

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4  
5 Telephone: (213) 576-6982 (office)  
6  
7

**FILED**

NOV 18 2010

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

|                                       |   |                    |
|---------------------------------------|---|--------------------|
| 11 In the Matter of the Accusation of | ) | No. H-36420 LA     |
|                                       | ) |                    |
| 12 ATA HASSANI, doing business        | ) |                    |
| 13 as Southwest Financial Group,      | ) | <u>STIPULATION</u> |
|                                       | ) | AND                |
| 14 Respondents,                       | ) | <u>AGREEMENT</u>   |
|                                       | ) |                    |

15  
16 It is hereby stipulated by and between Respondent  
17 ATA HASSANI, (sometimes referred to as "Respondent"), and the  
18 Complainant, acting by and through Elliott Mac Lennan, Counsel  
19 for the Department of Real Estate, as follows for the purpose of  
20 settling and disposing of the Accusation ("Accusation") filed on  
21 January 13, 2010, in this matter:

22 1. All issues which were to be contested and all  
23 evidence which was to be presented by Complainant and Respondent  
24 at a formal hearing on the Accusation, which hearing was to be  
25 held in accordance with the provisions of the Administrative  
26 Procedure Act ("APA"), shall instead and in place thereof be  
27 submitted solely on the basis of the provisions of this

1 Stipulation and Agreement ("Stipulation").

2 2. Respondent has received, read and understands the  
3 Statement to Respondent, the Discovery Provisions of the APA and  
4 the Accusation filed by the Department of Real Estate in this  
5 proceeding.

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

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

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

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

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for Accusation in this proceeding but do constitute a bar, estoppel and merger as to any allegations

1 actually contained in the Accusations against Respondent herein.

2 8. Respondent understands that by agreeing to this  
3 Stipulation, Respondent agrees to pay, pursuant to Business and  
4 Professions Code Section 10148, the cost of the audit. The  
5 amount of said cost for the audit is \$6,604.90.

6 9. Respondents have received, read, and understand the  
7 "Notice Concerning Costs of Subsequent Audit". Respondents  
8 further understand that by agreeing to this Stipulation, the  
9 findings set forth below in the Determination of Issues become  
10 final, and the Commissioner may charge Respondents for the cost  
11 of any subsequent audit conducted pursuant to Business and  
12 Professions Code Section 10148 to determine if the violations  
13 have been corrected. The maximum cost of the subsequent audit  
14 will not exceed \$6,604.90.

15 DETERMINATION OF ISSUES

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

18 The conduct of ATA HASSANI, as described in Paragraph  
19 4, above, constitutes violations of Business and Professions Code  
20 ("Code") Sections 10085, 10145, 10146, 10148, and 10240 and  
21 Sections 2831, 2831.1, 2831.2, 2832, 2970 and 2972 of Title 10,  
22 Chapter 6 of the California Code of Regulations ("Regulations").  
23 This conduct is a basis for discipline of Respondent's license  
24 pursuant to Code Section 10177(d), 10177(g) and 10177(h).

25 ///  
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ORDER

I.

1  
2           All licenses and licensing rights of Respondent ATA  
3 HASSANI under the Real Estate Law suspended for a period of  
4 thirty (30) days from the effective date of this Decision.

5           A. Provided, however, that if Respondent requests,  
6 said thirty day suspension (or a portion thereof) shall be stayed  
7 for two (2) years upon condition that:

8           1. Respondent pays a monetary penalty pursuant to  
9 Section 10175.2 of the Business and Professions Code at the rate  
10 of \$83.33 per day for each day of the thirty day suspension for a  
11 total monetary penalty of \$2,500.

12           2. Said payment shall be in the form of a cashier's  
13 check or certified check made payable to the Recovery Account of  
14 the Real Estate Fund. Said check must be received by the  
15 Department prior to the effective date of the Decision in this  
16 matter.

17           3. No further cause for disciplinary action against  
18 the real estate license of Respondent occurs within two (2) years  
19 from the effective date of the Decision in this matter.

20           4. If Respondent fails to pay the monetary penalty in  
21 accordance with the terms of the Decision, the Commissioner may,  
22 without a hearing, order the immediate execution of all or any  
23 part of the stayed suspension, in which event Respondent shall  
24 not be entitled to any repayment nor credit, prorated or  
25 otherwise, for money paid to the Department under the terms of  
26 this Decision.  
27



1 made as provided for herein, or as provided for in a subsequent  
2 agreement between the Respondent and the Commissioner. The  
3 suspension shall remain in effect until payment is made in full  
4 or until Respondents enter into an agreement satisfactory to the  
5 Commissioner to provide for payment, or until a decision  
6 providing otherwise is adopted following a hearing held pursuant  
7 to this condition.

