings, Inc.,)	
Respondents.)	

17 It is hereby stipulated by and between DARIN PHILIP
18 WHITNEY (sometimes referred to as "Respondent") and his attorney
19 of record, Frank M. Buda, Esq. and the Complainant, acting
20 by and through Lissete Garcia, Counsel for the Department of Real
21 Estate, as follows for the purpose of settling and disposing of
22 the Accusation filed on September 9, 2010, in this matter:

- 23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 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 ("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. On September 28, 2010, Respondent filed a Notice of
8 Defense pursuant to Section 11506 of the Government Code for the
9 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 such
17 as the right to present evidence in defense of the allegations in
18 the Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation filed in this proceeding.
21 In the interest of expedience and economy, Respondent chooses not
22 to contest these factual allegations, but to remain silent and
23 understands that, as a result thereof, these factual statements,
24 will serve as a prima facie basis for the disciplinary action
25 stipulated to herein. The Real Estate Commissioner shall not be
26 required to provide further evidence to prove such allegations.

27

1 Commissioner in the event of Respondent's conviction or plea of
2 nolo contendere to a crime which is substantially related to
3 Respondent's fitness or capacity as a real estate licensee.

4 2. The restricted license issued to Respondent may be
5 suspended prior to hearing by Order of the Real Estate
6 Commissioner on evidence satisfactory to the Commissioner that
7 Respondent has violated provisions of the California Real Estate
8 Law, the Subdivided Lands Law, Regulations of the Real Estate
9 Commissioner or conditions attaching to the restricted license.

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

15 4. Respondent shall, within nine months from the
16 effective date of this Decision, present evidence satisfactory to
17 the Real Estate Commissioner that Respondent has, since the most
18 recent issuance of an original or renewal real estate license,
19 taken and successfully completed the continuing education
20 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
21 for renewal of a real estate license. If Respondent fails to
22 satisfy this condition, the Commissioner may order the suspension
23 of the restricted license until the Respondent presents such
24 evidence. The Commissioner shall afford Respondent the
25 opportunity for a hearing pursuant to the Administrative
26 Procedure Act to present such evidence.

27

1 B. Any restricted real estate license issued to
2 Respondent pursuant to this Decision shall be suspended for
3 thirty (30) days from the date of issuance of said restricted
4 license; provided, however, that if Respondent petitions, said
5 suspension (or a portion thereof) shall be stayed upon condition
6 that:

7 1. Respondent pays a monetary penalty pursuant to
8 Section 10175.2 of the Business and Professions Code at the rate
9 of \$100 for each day of the suspension for a total monetary
10 penalty of \$3,000.

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

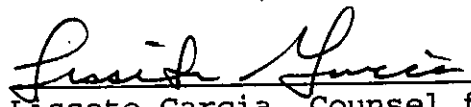
16 3. No further cause for disciplinary action against
17 the real estate license of Respondent occurs within one year
18 from the effective date of the Decision in this matter.

19 4. If Respondent fails to pay the monetary penalty in
20 accordance with the terms and conditions of the Decision, the
21 Commissioner may, without a hearing, order the immediate
22 execution of all or any part of the stayed suspension in which
23 event the Respondent shall not be entitled to any repayment nor
24 credit, prorated or otherwise, for money paid to the Department
25 under the terms of this Decision.

26 5. If Respondent pays the monetary penalty and if no
27 further cause for disciplinary action against the real estate

1 license of Respondent occurs within one year from the effective
2 date of the Decision, the stay hereby granted shall become
3 permanent.

4 DATED: 7/15/11


Lissete Garcia, Counsel for
the Department of Real Estate

6 * * *

7
8 I have read the Stipulation and Agreement, have
9 discussed it with my counsel, and its terms are understood by me
10 and are agreeable and acceptable to me. I understand that I am
11 waiving rights given to me by the California Administrative
12 Procedure Act (including but not limited to Sections 11506,
13 11508, 11509 and 11513 of the Government Code), and I willingly,
14 intelligently and voluntarily waive those rights, including the
15 right of requiring the Commissioner to prove the allegations in
16 the Accusation at a hearing at which I would have the right to
17 cross-examine witnesses against me and to present evidence in
18 defense and mitigation of the charges.

19 Respondent can signify acceptance and approval of the
20 terms and conditions of this Stipulation and Agreement by faxing
21 a copy of the signature page, as actually signed by Respondent,
22 to the Department at the following telephone/fax number:
23 (213) 576-6914. Respondent agrees, acknowledges and understands
24 that by electronically sending to the Department a fax copy of
25 his actual signature as it appears on the Stipulation and
26 Agreement, that receipt of the faxed copy by the Department shall
27

1 be as binding on Respondent as if the Department had received the
2 original signed Stipulation and Agreement.

3 Further, if the Respondent is represented by counsel,
4 the Respondent's counsel can signify his agreement to the terms
5 and conditions of the Stipulation and Agreement by submitting
6 that signature via fax.

