

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED

FEB - 9 2010

5 DEPARTMENT OF REAL ESTATE

6 BY: 

7
8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA .

11 * * *

12
13 In the Matter of the Accusation of)
14 TRUWEST FINANCIAL INC.,)
15 and JASON MICHAEL JONES,)
16 individually, and as desig-)
17 nated officer of TruWest)
18 Financial, Inc.,)
Respondents.)

NO. H-35740 LA
L-2009040872

STIPULATION AND AGREEMENT

19
20 It is hereby stipulated by and between JASON MICHAEL
21 JONES (sometimes referred to as "Respondent") and the
22 Complainant, acting by and through Cheryl Keily, Counsel for
23 the Department of Real Estate, as follows for the purpose of
24 settling and disposing of the First Amended Accusation filed on
25 July 22, 2009, in this matter.

26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and Respondent

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.
6

7 2. Respondent has received, read and understood the
8 Statement to Respondent, the Discovery Provisions of the APA and
9 the First Amended Accusation filed by the Department of Real
10 Estate ("Department") in this proceeding.

11 3. On April 14, 2009, Respondent filed a Notice of
12 Defense, pursuant to Section 11506 of the Government Code for
13 the purpose of requesting a hearing on the allegations in the
14 First Amended Accusation. Respondent hereby freely and
15 voluntarily withdraws said Notice of Defense. Respondent
16 acknowledges that he understands that by withdrawing said Notice
17 of Defense he will thereby waive his right to require the
18 Commissioner to prove the allegations in the First Amended
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that he will waive other rights
21 afforded to him in connection with the hearing, such as the
22 right to present evidence in defense of the allegations in the
23 First Amended Accusation and the right to cross-examine
24 witnesses.
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26
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondent chooses not to contest these
4 allegations, but to remain silent and understands that, as a
5 result thereof, these factual allegations, without being
6 admitted or denied, will serve as a prima facie basis for the
7 disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove said factual allegations.
10

11 5. This Stipulation is made for the purpose of
12 reaching an agreed disposition of this proceeding and is
13 expressly limited to this proceeding and any other proceeding
14 or case in which the Department of Real Estate ("Department"),
15 the state or federal government, or any agency of this state,
16 another state or federal government is involved, and otherwise
17 shall not be admissible in any other criminal or civil
18 proceedings.
19

20 6. The Order or any subsequent Order of the Real
21 Estate Commissioner made pursuant to this Stipulation and
22 Agreement shall not constitute an estoppel, merger or bar to any
23 further administrative or civil proceedings by the Department of
24 Real Estate with respect to any matters which were not
25 specifically alleged to be causes for accusation in this
26 proceeding.
27

1 7. This Stipulation and Respondent's decision not to
2 contest the Accusation are made for the purpose of reaching an
3 agreed disposition of this proceeding, and are expressly limited
4 to this proceeding and any other proceeding or case in which the
5 Department of Real Estate, or another licensing agency of this
6 state, another state or the federal government is involved and
7 otherwise shall not be admissible in any other criminal or civil
8 proceedings.
9

10 8. Respondent has received, read and understand the
11 "Notice Concerning Costs of Audits." Respondent understands that
12 by agreeing to this Stipulation and Agreement, the findings set
13 forth below in the Determinations of Issues become final, and
14 that the Commissioner may charge Respondent for the costs of the
15 audit which lead to the disciplinary action. Respondent
16 understands that by agreeing to this Stipulation, Respondent
17 agrees to pay, pursuant to Business and Professions Code
18 ("Code") Section 10148, the cost of the original audit. The
19 total cost of the original audit is \$2,053.15.
20
21

22 DETERMINATION OF ISSUES

23 By reason of the foregoing stipulations, admissions
24 and waivers and solely for the purpose of settlement of the
25 pending First Amended Accusation without a hearing, it is
26 stipulated and agreed that the following determination of issues
27 shall be made:

1 The conduct, acts or omissions of Respondent JASON
2 MICHAEL JONES, as set forth in the First Amended Accusation,
3 constitute cause to suspend or revoke the real estate license
4 and license rights of Respondent JASON MICHAEL JONES under the
5 provisions of Code Sections 10085, 10177(d) and 10177(g) for
6 violation of Code Sections 10085, 10145, 10146 and 10159.2 in
7 conjunction with Sections 2831.2, 2832, 2972 of Title 10,
8 Chapter 6, California Code of Regulations ("Regulations").
9

10 ORDER

11 WHEREFORE, THE FOLLOWING ORDER is hereby made:

12
13 I. All licenses and license rights of Respondent JASON
14 MICHAEL JONES under the Real Estate Law are suspended for a
15 period of ninety (90) days from the effective date of this
16 Decision.

