



1 at a formal hearing on the Accusation, which hearing was to be  
2 held in accordance with the provisions of the Administrative  
3 Procedure Act ("APA"), shall instead and in place thereof be  
4 submitted solely on the basis of the provisions of this  
5 Stipulation and Agreement ("Stipulation").

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

10           3. Respondents timely filed a Notice of Defense  
11 pursuant to Section 11506 of the Government Code for the purpose  
12 of requesting a hearing on the allegations in the Accusation.  
13 Respondents hereby freely and voluntarily withdraw said Notice of  
14 Defense. Respondents acknowledge that they understand that by  
15 withdrawing said Notice of Defense they thereby waive their right  
16 to require the Commissioner to prove the allegations in the  
17 Accusation at a contested hearing held in accordance with the  
18 provisions of the APA and that they will waive other rights  
19 afforded to them in connection with the hearing such as the right  
20 to present evidence in their defense the right to cross-examine  
21 witnesses.

22           4. Respondents, pursuant to the limitations set forth  
23 below, hereby admit that the factual allegations in Paragraphs 3  
24 through 6, and 9 of the Accusation filed in this proceeding are  
25 true and correct and the Real Estate Commissioner shall not be  
26 required to provide further evidence of such allegations.

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

11           6. The Order or any subsequent Order of the Real  
12 Estate Commissioner made pursuant to this Stipulation shall not  
13 constitute an estoppel, merger or bar to any further  
14 administrative or civil proceedings by the Department of Real  
15 Estate with respect to any matters which were not specifically  
16 alleged to be causes for accusation in this proceeding.

17           7. Respondents understand that by agreeing to this  
18 Stipulation, they agree to pay, pursuant to Business and  
19 Professions Code Section 10148, the cost of audit which led to  
20 this disciplinary action. The amount of said cost for the audit  
21 is \$3,511.10.

22           8. Respondents have received, read, and understand the  
23 "Notice Concerning Costs of Subsequent Audit." Respondents  
24 further understand that by agreeing to this Stipulation, the  
25 findings set forth below in the Determination of Issues become  
26 final, and the Commissioner may charge Respondents for the cost  
27 of any subsequent audit conducted pursuant to Business and

1 Professions Code Section 10148 to determine if the violations  
2 have been corrected. The maximum cost of the subsequent audit  
3 will not exceed \$3,511.10.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and  
6 waivers and solely for the purpose of settlement of the pending  
7 Accusation without a hearing, it is stipulated and agreed that  
8 the following determination of issues shall be made:

9 I

10 The conduct, acts or omissions of Respondent DIVINA  
11 REALTY INC., as described in Paragraphs 6 of the Accusation, are  
12 in violation of Sections 10145, 10146, 10176(e), 10085, 10146,  
13 and 10240 of the Business and Professions Code ("Code") and  
14 Sections 2831, 2831.1, 2832, 2835, 2970, and 2972, of Title 10,  
15 Chapter 6 of the California Code of Regulations and is a basis  
16 for the suspension or revocation of Respondent DIVINA REALTY  
17 INC.'s license and license rights as a violation of the Real  
18 Estate Law pursuant to Code Sections 10176(e) and 10177(g).

19 II

20 The conduct, acts or omissions of FABY LLERANDI, as  
21 described in Paragraphs 6 and 9 of the Accusation, during the  
22 period of March 24, 2009, through May 31, 2009, constitute a  
23 failure to keep DIVINA REALTY INC. in compliance with the Real  
24 Estate Law during the time that she was the officer designated by  
25 a corporate broker licensee, in violation of Code Section  
26 10159.2. This conduct is a basis for the suspension or  
27 revocation of Respondent FABY LLERANDI's license pursuant to Code

1 Sections 10177(g) and 10177(h).

2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 I

5 All licenses and licensing rights of Respondent  
6 DIVINA REALTY INC. under the Real Estate Law are revoked;  
7 provided, however, a restricted real estate corporation license  
8 shall be issued to Respondent DIVINA REALTY INC. pursuant to  
9 Section 10156.5 of the Business and Professions Code if  
10 Respondent makes application therefor and pays to the Department  
11 of Real Estate the appropriate fee for the restricted license  
12 within 90 days from the effective date of this Decision. The  
13 restricted license issued to Respondent shall be subject to all  
14 of the provisions of Section 10156.7 of the Business and  
15 Professions Code and to the following limitations, conditions and  
16 restrictions imposed under authority of Section 10156.6 of the  
17 Code:

18 1. The restricted license issued to Respondent DIVINA  
19 REALTY INC. may be suspended prior to hearing by Order of the  
20 Real Estate Commissioner on evidence satisfactory to the  
21 Commissioner that Respondent DIVINA REALTY INC. has violated  
22 provisions of the California Real Estate Law, the Subdivided  
23 Lands Law, Regulation of the Real Estate Commissioner or  
24 conditions attaching to this restricted license.

25 2. Respondent DIVINA REALTY INC. shall not be eligible  
26 to apply for the issuance of an unrestricted real estate license  
27 nor for the removal of any of the conditions, limitations or

1 restrictions of a restricted license until one (1) year has  
2 elapsed from the effective date of this Decision.

3           3. Pursuant to Section 10148 of the Business and  
4 Professions Code, Respondent DIVINA REALTY INC. and Respondent  
5 FABY LLERANDI shall jointly or severally pay the Commissioner's  
6 reasonable cost for: a) the audit which led to this disciplinary  
7 action and b) a subsequent audit to determine if Respondent  
8 DIVINA REALTY INC. has corrected the trust fund violations found  
9 in Paragraph I of the Determination of Issues. In calculating  
10 the amount of the Commissioner's reasonable cost, the  
11 Commissioner may use the estimated average hourly salary for all  
12 persons performing the audits of real estate brokers, and shall  
13 include an allocation for travel time to and from the auditor's  
14 place of work. The cost of the audit which led to this  
15 disciplinary action is \$3,511.10. Said amount for the prior and  
16 subsequent audits shall not exceed \$7,022.20. Respondents DIVINA  
17 REALTY INC. and FABY LLERANDI shall jointly or severally pay such  
18 cost within 60 days of receiving an invoice from the Commissioner  
19 detailing the activities performed during the audit and the  
20 amount of time spent performing those activities. The  
21 Commissioner may suspend the restricted license issued to  
22 Respondent DIVINA REALTY INC. pending a hearing held in  
23 accordance with Section 11500, et seq., of the Government Code,  
24 if payment is not timely made as provided for herein, or as  
25 provided for in a subsequent agreement between the Respondent and  
26 the Commissioner. The suspension shall remain in effect until  
27 payment is made in full or until Respondent DIVINA REALTY INC.

1 enters into an agreement satisfactory to the Commissioner to  
2 provide for payment, or until a decision providing otherwise is  
3 adopted following a hearing held pursuant to this condition.

4 II

5 All licenses and licensing rights of Respondent  
6 FABY LLERANDI under the Real Estate Law are revoked; provided,  
7 however, a restricted real estate broker license shall be issued  
8 to Respondent FABY LLERANDI pursuant to Section 10156.5 of the  
9 Business and Professions Code if:

10 a) Respondent FABY LLERANDI, prior to and as a  
11 condition of the issuance of the restricted license, submit proof  
12 satisfactory to the Commissioner of having taken and successfully  
13 completed the continuing education course on trust fund  
14 accounting and handling specified in subdivision (a) of Section  
15 10170.5 of the Business and Professions Code. Proof of  
16 satisfaction of this requirement includes evidence that  
17 Respondent has successfully completed the trust fund account and  
18 handling continuing education course within 120 days prior to the  
19 effective date of the Decision in this matter.

20 b) Respondent makes application for a restricted  
21 broker license and pays to the Department of Real Estate the  
22 appropriate fee for the restricted license within 90 days from  
23 the effective date of this Decision.

24 c) The restricted license issued to Respondent shall  
25 be subject to all of the provisions of Section 10156.7 of the  
26 Business and professions Code and to the following limitations,  
27 conditions and restrictions imposed under authority of Section

1 10156.6 of the Code:

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

8           2. The restricted license issued to Respondent FABY  
9 LLERANDI may be suspended prior to hearing by Order of the Real  
10 Estate Commissioner on evidence satisfactory to the Commissioner  
11 that Respondent FABY LLERANDI has violated provisions of the  
12 California Real Estate Law, the Subdivided Lands Law, Regulation  
13 of the Real Estate Commissioner or conditions attaching to this  
14 restricted license.

