

1 Department of Real Estate
2 320 W. 4TH Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

JAN 12 2012

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 PAUL MAXFIELD HERMAN,) No. H-37119 LA
13 Respondent.) L-2011031455
14) STIPULATION
15) AND
16) AGREEMENT

17 It is hereby stipulated by and between Respondent
18 PAUL MAXFIELD HERMAN, (sometimes referred to as "Respondent"),
19 represented by Frank M. Buda, Esq. and the Complainant, acting by
20 and through Elliott Mac Lennan, Counsel for the Department of
21 Real Estate, as follows for the purpose of settling and disposing
22 of the Accusation filed on March 9, 2011, 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

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 ("Stipulation").

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 in this
7 proceeding.

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

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

1 5. This Stipulation is made for the purpose of
2 reaching an agreed disposition of this proceeding and is
3 expressly limited to this proceeding and any other proceeding or
4 case in which the Department of Real Estate ("Department"), or
5 another licensing agency of this state, another state or if the
6 federal government is involved, and otherwise shall not be
7 admissible in any other criminal or civil proceeding.

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

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

24 ///
25 ///
26 ///
27 ///

DETERMINATION OF ISSUES

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

I.

The conduct of PAUL MAXFIELD HERMAN, as described in Paragraph 4, above, is in violation of Section 10130 and 10085 of the Business and Professions Code ("Code") and Section 2970 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The real estate salesperson license of Respondent PAUL MAXFIELD HERMAN under the Real Estate Law is revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent, pursuant to Section 10156.5 of the Business and Professions Code, if Respondent:

Makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code.

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

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

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

17 4. Respondent shall submit with any application for
18 license under an employing broker, or any application for
19 transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker on a form approved by
21 the Department of Real Estate which shall certify:

22 (a) That the employing broker has read the
23 Decision of the Commissioner which granted
24 the right to a restricted license; and

25 (b) That the employing broker will exercise
26
27

1 close supervision over the performance by the
2 restricted licensee relating to activities
3 for which a real estate license is required.
4

5 5. All licenses and licensing rights of Respondent are
6 indefinitely suspended unless or until Respondent provides proof
7 satisfactory to the Commissioner, of having taken and
8 successfully completed the continuing education course on trust
9 fund accounting and handling specified in paragraph (3) of
10 subdivision (a) of Section 10170.5 of the Business and
11 Professions Code. Proof of satisfaction of this requirement
12 includes evidence that Respondent has successfully completed the
13 trust fund account and handling continuing education course
14 within 120 days prior to the effective date of the Decision.

15 6. Respondent shall within six (6) months from the
16 effective date of the Decision herein, take and pass the
17 Professional Responsibility Examination administered by the
18 Department including the payment of the appropriate examination
19 fee. If Respondent fails to satisfy this condition, the
20 Commissioner may order suspension of Respondent's license until
21 Respondent passes the examination. The Commissioner shall afford
22 Respondent the opportunity for a hearing pursuant to the
23 Administrative Procedure Act to present such evidence.

24 7. Respondent shall, within nine (9) months from the
25 effective date of this Decision, present evidence satisfactory to
26 the Real Estate Commissioner that Respondent has, since the most
27 recent issuance of an original or renewal real estate license,

1 taken and successfully completed the continuing education
2 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
3 for renewal of a real estate license. If Respondent fails to
4 satisfy this condition, the Commissioner may order the suspension
5 of the restricted license until Respondent presents such
6 evidence. The Commissioner shall afford Respondent the
7 opportunity for a hearing pursuant to the Administrative
8 Procedure Act to present such evidence.

9 8. Respondent shall, within ninety (90) days from the
10 effective date of this Decision, present evidence satisfactory to
11 the Real Estate Commissioner that (1) restitution of fees paid
12 for loan modification services have been repaid to Respondent's
13 three borrower applicants, as follows: Jeff and Susan K.
14 (\$6,500.00), Chesley R. (\$2,720.00), and Edward M. (\$2,720.00) or
15 (2) that repayment has been effected or is not applicable.

16 Said proof shall be submitted to the Manager of the
17 Crisis Response Team at the Los Angeles Office of the Department
18 of Real Estate and shall be verified as true and accurate by
19 Respondent under penalty of perjury. If Respondent fails to
20 satisfy this condition, the Commissioner may order the suspension
21 of Respondent's restricted license until Respondent presents such
22 evidence. The Commissioner shall afford Respondent the
23 opportunity for a hearing pursuant to the Administrative
24 Procedure Act to present such evidence.

24 ///

25 ///

26 ///

27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

To the extent that restitution repayment is applicable,

(1) Respondent shall deliver or mail the restitution payments, if any, by certified mail, return receipt requested, to the applicants' last address on file with or known to Respondent.