17 A. Provided, however, that if Respondent requests, the
18 initial thirty (30) days of said suspension (or a portion
19 thereof) shall be stayed upon condition that:
20

21 1. Respondent pays a monetary penalty pursuant to
22 Section 10175.2 of the Code at the rate of \$100.00 per day for
23 each day of the suspension for a total monetary penalty of
24 \$3,000.

25 2. Said payment shall be in the form of a cashier's
26 check or certified check made payable to the Recovery Account of
27 the Real Estate Fund. Said check must be received by the

1 Department prior to the effective date of the Decision in this
2 matter.

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

6 4. If Respondent fails to pay the monetary penalty in
7 accordance with the terms of the Decision, the Commissioner may,
8 without a hearing, order the immediate execution of all or any
9 part of the stayed suspension, in which event the Respondent
10 shall not be entitled to any repayment or credit, prorated or
11 otherwise, for money paid to the Department under the terms of
12 this Decision.

13 5. If Respondent pays the monetary penalty and if no
14 further cause for disciplinary action against the real estate
15 license of Respondent occurs within two (2) years from the
16 effective date of the Decision, the stay hereby granted shall
17 become permanent.

18 B. The remaining sixty (60) days of the ninety (90)
19 day suspension shall be stayed for two (2) years upon the
20 following terms and conditions:

21 1. Respondent JASON MICHAEL JONES shall obey all laws,
22 rules and regulations governing the rights, duties and
23 responsibilities of a real estate licensee in the State of
24 California;

1 2. Respondent JASON MICHAEL JONES shall retain
2 custody and control of all those documents described in Code
3 Section 10148(a) for TruWest Financial Inc.; and

4 3. No final subsequent determination is made, after
5 hearing or upon stipulation, that cause for disciplinary action
6 occurred within two (2) years of the effective date of this
7 Decision. Should such a determination be made, the Commissioner
8 may, in his discretion, vacate and set aside the stay order and
9 reimpose all or a portion of the stayed suspension. Should no
10 such determination be made, the stay imposed herein shall become
11 permanent.
12

13
14 II. All licenses and licensing rights of Respondent
15 JASON MICHAEL JONES are indefinitely suspended unless or until
16 Respondent provides proof satisfactory to the Commissioner, of
17 having taken and successfully completed the continuing
18 education course on trust fund accounting and handling
19 specified in paragraph (3) of subdivision (a) of Section
20 10170.5 of the Code. Proof of satisfaction of this requirement
21 includes evidence that respondent has successfully completed
22 the trust fund account and handling continuing education course
23 within 120 days from the effective date of the Decision in this
24 matter.
25

26 III. Respondent shall, within six months from the
27 effective date of this Decision, take and pass the Professional

1 Responsibility Examination administered by the Department
2 including the payment of the appropriate examination fee. If
3 Respondent fails to satisfy this condition, the Commissioner
4 may order suspension of Respondent's license until Respondent
5 passes the examination.
6

7 IV. Respondent shall, within nine (9) months from the
8 effective date of this Decision, present evidence satisfactory
9 to the Real Estate Commissioner that Respondent has, since the
10 most recent issuance of an original or renewal real estate
11 license, taken and successfully completed the continuing
12 education requirements of Article 2.5 of Chapter 3 of the Real
13 Estate Law for renewal of a real estate license. If Respondent
14 fails to satisfy this condition, the Commissioner may order the
15 suspension of the restricted license until Respondent presents
16 such evidence. The Commissioner shall afford Respondent the
17 opportunity for a hearing pursuant to the Administrative
18 Procedure Act to present such evidence.

19 V. Pursuant to Section 10148 of the Code, Respondent
20 JASON MICHAEL JONES shall (a) pay the Commissioner's reasonable
21 cost for the audit which led to this disciplinary action, and
22 (b) the Commissioner's reasonable cost for an audit to ensure
23 that Respondent JASON MICHAEL JONES is in compliance with the
24 Real Estate Law, including that pertaining to the handling of
25 trust funds. The cost of the audit which led to this
26 disciplinary action is \$2,053.15. The maximum cost of a
27 subsequent audit will not exceed \$2,053.15. Total audit costs
will not exceed \$4,106.30. In calculating the amount of the

1 Commissioner's reasonable cost, the Commissioner may use the
2 estimated average hourly salary for all persons performing
3 audits of real estate brokers, and shall include an allocation
4 for travel time to and from the auditor's place of work.

