

*Saunders*

**FILED**

1 Bureau of Real Estate  
2 320 West 4<sup>th</sup> Street, Suite 350  
3 Los Angeles, California 90013  
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APR 21 2016  
BUREAU OF REAL ESTATE  
By *[Signature]*

BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
MAXIMILLION JOHN PELAYO, )  
doing business as co-registered )  
fictitious business names of: )  
Direct Mortgage Counseling, )  
Direct Home Counseling, and )  
Direct Loan Counseling, )  
Respondent. )

No. H-39773 LA  
L-2015 031 254

STIPULATION AND AGREEMENT

17  
18 It is hereby stipulated by, and between MAXIMILLION JOHN  
19 PELAYO (sometimes referred to as Respondent), and his attorney,  
20 Gary S. Saunders, and the Complainant, acting by and through  
21 James R. Peel, Counsel for the Bureau of Real Estate, as follows  
22 for the purpose of settling and disposing of the Accusation filed  
23 in this matter.

24 1. All issues which were to be contested and all  
25 evidence which was to be presented by Complainant and Respondent  
26 at a formal hearing on the Accusation, which hearing was to be  
27 held in accordance with the provisions of the Administrative

1 Procedure Act (APA), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement.

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

8 3. On March 26, 2015, Respondent filed a Notice of  
9 Defense pursuant to Section 11506 of the Government Code for the  
10 purpose of requesting a hearing on the allegations in the  
11 Accusation. Respondent hereby freely and voluntarily withdraws  
12 said Notice of Defense. Respondent acknowledges that he  
13 understands that by withdrawing said Notice of Defense he will  
14 thereby waive his right to require the Commissioner to prove the  
15 allegations in the Accusation at a contested hearing held in  
16 accordance with the provisions of the APA and that he will waive  
17 other rights afforded to him in connection with the hearing such  
18 as the right to present evidence in defense of the allegations  
19 in the Accusation and the right to cross-examine witnesses.

20 4. This Stipulation is based on the factual  
21 allegations contained in the Accusation filed in this  
22 proceeding. In the interest of expedience and economy,  
23 Respondent chooses not to contest these factual allegations, but  
24 to remain silent and understands that, as a result thereof,  
25 these factual statements, will serve as a prima facie basis for  
26 the disciplinary action stipulated to herein. The Real Estate  
27 Commissioner shall not be required to provide further evidence

1 to prove such allegations.

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

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

20 7. 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 Bureau of  
24 Real Estate with respect to any matters which were not  
25 specifically alleged to be causes for accusation in this  
26 proceeding.

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DETERMINATION OF ISSUES

By reason of the foregoing stipulations and waivers and considering that Respondent was mainly involved in supervising loan modifications and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the following determination of issues shall be made:

The conduct of Respondent, MAXIMILLIO JOHN PELAYO as described in Paragraph 4, above, is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent under the provisions of Sections 10177(d) and 10177(h) of the Business and Professions Code for violation of Section 10145 of the Code.

ORDER

All licenses and licensing rights of Respondent MAXIMILLION JOHN PELAYO under the Real Estate Law are revoked, provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Bureau of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision and Order. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of that Code:

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

6           2. The restricted license issued to Respondent may be  
7 suspended prior to hearing by Order of the Real Estate  
8 Commissioner on evidence satisfactory to the Commissioner that  
9 Respondent has violated provisions of the California Real Estate  
10 Law, the Subdivided Lands Law, Regulations of the Real Estate  
11 Commissioner or conditions attaching to the restricted license.

12           3. Respondent shall not be eligible to apply for the  
13 issuance of an unrestricted real estate broker license nor for  
14 the removal of any of the conditions, limitations or  
15 restrictions of a restricted license until two years have  
16 elapsed from the effective date of this Decision.

17           4. Respondent shall submit with any application for  
18 license under an employing broker, or any application for  
19 transfer to a new employing real estate broker, a statement  
20 signed by the prospective employing broker on a form approved by  
21 the Bureau which shall certify:

22                   (a) That the employing broker has read the  
23 Decision and Order of the Commissioner which granted the right  
24 to a restricted license; and

25                   (b) That the employing broker will exercise close  
26 supervision over the performance by the restricted licensee  
27 relating to activities for which a real estate license is

1 required.