15           3. Respondent FABY LLERANDI shall not be eligible to  
16 apply for the issuance of an unrestricted real estate license nor  
17 for the removal of any of the conditions, limitations or  
18 restrictions of a restricted license until one (1) year has  
19 elapsed from the effective date of this Decision.

20           4. Respondent FABY LLERANDI shall, within nine months  
21 from the effective date of this Decision, present evidence  
22 satisfactory to the Real Estate Commissioner that Respondent has,  
23 since the most recent issuance of an original or renewal real  
24 estate license, taken and successfully completed the continuing  
25 education requirements of Article 2.5 of Chapter 3 of the Real  
26 Estate Law for renewal of a real estate license. If Respondent  
27 fails to satisfy this condition, the Commissioner may order the



1 suspension of the restricted license until the Respondent  
2 presents such evidence. The Commissioner shall afford Respondent  
3 the opportunity for a hearing pursuant to the Administrative  
4 Procedure Act to present such evidence.

5           5. Pursuant to Section 10148 of the Business and  
6 Professions Code, Respondent FABY LLERANDI and Respondent DIVINA  
7 REALTY INC. shall jointly or severally pay the Commissioner's  
8 reasonable cost for: a) the audit which led to this disciplinary  
9 action and b) a subsequent audit to determine if Respondent  
10 DIVINA REALTY INC. has corrected the trust fund violations found  
11 in Paragraph I of the Determination of Issues. In calculating  
12 the amount of the Commissioner's reasonable cost, the  
13 Commissioner may use the estimated average hourly salary for all  
14 persons performing the audits of real estate brokers, and shall  
15 include an allocation for travel time to and from the auditor's  
16 place of work. The cost of the audit which led to this  
17 disciplinary action is \$3,511.10. Said amount for the prior and  
18 subsequent audits shall not exceed \$7,022.20. Respondents FABY  
19 LLERANDI and DIVINA REALTY INC. shall jointly or severally pay  
20 such cost within 60 days of receiving an invoice from the  
21 Commissioner detailing the activities performed during the audit  
22 and the amount of time spent performing those activities. The  
23 Commissioner may suspend the restricted license issued to  
24 Respondent FABY LLERANDI pending a hearing held in accordance  
25 with Section 11500, et seq., of the Government Code, if payment  
26 is not timely made as provided for herein, or as provided for in  
27 a subsequent agreement between the Respondent and the

1 Commissioner. The suspension shall remain in effect until  
2 payment is made in full or until Respondent FABY LLERANDI enters  
3 into an agreement satisfactory to the Commissioner to provide for  
4 payment, or until a decision providing otherwise is adopted  
5 following a hearing held pursuant to this condition.

6 6. Respondent FABY LLERANDI shall, within six (6)  
7 months from the effective date of the Decision herein, take and  
8 pass the Professional Responsibility Examination administered by  
9 the Department including the payment of the appropriate  
10 examination fee. If Respondent fails to satisfy this condition,  
11 the Commissioner may order suspension of Respondent's license  
12 until Respondent passes the examination.

13 DATED: 8/11/10

Lisette Garcia  
LISSETE GARCIA, Counsel for  
the Department of Real Estate  
\* \* \*

14  
15  
16 EXECUTION OF THE STIPULATION

17 We have read the Stipulation and discussed it with our  
18 counsel. Its terms are understood by us and are agreeable and  
19 acceptable to us. We understand that we are waiving rights given  
20 to us by the California Administrative Procedure Act (including  
21 but not limited to Sections 11506, 11508, 11509 and 11513 of the  
22 Government Code), and we willingly, intelligently and voluntarily  
23 waive those rights, including the right of requiring the  
24 Commissioner to prove the allegations in the Accusation at a  
25 hearing at which we would have the right to cross-examine  
26 witnesses against us and to present evidence in defense and  
27

1 mitigation of the charges.