5 Respondent JASON MICHAEL JONES shall pay such cost
6 within 60 days of receiving an invoice from the Commissioner
7 detailing the activities performed during the audit and the
8 amount of time spent performing those activities.
9

10 The Commissioner may suspend the license of
11 Respondent JASON MICHAEL JONES pending a hearing held in
12 accordance with Section 11500, et seq., of the Government Code,
13 if payment is not timely made as provided for herein, or as
14 provided for in a subsequent agreement between the Respondent
15 JASON MICHAEL JONES and the Commissioner. The suspension shall
16 remain in effect until payment is made in full or until
17 Respondent JASON MICHAEL JONES enters into an agreement
18 satisfactory to the Commissioner to provide for payment, or
19 until a decision providing otherwise is adopted following a
20 hearing held pursuant to this condition.
21

22
23 DATED: December 8, 2009

Cheryl D. Kelly
24 CHERYL D. KELLY, Counsel
25 DEPARTMENT OF REAL ESTATE

26 * * *

27 I have read the Stipulation and Agreement, and its
terms are understood by me and are agreeable and acceptable to

1 me. I understand that I am waiving rights given to me by the
 2 California Administrative Procedure Act (including but not
 3 limited to Sections 11506, 11508, 11509 and 11513 of the
 4 Government Code), and I willingly, intelligently and
 5 voluntarily waive those rights, including the right of
 6 requiring the Commission to prove the allegations in the
 7 accusation at a hearing at which I would have the right to
 8 cross-examine witnesses against me and to present evidence in
 9 defense and mitigation of the charges.
 10

11 Respondent can signify acceptance and approval of the
 12 terms and conditions of this stipulation and Agreement by
 13 faxing a copy of its signature page, as actually signed by
 14 Respondent, to the Department at the following telephone/fax
 15 number (213) 876-5917. Respondent agrees, acknowledges, and
 16 understands that by electronically sending to the Department a
 17 fax copy of his actual signature as it appears on the
 18 stipulation and Agreement, that receipt of the faxed copy by
 19 the Department shall be as binding on Respondent as if the
 20 Department had received the original signed stipulation and
 21 Agreement.
 22

23
 24 DAVID: [Signature]

25
 26 [Signature]
 27 JASON MICHAEL JONES,
 Respondent

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1 me. I understand that I am waiving rights given to me by the
2 California Administrative Procedure Act (including but not
3 limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and
5 voluntarily waive those rights, including the right of
6 requiring the Commissioner to prove the allegations in the
7 Accusation at a hearing at which I would have the right to
8 cross-examine witnesses against me and to present evidence in
9 defense and mitigation of the charges.

11 Respondent can signify acceptance and approval of the
12 terms and conditions of this Stipulation and Agreement by
13 faxing a copy of its signature page, as actually signed by
14 Respondent, to the Department at the following telephone/fax
15 number (213) 576-6917. Respondent agrees, acknowledges, and
16 understands that by electronically sending to the Department a
17 fax copy of his actual signature as it appears on the
18 Stipulation and Agreement, that receipt of the faxed copy by
19 the Department shall be as binding on Respondent as if the
20 Department had received the original signed Stipulation and
21 Agreement.

24 DATED: _____ JASON MICHAEL JONES,
25 Respondent

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I have reviewed the stipulation and Agreement as to form and content and have advised my client accordingly.

DATED: 12/8/2009

[Signature] (87742)
JEFFREY HILLMAN,
Attorney For Respondent
JASON MICHAEL JONES

The foregoing stipulation and Agreement is hereby adopted as my decision in this matter and shall become effective at 12 o'clock noon on _____, 2009.
IT IS SO ORDERED _____, 2009.

