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1 2. Respondents have received, read, and understand the Statement to Respondent, the
2 Discovery Provisions of the APA, and the Accusation filed by the Department of Real Estate in
3 this proceeding.

4 3. On November 8, 2019, each of the Respondents filed a Notice of Defense pursuant
5 to section 11506 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices
7 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said
8 Notices of Defense, Respondents will thereby waive Respondents' right to require the Real Estate
9 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested hearing
10 held in accordance with the provisions of the APA and that Respondents will waive other rights
11 afforded to Respondents in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation. In
14 the interest of expedience and economy, Respondents choose not to contest these allegations, but
15 to remain silent, and understand that, as a result thereof, these factual allegations, without being
16 admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein.
17 The Real Estate Commissioner shall not be required to provide further evidence to prove said
18 factual allegations.

19 5. This Stipulation and Respondents' decision not to contest the Accusation are made
20 for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to
21 this proceeding and any other proceeding or case in which the Department, or another licensing
22 agency of this state, another state, or if the federal government is involved, and otherwise shall not
23 be admissible in any other criminal or civil proceedings.

24 6. It is understood by the parties that the Real Estate Commissioner may adopt the
25 Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions on
26 Respondents' real estate licenses and license rights as set forth in the below Order. In the event
27 that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and of no
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1 effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation under
2 all the provisions of the APA and shall not be bound by any admission or waiver made herein.

3 7. The Order or any subsequent Order of the Commissioner made pursuant to this
4 Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil
5 proceedings by the Department with respect to any matters which were not specifically alleged to
6 be causes for the Accusation in this proceeding.

7 8. Respondents understand that by agreeing to this Stipulation, Respondents agree to
8 pay, pursuant to Business and Professions Code Section 10148, the cost of the original audit which
9 led to this disciplinary action. The amount of said cost is \$8,537.42.

10 9. Respondents have received, read, and understand the "Notice Concerning Costs of
11 Subsequent Audit." Respondents further understand that by agreeing to this Stipulation, the
12 findings set forth below in the Determination of Issues become final, and the Commissioner may
13 charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations have been corrected. The
15 maximum cost of the subsequent audit shall not exceed 125% of cost of the original audit, or
16 \$10,671.77.

17 10. Respondents understand that by agreeing to this Stipulation, Respondents agree to
18 pay, pursuant to Business and Professions Code Section 10106, the cost of the investigation and
19 enforcement of this matter. The amount of said cost is \$2,492.00.

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions, and waivers, and solely for the
22 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that
23 the following Determination of Issues shall be made:

24 I.

25 The conduct, acts, and/or omissions of Respondent DHLC as described in the Accusation,
26 constitute cause for the suspension or revocation of all real estate licenses and license rights of
27 Respondent DHLC under California Business and Professions Code ("Code") Section 10176(e)
28 for violation of Code Sections 10145, 10159.5, and 10176(e), and Title 10, Chapter 6, California

1 Code of Regulations ("Regulations") Sections 2731, 2831, 2831.1, 2831.2, 2832, 2832.1, 2950(d),
2 2950(f), 2950(g), 2950(h), and 2951.

3 II.

4 The conduct, acts, and/or omissions of Respondent GOMEZ, as described in the
5 Accusation, constitute cause for the suspension or revocation of all real estate licenses and license
6 rights of Respondent GOMEZ under Code Sections 10176(e) and 10177(h) for violation of Code
7 Sections 10145, 10159.2, 10159.5, 10176(e), and 10177(h) and Regulations 2725, 2731, 2831,
8 2831.1, 2831.2, 2832, 2832.1, 2950(d), 2950(f), 2950(g), 2950(h), and 2951.

9 ORDER

10 WHEREFORE, THE FOLLOWING ORDER is hereby made:

11 I.

12 Respondents DOWNEY HOME LOANS CORPORATION and FERNANDO GOMEZ
13 are publicly reprovved.

14 II.

15 1. Respondents shall pay, severally or jointly, the sum of \$2,492.00 for the
16 Commissioner's reasonable cost of the investigation and enforcement which led to this
17 disciplinary action **within one-hundred and eighty (180) days from the effective date of this**
18 **Decision and Order.** Said payment shall be in the form of a cashier's check made payable to the
19 Department of Real Estate. **The investigative and enforcement costs must be delivered to the**
20 **Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.**
21 **Payment of investigation and enforcement costs should not be made until the Stipulation has**
22 **been approved by the Commissioner.** If Respondents fail to satisfy this condition in a timely
23 manner as provided for herein, Respondents' real estate licenses shall automatically be suspended
24 until payment is made in full, or until a decision providing otherwise is adopted following a
25 hearing held pursuant to this condition.