(2) Unless the evidence of repayment to the three aforementioned borrower applicants is provided, Respondent shall provide in a table or spread sheet format a detailed description of the aforesaid three applicants. The table or spread sheet shall include the applicants' name, address, date of agreement, description or services and date rendered, amount and date paid, and status of account, which shall include whether all services have been rendered or refund made and a summary of the evidence therefor.

(3) If any of the payments are returned by the Post Office marked "unable to deliver," Respondent shall employ a locator service (that may include or be limited to the Internet or other database retrieval search) to try and locate the aforesaid borrowers. Repayments shall then be made to the addresses recommended by the locator service.


(4) If unable to effect repayment after using a locator service, Respondent shall provide reasonable proof satisfactory to the Commissioner of his efforts to comply with the provisions of this Paragraph.

(5) If the Commissioner determines that proof to be

1 unsatisfactory, he shall so advise Respondent, and indicate what
2 additional reasonable efforts should be made to make repayment to
3 the applicants.

4 (6) If Respondent fails to satisfy this condition, the
5 Commissioner may order suspension of Respondent's restricted
6 license until Respondent effects compliance herein and/or order
7 the escheat of undeliverable or undelivered restitution payments.

8
9
10 DATED: 12-16-11


11 JULIE L. TO, Counsel for
12 the Department of Real Estate

13 * * *

14 EXECUTION OF THE STIPULATION

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

26 ///

27 ///

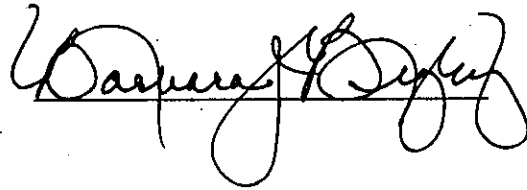
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent PAUL MAXFIELD HERMAN and
shall become effective at 12 o'clock noon on
FEB 01 2012, 2012.

IT IS SO ORDERED 1/9/12

BARBARA J. BIGBY
Acting Real Estate Commissioner



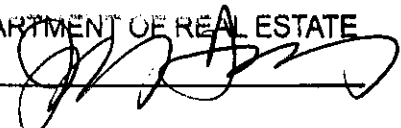
1 JULIE L. TO, State Bar No. 219482
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6916

FILED

MAR 09 2011

DEPARTMENT OF REAL ESTATE

BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation of)	No. H-37119 LA
13 PAUL MAXFIELD HERMAN)	<u>A C C U S A T I O N</u>
14)	
15 Respondent.)	
16)	

17 The Complainant, Maria Suarez, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against PAUL MAXFIELD HERMAN ("HERMAN") is informed and alleges
20 as follows:

21 1.

22 The Complainant, Maria Suarez, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 her official capacity.

25 ///

26 ///

1 Licensee

2 2.

3 Respondent HERMAN is presently licensed and/or has
4 license rights under the Real Estate Law (Part 1 of Division 4 of
5 the Business and Professions Code, hereinafter "Code"), as a real
6 estate salesperson. Respondent was first licensed as a real
7 estate salesperson on March 6, 2002. E-RealtyHomes.com Inc. in
8 Tarzana, California is listed as Respondent's employing broker.
9

10 Unlicensed Entity

11 3.

12 FEDERAL MORTGAGE SOLUTIONS, LLC ("FMS") is not now, and
13 has never been, licensed by the Department in any capacity. FMS
14 is a registered corporation incorporated under the laws of the
15 State of California. FMS filed Articles of Organization with the
16 Secretary of State on January 16, 2009 with Paul Herman listed as
17 the Agent for Service of Process. FMS filed a Certificate of
18 Amendment with the Secretary of State on June 26, 2009 to change
19 its name to "National Mortgage Solutions, LLC" ("NMS"). Neither
20 FMS nor NMS have Fictitious Business Name Statements filed with
21 the County of Los Angeles. At the times set forth below,
22 Respondent FMS/NMS solicited borrowers to negotiate loans secured
23 by real property for compensation or in expectation of
24 compensation to FMS/NMS.
25

26 ///

27 4.

Unlicensed Activity

1 At all times mentioned herein, in the State of
2 California, Respondent HERMAN, by and through FMS and/or NMS
3 engaged in the performance of activities requiring a real estate
4 license pursuant to Code Section 10131 and 10131.2. Said
5 activities require that HERMAN be employed by a real estate
6 broker and that he acts under the supervision and control of a
7 real estate broker to whom he is licensed. Respondent HERMAN's
8 acts set forth below were carried out without the knowledge and
9 supervision of any listed employing brokers. Respondent HERMAN
10 engaged in the business of claiming, demanding, charging,
11 receiving, collecting or contracting for the collection of
12 advance fees, within the meaning of Code Section 10026,
13 including, but not limited to, the following loan activities with
14 respect to loans which were secured by liens on real property:
15

16 a. Jeff K. and Susan K.'s Transaction: On or about
17 February 27, 2009, March 27, 2009, and April 27, 2009, Jeff K.
18 and Susan K. made three payments by credit card totaling
19 \$6,500.00 to FMS/NMS as advance fees, pursuant to an agreement
20 pertaining to loan solicitation, negotiation, and modification
21 services to be provided by FMS with respect to a loan secured by
22 real property located at 2155 Ward Way, Woodside, California
23 94062. After six months, Jeff K. and Susan K. received no
24 results on their loan and learned that FMS/NMS had not worked on
25 negotiating or modifying the terms of his loan on their Woodside
26 property and requested a refund. When FMS/NMS did not respond to
27

1 Jeff and Susan K.'s refund demand, Jeff and Susan engaged the
2 services of an attorney to file a Complaint with the San Mateo
3 County District Attorney's Office.