2 Respondents (1) shall mail the original signed  
3 signature page of the stipulation herein to Lissete Garcia:  
4 Attention: Legal Section, Department of Real Estate, 320 W.  
5 Fourth St., Suite 350, Los Angeles, California 90013-1105.


6 Additionally, Respondents shall also (2) facsimile a copy of  
7 signed signature page, to the Department at the following  
8 telephone/fax number: (213) 576-6917, Attention: Lissete Garcia.

9 A facsimile constitutes acceptance and approval of the terms and  
10 conditions of this Stipulation. Respondents agree, acknowledge  
11 and understand that by electronically sending to the Department a  
12 facsimile copy of Respondents' actual signature as it appears on  
13 the Stipulation, that receipt of the facsimile copy by the  
14 Department shall be as binding on Respondents as if the  
15 Department had received the original signed Stipulation.

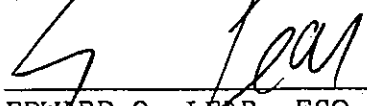
16  
17 DATED: 8/3/10

  
DIVINA REALTY INC.  
BY: FABY LLERANDI

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21 DATED: 8/3/10

  
FABY LLERANDI, individually and as  
designated officer of Divina Realty  
Inc. Respondent

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24 DATED: 8/4/10

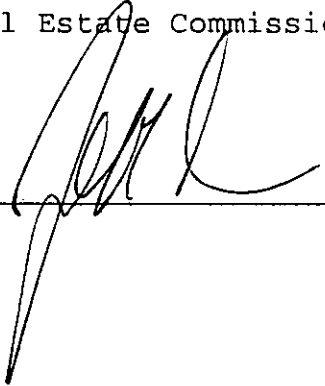
  
EDWARD O. LEAR, ESQ.  
Attorney for Respondents  
Approved as to form

\* \* \*

1  
2       The foregoing Stipulation and Agreement is hereby  
3 adopted as my Decision as to Respondents DIVINA REALTY INC. and  
4 FABY LLERANDI, individually and as designated officer of Divina  
5 Realty Inc., and shall become effective at 12 o'clock noon on  
6 October 7, 2010.

7                   IT IS SO ORDERED 8/31, 2010.

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9                   JEFF DAVI  
10                   Real Estate Commissioner

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1 2.

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

6 Licenses

7 3.

8 A. At all times mentioned, DIVINA was licensed or had  
9 license rights issued by the Department of Real Estate  
10 (Department) as a corporate real estate broker. DIVINA was  
11 originally licensed as a corporate real estate broker on  
12 March 24, 2005.

13 B. From March 24, 2005 to March 23, 2009, Robert  
14 Escalera Perez (Perez) was the designated officer of DIVINA.  
15 DIVINA was licensed by the Department as a corporate real estate  
16 broker, acting by and through Perez, as the designated officer  
17 and broker responsible for supervising the activities requiring  
18 a real estate license conducted on behalf of DIVINA by DIVINA's  
19 officers, agents and employees, as necessary to secure full  
20 compliance with the Real Estate Law as set forth in Code Section  
21 10159.2.

22 C. Perez was first licensed individually as a real  
23 estate broker by the Department on April 17, 1990. On  
24 October 7, 2009, the Department revoked Perez' real estate  
25 broker license in Case No. H-35531 LA.

26 D. From March 24, 2009 to the present, LLERANDI has  
27 been the designated officer of DIVINA. DIVINA was and is

1 licensed by the Department as a corporate real estate broker,  
2 acting by and through LLERANDI, as the designated officer and  
3 broker responsible for supervising the activities requiring a  
4 real estate license conducted on behalf of DIVINA by DIVINA's  
5 officers, agents and employees, as necessary to secure full  
6 compliance with the Real Estate Law as set forth in Code Section  
7 10159.2.

8 E. LLERANDI was first licensed individually as a real  
9 estate broker by the Department on June 29, 2005.

10 Brokerage

11 4.

12 At all times mentioned, in the City of Corona, County  
13 of Riverside, DIVINA and LLERANDI engaged in the business of  
14 real estate brokers conducting licensed activities within the  
15 meaning of Code Sections 10131(a), 10131(d), and 10131.2.