7 DATED: 7/15/11

Darin Philip Whitney
DARIN PHILIP WHITNEY
Respondent

8
9 DATED: 7-15-11

Frank M. Buda
FRANK M. BUDA
Counsel for Respondent.
Approved as to Form

11 * * *

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

16 IT IS SO ORDERED _____, 2011.

17 BARBARA J. BIGBY
18 Acting Real Estate Commissioner
19
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1 be as binding on Respondent as if the Department had received the
2 original signed Stipulation and Agreement.

3 Further, if the Respondent is represented by counsel,
4 the Respondent's counsel can signify his agreement to the terms
5 and conditions of the Stipulation and Agreement by submitting
6 that signature via fax.

7 DATED: _____

DARIN PHILIP WHITNEY
Respondent

9 DATED: _____

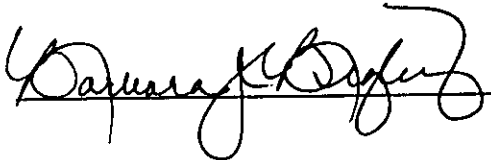
FRANK M. BUDA
Counsel for Respondent
Approved as to Form

12 * * *

13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision in this matter, and shall become effective
15 at 12 o'clock noon on September 13, 2011.

16 IT IS SO ORDERED 8/19, 2011.

17 BARBARA J. BIGBY
Acting Real Estate Commissioner

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2.

Respondent I F KEY HOLDINGS, INC. ("Respondent") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate corporation. Respondent was originally licensed by the Department of Real Estate ("Department") on or about November 16, 2000. From on or about January 3, 2002, until May 11, 2009, Respondent was authorized to act by and through Respondent Darin Philip Whitney as its broker designated pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. Respondent Darin Philip Whitney cancelled his designation as officer-broker of Respondent on or about May 11, 2009.

3.

At all times mentioned, in the State of California, Respondent acted as a real estate broker and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others.

B. Code Section 10131(d). Respondent engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

4.

Beginning on May 1, 2009, through May 27, 2009, the Department attempted to schedule and complete an audit examination of the books and records of Respondent pertaining to the resale and mortgage loan activities described in Paragraph 3, which require a real estate license. The audit examination was to cover a period of time beginning on September 1, 2007, to April 30, 2009. The Department's audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 080246 and the exhibits and work papers attached to said audit report.

VIOLATIONS OF THE REAL ESTATE LAW

5.

In the course of activities described in Paragraphs 3 and 4, above, Respondent, acted in violation of the Code and Title 10, California Code of Regulations ("Regulations") in that it:

(a) Abandoned its main office located at 1594 N. Batavia Avenue, Orange, California, and mailing address located at 1748 W. Katella #200, Orange, California 92867, without proper notification to the Department, in violation of Code Section 10162 and Regulation 2715.

(b) Failed to retain all records of Respondent's activities requiring a real estate broker license during the past three years including sales and loan transaction files for Respondent's real estate clients and further including listings, real estate contracts, canceled checks, escrow and trust records, in violation of Code Section 10148.

6.

The conduct of Respondent, described in Paragraph 5, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
5(a)	Code Section 10162 and Regulation 2715
5(b)	Code Section 10148

DETERMINATION OF ISSUES

1.

Cause for disciplinary action against Respondent I F KEY HOLDINGS, INC. exists pursuant to Business and Professions Code Sections 10148, 10162, 10177(d) and 10177(g) and Regulation 2715.

2.

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

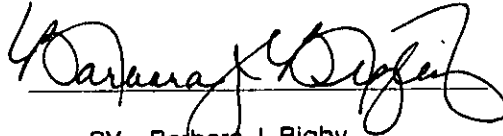
ORDER

The licenses and license rights of Respondent I F KEY HOLDINGS, INC. 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 November 24, 2010.

DATED: 11/2, 2010.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

1 LISSETE GARCIA, Counsel (SBN 211552)
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) 576-6914

FILED
SEP - 9 - 2010
DEPARTMENT OF REAL ESTATE

By C. Garcia

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-36798 LA

12 I F KEY HOLDINGS, INC.,)
13 and DARIN PHILIP WHITNEY,)
14 individually and as former)
15 designated officer of)
16 I F Key Holdings, Inc.,)

A C C U S A T I O N

17 Respondents.)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against I F KEY HOLDINGS, INC. and DARIN PHILIP WHITNEY,
21 individually and as former designated officer of I F Key
22 Holdings, Inc., alleges as follows:
23

24 ///

25 ///

26 ///

27 ///

1.

1 The Complainant, Robin Trujillo, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against I F KEY HOLDINGS, INC.
4 and DARIN PHILIP WHITNEY.
5

2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.
9

10 LICENSE HISTORY

3.