4 b. Chesley R. Transaction: On or about June 17, 2009,
5 Chesley R. paid to FMS/NMS an advance fee of \$2,720.00 by
6 credit card, pursuant to an agreement pertaining to loan
7 solicitation, negotiation, and modification services to be
8 provided by FMS with respect to a loan secured by real property
9 located at 3055 Quail Road in Escondido, California 92026. After
10 four months, Chesley R. learned that FMS had not worked on
11 negotiating or modifying the terms of the loan on the Escondido
12 property and requested a refund. FMS did not respond to Chesley
13 R.'s refund demand. On or about November 5, 2009, Chesley R.
14 engaged the services of an attorney for assistance.

15 c. Edward M. Transaction: On or about May 22, 2009,
16 Edward M. paid to FMS/NMS an advance fee of \$2,720.00 by check,
17 pursuant to an agreement pertaining to loan solicitation,
18 negotiation, and modification services to be provided by FMS with
19 respect to a loan secured by real property located at 519
20 Sycamore Street, Fairfield, California 94533. After six months,
21 Edward M. learned that FMS had not worked on negotiating or
22 modifying the terms of the loan on the Fairfield property and
23 requested a refund. FMS did not respond to Edward M. and it did
24 not return his money.
25

26 d. Advertising and Solicitation: On or about March 1,
27 2009, NMS and FMS distributed advertising materials regarding

1 loan modification and negotiation services and solicited consumer
2 Steve L.

3 5.

4 Respondent HERMAN collected the advance fees described
5 in Paragraphs 4a through 4c, above, pursuant to the provisions of
6 a written agreement which constitutes an advance fee agreement
7 within the meaning of Code Section 10085 and 10085.5.

8 6.

9 Respondent HERMAN failed to submit the written
10 agreement referenced in Paragraphs 4a through 4c, above, to the
11 Commissioner ten days before using it in violation of Code
12 Section 10085 and Section 2970, Title 10, Chapter 6, Code of
13 Regulations ("Regulations").

14 7.

15 Based on the conduct, acts and/or omissions as set
16 forth in Paragraph 4, Respondent HERMAN acting by himself, or by
17 and/or through one or more agents, representatives, associates,
18 and/or co-conspirators, while using the name "FEDERAL MORTGAGE
19 SOLUTIONS, LLC" or "National Mortgage Solutions, LLC" or other
20 names or fictitious names unknown at this time, solicited
21 borrowers and performed services for those borrowers and/or those
22 borrowers' lenders in connection with loans secured directly or
23 collaterally by one or more liens on real property, and charged,
24 demanded or collected advance fees for the services to be
25 provided, which acts require a real estate broker license under
26 Sections 10131(d) and 10131.2 of the Code, during a period of
27

1 time when Respondent HERMAN was not licensed by the Department as
2 real estate brokers, in violation of Section 10130 of the Code.

3 8.

4 The conduct, acts and/or omissions of Respondent, as
5 set forth above, are cause for the suspension or revocation of
6 the licenses and license rights of Respondent pursuant to Code
7 Sections 10085, 10130, 10177(d) and/or 10177(g).

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

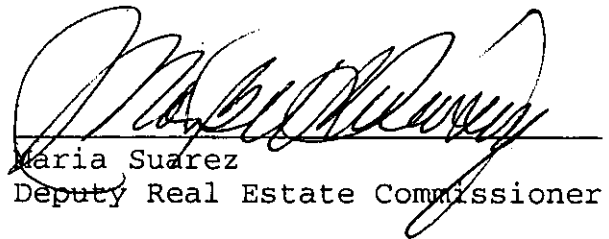
26 ///

27 ///

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 PAUL MAXFIELD HERMAN under the Real Estate Law (Part 1 of
6 Division 4 of the Business and Professions Code), and for such
7 other and further relief as may be proper under other applicable
8 provisions of law.

9 Dated at Los Angeles, California

10 this 31st day of March 2011.

11
12
13
14 
15 Maria Suarez
16 Deputy Real Estate Commissioner
17
18
19
20
21
22
23
24
25

26 cc: PAUL MAXFIELD HERMAN
27 e-RealtyHomes.com Inc.
Maria Suarez
Sacto.