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BUREAU OF REAL ESTATE

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8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) CalBRE No. H-39302 LA
12 MICHAEL PELIMIANO SORIANO,) A C C U S A T I O N
AGUSTIN NAVARRA ALAYON, and)
13 JOSEPH ANTHONY OLIVA,)
14 Respondents.)

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16 The Complainant, Robin Trujillo, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against MICHAEL PELIMIANO SORIANO, AGUSTIN NAVARRA ALAYON, and
19 JOSEPH ANTHONY OLIVA (collectively "Respondents"), is informed
20 and alleges as follows:

21 1.

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

1 2.

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

6 3.

7 From April 10, 2007, through the present, Respondent
8 MICHAEL PELIMIANO SORIANO ("SORIANO") has been licensed and/or
9 has license rights by the Bureau of Real Estate ("Bureau") as a
10 real estate broker, License ID 01133773. At all times relevant,
11 Respondent was not licensed to do business under a fictitious
12 business name or with any branch offices. Respondent's main
13 office address was listed as 18616 Bloomfield Avenue, Cerritos,
14 California 90703.

15 4.

16 From December 1, 2001, through November 30, 2013,
17 Respondent AGUSTIN NAVARRA ALAYON ("ALAYON") was licensed by the
18 Bureau as a real estate salesperson, License ID 01324865.
19 Respondent ALAYON's salesperson license expired on November 30,
20 2013. Respondent has renewal rights pursuant to Code section
21 10201. The Bureau retains jurisdiction pursuant to Code section
22 10103. Respondent ALAYON's employing broker from April 10,
23 2006, to June 11, 2012, was Ann Marjorie Alayon. Respondent's
24 employing broker from June 12, 2012, to November 30, 2013, was

1 MSM Services, Inc.

2 5.

3 From December 12, 2006, through the present, Respondent
4 JOSEPH ANTHONY OLIVA ("OLIVA") has been licensed and/or has
5 license rights by the Bureau as a real estate salesperson,
6 License ID 01785075. Respondent OLIVA's employing broker from
7 March 18, 2011, to the present has been Ibis Universal
8 Corporation. From July 18, 2010, through March 17, 2011,
9 Respondent OLIVA was licensed as "NBA" or no broker affiliation
10 which precluded OLIVA from engaging in activities that required
11 a real estate license.

12 6.

13 Code Section 10131 defines a real estate broker as a person
14 who:

15 (a) Sells or offers to sell, buys or offers
16 to buy, solicits prospective sellers or
17 purchasers of, solicits or obtains listing of, or
18 negotiates the purchase, sale or exchange of real
property or a business opportunity;

19 (d) Solicits borrowers or lenders for or
20 negotiates loans or collects payments or performs
21 services for borrowers or lenders in connection
22 with loans secured directly or collaterally by
23 liens on real property; or

24 (e) Sells or offers to sell, buys or
offers to buy or exchanges or offers to exchange
a real property sales contract, or a promissory
note secured directly or collaterally by a lien
on real property or on a business opportunity,
and performs services for the holders thereof.

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7.

Code Section 10131.1, subdivision (a) further defines a
real estate broker as

"a person who engages as a principal in the
business of making loans or buying from, selling
to, exchanging with the public, real property
sales contracts or promissory notes secured
directly or collaterally by liens on real
property, or who makes agreements with the public
for the collection of payments or for the
performance of services in connection with real
property sales contracts or promissory notes
secured directly or collaterally by liens on real
property."

8.

Code section 10131.2 states:

"A real estate broker within the meaning of
this part is also a person who engages in the
business of claiming, demanding, charging,
receiving, collecting or contracting for the
collection of an advance fee in connection with
an employment undertaken to promote the sale or
lease of real property or of a business
opportunity by advance fee listing, advertisement
or other offering to sell, lease, exchange or
rent property or a business opportunity, or to
obtain a loan or loans thereon."

9.

Code Section 10085.5, subdivision (a) states:

"It shall be unlawful for any person to
claim, demand, charge receive, collect, or
contract for an advance fee (1) for soliciting
lenders on behalf of borrowers or performing
services for borrowers in connection with loans
to be secured directly or collaterally by a lien

1 on real property, before the borrower becomes
2 obligated to complete the loan or, (2) for
3 performing any other activities for which a
4 license is required, unless the person is a
5 licensed real estate broker and has complied with
6 the provisions of this part."

7 10.

8 Code Section 10085.6, subdivision (a) states:

9 "Notwithstanding any other provision of law,
10 it shall be unlawful for any licensee who
11 negotiates, attempts to negotiate, arranges,
12 attempts to arrange, or otherwise offers to
13 perform a mortgage loan modification or other
14 form of mortgage loan forbearance for a fee or
15 other compensation paid by the borrower, to do
16 any of the following:

17 (1) Claim, demand, charge, collect or
18 receive any compensation until after the licensee
19 has fully performed each and every service the
20 licensee contracted to perform or represented
21 that he, she, or it would perform.

22 (2) Take any wage assignment, any lien of
23 any type on real or personal property, or other
24 security to secure the payment of compensation."