JERRY DAVIS
Real Estate Commissioner

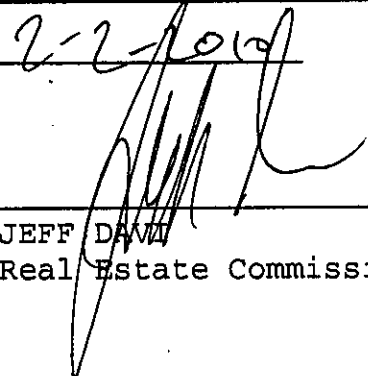
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I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

DATED: _____
JEFFREY SKLAN,
Attorney for Respondent
JASON MICHAEL JONES

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on MAR 11 2010

IT IS SO ORDERED 2-2-2010


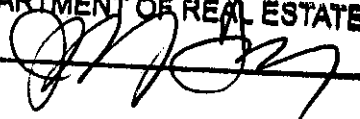
JEFF DAVITT
Real Estate Commissioner

PLAN

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FILED

FEB - 9 2010

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

| | | |
|---|---|----------------|
| In the Matter of the Accusation of |) | No. H-35740 LA |
| <u>TRUWEST FINANCIAL INC.</u> , and JASON |) | L-2009040872 |
| MICHAEL JONES, individually, and |) | |
| as designated officer of TruWest |) | |
| Financial Inc., |) | |
| |) | |
| Respondent. |) | |

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On March 3, 2009, an Accusation was filed in this matter against Respondent TRUWEST FINANCIAL INC., and First Amended Accusation filed on July 22, 2009.

On December 8, 2009, Respondent petitioned the Commissioner to voluntarily surrender its real estate license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent TRUWEST FINANCIAL INC.'s petition for voluntary surrender of its real estate salesperson license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated

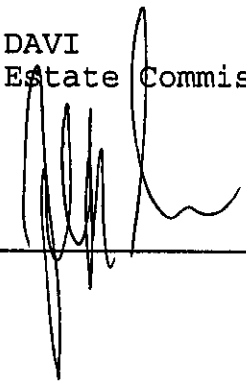
1 December 8, 2009 (attached as Exhibit "A" hereto). Respondent's
2 license certificate(s), pocket card(s) and any branch office
3 license certificate(s) shall be sent to the below listed address
4 so that they reach the Department on or before the effective date
5 of this Order:

6 DEPARTMENT OF REAL ESTATE
7 Attn: Licensing Flag Section
8 P. O. Box 187000
9 Sacramento, CA 95818-7000

10 This Order shall become effective at 12 o'clock noon
11 on MAR -1 2010

12 DATED: 2-2-2010

13 JEFF DAVI
14 Real Estate Commissioner

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Exhibit "A"

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) No. H-35740 LA
)
 TRUWEST FINANCIAL INC., and)
 JASON MICHAEL JONES,)
 individually, and as desig-)
 nated officer of TruWest)
 Financial, Inc.,)
)
 Respondents.)

DECLARATION

My name is Jason Michael Jones. TRUWEST FINANCIAL INC.
is licensed as a real estate corporation and/or has license
rights with respect to said license. I am currently an officer
of TRUWEST FINANCIAL INC., and am authorized and empowered to
sign this declaration on behalf of TRUWEST FINANCIAL INC.

In lieu of proceeding in this matter in accordance with
the provisions of the Administrative Procedure Act (Sections
11400 et seq., of the Government Code) TRUWEST FINANCIAL INC.

1 wishes to voluntarily surrender its real estate license issued by
2 the Department of Real Estate ("Department"), pursuant to the
3 provisions of Business and Professions Code Section 10100.2.

4 I understand that TRUWEST FINANCIAL INC., by so
5 voluntarily surrendering its license, can only have it reinstated
6 in accordance with the provisions of Section 11522 of the
7 Government Code. I also understand that by so voluntarily
8 surrendering its license, TRUWEST FINANCIAL INC. agrees to the
9 following:

10 1. The filing of this Declaration shall be deemed as
11 the petition of TRUWEST FINANCIAL INC. for voluntary surrender.

12 2. It shall also be deemed to be an understanding and
13 agreement by TRUWEST FINANCIAL INC. that it waives all rights it
14 has to require the Commissioner to prove the allegations
15 contained in the Accusation filed in this matter at a hearing
16 held in accordance with the provisions of the Administrative
17 Procedure Act (Government Code Sections 11400 et seq.), and that
18 TRUWEST FINANCIAL INC. also waives other rights afforded to it in
19 connection with the hearing such as the right to discovery, the
20 right to present evidence in defense of the allegations in the
21 Accusation and the right to cross-examine witnesses.