8 III.

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

19 IV.

20 Respondent shall, within nine (9) months from the  
21 effective date of this Decision, present evidence satisfactory to  
22 the Real Estate Commissioner that Respondent has, since the most  
23 recent issuance of an original or renewal real estate license,  
24 taken and successfully completed the continuing education  
25 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
26 for renewal of a real estate license. If Respondent fails to  
27

1 satisfy this condition, the Commissioner may order the suspension  
2 of Respondent's license until Respondent presents such evidence.  
3 The Commissioner shall afford Respondent the opportunity for a  
4 hearing pursuant to the Administrative Procedure Act to present  
5 such evidence.

6  
7 v.

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

15 DATED: 9-21-70

16 ELLIOTT MAC LENNAN, Counsel for  
17 the Department of Real Estate

18 \* \* \*

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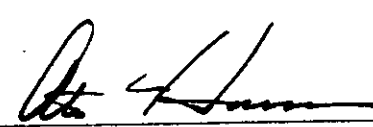
1 hearing at which I would have the right to cross-examine  
2 witnesses against me and to present evidence in defense and  
3 mitigation of the charges.

4 MAILING AND FACSIMILE

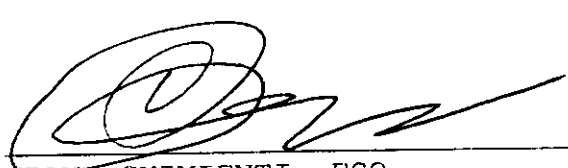
5 Respondent(s) (1) shall mail the original signed  
6 signature page of the stipulation herein to Elliott Mac Lennan:  
7 Attention: Legal Section, Department of Real Estate, 320 W.  
8 Fourth St., Suite 350, Los Angeles, California 90013-1105.  
9 Additionally, Respondent(s) shall also (2) facsimile a copy of  
10 signed signature page, to the Department at the following  
11 telephone/fax number: (213) 576-6917, Attention: Elliott Mac  
12 Lennan.

13 A facsimile constitutes acceptance and approval of the  
14 terms and conditions of this stipulation. Respondent(s) agrees,  
15 acknowledges and understands that by electronically sending to  
16 the Department a facsimile copy of Respondent's actual signature  
17 as it appears on the stipulation, which receipt of the facsimile  
18 copy by the Department shall be as binding on Respondent(s) as if  
19 the Department had received the original signed stipulation.  
20

21  
22 DATED: 10/6/2010

23   
ATA HASSANI, Respondent

24  
25 DATED: 10/6/2010

26   
FRANK CHIMIENTI, ESQ.  
Attorney for Respondent  
ATA HASSANI,  
27



1 ELLIOTT MAC LENNAN, SBN 66674  
2 Department of Real Estate  
3 320 West 4th Street, Ste. 350  
4 Los Angeles, California 90013-1105

**FILED**

JAN 13 2010

5 Telephone: (213) 576-6911 (direct)  
6 -or- (213) 576-6982 (office)

DEPARTMENT OF REAL ESTATE  
BY: Healy

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

|    |                                    |   |                            |
|----|------------------------------------|---|----------------------------|
| 11 | In the Matter of the Accusation of | ) | No. H-36420 LA             |
| 12 | ATA HASSANI, doing business as     | ) | <u>A C C U S A T I O N</u> |
| 13 | Southwest Financial Group,         | ) |                            |
| 14 |                                    | ) |                            |
| 15 | Respondents.                       | ) |                            |

16 The Complainant, Maria Suarez, a Deputy Real Estate  
17 Commissioner of the State of California, for cause of Accusation  
18 against ATA HASSANI doing business as Southwest Financial Group,  
19 alleges as follows:

20 1.

21 The Complainant, Maria Suarez, acting in her official  
22 capacity as a Deputy Real Estate Commissioner of the State of  
23 California, makes this Accusation against ATA HASSANI  
24 ("HASSANI").

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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, HASSANI (hereinafter referred  
8 to as "Respondent" or "HASSANI"), is presently licensed and/or  
9 have license rights under the Real Estate Law (Part 1 of Division  
10 4 of the Business and Professions Code, hereinafter Code), as a  
11 real estate broker. HASSANI was originally licensed as a real  
12 estate broker May 26, 2004.

13 Brokerage

14 4.

15 At all times mentioned, in City of Woodland Hills,  
16 County of Los Angeles, HASSANI acted as a real estate broker and  
17 conducted licensed activities within the meaning of:

18 a. Code Section 10131(d). HASSANI dba Southwest  
19 Financial Group 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  
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Trust Account

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, HASSANI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including economically distressed homeowner-borrowers for advance fees and loan modifications handled by HASSANI. Thereafter HASSANI made deposits and or disbursements of such trust funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by HASSANI in this trust account:

"Ata Hassani  
Account No. 698-796-3938"  
Wells Fargo Bank  
Portland, Oregon

(T/A #1 - used for deposit of advance fees collected from homeowners for loan modifications)

Violations

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondent HASSANI, acted in violation of the Code and the Regulations in that Respondent:

(a) Permitted, allowed or caused the disbursement of trust funds from the T/A #1 where the disbursement of said funds

1 T/A #1, where the disbursement of funds reduced the total of  
2 aggregate funds in T/A #1, to an amount which, on May 31, 2009,  
3 was \$200, less than the existing aggregate trust fund liability  
4 to every homeowner-principal who was an owner of said funds,  
5 without first obtaining the prior written consent of the owners,  
6 in violation of Code Section 10145 and Regulation 2832.1.