(3) Take any power of attorney from the
borrower for any purpose." ¹

11.

Code Section 10137 states:

"It is unlawful for any licensed real estate
broker to compensate, directly or indirectly, any
person for performing any of the acts within the
scope of this chapter who is not a licensed real
estate broker, or a real estate salesperson
licensed under the broker employing or
compensating him or her...

¹ Civil Code section 2944.7(a) prohibits any person, including foreclosure consultants, from similar conduct.

1 this scheme as the HLC Program. In furtherance of their scheme,
2 Respondents induced borrowers to sign agreements entitled "HLC
3 Preparation Retainer Fee Agreement" or "Service Value Guarantee"
4 wherein homeowners were promised a loan modification or purchase
5 of their notes, a lower interest rate on a thirty (30) year
6 fully amortized fixed-rate loan, and/or a reduced principal
7 balance from their current mortgage loan.

8 14.

9 Respondents charged and collected advance fees ranging from
10 \$8,000 to \$25,000 from borrowers for said services. Borrowers
11 were promised that their advance fees were 100% refundable if
12 they did not qualify for financing. In an effort to circumvent
13 existing laws that prohibited the collection of advance fees for
14 loan modification and foreclosure forbearance services,
15 Respondents deliberately included verbiage in their agreements
16 which stated that clients agreed that "no advance fees have been
17 paid."

18 15.

19 Borrowers were told that the process could take up to one
20 year. Borrowers requested refunds after realizing or becoming
21 informed that they had not, or would not, receive the services
22 promised by Cyberlink's representatives. Respondents acted in
23 bad faith by failing to respond to borrowers' requests for their
24 refunds or refusing to refund the borrowers' requests for

1 refunds of their advance fees. Respondents charged and
 2 collected an estimated \$1.4 million in advance fees from
 3 borrowers. Some of the victims of Cyberlink's scheme, include,
 4 but are not limited to, the following borrowers:

BORROWER	ADDRESS	ADVANCE FEE	DATE PAID
Precioso P.	436 Gavin Ct.	\$9,000	07/06/2011
Solito S.	1105 Maserati Dr.	\$1,000 \$8,000	05/31/2011 03/16/2011
Victoria N.	2112 N. Frederic St.	\$8,000	03/29/2011
Angelito A.	7504 Longhorn Lodge Ave.	\$4,500 \$4,500	07/05/2011 07/12/2011

10
 11 16.

12 The conduct, acts and/or omissions of Respondents SORIANO,
 13 ALAYO, and OLIVA as set forth above in Paragraphs 12 through 15,
 14 are in violation of Code sections 10085.5, 10085.6, and/or Civil
 15 Code section 2944.7, and constitute cause for the suspension or
 16 revocation of the licenses and license rights of Respondents
 17 SORIANO, ALAYO, and OLIVA pursuant to Code Sections 10177(d)
 18 (violation of the Real Estate Law) and/or 10177(g) (negligence).

19 17.

20 Respondents' conduct, acts and/or omissions as set forth
 21 above in Paragraphs 12 through 15, constitute grounds for the
 22 suspension or revocation of the licenses and license rights of
 23 Respondents SORIANO, ALAYO, and OLIVA pursuant to Code Sections
 24 10176(a) (making any substantial misrepresentation), 10176(b)

1 (making any false promises of a character likely to influence,
2 persuade or induce), and/or 10176(i) (conduct...which constitutes
3 fraud or dishonest dealing).

4 18.

5 The conduct, acts and/or omissions of Respondents ALAYO and
6 OLIVA as set forth above in Paragraphs 12 through 15, are in
7 violation of Code sections 10130 and 10137 and constitute cause
8 for the suspension or revocation of the licenses and license
9 rights of Respondents ALAYO, and OLIVA pursuant to Code Sections
10 10139 (penalties for unlicensed person), 10177(d) (violation of
11 the Real Estate Law) and/or 10177(g) (negligence).

12 19.

13 The conduct, acts and/or omissions of Respondent SORIANO as
14 set forth above in Paragraphs 12 through 15, are in violation of
15 Code sections 10145 (handling of trust funds), 10146 (advance
16 fees to be deposited in trust account), 10159.5 (unlicensed
17 fictitious name), 10163 (unlicensed branch office), and 10137
18 (unlawful employment or compensation), and constitute cause for
19 the suspension or revocation of the license and license rights
20 of Respondent SORIANO pursuant to Code Sections 10139 (penalties
21 for unlicensed person), 10177(d) (violation of the Real Estate
22 Law) and/or 10177(g) (negligence).

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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 all licenses and/or license rights of Respondents MICHAEL PELIMIANO SORIANO, AGUSTIN NAVARRA ALAYON, and JOSEPH ANTHONY OLIVA under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at Los Angeles, California

this 6 day of February, 2014.


ROBIN TRUJILLO
Deputy Real Estate Commissioner

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cc: Michael Pelimiano Soriano
Agustin Navarra Alayon
Joseph Anthony Oliva
Ibis Universal Corporation
Robin Trujillo
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