22 3. TRUWEST FINANCIAL INC. further agrees that upon
23 acceptance by the Commissioner, as evidenced by an appropriate
24 order, all affidavits and all relevant evidence obtained by the
25 Department in this matter prior to the Commissioner's acceptance,
26 and all allegations contained in the Accusation filed by the
27 Department in Case No. H-35740 LA, may be considered by the

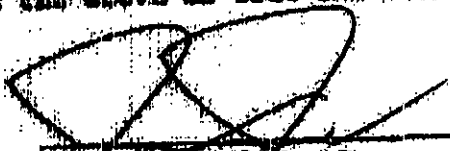
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1 Department to be true and correct for the purpose of deciding
 2 whether to grant ~~renewal~~ or reinstatement of TROWEST
 3 FINANCIAL INC.'s license pursuant to Government Code Section
 4 11522.

5 4. I am acting freely and voluntarily on behalf of
 6 TROWEST FINANCIAL INC. to surrender its license and all license
 7 rights attached thereto.

8 I declare under penalty of perjury under the laws of
 9 the State of California that the above is true and correct.

10
 11 12/8/2009 Van Nuys
 12 Date and Place

13 
 14 Jason Michael Jones
 15 Designated Officer for
 16 Trowest Financial Inc.

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1 Department to be true and correct for the purpose of deciding
2 whether to grant relicensure or reinstatement of TRUWEST
3 FINANCIAL INC.'s license pursuant to Government Code Section
4 11522.

5 4. I am acting freely and voluntarily on behalf of
6 TRUWEST FINANCIAL INC. to surrender its license and all license
7 rights attached thereto.

8 I declare under penalty of perjury under the laws of
9 the State of California that the above is true and correct.

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Date and Place

Jason Michael Jones,
Designated Officer for
TruWest Financial Inc.

1 CHERYL D. KEILY SBN# 94008
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-5770

FILED

JUL 22 2009

DEPARTMENT OF REAL ESTATE

BY: 

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-35740 LA
13)
14 TRUWEST FINANCIAL INC.,)
15 and JASON MICHAEL JONES,) FIRST AMENDED
16 individually, and as design-) ACCUSATION
17 nated officer of TruWest)
18 Financial, Inc.,)
19)
20)
21 Respondents.)
22 _____)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against TRUWEST FINANCIAL INC. ("Respondent TRUWEST") and JASON
21 MICHAEL JONES ("Respondent JONES"), individually, and as
22 designated broker-officer of TRUWEST FINANCIAL INC., is informed
23 and alleges as follows:
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1.

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

2.

Respondent TRUWEST is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate corporation acting by and through Respondent JONES as its designated broker-officer.

3.

Respondent JONES is presently licensed and/or has license rights under the Real Estate Law as a real estate broker and designated broker-officer of Respondent TRUWEST.

4.

All further references to respondents herein include Respondents TRUWEST and JONES, and also include officers, directors, employees, agents and real estate licensees employed by or associated with TRUWEST and JONES, and who at all times herein mentioned were engaged in the furtherance of the business or operations of Respondents TRUWEST and JONES, and who were acting within the course and scope of their authority and employment.

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5.

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2 From May 22, 2006, to the present Respondent JONES, as
3 the officer designated by Respondent TRUWEST pursuant to Section
4 10211 of the Code, was responsible for the supervision and
5 control of the activities conducted on behalf of Respondent
6 TRUWEST by its officers and employees as necessary to secure
7 full compliance with the Real Estate Law as set forth in Section
8 10159.2 of the Code.

9
6.

10 At all times herein mentioned, Respondents TRUWEST and
11 JONES engaged in the business of an advance fee brokerage,
12 within the definition of Code Section 10131.2, in that, for fees
13 received in advance, as well as at the conclusion of
14 transactions, Respondents performed loan modification services
15 with respect to loans which were secured by liens on real
16 property, including, but not limited to, the following:

17 a. On or about May 15, 2008, Respondents contracted
18 to collect and/or collected an advance fee of \$1,500 from Martha
19 and Saul Aguilera pursuant to the provisions of a written
20 agreement pertaining to loan modification services to be
21 provided by Respondents with respect to a loan secured by the
22 real property located at 13009 Correnti Street, Arleta,
23 California 91331.

24
25 b. On or about June 21, 2008, Respondents contracted
26 to collect and/or collected an advance fee of \$1,500 for one
27 loan and \$2,000 for two loans from Silvia Cabrera pursuant to

1 the provisions of a written agreement pertaining to loan
2 modification services to be provided by Respondents with respect
3 to a loan secured by the real property located at 11909 Cheshire
4 Street, Norwalk, California 90650.

