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FILED

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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 JOSE ANGEL NUNEZ, doing business as)
13 ABC Home Loans and ABC Real Estate,)

A C C U S A T I O N

14 Respondents.)
15)

16 The Complainant, Robin Trujillo, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against JOSE ANGEL NUNEZ doing business as ABC Home Loans and ABC
19 Real Estate, alleges as follows:

20 1.

21 The Complainant, Robin Trujillo, acting in her official
22 capacity as a Deputy Real Estate Commissioner of the State of
23 California, makes this Accusation against JOSE ANGEL NUNEZ
24 ("NUNEZ").
25

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27 ///

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

26 ///

1 b. Code Section 10131.2. NUNEZ engaged in the business
2 of a loan modification and an advance fee brokerage. Respondent
3 performed loan modification services with respect to loans to
4 economically distressed homeowners which were secured by liens on
5 real property for compensation or in expectation of compensation
6 and for fees often collected in advance and as well at the close
7 of the transactions. Respondent contacted lenders on behalf of
8 distressed homeowners seeking modification of the terms of their
9 home loans, interest and/or principal reduction, foreclosure
10 abatement, loan refinance, and/or short sale services.

11 Audit

12 5.

13 On June 1, 2009, the Department completed an audit
14 examination of the books and records of NUNEZ pertaining to the
15 mortgage loan, advanced fee and loan modification service
16 activities described in Paragraph 4, which require a real estate
17 license. The audit examination covered a period of time
18 beginning on March 1, 2006 to February 28, 2009. The audit
19 examination revealed violations of the Code and the Regulations
20 as set forth in the following paragraphs, and more fully
21 discussed in Audit Report LA 080230 and the exhibits and work
22 papers attached to said audit report.

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25 ///

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	Mario 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
27

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
2		

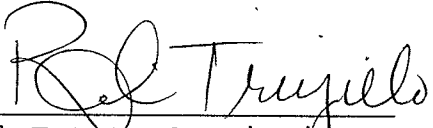
3
4 The foregoing violations constitute cause for discipline of the
5 real estate license and license rights of NUNEZ, under the
6 provisions of Code Sections 10177(d) and/or 10177(g).

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. 
22 Deputy Real Estate Commissioner

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