16 DIVINA and LLERANDI engaged in operating a residential resale,  
17 mortgage loan, advance fee and loan modification service  
18 brokerage. For compensation or in expectation of compensation  
19 and for fees often collected in advance, Respondents contacted  
20 lenders on behalf of distressed homeowners seeking modification  
21 or forbearance of the terms of their home loans.

22 Audit

23 5.

24 On June 11, 2009, the Department completed an audit  
25 examination of the books and records of DIVINA pertaining to the  
26 mortgage loan, advance fee and loan modification service  
27 activities described in Paragraph 4, which require a real estate

1 license. The audit examination covered a period of time  
2 beginning on January 1, 2007 to May 31, 2009. The audit  
3 examination revealed violations of the Code and the Regulations  
4 as set forth in the following paragraphs, and more fully  
5 discussed in Audit Report SD 080046 and the exhibits and work  
6 papers attached to said Audit Report.

7 6.

8 Violations

9 In the course of activities described in Paragraph 4,  
10 above, and during the examination period described in Paragraph  
11 5, Respondents DIVINA and LLERANDI, acted in violation of the  
12 Code and the Regulations as follows:

13 (A) Failed to establish and/or maintain a trust  
14 account at a bank or other recognized financial institution in  
15 the name of the broker for deposit of advance fees collected by  
16 DIVINA, thereby depositing trust funds in DIVINA's general  
17 account and thus commingling trust funds with DIVINA's funds, in  
18 violation of Code Sections 10145, 10146, 10176(e) and  
19 Regulations 2832 and 2835.

20 (B) Failed to maintain a control record in the form  
21 of a columnar record in chronological order of all trust funds  
22 including advance fees received, deposited and disbursed, in  
23 violation of Code Section 10145 and Regulation 2831.

24 (C) Failed to maintain a separate record for each  
25 beneficiary or transaction, thereby failing to account for all  
26 advance fees collected, in violation of Code Section 10145 and  
27 Regulation 2831.1.



1 (D) From January 1, 2007 to June 18, 2009,  
2 Respondents collected advance fees within the meaning of Code  
3 Section 10026 from homeowners seeking loan modification services  
4 wherein DIVINA failed to provide homeowner-borrowers, a pre-  
5 approved advance fee agreement from the Department in the form  
6 of a no objection letter, in violation of Code Section 10085 and  
7 Regulation 2970.

8 (E) Failed to establish and maintain a trust account  
9 at a bank or other recognized financial institution in the name  
10 of the broker for deposit of advance fees collected by DIVINA.  
11 Advance fees that were collected from borrowers in connection  
12 with loan modification transactions were deposited into DIVINA's  
13 general business account in violation of Code Sections 10145,  
14 10146, 10176(e) and Regulations 2832 and 2835.

15 (F) With reference to the lack of an advance fee  
16 agreement, DIVINA failed to provide a complete description of  
17 services to be rendered provided to each prospective tenant in  
18 10 point type font and failed to provide an allocation and  
19 disbursement of the amount collected as the advance fee, in  
20 violation of Code Section 10146 and Regulation 2972.

21 (G) Failed to provide and/or maintain an approved  
22 Mortgage Loan Disclosure Statement containing all the  
23 information required by Code Section 10241(c) before borrowers  
24 Ivy L. Alcaez and Eduardo Abad became obligated to perform  
25 under the terms of their respective loans, in violation of Code  
26 Section 10240 and Regulation 2840.

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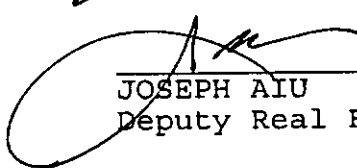




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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents DIVINA REALTY INC., dba Divina Realty and Arena Mortgage; and FABY LLERANDI, individually and as designated officer of Divina Realty 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 San Diego, California  
this 17 day of February, 2010.

  
\_\_\_\_\_  
JOSEPH AIU  
Deputy Real Estate Commissioner

cc: Divina Realty Inc.  
Faby Llerandi  
Joseph Aiu  
Sacto  
Audits - Lisa Kwong