7 (b) Commingled trust funds and personal funds by  
8 depositing advance fees received from loan modification services  
9 into HASSANI's general operating account and issuing checks from  
10 said account, in violation of Code Sections 10145 and 10176(e)  
11 and Regulation 2832, as set forth below in the table below for  
12 the following homeowner loan modifications.

13 (c) Failed to maintain a control record in the form of  
14 a columnar record in chronological order of all trust funds  
15 including advance fees received, deposited and disbursed, in  
16 violation of Code Section 10145 and Regulation 2831.

17 (d) Failed to maintain a separate record for each  
18 beneficiary or transaction, thereby failing to account for all  
19 advance fees collected, in violation of Code Section 10145 and  
20 Regulation 2831.1.

21 (e) Failed to perform a monthly reconciliation of the  
22 balance of all separate beneficiary or transaction records  
23 maintained pursuant to Regulation 2831.1 with the record of all  
24 trust funds received and disbursed, in violation of Code Section  
25 10145 and Regulation 2831.2.  
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1 (f) Violated Code Section 10085 and Regulation 2970 by  
2 failing to submit to the Commissioner not less than ten calendar  
3 days before publication or other use, all materials to be used in  
4 advertising, promoting, soliciting and negotiating an agreement  
5 calling for the payment of an advance fee including the form of  
6 advance fee agreement proposed for use.

7 (g) Violated Code Section 10146 by collecting advance  
8 fees from the public yet failing to deposit the fees into a real  
9 estate broker trust account.

10 (h) Violated Code Section 10146 and Regulation 2972 by  
11 failing to provide a complete description of loan modification  
12 services to be rendered provided to each would-be homeowner in 10  
13 point type font and an allocation and disbursement of the amount  
14 collected as the advance fee.

15 (i) (1) Failed to retain a true and correct copy of a  
16 Department of Real Estate approved Mortgage Loan Disclosure  
17 Statement signed by the broker for borrowers Mehrad/Regina  
18 Mazkoori, in violation of Code Section 10240.

19 (i) (2) Failed to disclose yield spread premiums from  
20 lenders on the approved Mortgage Loan Disclosure Statement for  
21 the borrowers Mehrad/Regina Mazkoori, in violation of Code  
22 Section 10240, 10241 and Regulation 2840.1;

23 (i) (3) Failed to disclose that loan fees charged were  
24 in fact paid to HASSANI, instead of being reported as "Paid to  
25 Others", on the Mortgage Loan Disclosure Statement for the  
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27



1 aforesaid borrowers, in violation of Code Section 10240 and  
2 Regulation 2840.

3 (j) Failed to retain all records of HASSANI's activity  
4 during the audit period requiring a real estate broker license,  
5 in violation of Code Section 10148.

6 Disciplinary Statutes

7 8.

8 The conduct of Respondent HASSANI described in  
9 Paragraph 7, above, violated the Code and the Regulations below:  
10

| 11 PARAGRAPH | PROVISIONS VIOLATED                      |
|--------------|--|
| 12 7(a)      | Code Section 10145 and Regulation 2832.1 |
| 13 7(b)      | Code Section 10145 and Regulation 2832   |
| 14 7(c)      | Code Section 10145 and 2831              |
| 15 7(d)      | Code Section 10145 and Regulation 2831.1 |
| 16 7(e)      | Code Section 10145 and Regulation 2831.2 |
| 17 7(f)      | Code Section 10085 and Regulation 2970   |
| 18 7(g)      | Code Section 10146                       |

|   |      |  |
|---|------|--|
| 1 | 7(h) | Code Section 10146 and Regulation 2972             |
| 2 | 7(i) | Code Section 10240 and Regulations 2840 and 2840.1 |
| 3 |      |  |
| 4 | 7(j) | Code Section 10148                                 |
| 5 |      |  |
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7  
8 The foregoing violations constitute cause for discipline of the  
9 real estate license and license rights of HASSANI, under the  
10 provisions of Code Sections 10177(d) and/or 10177(g).

11 9.

12 The overall conduct, acts and/or omissions of  
13 Respondent HASSANI is negligent in failing to ensure full  
14 compliance with the Real Estate Law is in violation of Code  
15 Sections 10177(d), 10177(g) and 10177(h).


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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 the license and license rights of Respondent ATA  
5 HASSANI, under the Real Estate Law (Part 1 of Division 4 of the  
6 Business and Professions Code) and for such other and further  
7 relief as may be proper under other applicable provisions of law.

8 Dated at Los Angeles, California

9 this

*4th day of January 2010*

  
Deputy Real Estate Commissioner

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25 cc: Atta Hassani D.O.  
26 Maria Suarez  
27 Sacto.  
Audits - Anna Hartoonian