5 c. On or about July 16, 2008, Respondents contracted
6 to collect and/or collected an advance fee of \$2,000 for one
7 loan and \$2,500 for two loans from William Andrade pursuant to
8 the provisions of a written agreement pertaining to loan
9 modification services to be provided by Respondents with respect
10 to a loan secured by the real property located at 436 East 42nd
11 Place, Los Angeles, California 90011.

12 d. On or about July 20, 2008, Respondents contracted
13 to collect and/or collected an advance fee of \$2,000 from Jose
14 L. Orozco pursuant to the provisions of a written agreement
15 pertaining to loan modification services to be provided by
16 Respondents with respect to a loan secured by the real property
17 located at 12214 Pinney Street, Lakeview Terrace, California
18 91342.

19
20 7.

21 Respondents contracted to collect and/or collected the
22 above described advance fees pursuant to the provisions of a
23 document entitled "Loan Modification Fee Contract," the written
24 agreement described in Paragraph 6, above, which document
25 constitutes an advance fee agreement within the meaning of Code
26 Section 10085.

27 ///

8.

1 Respondent JONES ordered, caused, authorized or
2 participated in the conduct of Respondent TRUWEST, as is alleged
3 in this Accusation.
4

5 9.

6 Respondents failed to submit the written agreements
7 referred to in Paragraph 6, above, to the Commissioner ten days
8 before using them in violation of Code Section 10085 and
9 Regulation 2970.

10 10.

11 The conduct, acts and/or omissions of Respondents
12 TRUWEST and JONES, as set forth above, are cause for the
13 suspension or revocation of the licenses and license rights of
14 Respondent TRUWEST and Respondent JONES pursuant to Code
15 Sections 10085, 10177(d) and/or 10177(g).
16

17 11.

18 The conduct, acts and/or omissions of Respondent
19 JONES, as set forth above, are cause for the suspension or
20 revocation of the licenses and license rights of Respondent
21 JONES pursuant to Code sections 10159.2 and/or 10177(d) and (h).
22

23 SECOND CAUSE OF ACCUSATION

24 (Trust Fund Violations)

25 12.

26 Complainant hereby incorporates by reference the
27 allegations set forth in Paragraphs 1 through 11, above.

///

1
2 On or about January 20, 2009, the Department completed
3 an audit examination of the books and records of TRUWEST
4 pertaining to the real estate activities described in Paragraphs
5 6 and 7, above, covering a period from July 1, 2007, through
6 December 31, 2008. The audit examination revealed violations of
7 the Code and the Regulations, as set forth in the following
8 paragraphs, and more fully discussed in Audit Report No. LA
9 080174 along with the exhibits and work papers attached to the
10 audit report:

11 (a) Failed to establish and maintain a trust account
12 at a bank or other recognized financial institution in the name
13 of the broker for deposit of advance fees collected by TRUWEST,
14 in violation of Code Section 10146.

15 (b) Failed to deposit the advance fees described in
16 Paragraphs 6 and 7, above, into a real estate broker trust
17 account in violation of Code Section 10146.

18 (c) Commingled trust funds with general funds in
19 violation of Code Sections 10176(e) and 10145, and Sections 2832
20 and 2835 of the Regulations.

21 (d) Failed to maintain a control record in the form of
22 a columnar record in chronological order of all trust funds
23 including advance fees received, deposited and disbursed, in
24 violation of Code Section 10145 and Section 2831 of the
25 Regulations.
26
27

1 (e) Failed to maintain a separate record for each
2 beneficiary of trust funds or transaction, thereby failing to
3 account for all advance fees collected, in violation of Code
4 Section 10145 and Section 2831.1 of the Regulations.

5 (f) Failed to perform a monthly reconciliation of the
6 total balance of separate beneficiary or transaction records in
7 violation of Code Section 10145 and Section 2831.2 of the
8 Regulations.

9 (g) Failed to provide a complete description of the
10 services to be rendered to each borrower in ten (10) point type
11 font and failed to provide an allocation and disbursement of
12 the amount collected as an advance fee in violation of Code
13 Section 10146 and Section 2972 of the Regulations.

14 (h) Failed to maintain a copy of the Mortgage Loan
15 Disclosure Statement in the Deborah Westgate loan file signed
16 by the broker and/or his agent and by the borrower in violation
17 of Code Section 10240 and Section 2840 of the Regulations.

18 (i) Failed to disclose to borrower Svetlana Babchuk
19 additional compensation received by Respondent TRUWEST in the
20 form of the yield spread premium or rebate from the lender in
21 violation of Code Section 10240 and Section 2840 of the
22 Regulations.