26 2. Pursuant to section 10148 of the Code, Respondents shall pay, severally or jointly,
27 the sum of \$8,537.42 for the Commissioner's cost of the audit which led to this disciplinary
28 action. **Respondents shall pay such cost within sixty (60) days of receiving an invoice**

1 therefore from the Commissioner. Payment of audit costs should not be made until
2 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner
3 as provided for herein, Respondents' real estate licenses shall automatically be suspended until
4 payment is made in full, or until a decision providing otherwise is adopted following a hearing
5 held pursuant to this condition.

6 3. Respondents understand that by agreeing to this Stipulation, the findings set forth
7 below in the Determination of Issues become final, and the Commissioner may charge
8 Respondents for the cost of any subsequent audit, if a subsequent audit is conducted, pursuant to
9 Code section 10148 to determine if the violations have been corrected and that Respondents are in
10 compliance with trust fund handling requirements of the Real Estate Law. The maximum cost of
11 the follow-up audit will not exceed one-hundred twenty-five percent (125%) of the cost of the
12 original audit; in the instant case, the cost of the original audit is \$8,537.42 and the maximum cost
13 of the follow-up audit will not exceed \$10,671.77. Therefore, Respondents may be charged a
14 maximum of \$10,671.77 in the event of a subsequent audit.

15 4. Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
16 reasonable cost, not to exceed \$10,671.77, for any subsequent audit, if one is performed, to
17 determine if Respondents have corrected the violations found in the Determination of Issues and
18 that Respondents are in compliance with trust fund handling requirements of the Real Estate Law.
19 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
20 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
21 include an allocation for travel time to and from the auditor's place of work. Respondents shall
22 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.

23 Payment of the audit costs should not be made until Respondents receive the invoice. If
24 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
25 real estate licenses shall automatically be suspended until payment is made in full, or until a
26 decision providing otherwise is adopted following a hearing held pursuant to this condition.

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1 DATED: 8/14/2020

2 Laurence D. Haveson
3 Laurence D. Haveson
4 Counsel for Complainant

5 * * *

6 EXECUTION OF THE STIPULATION

7 We have read this Stipulation and its terms are understood by us and are agreeable and
8 acceptable to us. We understand that we are waiving rights given to us by the California APA
9 (including, but not limited to, sections 11506, 11508, 11509, and 11513 of the Government Code),
10 and we willingly, intelligently, and voluntarily waive those rights, including the right of requiring
11 the Commissioner to prove the allegations in the Accusation at a hearing at which we would have
12 the right to cross-examine witnesses against us and to present evidence in defense and mitigation
13 of the charges.

14 Respondents can signify acceptance and approval of the terms and conditions of this
15 Stipulation and Agreement by electronically e-mailing a copy of the signature pages, as actually
16 signed by Respondents, to the Department. Respondents agree, acknowledge, and understand that
17 by electronically sending to the Department an electronic copy of Respondents' actual signatures,
18 as they appear on the Stipulation, that receipt of the emailed copy by the Department shall be as
19 binding on Respondents as if the Department had received the original signed Stipulation. By
20 signing this Stipulation, Respondents understand and agree that Respondents may not withdraw
21 their agreement or seek to rescind the Stipulation prior to the time the Commissioner considers
22 and acts upon it or prior to the effective date of the Stipulation and Order.

23 MAILING

24 Respondents and their counsel shall, within five (5) business days from signing the
25 Stipulation, mail the original signed signature page(s) of the Stipulation herein to Laurence
26 Haveson, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Room 350,
27 Los Angeles, California 90013-1105.

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1 Respondents' signatures below constitute acceptance and approval of the terms and
2 conditions of this Stipulation. Respondents agree, acknowledge, and understand that by signing
3 this Stipulation Respondents are bound by its terms as of the date of such signature and that this
4 agreement is not subject to rescission or amendment at a later date except by a separate Decision
5 and Order of the Real Estate Commissioner.

6
7 DATED: 8/13/2020


Respondent Respondents DOWNEY HOME LOANS CORPORATION

By (Printed Name): Fernando Gomez

Title: Designated officer - Broker

12
13 DATED: 8/13/2020


Respondent FERNANDO GOMEZ

15
16 DATED: 8/18/2020


Mary E. Work
Mary E. Work, A Professional Corporation
Attorney for Respondents
Approved as to Form

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1 The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me
2 as my Decision in this matter and shall become effective at 12 o'clock noon on
3 DEC 15 2020, 2020.

4 IT IS SO ORDERED 10.20.20, 2020.

6 DOUGLAS R. McCAULEY
7 REAL ESTATE COMMISSIONER

9 DOUGLAS R. McCauley