2 5. Respondent shall, within nine months from the  
3 effective date of this Decision and Order, present evidence  
4 satisfactory to the Real Estate Commissioner that Respondent  
5 has, since the most recent issuance of an original or renewal  
6 real estate license, taken and successfully completed the  
7 continuing education requirements of Article 2.5 of Chapter 3 of  
8 the Real Estate Law for renewal of a real estate license. If  
9 Respondent fails to satisfy this condition, Respondent's real  
10 estate license shall automatically be suspended until Respondent  
11 presents evidence satisfactory to the Commissioner of having  
12 taken and successfully completed the continuing education  
13 requirements. Proof of completion of the continuing education  
14 courses must be delivered to the Bureau of Real Estate, Flag  
15 Section at P.O. Box 137013, Sacramento, CA 95813-7013.

16 6. Pursuant to Section 10148 of the Code, Respondent  
17 shall pay the sum of \$2,000 for the Commissioner's cost of the  
18 audit which led to this disciplinary action. Respondent shall  
19 pay such cost within six months of the effective date of this  
20 settlement agreement. If Respondent fails to satisfy this  
21 condition in a timely manner as provided for herein,  
22 Respondent's real estate license shall automatically be  
23 suspended until payment is made in full or until a decision  
24 providing otherwise is adopted following a hearing held pursuant  
25 to this condition.

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1 a copy of the signature page, as actually signed by Respondent,  
 2 to the Bureau at the following telephone/fax number: (213) 576-  
 3 6917. Respondent agrees, acknowledges and understands that by  
 4 electronically sending to the Bureau a fax copy of his actual  
 5 signature as it appears on the Stipulation and Agreement that  
 6 receipt of the faxed copy by the Bureau shall be as binding on  
 7 Respondent as if the Bureau had received the original signed  
 8 Stipulation and Agreement.

9 Further, if the Respondent is represented in these  
 10 proceedings, the Respondent's attorney can signify his agreement  
 11 to the terms and conditions of the Stipulation and Agreement by  
 12 submitting that signature via fax.

13 DATED: 3-16-16 Maximilian J. Pelayo  
 14 MAXIMILLION JOH PELAYO  
 15 Respondent

16 DATED: 3/17/16 Gary Saunders  
 17 Respondent's Counsel  
 18 Gary Saunders

\* \* \*

19 The foregoing Stipulation and Agreement is hereby  
 20 adopted as my Decision in this matter and shall become effective  
 21 at 12 o'clock noon on \_\_\_\_\_.

IT IS SO ORDERED \_\_\_\_\_

REAL ESTATE COMMISSIONER

\_\_\_\_\_

1 a copy of the signature page, as actually signed by Respondent,  
2 to the Bureau at the following telephone/fax number: (213) 576-  
3 6917. Respondent agrees, acknowledges and understands that by  
4 electronically sending to the Bureau a fax copy of his actual  
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7 Respondent as if the Bureau had received the original signed  
8 Stipulation and Agreement.

9 Further, if the Respondent is represented in these  
10 proceedings, the Respondent's attorney can signify his agreement  
11 to the terms and conditions of the Stipulation and Agreement by  
12 submitting that signature via fax.

13 DATED: \_\_\_\_\_  
14 MAXIMILLION JOH PELAYO  
Respondent

15 DATED: \_\_\_\_\_  
16 Respondent's Counsel  
Gary Saunders

17 \* \* \*

18 The foregoing Stipulation and Agreement is hereby  
19 adopted as my Decision in this matter and shall become effective  
20 at 12 o'clock noon on May 11, 2016.

21 IT IS SO ORDERED April 15, 2016

22 WAYNE S. BELL  
23 REAL ESTATE COMMISSIONER



24 By: JEFFREY MASON  
25 Chief Deputy Commissioner