23 (j) Failed to include the license number of
24 Respondent TRUWEST on the Mortgage Loan Disclosure Statement of
25 borrower Deborah Westgate in violation of Code Section 10236.4.
26

27 ///

DISCIPLINE STATUTES AND REGULATIONS

14.

The conduct of Respondents TRUWEST and JONES described in Paragraph 13, above, violated the Code and the Regulations as set forth below:

| <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u> |
|------------------|--|
| 13 (a) | Code Section 10146 |
| 13 (b) | Code Section 10146 |
| 13 (c) | Code Sections 10145 and 10176(e) and Sections 2832 and 2835 of the Regulations |
| 13 (d) | Code Section 10145 and Section 2831 of the Regulations |
| 13 (e) | Code Sections 10145 and Section 2831.1 of the Regulations |
| 13 (f) | Code Section 10146 and Section 2831.2 of the Regulations |
| 13 (g) | Code Section 10146 and Section 2972 of the Regulations |
| 13 (h) | Code Section 10240 and Section 2840 of the Regulations |
| 13 (i) | Code Section 10240 and Section 2840 of the Regulations |
| 13 (j) | Code Section 10236.4 |

1 The foregoing violations constitutes cause for the
2 suspension or revocation of the real estate license and license
3 rights of TRUWEST and JONES under the provisions of Code
4 Sections 10177(d) for violation of the Real Estate Law and/or
5 10177(g) for negligence or incompetence.

6 THIRD CAUSE OF ACCUSATION

7 (Failure to Supervise)

8 15.

9 Complainant hereby incorporates the allegations set
10 forth in Paragraphs 1 through 14, above.

11 16.

12 Respondent JONES ordered, caused, authorized or
13 participated in the conduct of Respondent TRUWEST, as is alleged
14 in this Accusation.

15 17.

16 The conduct, acts and/or omissions, of Respondent
17 JONES, in allowing Respondent TRUWEST to violate the Real Estate
18 Law, as set forth above, constitutes a failure by JONES, as the
19 officer designated by a corporate broker licensee, to exercise
20 the supervision and control over the activities of TRUWEST, as
21 required by Code Section 10159.2, and is cause to suspend or
22 revoke the real estate licenses and license rights of JONES
23 under Code Sections 10177(d), 10177(g) and/or 10177(h).

24 ///

25 ///

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 all the licenses and license rights of Respondent
5 TRUWEST FINANCIAL INC. and Respondent JASON MICHAEL JONES,
6 individually, and as designated broker-officer of Respondent
7 TRUWEST FINANCIAL INC., under the Real Estate Law, and for such
8 other and further relief as may be proper under other applicable
9 provisions of law.

10 Dated at Los Angeles, California

11 this 22 day of July, 2009.

12
13
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15 

16 Robin Trujillo
17 Deputy Real Estate Commissioner

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26 cc: TRUWEST FINANCIAL INC.
27 JASON MICHAEL JONES
Robin Trujillo
Sacto.
Jeffrey Sklan, Esq.
OAH

1 CHERYL D. KEILY SBN# 94008
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

FILED

MAR - 3 2009

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-5770

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

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8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H- 35740 LA
13)
14 TRUWEST FINANCIAL INC.,)
15 and JASON MICHAEL JONES,) A C C U S A T I O N
16 individually, and as design-)
17 nated officer of TruWest)
18 Financial, Inc.,)
19)
20 Respondents.)
21)
22)
23)
24)
25)
26)
27)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against TRUWEST FINANCIAL INC. ("Respondent TRUWEST") and JASON
21 MICHAEL JONES ("Respondent JONES"), individually, and as
22 designated broker-officer of TRUWEST FINANCIAL INC., is informed
23 and alleges as follows:
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1.

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

2.

Respondent TRUWEST is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate corporation acting by and through Respondent JONES as its designated broker-officer.

3.

Respondent JONES is presently licensed and/or has license rights under the Real Estate Law as a real estate broker and designated broker-officer of Respondent TRUWEST.

4.

All further references to respondents herein include Respondents TRUWEST and JONES, and also include officers, directors, employees, agents and real estate licensees employed by or associated with TRUWEST and JONES, and who at all times herein mentioned were engaged in the furtherance of the business or operations of Respondents TRUWEST and JONES, and who were acting within the course and scope of their authority and employment.

///
///

5.