11 A. At all times mentioned, I F KEY HOLDINGS, INC.
12 ("IFKHI") was licensed or had license rights issued by the
13 Department of Real Estate ("Department") as a real estate
14 corporation. On November 16, 2000, IFKHI was originally licensed
15 as a real estate corporation.
16

17 B. At all times mentioned, DARIN PHILIP WHITNEY
18 ("WHITNEY") was licensed or had license rights issued by the
19 Department as a real estate broker. On November 27, 2001,
20 WHITNEY was originally licensed as a real estate broker. From
21 January 3, 2002, through May 11, 2009, WHITNEY was licensed as
22 the designated officer of IFKHI.
23

24 C. At all times material herein, IFKHI was licensed by
25 the Department as a corporate real estate broker by and through
26 WHITNEY, as the designated officer and broker responsible,
27 pursuant to Code Sections 10159.2 and 10211 of the Business and

1 Professions Code for supervising the activities requiring a real
2 estate license conducted on behalf of IFKHI by IFKHI's officers,
3 agents and employees, including WHITNEY.

4 BROKERAGE

5 4.

6 At all times mentioned, in the State of California,
7 IFKHI and WHITNEY acted as real estate brokers and conducted
8 licensed activities within the meaning of:

9 A. Code Section 10131(a). Respondents engaged in the
10 business of, acted in the capacity of, advertised or assumed to
11 act as real estate brokers, including the solicitation for
12 listings of and the negotiation of the sale of real property as
13 the agent of others.

14 B. Code Section 10131(d). Respondent's engaged in
15 activities with the public wherein lenders and borrowers were
16 solicited for loans secured directly or collaterally by liens on
17 real property, wherein such loans were arranged, negotiated,
18 processed and consummated on behalf of others for compensation or
19 in expectation of compensation and for fees often collected in
20 advance.
21

22 FIRST CAUSE OF ACTION
23 (Audit)

24 5.

25 Beginning on May 1, 2009, through May 27, 2009, the
26 Department attempted to schedule and complete an audit
27 examination of the books and records of IFKHI pertaining to the

1 resale and mortgage loan activities described in Paragraph 4,
2 which require a real estate license. The audit examination was
3 to cover a period of time beginning on September 1, 2007, to
4 April 30, 2009. Respondents IFKHI and WHITNEY refused to comply
5 with the Department's request to complete an audit. On May 11,
6 2009, Respondent WHITNEY tendered his resignation as designated
7 officer for IFKHI. The Department's audit examination revealed
8 violations of the Code and the Regulations as set forth in the
9 following paragraphs, and more fully discussed in Audit Report LA
10 080246 and the exhibits and work papers attached to said audit
11 report.

12 VIOLATIONS OF THE REAL ESTATE LAW

13 6.

14 In the course of activities described in Paragraphs 4
15 and 5, above, Respondents IFKHI and WHITNEY, acted in violation
16 of the Code and the Regulations in that they:

17 (a) Abandoned IFKHI's main office located at 1594 N.
18 Batavia Avenue, Orange, California, and mailing address located
19 at 1748 W. Katella #200, Orange, California 92867, without proper
20 notification to the Department, in violation of Code Section
21 10162 and Regulation 2715.

22 (b) Failed to retain all records of IFKHI's activities
23 requiring a real estate broker license during the past three
24 years including sales and loan transaction files for IFKHI's real
25 estate clients and further including listings, real estate
26
27

1 contracts, canceled checks, escrow and trust records, in
2 violation of Code Section 10148.

3 7.

4 The conduct of Respondents IFKHI and WHITNEY, described
5 in Paragraph 6, above, violated the Code and the Regulations as
6 set forth below:

7 PARAGRAPH

PROVISIONS VIOLATED

8 6(a)

Code Section 10162 and Regulation
9 2715

10
11 6(b)

Code Section 10148

12 The foregoing violations constitute cause for the
13 suspension or revocation of the real estate license and license
14 rights of IFKHI and WHITNEY under the provisions of Code Section
15 10148, 10165, 10177(d) and/or 10177(g).

16 LACK OF SUPERVISION AND COMPLIANCE

17 8.

18
19 The overall conduct of Respondent WHITNEY constitutes a
20 failure on his part, as officer designated by a corporate broker
21 licensee, to exercise the reasonable supervision and control over
22 the licensed activities of IFKHI as required by Code Section
23 10159.2, and to keep IFKHI in compliance with the Real Estate
24 Law, and is cause for the suspension or revocation of the real
25 estate license and license rights of WHITNEY pursuant to the
26 provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents I F KEY HOLDINGS, INC. and DARIN PHILIP WHITNEY, individually and as former designated officer of I F Key Holdings, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 8 day of September, 2010.


ROBIN TRUJILLO
Deputy Real Estate Commissioner

cc: I F Key Holdings, Inc.
Darin Philip Whitney
Robin Trujillo
Sacto