1 From May 22, 2006, to the present Respondent JONES, as
2 the officer designated by Respondent TRUWEST pursuant to Section
3 10211 of the Code, was responsible for the supervision and
4 control of the activities conducted on behalf of Respondent
5 TRUWEST by its officers and employees as necessary to secure
6 full compliance with the Real Estate Law as set forth in Section
7 10159.2 of the Code.
8

9 6.

10 At all times herein mentioned, Respondents TRUWEST and
11 JONES engaged in the business of an advance fee brokerage,
12 within the definition of Code Section 10131.2, in that, for fees
13 received in advance, as well as at the conclusion of
14 transactions, Respondents performed loan modification services
15 with respect to loans which were secured by liens on real
16 property, including, but not limited to, the following:
17

18 a. On or about May 15, 2008, Respondents contracted
19 to collect and/or collected an advance fee of \$1,500 from Martha
20 and Saul Aguilera pursuant to the provisions of a written
21 agreement pertaining to loan modification services to be
22 provided by Respondents with respect to a loan secured by the
23 real property located at 13009 Correnti Street, Arleta,
24 California 91331.

25 b. On or about June 21, 2008, Respondents contracted
26 to collect and/or collected an advance fee of \$1,500 for one
27 loan and \$2,000 for two loans from Silvia Cabrera pursuant to

1 the provisions of a written agreement pertaining to loan
2 modification services to be provided by Respondents with respect
3 to a loan secured by the real property located at 11909 Cheshire
4 Street, Norwalk, California 90650.

5 c. On or about July 16, 2008, Respondents contracted
6 to collect and/or collected an advance fee of \$2,000 for one
7 loan and \$2,500 for two loans from William Andrade pursuant to
8 the provisions of a written agreement pertaining to loan
9 modification services to be provided by Respondents with respect
10 to a loan secured by the real property located at 436 East 42nd
11 Place, Los Angeles, California 90011.

12 d. On or about July 20, 2008, Respondents contracted
13 to collect and/or collected an advance fee of \$2,000 from Jose
14 L. Orozco pursuant to the provisions of a written agreement
15 pertaining to loan modification services to be provided by
16 Respondents with respect to a loan secured by the real property
17 located at 12214 Pinney Street, Lakeview Terrace, California
18 91342.

19
20 7.

21 Respondents contracted to collect and/or collected the
22 above described advance fees pursuant to the provisions of a
23 document entitled "Loan Modification Fee Contract," the written
24 agreement described in Paragraph 6, above, which document
25 constitutes an advance fee agreement within the meaning of Code
26 Section 10085.

27 ///

8.

1 Respondent JONES ordered, caused, authorized or
2 participated in the conduct of Respondent TRUWEST, as is alleged
3 in this Accusation.
4

9.

5 Respondents failed to submit the written agreements
6 referred to in Paragraph 6, above, to the Commissioner ten days
7 before using them in violation of Code Section 10085 and
8 Regulation 2970.
9

10 10.

11 The conduct, acts and/or omissions of Respondents
12 TRUWEST and JONES, as set forth above, are cause for the
13 suspension or revocation of the licenses and license rights of
14 Respondent TRUWEST and Respondent JONES pursuant to Code
15 Sections 10085, 10177(d) and/or 10177(g).
16

17 11.

18 The conduct, acts and/or omissions of Respondent
19 JONES, as set forth above, are cause for the suspension or
20 revocation of the licenses and license rights of Respondent
21 JONES pursuant to Code sections 10159.2 and/or 10177(d) and (h).
22

23 ///

24 ///

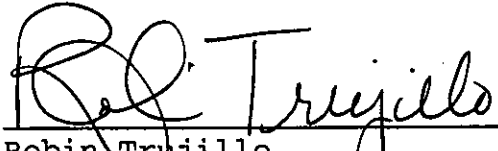
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all the licenses and license rights of Respondent
5 TRUWEST FINANCIAL INC. and Respondent JASON MICHAEL JONES,
6 individually, and as designated broker-officer of Respondent
7 TRUWEST FINANCIAL INC., under the Real Estate Law, and for such
8 other and further relief as may be proper under other applicable
9 provisions of law.

10 Dated at Los Angeles, California
11 this 26 day of February, 2009.

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14 
15
16 Robin Trujillo
17 Deputy Real Estate Commissioner

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25 cc: TRUWEST FINANCIAL INC.
26 JASON MICHAEL JONES
27 Robin Trujillo
Sacto.